

# TOWN COUNCIL



## STAFF REPORT DEPARTMENT OF ECONOMIC DEVELOPMENT

<b>MEETING DATE:</b>	January 13, 2015
<b>PROJECT:</b>	Approval of an Amendment to the Bluffton Public Development Corporation By-Laws
<b>PROJECT MANAGER:</b>	Marc Orlando, Town Manager, Bluffton Public Development Corporation Executive Director

**RECOMMENDATION:** Town Council approve the amendment to the Bluffton Public Development Corporation By-Laws.

**INTRODUCTION:** The Bluffton Public Development Corporation (the "BPDC") was authorized by Town Council Resolution on August 14, 2012 as a public benefit nonprofit corporation to further economic development within the Town of Bluffton. Once the BPDC was established, By-Laws were then approved by the Board of Directors (the "Board") on April 4, 2013 and by the Town of Bluffton Town Council (the "Town Council") on May 14, 2013.

On October 16, 2014, the BPDC Board and the Town Council held a joint meeting to discuss economic development efforts, clarify the roles and responsibilities of each entity, and determine next steps. One action item resulting from this joint meeting was to amend the BPDC By-Laws to add representatives of the Town Council as ex officio members of the BPDC Board.

The proposed By-Laws amendment incorporates provisions for two members of Town Council to serve as ex officio members of the Board as well as other minor revisions. These further revisions serve to clarify membership provisions regarding terms, appointments, and quorums as well as removing the requirement for monthly meetings of the Board.

### **ATTACHMENTS:**

1. By-Laws of the Bluffton Public Development Corporation – Edits Tracked
2. By-Laws of the Bluffton Public Development Corporation – Clean

**BYLAWS OF  
BLUFFTON PUBLIC DEVELOPMENT CORPORATION  
ADOPTED APRIL 4, 2013  
AMENDED ~~JUNE 10~~JANUARY 13, 2015, 2014**

**ARTICLE I**

**NAME, SEAL AND OFFICES**

**1.1 Name.** The name of this Corporation is Bluffton Public Development Corporation (the “Corporation”).

**1.2 Seal.** The Corporation’s corporate seal shall be in such form and bear such inscription as determined by the Board of Directors. The Board of Directors may change the form of the seal or the inscription therein at pleasure.

**1.3 Offices.** The office of the Corporation shall be Town Hall, 20 Bridge Street, Bluffton, South Carolina 29910. The Corporation may also have offices at such other places as the purposes of the Corporation may require.

**ARTICLE II**

**OBJECTIVE, PURPOSE, ACTIVITIES AND  
DISPOSITION OF ASSETS ON DISSOLUTION**

**2.1 Objective.** The Corporation’s objective is to be organized and operated exclusively as a South Carolina public benefit nonprofit corporation existing solely for the benefit of the Town of Bluffton (the “Town”), a municipal corporation of the State of South Carolina.

**2.2 General Purpose.** The Corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income, or profits of the Corporation is or shall be distributable to, or inure to the benefit of, its directors or officers except to the extent permitted under the laws of South Carolina relating to nonprofit corporations. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of these Bylaws or the Corporation’s Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 115 of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any subsequent United States internal revenue law) (the “IRC”), or (b) by a corporation, contributions to which are deductible under IRC Section 170(c)(1).

**2.3 Specific Purposes.** The Corporation is an instrumentality of the Town organized and operated to assist the Town in the following governmental functions and accomplish the following governmental purposes:

- (a) To accept, buy, sell, own, hold, develop, lease, operate, mortgage, insure, pledge, assign, transfer or otherwise receive or dispose of interest in real and personal property including transferred development rights.

- (b) To engage in the economic development of the Town.
- (c) To undertake activities designed to promote and support the May River and other watershed cleanup efforts for the Town;
- (d) To make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.
- (e) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.
- (f) To engage in any and all lawful activities necessary or incident to the foregoing purposes, except as limited herein.
- (g) To do any other act or thing incident to or in connection with the foregoing purposes or in advancement thereof but not for the pecuniary profit or financial gain of its directors or officers except as permitted under the South Carolina Nonprofit Corporation Act of 1994. In furtherance of its corporate purposes, the Corporation shall have all general powers enumerated in Section 33-31-302 of the Code of Laws of South Carolina 1976 as amended.

**2.4 Distribution on Dissolution.** In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to the Town.

### ARTICLE III

#### **BOARD OF DIRECTORS**

**3.1 Authority.** The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Corporation, except as may be expressly limited by the South Carolina Nonprofit Corporation Act of 1994, as amended (the "Act") or these Bylaws.

**3.2 Number, Appointment and Qualifications.** ~~The Board of Directors (the "Board") of the Corporation shall consist of not less than three (3) nor more than ten (10) voting Directors (the "Directors") appointed by the Town of Bluffton Town Council, and such additional Ex Officio members as appointed pursuant to Section 3.3 of these Bylaws. The Board of Directors of the Corporation shall initially consist of up to ten (10) Directors appointed by the Town Council. All future Directors shall be appointed by the Town Council. The Directors may appoint one (1) *ex officio*, non-voting member to the Board from the Beaufort County School District Board of Education. Further, the Directors may appoint up to three (3) *ex officio*, non-voting members to the Board from the community and area organizations, such as, the Hilton Head Island Bluffton Chamber of Commerce and the Greater Bluffton Chamber of Commerce. The Town Manager, or his delegated designee as the Executive Director with the duties provided for in Section 4.4, shall serve as a member of the Board of Directors, *ex officio*, without voting rights.~~

**3.3. Ex Officio Members:** ~~The Board shall also consist of certain Ex Officio (the "Ex Officio") members, whose memberships include the right to attend meetings of the Board and to speak at Board meetings but not the right to vote. The Directors shall be responsible for the appointment of all~~

Ex Officio Members in accordance with these Bylaws. The Directors shall appoint the following mandatory Ex Officio members as prescribed below:

(i) Two (2) representatives consisting of members of the Town of Bluffton Town Council to be appointed by the Directors upon notification by the Town of Bluffton Town Council; and,

(ii) One (1) representative from the Beaufort County School District Board of Education to be appointed by the Directors upon notification by the Board of Education; and,

(iii) The Town Manager, or his/her delegated designee, to serve as an Ex Officio member and as the Executive Director of the Corporation as set forth in Section 4.4 of the Bylaws; and,

(iv) The Town Finance Director to serve as an Ex Officio member and as the Treasurer of the Corporation as set forth in Section 4.5 of the Bylaws.

Further, the Directors may appoint up to three (3) at-large Ex Officio members to the Board from the community and area organizations, such as, the Hilton Head Island-Bluffton Chamber of Commerce and the Greater Bluffton Chamber of Commerce.

**3.43 Classification and Tenure.** Each Director and Ex Officio member shall hold office from the date of ~~such Director's~~ appointment and qualification until ~~such Director's~~ successor shall have been duly appointed and qualified, or until such Director or Ex Officio member ~~Director's~~ earlier removal, resignation, death or incapacity. The Terms of the Board members shall be as follows:

(i) The initial ~~Board of~~ Directors shall have staggered terms of one, two, or three years. Thereafter, all terms shall be three (3) years. No Director shall serve more than three (3) full three (3) year terms.

(ii) The Town of Bluffton Town Council and Beaufort County School District Ex Officio members shall serve without term limits, so long as they continue to hold office.

(iii) The three at-large Ex Officio members shall serve for a term of three (3) years and may serve a maximum of three (3) consecutive terms.

(iv) The Executive Director and Treasurer Ex Officio members shall serve without term limits, so long as they continue employment with the Town of Bluffton.

**3.54 Resignation of ~~Directors~~ Board Member.** A ~~Director-Board member~~ may resign at any time by delivering written notice to the ~~Board of Directors~~, the Chair or the Secretary. A resignation is effective when the notice is delivered unless the notice specifies a later date. Appointments to fill vacant seat(s) shall be in accordance with Article 3 of these Bylaws ~~The Town Council shall appoint a Director to fill any vacant seat~~ for the duration of that seat's term.

**3.65 Removal/Vacancies.** An Ex Officio member of the Board ~~of Directors~~ or officer, who ceases to hold that office, shall be deemed automatically removed from the Board of Directors. The Town Council may, with or without cause, remove any Director from the Board. Appointments to fill vacant seat(s) shall be in accordance with Article 3 of these By-Laws~~In the event of a vacancy hereunder, the Town Council shall appoint a Director to fill any vacant seat~~ for the duration of that seat's term.

**3.76 Attendance.** All Directors shall be required to attend at least fifty percent (50%) of the ~~regular scheduled and/or special~~ meetings of the Board ~~of Directors~~ held during each fiscal year of the Corporation. A Director shall be deemed in attendance if participating by telephone. Any absence excused by a majority vote of the ~~Board of~~ Directors shall not count as an absence for purposes of this Section. Failure of any Director to satisfy this attendance requirement may result in removal of the subject Director by the Town Council.

**3.87 Regular Meetings.** The Corporation shall hold an annual meeting each June, or as soon thereafter as possible, for the purpose of electing officers of the Board and for transacting such other business as may come before the Board.~~Regular meetings of the Board of Directors shall be held monthly for the purpose of transacting all business that may properly come before the Board of Directors at such date, time and place to be specified by the Board of Directors.~~ The meeting shall be held at the principal office of the Corporation or such other location within or without the State of South Carolina as specified by the Board of Directors. Except as otherwise provided by law, any business may be transacted at any ~~regular~~ meeting of the Board of Directors. ~~In the event, however, that there are no agenda items to come before the Board of Directors at a regular meeting, or a majority of the Directors has notified the Chair that they will be unable to attend a schedule regular meeting, then the Chair may cancel the scheduled regular meeting for that month. Such cancellation shall conform to FOIA notice requirements and shall cite one of the two permissible reasons listed above. Furthermore, the Chair shall not cancel regular meetings in successive months.~~

**3.98 Special Meetings.** Special meetings of the Board of Directors may be called for any lawful purpose or purposes by the Chair, or at least twenty-five percent (25%) of the Directors then in office.

**3.109 Notice of Meetings.** Notice of the time, date and place of any regular or special meeting shall be given at least one day prior thereto. Notice may be communicated in person, by telephone, electronic mail, telegraph, teletype or other form of wire or wireless communication or by mail or private carrier or any other lawful means. A Director's attendance at or participation in a meeting waives any required notice of the meeting, unless the Director upon arriving at the meeting (or prior to the vote on a matter not properly noticed in conformity with the law or the Corporation's Articles of Incorporation or these Bylaws) objects to and does not thereafter vote for or assent to the objected to action. Notice of an adjourned meeting need not be given if the time and place are fixed at the meeting adjourning.

**3.110 Participation by Telecommunications.** Any Director may participate in, and, for purposes of Section 3.76 above, be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of communication by which all persons participating in the meeting can hear each other at the same time.

**3.112 Quorum.** A majority of the Directors in office immediately before the meeting shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present at the

meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**3.1213 Action.** The ~~Board of~~ Directors shall take action by the affirmative vote of a majority of the Directors participating in a meeting at which a quorum is present, or the affirmative vote of a greater number of Directors where required by the Articles, these Bylaws, the Act or otherwise by law.

**3.1314 Action Without Meeting.** To the fullest extent permitted by the Act and the Freedom of Information Act ("FOIA"), the Board of Directors may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act and FOIA. Unless otherwise permitted by the Act and FOIA, such written consent must be signed by all Directors and included in the minutes filed with the corporate records reflecting the action taken.

**3.1415 Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (i) such Director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting, (ii) the Director votes against the action and the vote is entered in the minutes of the meeting, (iii) the Director's dissent or abstention for the action taken is entered in the minutes of the meeting, or (iv) the Director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a Director who voted in favor of such action.

**3.1516 Committees.** The Board of Directors may from time to time designate one or more Committees, who shall render advice to the Board of Directors and oversee specified activities designated by the Board of Directors. Any such Committee may be designated as a standing Committee appointed annually or as a special Committee for specific circumstances or transactions with a limited duration. Each Committee shall be composed of at least two (2) Directors and such other persons as specified from time to time by the Board of Directors, who shall all serve at the pleasure of the Board of Directors. The duties, constitution, and procedures of any Committee shall be prescribed by the Board of Directors but no Committee shall be granted authority to act upon any matter without approval from the Board of Directors. The Board of Directors shall designate one member of each Committee as its Chair. The Board of Directors shall appoint members to Committees as it deems advisable. The Chair of each Committee shall schedule all Committee meetings and provide appropriate notice to all Committee members and the Secretary. The Chair of the Committee shall have a vote on all matters coming before the Committee. Minutes of Committee meetings shall be kept. The results of each vote shall be recorded in the minutes. Minutes of all Committee meetings shall be provided to the Secretary within thirty (30) days after any Committee meeting, but shall remain subject to modification by the Committee at its next meeting.

**3.1617 Committee Meetings.** A majority of each Committee's voting members shall constitute a quorum for the transaction of business by the Committee, and each Committee shall take action by a majority of the Committee's voting members participating in a meeting at which a quorum of the Committee is present. Special meetings of any Committee may be called at any time by any Director who is a member of the Committee or by any person entitled to call a special meeting of the full Board of Directors. Except as otherwise provided in this section, the conduct of all meetings of any Committee, including notice thereof, and the taking of any action by such Committee shall be governed by this Article. Procedures shall be established for all Directors to receive schedules of all Committee meetings, agendas and copies of Committee meeting minutes to keep the Directors informed of matters under consideration by all Committees. In addition, Directors who are not serving on specific

Committees are encouraged to attend Committee meetings of interest and participate in such meetings as non-voting members. In this manner, Directors can provide guidance and assistance to the Committees during the process of formulating recommendations to the Board of Directors and gain a better understanding of all of the factors considered by the Committee in making such recommendations.

**3.1718 No Compensation.** Directors shall not receive compensation for serving as a member of the Corporation's Board of Directors. The Board of Directors may by resolution authorize the payment or reimbursement of direct out-of-pocket expenses incurred of each Director related to the Director's service to the Corporation.

**3.1819 Order of Business.** Unless otherwise determined by the Chair, the order of business at the annual meeting, to be set as the first ~~regular~~ Annual meeting of the Board of Directors in a fiscal year, and so far as practicable at all other meetings of the Board of Directors, shall be as follows:

1. Call to Order;
2. Acknowledge compliance with FOIA;
3. Determination of a quorum;
4. Approval of agenda (amendments if necessary);
5. Reading and disposal of all unapproved minutes;
6. Reports of Officers and Committees, if applicable;
7. Election of Officers and Appointment of Committees, if applicable;
8. Unfinished business, if applicable;
9. New business; and
10. Adjournment.

Unless, and to the extent determined by the Board of Directors or the Chair of the meeting, meetings of the Board of Directors shall not be required to be held in accordance with rules of parliamentary procedure.

**3.1920 Agenda.** The ~~Executive Director~~ Chair of the Corporation shall prepare an agenda for each meeting prior to or during a meeting. Each Director of the Corporation shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to the Directors.

The Chair may add an item to an agenda as allowed by law at any time; provided, however, that if a Director objects to an item added after the agenda was distributed to the Directors no action may be taken at that meeting with respect to that item. Any Director may request the ~~Executive Director~~ Chair to place an item on a future agenda by making such a request at a Board of Director meeting.

**3.2021 Election of Officers.** Officers shall be elected at the earliest convenient time in the first year and then annually at the ~~January-Annual~~ Regular Meeting of the Board of Directors. The ~~Board of~~ Directors shall elect a Chair, Vice Chair, and Secretary. Officers will be elected by a majority vote of those Directors attending the meeting at which the nominations are made. If the Chair is not available at such meeting, the Vice Chair for the Corporation may preside for the purpose of electing Officers only; thereafter, the new Chair shall preside.

**3.2122 Freedom of Information Act.** The Board of Directors and all Committees shall at all times comply with the South Carolina Freedom of Information Act, which includes satisfying the notice

provision for all meetings. The Board of Directors may hold closed sessions as provided by the Freedom of Information Act.

Full and accurate minutes of the Corporation's proceedings shall be kept and shall be open to inspection by the public. The results of each vote shall be recorded in the minutes.

**3.2223 Board Contacts with Public.** Directors shall not represent any contacts they have with the media or other members of the public as being representative of the Corporation unless the Corporation has formally taken a position on the matter. Individual Directors shall not release information to the media or the public when that information has been provided to them by the Corporation's attorney as part of a Confidential Attorney-Client memorandum or as part of a Corporation closed session held in compliance with applicable law.

## ARTICLE IV

### OFFICERS

**4.1 In General.** The Officers of the Corporation shall consist of a Chair, a Vice Chair, an Executive Director, a Treasurer and a Secretary and may also include assistant secretaries and other officers and agents as the Board of Directors deems advisable from time to time. The Chair, Vice Chair, and Secretary shall be elected by the Board of Directors to serve at the pleasure of the Board of Directors. Except as may otherwise be provided by the Act, ~~or in~~ the Corporation's Articles of Incorporation or these Bylaws, the Chair, Vice Chair, and/or Secretary ~~any Officer~~ may be removed by the ~~Board of~~ Directors at any time, with or without cause. Any vacancy, however occurring, in any office must be filled by the ~~Board of~~ Directors for the unexpired term. One person may hold two or more offices. Each Officer shall exercise the authority and perform the duties as may be set forth in these Bylaws and any additional authority and duties as the Board of Directors shall determine from time to time.

**4.2 Chair.** The Chair shall be elected by the Board of Directors and shall serve at the pleasure of the Board of Directors and the Town Council. The Chair shall preside at all meetings of the Board of Directors and shall undertake such additional duties and obligations as may from time to time be specified by the Board. Except as otherwise provided herein and as may be specifically limited by resolution of the Board of Directors or an authorized Committee thereof, the Chair shall have full authority to execute on the Corporation's behalf any and all contracts, agreements, notes, bonds, certificates, instruments and other documents. The Chair shall also perform such other duties and may exercise such other powers as are incident to the office of chief executive officer and as are from time to time assigned to him by the Act, these Bylaws or the Board of Directors.

**4.3 Vice Chair.** The Board of Directors may elect one or more Vice Chairs to serve in such capacities as specified by the Board of Directors from time to time (but such authority shall not exceed that of the Chair), with a Vice Chair designated by the Board of Directors to preside over meetings of the Board of Directors in the absence of the Chair. Except as otherwise determined by the Board of Directors, each Vice Chair shall serve under the direction of the Chair and shall perform such duties and may exercise such powers as are incident to the office.

**4.4 Executive Director.** The Executive Director shall be the Town Manager of the Town. The Executive Director shall be the Chief Executive and Operating officer of the Corporation and shall fulfill such specific duties as shall be assigned by the Board of Directors. The Town Manager, with the approval of Town Council, may delegate this Executive Director position, from time to time, to his

designee. The Executive Director may sign, with any other proper officer of the corporation authorized by the Board, any deeds, mortgage, bonds, contracts, or other instruments which the Board has authorized to be executed, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be delegated by the Board to some other officer or agent; and, in general, the Executive Director shall perform all duties incident to the office of Executive Director and such other duties as may be prescribed by the Board from time to time.

**4.5 Treasurer.** The Treasurer shall be the Finance Director (or equivalent officer) of the Town and shall be the chief financial officer of the Corporation. The Treasurer shall be responsible for all financial matters presented to the Corporation, including the establishment and maintenance of the Corporation's bank accounts and all financial accounting related to the oversight of the Corporation's books and records. The Treasurer shall perform such other duties as are incident to the office of Treasurer, and shall have such other powers and duties as may be conferred upon him or her by the Board.

**4.6. Secretary.** The Secretary shall be appointed by the Board of Directors and (a) keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) insure that minutes of all Committee meetings are provided as required herein; (d) be custodian of the corporate records of the Corporation; (e) keep a register of the address of each member of the Board of Directors; (f) authenticate records of the Corporation when such authentication is required; and (g) in general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the Chair or the Board of Directors. The Secretary may be assisted in the performance of these duties by a designee of the Executive Director.

## ARTICLE V

### INDEMNIFICATION

**5.1 Scope.** The Corporation shall indemnify, defend and hold harmless the Corporation's Offices and Directors to the fullest extent permitted by, and in accordance with the Act. This plan of indemnification shall constitute a binding agreement of the Corporation for the benefit of the Officers and Directors as consideration for their services to the Corporation, and may be modified or terminated by the Board of Directors only prospectively. Such right of indemnification shall not be exclusive of any other right which such Directors, Officers or representatives may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any bylaw, agreement, insurance, provision of law, or otherwise, as well as their rights under this Article V.

**5.2 Indemnification Plan.** The Board of Directors may from time to time adopt an Indemnification Plan implementing the rights granted in Section 5.1. This Indemnification Plan shall set forth in detail the mechanics of how the indemnification rights granted in Section 5.1 shall be exercised, provided that the Indemnification Plan shall include that the Directors shall not be indemnified until twenty (20) days after effective written notice is given to the South Carolina Attorney General, as set forth in Section 33-31-855(d) of the Act.

**5.3 Insurance.** The Board of Directors may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or is

or was serving at the request of the Corporation as a Director or Officer of another corporation, or as its representative in a partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person.

## ARTICLE VI

### TRANSACTIONS

**6.1 Procurement.** The Board of Directors shall adopt and the Corporation shall abide by an appropriate procurement code.

**6.2 Contracts.** The Board of Directors may authorize any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

**6.3 Loans.** The Board of Directors may authorize any Officer or Officers, or agent or agents, to contract any indebtedness and grant evidence of indebtedness and collateral therefor in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

**6.4 Checks, Drafts, Etc.** All checks, drafts or 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 manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by any two of the Chair, Vice Chair or Treasurer.

**6.5 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.

**6.6 Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

**6.7 Voting of Shares in Other Corporations Owned by the Corporation.** Subject always to the specific directions of the Board of Directors, any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation may be voted at any shareholders' or members' meeting of the other corporation by the Chair or by any other Officer specifically designated by the Board of Directors. Whenever, in the judgment of the Chair, or in his absence, of any designated Officer, it is desirable for the Corporation to execute a proxy or give a shareholders' or members' consent in respect to any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation, the proxy or consent shall be executed in the name of the Corporation by the Chair without necessity of any authorization by the Board of Directors. Any person or persons designated in the manner above stated as the proxy or proxies of the Corporation shall have full right, power and authority to vote such share or shares of stock or membership interest issued by the other corporation.

## ARTICLE VII

### RECORDS/ANNUAL AUDIT

**7.1 Forms of Records.** When consistent with good business practices, any records of the Corporation may be maintained in other than written form if such other form is capable of reasonable preservation and conversion into written form within a reasonable time.

**7.2 Corporate Records.** The Corporation shall keep as permanent written records a copy of the minutes of all meetings of its Board of Directors, a record of all actions taken by the Directors without a meeting, and a record of all actions taken by Committees of the Board of Directors. The Corporation shall maintain appropriate accounting records. The Corporation or its agent shall maintain a record of the name and address, in alphabetical order, of each Director. The Corporation shall keep a copy of the following records at its principal office:

- A. its Articles of Incorporation or restated Articles of Incorporation and all amendments thereto currently in effect;
- B. its Bylaws or restated Bylaws and all amendments thereto currently in effect;
- C. a list of the names and business or home address of its current Directors and Officers; and
- D. the Corporation's most recent report of each type required to be filed by the Corporation with the South Carolina Secretary of State.

**7.3 Annual Audit.** Within one hundred eighty (180) days after the close of each fiscal year of the Corporation, the Board of Directors shall cause an audit to be completed regarding the financial condition of the Corporation and an appropriate report issued to the Town. Such audit services shall be undertaken in accordance with accounting practices generally applicable to audits of governmental units by the certified public accounting firm then providing audit services to the Town for the applicable fiscal year, or such other firm of certified public accountants as may be selected by the Board of Directors from time to time.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**8.1 Fiscal Year.** The fiscal year of the Corporation shall end on June 30 of each calendar year.

**8.2 Amendments.** These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a majority vote of the Board of Directors then in office; provided that the notice of any meeting at which the Bylaws are to be amended shall state that the purpose or one of the purposes of the meeting is to consider an amendment to the Bylaws and shall be accompanied by a copy or summary of the proposed change or state the general nature of the change. Irrespective of the foregoing, no amendment of these Bylaws shall be effective without the written consent of the Town Council.

**8.3 Severability.** If any provision of these Bylaws or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, such provision shall be complied with or enforced to the greatest extent permitted by law as determined by such court, and the remainder of these Bylaws and the application of such provision to other persons or circumstances shall to be affected thereby and shall continue to be complied with and enforced to the greatest extent permitted by law.

**8.4 Usage.** In construing these Bylaws, feminine or neuter terms and pronouns shall be substituted for masculine forms and vice versa, and plural terms shall be substituted for singular forms and vice versa, in any place in which the context so requires. The section and paragraph headings contained in these Bylaws are for reference purposes only and shall not affect in any way the meaning or interpretation of these Bylaws. Terms such as “hereof”, “hereunder”, “hereto”, and words of similar import shall refer to these Bylaws in the entirety and all references to “Articles”, “Paragraphs”, “Sections”, and similar cross references shall refer to specified portion of these Bylaws, unless the context clearly requires otherwise. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law.

**8.5 Conflict Between Bylaws, Articles of Incorporation and the Act.** The Corporation’s Articles of Incorporation and the Act (as either may be amended from time to time) are incorporated herein by reference. Any conflict between the terms of these Bylaws, the Corporation’s Articles of Incorporation or the Act shall be resolved in the following order: (1) the Act; (2) the Corporation’s Articles of Incorporation; and (3) these Bylaws.

The foregoing are certified to be the true and complete Bylaws of the Corporation as adopted by the Board of Directors at a duly called meeting held on ~~June 5~~ \_\_\_\_\_, ~~2014~~ 2015; and enacted upon the approval of the Town of Bluffton Town Council, per Section 8.2 above, on ~~June 10~~ January 13, 2015, 2014.

\_\_\_\_\_  
Chair

Date of Certification: \_\_\_\_\_

(Corporate Seal)

**BYLAWS OF  
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ADOPTED APRIL 4, 2013  
AMENDED JANUARY 13, 2015**

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**1.2 Seal.** The Corporation’s corporate seal shall be in such form and bear such inscription as determined by the Board of Directors. The Board of Directors may change the form of the seal or the inscription therein at pleasure.

**1.3 Offices.** The office of the Corporation shall be Town Hall, 20 Bridge Street, Bluffton, South Carolina 29910. The Corporation may also have offices at such other places as the purposes of the Corporation may require.

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**OBJECTIVE, PURPOSE, ACTIVITIES AND  
DISPOSITION OF ASSETS ON DISSOLUTION**

**2.1 Objective.** The Corporation’s objective is to be organized and operated exclusively as a South Carolina public benefit nonprofit corporation existing solely for the benefit of the Town of Bluffton (the “Town”), a municipal corporation of the State of South Carolina.

**2.2 General Purpose.** The Corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income, or profits of the Corporation is or shall be distributable to, or inure to the benefit of, its directors or officers except to the extent permitted under the laws of South Carolina relating to nonprofit corporations. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of these Bylaws or the Corporation’s Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 115 of the Internal Revenue Code of 1986, as amended (or the corresponding provision of any subsequent United States internal revenue law) (the “IRC”), or (b) by a corporation, contributions to which are deductible under IRC Section 170(c)(1).

**2.3 Specific Purposes.** The Corporation is an instrumentality of the Town organized and operated to assist the Town in the following governmental functions and accomplish the following governmental purposes:

- (a) To accept, buy, sell, own, hold, develop, lease, operate, mortgage, insure, pledge, assign, transfer or otherwise receive or dispose of interest in real and personal property including transferred development rights.
- (b) To engage in the economic development of the Town.
- (c) To undertake activities designed to promote and support the May River and other watershed cleanup efforts for the Town;
- (d) To make contracts and guaranties, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.
- (e) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.
- (f) To engage in any and all lawful activities necessary or incident to the foregoing purposes, except as limited herein.
- (g) To do any other act or thing incident to or in connection with the foregoing purposes or in advancement thereof but not for the pecuniary profit or financial gain of its directors or officers except as permitted under the South Carolina Nonprofit Corporation Act of 1994. In furtherance of its corporate purposes, the Corporation shall have all general powers enumerated in Section 33-31-302 of the Code of Laws of South Carolina 1976 as amended.

**2.4 Distribution on Dissolution.** In the event of dissolution of the Corporation, all of the remaining assets and property of the Corporation shall, after necessary expenses thereof, be distributed to the Town.

### ARTICLE III

#### **BOARD OF DIRECTORS**

**3.1 Authority.** The Board of Directors shall have ultimate authority over the conduct and management of the business and affairs of the Corporation, except as may be expressly limited by the South Carolina Nonprofit Corporation Act of 1994, as amended (the “Act”) or these Bylaws.

**3.2 Number, Appointment and Qualifications.** The Board of Directors (the “Board”) of the Corporation shall consist of not less than three (3) nor more than ten (10) voting Directors (the “Directors”) appointed by the Town of Bluffton Town Council, and such additional Ex Officio members as appointed pursuant to Section 3.3 of these Bylaws.

**3.3. Ex Officio Members:** The Board shall also consist of certain Ex Officio (the “Ex Officio”) members, whose memberships include the right to attend meetings of the Board and to speak at Board meetings but not the right to vote. The Directors shall be responsible for the appointment of all Ex Officio Members in accordance with these Bylaws. The Directors shall appoint the following mandatory Ex Officio members as prescribed below:

(i) Two (2) representatives consisting of members of the Town of Bluffton Town Council to be appointed by the Directors upon notification by the Town of Bluffton Town Council; and,

(ii) One (1) representative from the Beaufort County School District Board of Education to be appointed by the Directors upon notification by the Board of Education; and,

(iii) The Town Manager, or his/her delegated designee, to serve as an Ex Officio member and as the Executive Director of the Corporation as set forth in Section 4.4 of the Bylaws; and,

(iv) The Town Finance Director to serve as an Ex Officio member and as the Treasurer of the Corporation as set forth in Section 4.5 of the Bylaws.

Further, the Directors may appoint up to three (3) at-large Ex Officio members to the Board from the community and area organizations, such as, the Hilton Head Island-Bluffton Chamber of Commerce and the Greater Bluffton Chamber of Commerce.

**3.4 Classification and Tenure.** Each Director and Ex Officio member shall hold office from the date of appointment and qualification until a successor shall have been duly appointed and qualified, or until such Director or Ex Officio member's earlier removal, resignation, death or incapacity. The Terms of the Board members shall be as follows:

(i) The initial Directors shall have staggered terms of one, two, or three years. Thereafter, all terms shall be three (3) years. No Director shall serve more than three (3) full three (3) year terms.

(ii) The Town of Bluffton Town Council and Beaufort County School District Ex Officio members shall serve without term limits, so long as they continue to hold office.

(iii) The three at-large Ex Officio members shall serve for a term of three (3) years and may serve a maximum of three (3) consecutive terms.

(iv) The Executive Director and Treasurer Ex Officio members shall serve without term limits, so long as they continue employment with the Town of Bluffton.

**3.5 Resignation of Board Member.** A Board member may resign at any time by delivering written notice to the Board, the Chair or the Secretary. A resignation is effective when the notice is delivered unless the notice specifies a later date. Appointments to fill vacant seat(s) shall be in accordance with Article 3 of these Bylaws for the duration of that seat's term.

**3.6 Removal/Vacancies.** An Ex Officio member of the Board or officer, who ceases to hold that office, shall be deemed automatically removed from the Board of Directors. The Town Council may, with or without cause, remove any Director from the Board. Appointments to fill vacant seat(s) shall be in accordance with Article 3 of these By-Laws for the duration of that seat's term.

**3.7 Attendance.** All Directors shall be required to attend at least fifty percent (50%) of the scheduled and/or special meetings of the Board held during each fiscal year of the Corporation. A Director shall be deemed in attendance if participating by telephone. Any absence excused by a

majority vote of the Directors shall not count as an absence for purposes of this Section. Failure of any Director to satisfy this attendance requirement may result in removal of the subject Director by the Town Council.

**3.8 Meetings.** The Corporation shall hold an annual meeting each June, or as soon thereafter as possible, for the purpose of electing officers of the Board and for transacting such other business as may come before the Board. The meeting shall be held at the principal office of the Corporation or such other location within or without the State of South Carolina as specified by the Board of Directors. Except as otherwise provided by law, any business may be transacted at any meeting of the Board of Directors.

**3.9 Special Meetings.** Special meetings of the Board of Directors may be called for any lawful purpose or purposes by the Chair, or at least twenty-five percent (25%) of the Directors then in office.

**3.10 Notice of Meetings.** Notice of the time, date and place of any regular or special meeting shall be given at least one day prior thereto. Notice may be communicated in person, by telephone, electronic mail, telegraph, teletype or other form of wire or wireless communication or by mail or private carrier or any other lawful means. A Director's attendance at or participation in a meeting waives any required notice of the meeting, unless the Director upon arriving at the meeting (or prior to the vote on a matter not properly noticed in conformity with the law or the Corporation's Articles of Incorporation or these Bylaws) objects to and does not thereafter vote for or assent to the objected to action. Notice of an adjourned meeting need not be given if the time and place are fixed at the meeting adjourning.

**3.11 Participation by Telecommunications.** Any Director may participate in, and, for purposes of Section 3.7 above, be regarded as present at, any meeting of the Board of Directors by means of conference telephone or any other means of communication by which all persons participating in the meeting can hear each other at the same time.

**3.12 Quorum.** A majority of the Directors in office immediately before the meeting shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present at the meeting may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

**3.13 Action.** The Directors shall take action by the affirmative vote of a majority of the Directors participating in a meeting at which a quorum is present, or the affirmative vote of a greater number of Directors where required by the Articles, these Bylaws, the Act or otherwise by law.

**3.14 Action Without Meeting.** To the fullest extent permitted by the Act and the Freedom of Information Act ("FOIA"), the Board of Directors may take action without a meeting by written consent as to such matters and in accordance with such requirements and procedures authorized by the Act and FOIA. Unless otherwise permitted by the Act and FOIA, such written consent must be signed by all Directors and included in the minutes filed with the corporate records reflecting the action taken.

**3.15 Presumption of Assent.** A Director of the Corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless (i) such Director objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting, (ii) the Director votes against

the action and the vote is entered in the minutes of the meeting, (iii) the Director's dissent or abstention for the action taken is entered in the minutes of the meeting, or (iv) the Director delivers written notice of dissent or abstention to the presiding officer of the meeting before its adjournment or to the Corporation immediately after the adjournment of the meeting. The right to dissent shall not apply to a Director who voted in favor of such action.

**3.16 Committees.** The Board of Directors may from time to time designate one or more Committees, who shall render advice to the Board of Directors and oversee specified activities designated by the Board of Directors. Any such Committee may be designated as a standing Committee appointed annually or as a special Committee for specific circumstances or transactions with a limited duration. Each Committee shall be composed of at least two (2) Directors and such other persons as specified from time to time by the Board of Directors, who shall all serve at the pleasure of the Board of Directors. The duties, constitution, and procedures of any Committee shall be prescribed by the Board of Directors but no Committee shall be granted authority to act upon any matter without approval from the Board of Directors. The Board of Directors shall designate one member of each Committee as its Chair. The Board of Directors shall appoint members to Committees as it deems advisable. The Chair of each Committee shall schedule all Committee meetings and provide appropriate notice to all Committee members and the Secretary. The Chair of the Committee shall have a vote on all matters coming before the Committee. Minutes of Committee meetings shall be kept. The results of each vote shall be recorded in the minutes. Minutes of all Committee meetings shall be provided to the Secretary within thirty (30) days after any Committee meeting, but shall remain subject to modification by the Committee at its next meeting.

**3.17 Committee Meetings.** A majority of each Committee's voting members shall constitute a quorum for the transaction of business by the Committee, and each Committee shall take action by a majority of the Committee's voting members participating in a meeting at which a quorum of the Committee is present. Special meetings of any Committee may be called at any time by any Director who is a member of the Committee or by any person entitled to call a special meeting of the full Board of Directors. Except as otherwise provided in this section, the conduct of all meetings of any Committee, including notice thereof, and the taking of any action by such Committee shall be governed by this Article. Procedures shall be established for all Directors to receive schedules of all Committee meetings, agendas and copies of Committee meeting minutes to keep the Directors informed of matters under consideration by all Committees. In addition, Directors who are not serving on specific Committees are encouraged to attend Committee meetings of interest and participate in such meetings as non-voting members. In this manner, Directors can provide guidance and assistance to the Committees during the process of formulating recommendations to the Board of Directors and gain a better understanding of all of the factors considered by the Committee in making such recommendations.

**3.18 No Compensation.** Directors shall not receive compensation for serving as a member of the Corporation's Board of Directors. The Board of Directors may by resolution authorize the payment or reimbursement of direct out-of-pocket expenses incurred of each Director related to the Director's service to the Corporation.

**3.19 Order of Business.** Unless otherwise determined by the Chair, the order of business at the annual meeting, to be set as the first Annual meeting of the Board of Directors in a fiscal year, and so far as practicable at all other meetings of the Board of Directors, shall be as follows:

1. Call to Order;
2. Acknowledge compliance with FOIA;
3. Determination of a quorum;
4. Approval of agenda (amendments if necessary);
5. Reading and disposal of all unapproved minutes;
6. Reports of Officers and Committees, if applicable;
7. Election of Officers and Appointment of Committees, if applicable;
8. Unfinished business, if applicable;
9. New business; and
10. Adjournment.

Unless, and to the extent determined by the Board of Directors or the Chair of the meeting, meetings of the Board of Directors shall not be required to be held in accordance with rules of parliamentary procedure.

**3.20 Agenda.** The Chair of the Corporation shall prepare an agenda for each meeting prior to or during a meeting. Each Director of the Corporation shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to the Directors.

The Chair may add an item to an agenda as allowed by law at any time; provided, however, that if a Director objects to an item added after the agenda was distributed to the Directors no action may be taken at that meeting with respect to that item. Any Director may request the Chair to place an item on a future agenda by making such a request at a Board of Director meeting.

**3.21 Election of Officers.** Officers shall be elected at the earliest convenient time in the first year and then annually at the Annual Meeting of the Board of Directors. The Directors shall elect a Chair, Vice Chair, and Secretary. Officers will be elected by a majority vote of those Directors attending the meeting at which the nominations are made. If the Chair is not available at such meeting, the Vice Chair for the Corporation may preside for the purpose of electing Officers only; thereafter, the new Chair shall preside.

**3.22 Freedom of Information Act.** The Board of Directors and all Committees shall at all times comply with the South Carolina Freedom of Information Act, which includes satisfying the notice provision for all meetings. The Board of Directors may hold closed sessions as provided by the Freedom of Information Act.

Full and accurate minutes of the Corporation's proceedings shall be kept and shall be open to inspection by the public. The results of each vote shall be recorded in the minutes.

**3.23 Board Contacts with Public.** Directors shall not represent any contacts they have with the media or other members of the public as being representative of the Corporation unless the Corporation has formally taken a position on the matter. Individual Directors shall not release information to the media or the public when that information has been provided to them by the Corporation's attorney as part of a Confidential Attorney-Client memorandum or as part of a Corporation closed session held in compliance with applicable law.

## **ARTICLE IV**

### **OFFICERS**

**4.1 In General.** The Officers of the Corporation shall consist of a Chair, a Vice Chair, an Executive Director, a Treasurer and a Secretary and may also include assistant secretaries and other officers and agents as the Board of Directors deems advisable from time to time. The Chair, Vice Chair, and Secretary shall be elected by the Board of Directors to serve at the pleasure of the Board of Directors. Except as may otherwise be provided by the Act, the Corporation's Articles of Incorporation or these Bylaws, the Chair, Vice Chair, and/or Secretary may be removed by the Directors at any time, with or without cause. Any vacancy, however occurring, in any office must be filled by the Directors for the unexpired term. One person may hold two or more offices. Each Officer shall exercise the authority and perform the duties as may be set forth in these Bylaws and any additional authority and duties as the Board of Directors shall determine from time to time.

**4.2 Chair.** The Chair shall be elected by the Board of Directors and shall serve at the pleasure of the Board of Directors and the Town Council. The Chair shall preside at all meetings of the Board of Directors and shall undertake such additional duties and obligations as may from time to time be specified by the Board. Except as otherwise provided herein and as may be specifically limited by resolution of the Board of Directors or an authorized Committee thereof, the Chair shall have full authority to execute on the Corporation's behalf any and all contracts, agreements, notes, bonds, certificates, instruments and other documents. The Chair shall also perform such other duties and may exercise such other powers as are incident to the office of chief executive officer and as are from time to time assigned to him by the Act, these Bylaws or the Board of Directors.

**4.3 Vice Chair.** The Board of Directors may elect one or more Vice Chairs to serve in such capacities as specified by the Board of Directors from time to time (but such authority shall not exceed that of the Chair), with a Vice Chair designated by the Board of Directors to preside over meetings of the Board of Directors in the absence of the Chair. Except as otherwise determined by the Board of Directors, each Vice Chair shall serve under the direction of the Chair and shall perform such duties and may exercise such powers as are incident to the office.

**4.4 Executive Director.** The Executive Director shall be the Town Manager of the Town. The Executive Director shall be the Chief Executive and Operating officer of the Corporation and shall fulfill such specific duties as shall be assigned by the Board of Directors. The Town Manager, with the approval of Town Council, may delegate this Executive Director position, from time to time, to his designee. The Executive Director may sign, with any other proper officer of the corporation authorized by the Board, any deeds, mortgage, bonds, contracts, or other instruments which the Board has authorized to be executed, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be delegated by the Board to some other officer or agent; and, in general, the Executive Director shall perform all duties incident to the office of Executive Director and such other duties as may be prescribed by the Board from time to time.

**4.5 Treasurer.** The Treasurer shall be the Finance Director (or equivalent officer) of the Town and shall be the chief financial officer of the Corporation. The Treasurer shall be responsible for all financial matters presented to the Corporation, including the establishment and maintenance of the Corporation's bank accounts and all financial accounting related to the oversight of the Corporation's books and records. The Treasurer shall perform such other duties as are incident to the office of

Treasurer, and shall have such other powers and duties as may be conferred upon him or her by the Board.

**4.6. Secretary.** The Secretary shall be appointed by the Board of Directors and (a) keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) insure that minutes of all Committee meetings are provided as required herein; (d) be custodian of the corporate records of the Corporation; (e) keep a register of the address of each member of the Board of Directors; (f) authenticate records of the Corporation when such authentication is required; and (g) in general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned by the Chair or the Board of Directors. The Secretary may be assisted in the performance of these duties by a designee of the Executive Director.

## ARTICLE V

### INDEMNIFICATION

**5.1 Scope.** The Corporation shall indemnify, defend and hold harmless the Corporation's Offices and Directors to the fullest extent permitted by, and in accordance with the Act. This plan of indemnification shall constitute a binding agreement of the Corporation for the benefit of the Officers and Directors as consideration for their services to the Corporation, and may be modified or terminated by the Board of Directors only prospectively. Such right of indemnification shall not be exclusive of any other right which such Directors, Officers or representatives may have or hereafter acquire and, without limiting the generality of such statement, they shall be entitled to their respective rights of indemnification under any bylaw, agreement, insurance, provision of law, or otherwise, as well as their rights under this Article V.

**5.2 Indemnification Plan.** The Board of Directors may from time to time adopt an Indemnification Plan implementing the rights granted in Section 5.1. This Indemnification Plan shall set forth in detail the mechanics of how the indemnification rights granted in Section 5.1 shall be exercised, provided that the Indemnification Plan shall include that the Directors shall not be indemnified until twenty (20) days after effective written notice is given to the South Carolina Attorney General, as set forth in Section 33-31-855(d) of the Act.

**5.3 Insurance.** The Board of Directors may cause the Corporation to purchase and maintain insurance on behalf of any person who is or was a Director or Officer of the Corporation, or is or was serving at the request of the Corporation as a Director or Officer of another corporation, or as its representative in a partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred in any such capacity or arising out of such status, whether or not the Corporation would have the power to indemnify such person.

## ARTICLE VI

### TRANSACTIONS

**6.1 Procurement.** The Board of Directors shall adopt and the Corporation shall abide by an appropriate procurement code.

**6.2 Contracts.** The Board of Directors may authorize any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

**6.3 Loans.** The Board of Directors may authorize any Officer or Officers, or agent or agents, to contract any indebtedness and grant evidence of indebtedness and collateral therefor in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

**6.4 Checks, Drafts, Etc.** All checks, drafts or 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 manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by any two of the Chair, Vice Chair or Treasurer.

**6.5 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.

**6.6 Gifts.** The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

**6.7 Voting of Shares in Other Corporations Owned by the Corporation.** Subject always to the specific directions of the Board of Directors, any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation may be voted at any shareholders' or members' meeting of the other corporation by the Chair or by any other Officer specifically designated by the Board of Directors. Whenever, in the judgment of the Chair, or in his absence, of any designated Officer, it is desirable for the Corporation to execute a proxy or give a shareholders' or members' consent in respect to any share or shares of stock or membership interest issued by any other corporation and owned or controlled by the Corporation, the proxy or consent shall be executed in the name of the Corporation by the Chair without necessity of any authorization by the Board of Directors. Any person or persons designated in the manner above stated as the proxy or proxies of the Corporation shall have full right, power and authority to vote such share or shares of stock or membership interest issued by the other corporation.

## **ARTICLE VII**

### **RECORDS/ANNUAL AUDIT**

**7.1 Forms of Records.** When consistent with good business practices, any records of the Corporation may be maintained in other than written form if such other form is capable of reasonable preservation and conversion into written form within a reasonable time.

**7.2 Corporate Records.** The Corporation shall keep as permanent written records a copy of the minutes of all meetings of its Board of Directors, a record of all actions taken by the Directors without a meeting, and a record of all actions taken by Committees of the Board of Directors. The Corporation shall maintain appropriate accounting records. The Corporation or its agent shall maintain

a record of the name and address, in alphabetical order, of each Director. The Corporation shall keep a copy of the following records at its principal office:

- A. its Articles of Incorporation or restated Articles of Incorporation and all amendments thereto currently in effect;
- B. its Bylaws or restated Bylaws and all amendments thereto currently in effect;
- C. a list of the names and business or home address of its current Directors and Officers; and
- D. the Corporation's most recent report of each type required to be filed by the Corporation with the South Carolina Secretary of State.

**7.3 Annual Audit.** Within one hundred eighty (180) days after the close of each fiscal year of the Corporation, the Board of Directors shall cause an audit to be completed regarding the financial condition of the Corporation and an appropriate report issued to the Town. Such audit services shall be undertaken in accordance with accounting practices generally applicable to audits of governmental units by the certified public accounting firm then providing audit services to the Town for the applicable fiscal year, or such other firm of certified public accountants as may be selected by the Board of Directors from time to time.

## **ARTICLE VIII**

### **MISCELLANEOUS**

**8.1 Fiscal Year.** The fiscal year of the Corporation shall end on June 30 of each calendar year.

**8.2 Amendments.** These Bylaws may be altered, amended, or repealed and new Bylaws may be adopted by a majority vote of the Board of Directors then in office; provided that the notice of any meeting at which the Bylaws are to be amended shall state that the purpose or one of the purposes of the meeting is to consider an amendment to the Bylaws and shall be accompanied by a copy or summary of the proposed change or state the general nature of the change. Irrespective of the foregoing, no amendment of these Bylaws shall be effective without the written consent of the Town Council.

**8.3 Severability.** If any provision of these Bylaws or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, such provision shall be complied with or enforced to the greatest extent permitted by law as determined by such court, and the remainder of these Bylaws and the application of such provision to other persons or circumstances shall to be affected thereby and shall continue to be complied with and enforced to the greatest extent permitted by law.

**8.4 Usage.** In construing these Bylaws, feminine or neuter terms and pronouns shall be substituted for masculine forms and vice versa, and plural terms shall be substituted for singular forms and vice versa, in any place in which the context so requires. The section and paragraph headings contained in these Bylaws are for reference purposes only and shall not affect in any way the meaning or interpretation of these Bylaws. Terms such as "hereof", "hereunder", "hereto", and words of similar

import shall refer to these Bylaws in the entirety and all references to “Articles”, “Paragraphs”, “Sections”, and similar cross references shall refer to specified portion of these Bylaws, unless the context clearly requires otherwise. Terms used herein which are not otherwise defined shall have the meanings ascribed to them in the Act. All references to statutory provisions shall be deemed to include corresponding sections of succeeding law.

**8.5 Conflict Between Bylaws, Articles of Incorporation and the Act.** The Corporation’s Articles of Incorporation and the Act (as either may be amended from time to time) are incorporated herein by reference. Any conflict between the terms of these Bylaws, the Corporation’s Articles of Incorporation or the Act shall be resolved in the following order: (1) the Act; (2) the Corporation’s Articles of Incorporation; and (3) these Bylaws.

The foregoing are certified to be the true and complete Bylaws of the Corporation as adopted by the Board of Directors at a duly called meeting held on \_\_\_\_\_, 2015; and enacted upon the approval of the Town of Bluffton Town Council, per Section 8.2 above, on January 13, 2015.

\_\_\_\_\_  
Chair

Date of Certification:\_\_\_\_\_

(Corporate Seal)