

December 1, 2020 - 1st Reading
January 12, 2021 - Presented for approval.

2020-053 (2nd READING): PROVIDING FOR THE ISSUANCE BY THE CITY OF MYRTLE BEACH, SOUTH CAROLINA OF A REVENUE NOTE, IN THE PRINCIPLE AMOUNT OF NOT EXCEEDING \$10,000,000; PRESCRIBING THE FORM AND DETAILS OF SUCH NOTE; AND OTHER MATTERS RELATING THERETO.

Applicant/Purpose: Finance / to provide for a tax increment revenue note to be issued under the master ordinance for the Oceanfront Redevelopment Area to re-establish the \$10 million revolving loan pool.

Brief:

- The revolving loan pool has been & will be used as a source of temporary financing for construction of projects included in the Downtown Master Plan & the Oceanfront Redevelopment Plan (as amended in proposed Ordinance 2020-046).
- The pool will also serve its more traditional purpose of allowing for property acquisition & demolition/disposition resulting from code enforcement actions.
- The Master Bond Ordinance providing for the issuance of obligations of the Oceanfront Tax Increment District, adopted in 2009 (as amended in proposed Ordinance 2020-052), allows the issuance of obligations secured by the incremental revenues of the district.

Changes since 1st Reading:

- Filled in detail on interest rate, which will be the greater of prime or 3.25%.
- Filled in payment dates (1st day of each quarter beginning April, July, October, and January following creation of note) and maturity date (January 25, 2031).

Issues:

- This note will be the 1st such obligation authorized under the proposed amended Bond Ordinance (2020-052) for the Oceanfront Tax Increment District.
- The Note will be secured by a senior lien of net parking revenues from the Parking Facility, a municipal utility created under proposed Ordinance 2020-047, & by a junior lien of incremental tax revenues from the Oceanfront Redevelopment District.

Public Notification: Standard Notification for 1st Reading of an ordinance.

Alternatives: Do not approve ordinance. Use City’s own-source revenues or secure interim financing w/ additional transaction costs each time it is needed.

Financial Impact: Negligible. This arrangement simply reconstitutes the loan pool that has been in effect & secured by the same parking revenues since March 2015.

Manager’s Recommendation:

- I recommend 1st reading (12/1/2020).
- I recommend approval (1/12/21).

Attachment(s): Proposed ordinance.

CITY OF MYRTLE BEACH
COUNTY OF HORRY
STATE OF SOUTH CAROLINA

AN ORDINANCE PROVIDING FOR THE
ISSUANCE BY THE OF CITY OF MYRTLE
BEACH, SOUTH CAROLINA OF A REVENUE
NOTE, IN THE PRINCIPAL AMOUNT OF NOT
EXCEEDING \$10,000,000; PRESCRIBING
THE FORM AND DETAILS OF SUCH NOTE;
AND OTHER MATTERS RELATING THERETO.

NOW THEREFORE, be it ordained by the City Council of the City of Myrtle Beach (the
“City Council”), the governing body of the City of Myrtle Beach, South Carolina (the “City”),
as follows:

Section 1. Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in Section
1.1 of the hereinafter defined Senior Bond Ordinance and in Section 2 of the hereinafter
defined Parking System Ordinance shall have the same meanings in this ordinance (the “Note
Ordinance”) as such terms are prescribed to have in the Senior Bond Ordinance and Parking
System Ordinance.

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

“Act” shall mean Title 31, Chapter 6, Code of Laws of South Carolina 1976, as amended
(being the Tax Increment Finance Law), and all other statutory authorizations, now or
hereinafter enacted, authorizing and enabling the City to provide for the issuance of the Note.

“Authorized Officers” shall mean the Mayor, City Manager, Chief Financial Officer and
the Director of Financial Management and Reporting of the City and any other person or
persons as the City Manager may designate as an Authorized Officer.

“Date of Delivery” shall have the meaning given such term in Section 2.03(a) hereof.

“Disposition Proceeds” shall mean the amount realized by the City from the sale or
disposition of any Redevelopment Project up to, but not exceeding, the amounts advanced by
the Lender under the Loan Agreement to defray the cost of such Redevelopment Project.

“Disposition Proceeds Account” shall mean the account of that name created pursuant to
Section 12 hereof.

“Facilities” shall mean the Off-Street Parking Facilities and On-Street Parking Facilities.

“Interest Payment Date” shall mean, with respect to the Note, January 1, April 1, July 1
and October 1 of each year, commencing April 1, 2021.

“Loan” shall mean the loan from the Lender to the City in the outstanding amount from
time to time of not exceeding \$10,000,000 to be evidenced by the Note.

1
2 “Loan Agreement” shall mean the Loan Agreement evidencing the Loan to be dated the
3 date of its execution and delivery between the Lender and the City.
4

5 “Maturity Date” shall mean January 25, 2031.
6

7 “Note” shall mean the not exceeding \$10,000,000 Promissory Note of the City of
8 Myrtle Beach, South Carolina, in the form attached as Exhibit A hereto.
9

10 “Note Payment Fund” shall mean the fund by that name established pursuant to
11 Section 12 of this Note Ordinance.
12

13 “Off-Street Parking Facilities” shall mean the existing off-street motor vehicular parking
14 facilities of all sorts of the City, including, but not limited to, garages, parking lots, buildings
15 and ramps, including the parking facilities to be constructed with the proceeds of Bonds, the
16 Note and other Tax Increment Obligations, and all other Off-Street Parking facilities as may from
17 time to time be constructed or purchased by the City, and which the City Council declares by
18 ordinance to be part of the Off-Street Parking facilities, and will include any system which is
19 combined with or consolidated into the Facilities pursuant to law; but excluding any Facilities
20 which are abandoned, sold, traded or leased as permitted under the Parking Ordinance;
21 provided, further, that for the avoidance of doubt, the Off-Street Parking Facilities do not
22 include any improvements or other structures (“Structures”) which may be attached adjacent to
23 or above Off-Street Parking Facilities which are not used for the primary purpose of parking
24 vehicles or, if such Structures are to be so used, are determined by ordinance of the City Council
25 not to be part of the Facilities, and do not include any air rights or other rights which may be
26 granted by the City to develop or construct any Structures. Off-Street Parking Facilities shall not
27 include the off-street motor vehicular parking facilities located on the former Myrtle Beach
28 Airforce Base unless City Council by ordinance otherwise determines.
29

30 “On-Street Parking Facilities” shall mean any system of parking meters, curb-line or
31 other, of the City, regulating the parking of motor vehicles on any street within the corporate
32 limits of the City requiring the payment of a charge for the right to make use of any portion of
33 any street set apart for motor vehicle parking, as the same may from time to time exist.
34

35 “Parking and Tax Increment Account” shall mean the account of that name created
36 pursuant to Section 12 hereof.
37

38 “Parking Ordinance” shall mean Ordinance No. 2020-47 enacted January 12, 2021,
39 entitled “AN ORDINANCE OF THE CITY OF MYRTLE BEACH, SOUTH CAROLINA PROVIDING FOR
40 THE CREATION OF A PARKING SYSTEM; AND OTHER MATTERS RELATED THERETO,” as the same
41 may be amended or supplemented from time to time.

42 “Parking System” shall mean the City’s Off-Street Parking Facilities and the On-Street
43 Parking Facilities, which the City has designated as a “system” within the meaning of such term
44 in Section 6-21-40 of the Revenue Bond Act.
45

46 “Redevelopment Plan” shall have the meaning given such term in the Senior Bond
47 Ordinance.
48

1 “Redevelopment Project” or “Redevelopment Projects” shall mean the projects
2 described in the Redevelopment Plan and all other “redevelopment projects” within the
3 Redevelopment Project Area under the Redevelopment Act.
4

5 “Redevelopment Project Area” shall mean the area designated as such pursuant to the
6 Senior Bond Ordinance.
7

8 “Revenues” shall mean (i) the Net Revenues of the System, (ii) the Tax Revenues on
9 deposit in the Capital Projects Fund created under the Senior Bond Ordinance which are
10 available for the payment of the Junior Bonds pursuant to the Senior Bond Ordinance, and (iii)
11 the Disposition Proceeds.
12

13 “Senior Bond Ordinance” shall have the meaning given that term in Section 1.02
14 hereof.

15 “Senior Bonds” shall mean the Series 2017B Bonds and any additional bonds or
16 obligations issued on a parity therewith pursuant to the Senior Bond Ordinance.

17 “Senior Trustee” shall mean The Bank of New York Mellon Trust Company, N.A.
18

19 “Series 2017B Bonds” shall mean the City’s \$7,245,000 original principal amount
20 Limited Obligation Refunding Bonds (Tax Increment Pledge), Series 2017B, issued pursuant to
21 the Senior Bond Ordinance.

22 Section 2. Certain Findings and Determinations.

23 The City hereby finds and determines:

24 (a) The City is an incorporated municipality located in Horry County, and as such
25 possesses all powers granted to municipalities by Article X, Section 14, of the Constitution of
26 the State of South Carolina, 1895, as amended (the “Constitution”) and general laws of this
27 State.

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

32 (c) The Constitution provides that the General Assembly may authorize by general
33 law that indebtedness for the purpose of redevelopment within incorporated municipalities
34 may be incurred, and that the debt service of such indebtedness be provided from the added
35 increments of tax revenues to result from the redevelopment project.

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

41 (e) The Act authorizes the City to establish a “redevelopment project area” (as
42 defined in the Act) and to adopt a redevelopment plan (as defined in the Act) for the purpose

1 of providing for the financing of municipally-owned buildings, improvements, including street
2 improvements, water, sewer and storm drainage facilities, parking facilities and recreational
3 facilities through the issuance of obligations payable from the amount of taxes attributable to
4 the increase in the assessed valuation of real property in the redevelopment project area
5 following the establishment of such redevelopment project area.

6 (f) The City has heretofore determined that there existed within the
7 Redevelopment Project Area certain areas which were, or were threatened to become,
8 blighted, in which areas development and redevelopment would be encouraged through the
9 City's undertaking of certain municipal projects, and has approved the Redevelopment Plan
10 for the Redevelopment Project Area.

11 (g) The City determined to avail itself of the authorizations of the Act in order to
12 provide financing for the Redevelopment Projects as described in the Redevelopment Plan.

13 (h) The Redevelopment Plan sets forth the factual and economic bases of the City's
14 plan to establish the Redevelopment Project Area and to finance, within such area, various
15 City owned infrastructure projects through the issuance of obligations pursuant to the Act and
16 from other revenue sources.

17 (i) The City Council has made general provision for the issuance by the City of
18 obligations under the Act through the means of an ordinance enacted August 11, 2009,
19 entitled "AUTHORIZING THE ISSUANCE AND SALE OF NOT EXCEEDING \$12,000,000 LIMITED
20 OBLIGATION BONDS, SERIES 2009, OF THE CITY OF MYRTLE BEACH, SOUTH CAROLINA, FOR THE
21 PURPOSE OF PROVIDING A PORTION OF THE COST OF CERTAIN REDEVELOPMENT PROJECTS TO
22 BE UNDERTAKEN PURSUANT TO THE OCEANFRONT REDEVELOPMENT PROJECT AREA TAX
23 INCREMENT FINANCING PLAN; FIXING THE FORM AND DETAILS OF THE BONDS; LIMITING THE
24 PAYMENT OF THE BONDS FROM THE SOURCES PROVIDED HEREIN; PROVIDING FOR THE
25 DISPOSITION OF THE PROCEEDS THEREOF; PROVIDING FOR THE TERMS AND CONDITIONS UNDER
26 WHICH ADDITIONAL BONDS MAY BE ISSUED; AND OTHER MATTERS RELATING THERETO" (the
27 "Original Senior Bond Ordinance").

28 (j) The Original Senior Bond Ordinance has been supplemented by an Ordinance
29 enacted by City Council on August 22, 2017, entitled "A SUPPLEMENTAL ORDINANCE
30 PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF MYRTLE BEACH, SOUTH CAROLINA,
31 LIMITED OBLIGATION REFUNDING BONDS (TAX INCREMENT PLEDGE), SERIES 2017B, IN THE
32 AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$9,000,000; PRESCRIBING THE FORM AND
33 DETAILS OF SUCH BONDS; AND OTHER MATTERS RELATING THERETO" (the "First Supplemental
34 Senior Bond Ordinance").

35 (k) The Original Senior Bond Ordinance has been amended by an Ordinance
36 enacted by City Council on December 8, 2020, entitled "AN ORDINANCE AMENDING
37 ORDINANCE NO. 2009-52 RELATING TO OBLIGATIONS ISSUABLE FOR REDEVELOPMENT
38 PROJECTS BENEFITTING THE OCEANFRONT REDEVELOPMENT PROJECT AREA; PROVIDING FOR
39 THE ADDITION OF NEW AREAS TO THE REDEVELOPMENT PROJECT AREA DESCRIBED THEREIN
40 AND PROVIDING FOR THE DEPOSIT OF INCREMENTAL REVENUES FROM THE ADDED
41 REDEVELOPMENT PROJECT AREA TO THE SPECIAL TAX ALLOCATION FUND CREATED
42 THEREUNDER" (the "First Amendment to Original Senior Bond Ordinance"; the Original Senior
43 Bond Ordinance, as supplemented by the First Supplemental Senior Bond Ordinance and from
44 time to time hereafter, and as amended by the First Amendment to Original Senior Bond

1 Ordinance, and from time to time hereafter, being referred to herein as the “Senior Bond
2 Ordinance”).

3 (l) In order to assist in the implementation of the Redevelopment Plan, the City
4 has heretofore issued, and intends to issue from time to time, Senior Bonds pursuant to the
5 Senior Bond Ordinance.

6 (m) The Senior Bond Ordinance also permits the City to issue Junior Bonds secured
7 by a pledge of funds in or to be deposited to the Special Tax Allocation Fund, junior and
8 subordinate in all respects to the pledge securing the Senior Lien bonds.

9 (n) Pursuant to the powers vested in it pursuant to the Constitution and laws of the
10 State of South Carolina, the City owns and operates the Off-Street Parking Facilities, as well
11 as the On-Street Parking Facilities.

12 (o) Section 5-29-40, Code of Laws of South Carolina 1976, as amended, provides
13 that any municipality shall be permitted to make provision for the contribution,
14 establishment maintenance and improvement of Off-Street Parking Facilities and to finance
15 or refinance the cost of such construction, establishment, maintenance and improvement
16 through the issuance of bonds pursuant to Sections 6-21-10 through 6-21-570, Code of Laws of
17 South Carolina 1976, as amended, and as the same may be hereafter amended (the “Revenue
18 Bond Act”) and Sections 6-17-10 through 6-17-320, Code of Laws of South Carolina 1976, as
19 amended, and as the same may hereafter be amended (the “Refunding Revenue Bond Act”).

20 (p) Section 6-21-40 of the Revenue Bond Act defines “system” for purposes of the
21 Revenue Bond Act to include all of the projects and undertakings referred to in Section 6-21-
22 50 of the Revenue Bond Act. The projects and undertakings set forth in Section 6-21-50 of
23 the Revenue Bond Act include the purchase and construction of parking buildings, parking lots
24 and other public buildings and structures in furtherance thereof.

25 (q) The City has designated the Facilities as a “system” within the meaning of such
26 term in Section 6-21-40 of the Revenue Bond Act (such system defined herein as the “Parking
27 System”).

28 (r) Section 31-6-110 of the Act provides, in part, that if obligations are issued
29 under the Act to finance the extension or expansion of a “system” as defined in Section 6-21-
30 40 of the Revenue Bond Act in a redevelopment project area created under the Act, all or a
31 portion of the revenues of the system, whether or not located entirely within the
32 redevelopment project area, including the revenues of any redevelopment project therein,
33 may be pledged to secure the obligations issued under the Act.

34 (s) The Redevelopment Projects include parking improvements to include the
35 construction of four parking facilities expected to be located within the City at 4th Avenue, 7th
36 Avenue, Withers Drive and Joe White, each of which will constitute an extension or expansion
37 of the Parking System.

38 (t) The Redevelopment Plan contemplates the issuance of not exceeding \$89
39 million of bonds or other obligations under the Act to finance certain of the redevelopment
40 projects described therein.

1 (u) It is provided in and by the Senior Bond Ordinance that there may be issued one
2 or more series of Junior Bonds to secure funds to defray eligible Redevelopment Project Costs
3 under the Act.

4 (v) The City desires to make provision for the issuance of Junior Bonds to be
5 additionally payable from and secured by a pledge of and lien on the Net Revenues of the
6 Parking System.

7 (w) The City has received a commitment from the Lender by which the Lender has
8 agreed to enter into the Loan Agreement and provide to the City a revolving credit facility
9 under which the City may have outstanding a principal amount of indebtedness not exceeding
10 \$10,000,000.

11 (x) Advances by the Lender are to be loaned pursuant to the Loan Agreement, a
12 copy of which was presented to the meeting of City Council at which this Note Ordinance
13 received final reading and which was filed with the minutes of City Council, and hereby
14 incorporated by reference the obligations of the City under the Loan Agreement are to be
15 evidenced and secured by the Note. Each advance under the Note will constitute an
16 "obligation" as defined in the Act. Pursuant to the Loan Agreement the City will agree to use
17 the proceeds of the Note only to pay eligible Redevelopment Project Costs relating to the
18 Redevelopment Projects, and the City will agree to pay to the Lender such amounts as shall
19 be required to provide for the payment of all amounts due with respect to the repayment of
20 the Note.

21 (y) The City Council is enacting this Note Ordinance in order to:

22 (i) confirm the establishment of the Facilities as a "system" under Section
23 6-21-40 of the Revenue Bond Act;

24 (ii) authorize the execution and delivery on behalf of the City of the Loan
25 Agreement and the Note and the undertakings and agreements of the City therein set
26 forth;

27 (iii) evidence the approval of the Redevelopment Projects, the Note and the
28 Loan by the City and authorize the expenditure of the proceeds of the Loan to defray
29 the costs of the Redevelopment Projects and for such other purposes permitted under
30 the Loan Agreement; and

31 (iv) authorize the execution and delivery by, and on behalf of, the City of
32 such other agreements and certificates and the taking of such other action by the City
33 and its officers as shall be necessary or desirable in connection with the financing of
34 the Redevelopment Projects in order to carry out the intent of this Note Ordinance.

35 (z) The Revenues pledged under this Note Ordinance are not encumbered by any
36 lien and charge thereon or pledge thereof, other than the lien and charge on and pledge of
37 the Tax Revenues created by the Senior Bond Ordinance for payment and security of the
38 Senior Bonds, and the lien, charge and pledge of this Note Ordinance for payment and
39 security of the Note.

40 (aa) The Note is being used for the purposes of (i) defraying eligible Redevelopment
41 Project costs of the Redevelopment Projects.

1 (bb) It is necessary and in the best interest of the City to undertake the
2 Redevelopment Projects and to issue the Note in the principal amount of not exceeding
3 \$10,000,000, in accordance with the Act for the purposes set forth above.

4 Section 3. Principal Amount; Designation. There are hereby authorized
5 “obligations” as defined under the Act to be incurred from time to time in the aggregate
6 principal amount of \$20,000,000. Pursuant to the provisions of this Note Ordinance, a Note of
7 the City entitled to the benefits, protection and security of the provisions of this Note
8 Ordinance is hereby authorized in the limited aggregate principal amount outstanding from
9 time to time of not exceeding \$10,000,000. Provided the outstanding principal amount of the
10 Note outstanding at any time does not exceed \$10,000,000, the City may borrow, repay and
11 reborrow under the Note at any time in the manner provided in the Loan Agreement. The
12 Note so authorized shall be designated “City of Myrtle Beach, South Carolina Revenue Note
13 (Parking Revenue and Tax Increment Pledge), Series 2021,” or such other designation as may
14 be determined by the City Manager, and shall constitute Junior Bonds under the Senior Bond
15 Ordinance. The Note shall be in substantially the form set forth in Exhibit “A” hereto. Each
16 borrowing and reborrowing under the Note shall constitute a separate “obligation” under the
17 Act.

18 Section 4. Purposes. The Note is authorized for the purpose of evidencing the
19 Obligations and providing for the source of payment and security for such obligations.

20 Section 5. Date of Delivery; Interest Rate; Maturity; Redemption and Sale.

21 (a) The Note shall be its date of delivery (the “Date of Delivery”), and the Note
22 shall mature on the Maturity Date and bear interest payable on each Interest Payment Date,
23 at the rates per annum set forth in the Credit Agreement.

24 (b) The Note shall be delivered to the Lender pursuant to the Credit Agreement.

25 Section 6. Payment of Interest.

26 The Note shall bear interest on the outstanding principal amount thereof from the
27 later of (i) the Date of Delivery, or (ii) the date to which interest has last been paid; provided
28 that if the City shall fail to pay interest on the Note on April 1, 2021, then the Note shall bear
29 interest from the Date of Delivery.

30 The Note shall be issued in fully-registered form, as a single note in the name of the
31 Purchaser. The City shall keep books of registry for the Note.

32
33 Section 7. Authorization of the Redevelopment Projects. There is hereby approved
34 and authorized the undertaking such of the Redevelopment Projects as may be determined by
35 the Authorized Officers, or any one of them, acting alone, and the application of the Loan
36 proceeds to defray the cost of such Redevelopment Projects and for such other purposes as is
37 provided in the Loan Agreement.
38

1 Section 8. Approval of Loan Agreement and the Note. The Loan Agreement in
2 substantially the form presented to City Council at this meeting, a copy of which was filed
3 with the City Clerk, and the Note in the form attached as Exhibit A, with such changes as the
4 executing officers shall approve (their execution to be conclusive evidence of such approval),
5 are hereby approved and the execution and delivery of the Loan Agreement and the Note, on
6 behalf of the City, are hereby authorized and directed. The Loan Agreement and the Note
7 shall be executed on behalf of the City by the Mayor or Mayor Pro Tempore and attested by
8 the Clerk of the City under a manual or facsimile of the seal of the City which shall be
9 impressed, imprinted or reproduced thereon. The City Council hereby authorizes the
10 incurrence of total indebtedness under the Note outstanding from time to time in a principal
11 amount not to exceed \$10,000,000. The outstanding principal amount, the dates and the
12 repayment schedule of the Note may be adjusted pursuant to the terms of the Loan
13 Agreement.
14

15 Section 9. Repayment of Loan by the City. The City Council hereby authorizes the
16 repayment of the Loan by the City to the Lender from the Revenues pursuant to and in
17 accordance with the provisions of the Loan Agreement and the Note.
18

19 Section 10. Payment of the Note. The Note, together with the interest thereon,
20 shall be payable, in such coin or currency of the United States of America which at the time
21 of such payment is legal tender for public and private debts, solely from the Revenues in
22 accordance with the provisions of this Note Ordinance. The Note is a special obligation of the
23 City payable solely from, and secured by a pledge of and lien upon, the Revenues.
24

25 As permitted by Section 31-6-10 of the Act, the City designates the Disposition
26 Proceeds for the purpose of securing the principal of the Note. All Disposition Proceeds shall
27 be deposited to the Disposition Proceeds Account and applied as provided in Section 13
28 hereof.
29

30 The Note does not constitute an indebtedness of the City within any State
31 Constitutional provisions (other than Article X, Section 14, Paragraph 10 of the South Carolina
32 Constitution authorizing obligations payable solely from special sources not involving revenues
33 from any tax or license) or statutory limitation and shall never constitute nor give rise to a
34 pecuniary liability of the City or a charge against its general credit or taxing power. The full
35 faith, credit and taxing powers of the City are not pledged to the payment of the principal of
36 and interest on the Note.
37

38 Section 11. Authentication of the Note. The Note shall not be valid or become
39 obligatory for any purpose unless there shall have been endorsed thereon a certificate of
40 authentication. The Note shall bear a certificate of authentication manually executed by the
41 City Clerk, on behalf of the City, as registrar, in substantially the form set forth herein.

42 Section 12. Creation of Funds and Accounts. The following are the Funds created
43 and established by this Note Ordinance:
44

45 (a) a Revenue Fund, together with a Parking and Tax Increment Account and a
46 Disposition Proceeds Account therein, to be held by the City;

47
48 (b) a Note Payment Fund to be held by the Lender.
49

1 The Funds hereby created (a) shall be funded, and disbursements therefrom shall be
2 made, at the times and in the amounts, and amounts therein may be invested, all as is provided
3 in the Loan Agreement and the Note, and (b) shall remain in existence for so long a time as any
4 sum remains due and payable by way of principal of and interest on the Note. Any Revenues and
5 other moneys remaining after application as provided herein and in the Loan Agreement may be
6 applied by the City, from time to time, for such lawful purposes as it may determine to be in the
7 best interest of the City.
8

9 The establishment and continuation of the Revenue Fund in and by this Note
10 Ordinance shall not be construed to require the establishment of any completely
11 independent, self-balancing funds as such term is commonly defined and used in
12 governmental accounting, but rather is intended solely to constitute an earmarking of the
13 amounts to be credited or deposited therein for certain purposes and to establish certain
14 priorities for application of such amounts as provided herein and in the Loan Agreement. The
15 moneys required to be accounted for in the Revenue Fund may be deposited in a general bank
16 account, together with other moneys of the City, provided that adequate accounting records
17 are maintained to reflect and control the restricted allocation of the moneys in and deposited
18 therein for the various purposes of such funds as provided in this Note Ordinance and the Loan
19 Agreement.
20

21 Section 13. Deposits to and Application of Revenue Fund and Note Payment Fund.
22

23 (a) On or before the fifth day prior to an Interest Payment Date, the City shall
24 deposit or cause to be deposited to the Parking and Tax Increment Account, pursuant to
25 Section 4 of the Parking Ordinance, Net Revenues in an amount equal to the interest coming
26 due on the Note by such Interest Payment Date; and to the extent necessary and on deposit in
27 the Capital Projects Fund created under the Senior Bond Ordinance, Tax Revenues, in
28 amounts sufficient to make payment of the interest coming due on the Note on such Interest
29 Payment Date. Such amounts deposited to the Parking and Tax Increment Account shall be
30 deposited to the Note Payment Fund on the Interest Payment Date.
31

32 (b) On or before the fifth day prior to a Maturity Date, the City shall deposit or
33 cause to be deposited to the Parking and Tax Increment Account, pursuant to Section 4 of the
34 Parking Ordinance, Net Revenues in an amount equal to the outstanding principal coming due
35 on the Note on such Maturity Date; and to the extent necessary on deposit in the Capital
36 Projects Fund created under the Senior Bond Ordinance, Tax Revenues, in amounts sufficient
37 to make payment of the outstanding principal coming due on the Note on such Maturity Date.
38 Such amounts deposited to the Parking and Tax Increment Account shall be deposited to the
39 Note Payment Fund on the Maturity Date.
40

41 (c) The City shall deposit or cause to be deposited to the Disposition Proceeds
42 Account, all Disposition Proceeds received by the City and shall apply such Disposition
43 Proceeds at such time as is required under the Loan Agreement to the payment of the
44 outstanding principal of the Note.
45

46 (d) The City will give such directions to the Senior Trustee as may be necessary to
47 cause the transfer of amounts available in the Capital Projects Fund to the Parking and Tax
48 Increment Account required pursuant to subparagraphs (a) and (b) of this Section 13.
49

1 Section 14. Filings with Central Repository. In compliance with Section 11-1-85 of
2 the Code of Laws of South Carolina 1976, as amended, the City covenants that it will file or
3 cause to be filed with a central repository for availability in the secondary bond market when
4 requested: (a) a copy of the annual audit of the City within 30 days of the City's receipt
5 thereof; and (b) within 30 days of the occurrence thereof, relevant information of an event
6 which, in the opinion of the City, adversely affects more than five percent of the Revenues of
7 the System or the City's tax base. The City also shall file or cause to be filed with the Lender
8 the same information filed with the central repository in accordance with the preceding
9 sentence.

10
11 Section 15. Benefits of Ordinance Limited to the City; the Lender. With the exception
12 of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be
13 implied from this Note Ordinance, the Loan Agreement or the Note is intended or should be
14 construed to confer upon or give to any person other than the City and Lender as the holder of
15 the Note, any legal or equitable right, remedy or claim under or by reason of or in respect to this
16 Note Ordinance or any covenant, condition, stipulation, promise, agreement or provision herein
17 contained. This Note Ordinance and all of the covenants, conditions, stipulations, promises,
18 agreements and provisions hereof are intended to be and shall be for and inure to the sole and
19 exclusive benefit of the City and the holder from time to time of the Note as herein and therein
20 provided.

21
22 Section 16. Note Ordinance Binding Upon Successors or Assigns of the City. All the
23 terms, provisions, conditions, covenants, warranties and agreements contained in this Note
24 Ordinance shall be binding upon the successors and assigns of the City and shall inure to the
25 benefit of the Lender, its successors and assigns, as the holder of the Note.

26
27 Section 17. No Personal Liability. No recourse shall be had for the enforcement of any
28 obligation, covenant, promise or agreement of the City contained in this Note Ordinance, the
29 Loan Agreement or the Note, against any past, present or future City Council member or officer
30 or employee of the City, as such, in his or her individual capacity, either directly or through the
31 City, whether by virtue of any constitutional provision, statute or rule of law, or by the
32 enforcement of any assessment or penalty or otherwise. It is expressly agreed and understood
33 that this Note Ordinance, the Loan Agreement and the Note are solely corporate obligations, and
34 that no personal liability whatsoever shall attach to, or be incurred by, any past, present or
35 future City Council member or officer or employee of the City as such, either directly or by
36 reason of any of the obligations, covenants, promises, or agreements entered into between the
37 City or the holder of the Note or to be implied therefrom as being supplemental hereto or
38 thereto. All personal liability of that character against every such City Council member or officer
39 or employee of the City is, by the enactment of this Note Ordinance and the execution of the
40 Loan Agreement and the Note, and as a condition of, and as a part of the consideration for, the
41 enactment of this Note Ordinance and the execution of the Loan Agreement and the Note,
42 expressly waived and released. The immunity of City Council members or officers and
43 employees of the City under the provisions contained in this Section 17 shall survive the
44 termination of this Note Ordinance.

45
46 Section 18. Partial Invalidity. If any one or more of the covenants or agreements or
47 portions thereof provided in this Note Ordinance on the part of the City to be performed should
48 be determined by a court of competent jurisdiction to be contrary to law, then such covenant or
49 covenants, or such agreement or agreements, or such portions thereof, shall be deemed
50 severable from the remaining covenants and agreements and portions thereof provided in this

1 Note Ordinance and the invalidity thereof shall in no way affect the validity of the other
2 provisions of this Note Ordinance, the Loan Agreement or of the Note, but the holder of the Note
3 shall retain all the rights and benefits accorded to it hereunder and under any applicable
4 provisions of law.
5

6 If any provisions of this Note Ordinance shall be held or deemed to be or shall, in fact, be
7 inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or
8 jurisdictions or in all jurisdictions, or in all cases because of conflicts with any constitution or
9 statute or rule of public policy, or for any other reason, such circumstances shall not have the
10 effect of rendering the provision in question inoperative or unenforceable or invalid in any other
11 case or circumstance, or of rendering any other provision or provisions herein contained
12 inoperative or unenforceable or invalid to any extent whatever.
13

14 Section 19. Law and Place of Enforcement of Ordinance. This Note Ordinance shall be
15 construed and interpreted in accordance with the laws of the State and all suits and actions
16 arising out of this Note Ordinance shall be instituted in a court of competent jurisdiction in the
17 State.
18

19 Section 20. Effect of Article and Section Headings and Table of Contents. The
20 headings or titles of the several Sections hereof, and any table of contents appended hereto or
21 to copies hereof, shall be solely for convenience of reference and shall not affect the meaning,
22 construction, interpretation or effect of this Note Ordinance.
23

24 Section 21. Repeal of Inconsistent Ordinances. All ordinances and resolutions of the
25 City, and any part of any ordinance or resolution, inconsistent with this Note Ordinance are
26 hereby repealed to the extent of such inconsistency.
27

28 Section 22. Notices. All notices, certificates, or other communications hereunder or
29 under this Note Ordinance shall be sufficiently given and shall be deemed given when mailed by
30 registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:
31

32 If to the City:

33
34 City of Myrtle Beach
35 Attn: City Manager
36 921 Oak Street
37 Myrtle Beach, South Carolina 29577
38

39 If to the Lender:

40
41 South Atlantic Bank
42 Attn: President or Vice President
43 630 29th Avenue North
44 Myrtle Beach, South Carolina 29577
45

46 The City and the Noteholder, may, by notice given to the other parties, designate any
47 further or different addresses to which subsequent notices, certificates or other communications
48 shall be sent.
49

1 Section 23. Other Instruments and Actions. In order to implement the Loan
2 pursuant to the Loan Agreement and the Note and to give full effect to the intent and
3 meaning of this Note Ordinance and the agreements and actions herein authorized, the
4 Mayor, Mayor Pro Tempore, City Manager, Chief Financial Officer, Clerk of the City and City
5 Attorney are hereby authorized to execute and deliver such certificates, showings,
6 instruments and agreements and to take such further action as the City shall deem necessary
7 or desirable.

8
9 Section 24. Further Actions. The Mayor, Mayor Pro Tempore, City Manager, Chief
10 Financial Officer, Clerk of the City and City Attorney are hereby authorized and directed to
11 take any and all such further actions as shall be deemed necessary or desirable in order to
12 effectuate issuance of the Note pursuant to the Loan Agreement and to carry out the
13 intentions of this Note Ordinance. The Authorized Officers, or any one of them acting alone,
14 are hereby authorized to take such action and sign such requisitions as may be necessary for
15 the advance of proceeds of borrowings under the Loan Agreement and Note, pursuant to the
16 terms of the Loan Agreement.

17
18 Section 25. Ordinance a Contract. This Note Ordinance shall be a contract between
19 the City and the Lender, and shall be enforceable as such against the City.

20
21 Section 26. Effectiveness of Ordinance; Codification. This Note Ordinance shall be
22 in full force and effect from and after its enactment as provided by law. This Note Ordinance
23 shall be forthwith codified in the Code of City Ordinances in the manner required by law and
24 shall be indexed under the general heading "Note Issue-Not Exceeding \$10,000,000 principal
25 amount Promissory Note, Parking Revenues and Tax Increment Pledge" and shall be made
26 available for public inspection at the office of the Clerk of the City.
27

28
[Signature page to follow]

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Enacted this 12th day of January 2021.

CITY OF MYRTLE BEACH, SOUTH CAROLINA

By: _____
Mayor

ATTEST:

City Clerk

13 First Reading: December 1, 2020
14 Second Reading: January 12, 2021

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2
3

EXHIBIT A
PROMISSORY NOTE FORM

1 REVOLVING LINE OF CREDIT PROMISSORY NOTE

2
3 Myrtle Beach, South Carolina
4 January ____, 2021
5

6 FOR VALUE RECEIVED, the undersigned CITY OF MYRTLE BEACH, SOUTH CAROLINA,
7 a body politic and corporate and a political subdivision of the State of South Carolina
8 (hereinafter referred to as the "City") unconditionally promises to pay to the order of SOUTH
9 ATLANTIC BANK, a South Carolina bank (hereinafter referred to as "Lender"), its successors
10 and assigns, but only from the sources provided herein, at its offices indicated at 630 29th
11 Avenue North, Myrtle Beach, South Carolina 29577, or such other place as may be designated
12 by Lender from time to time, the principal amount of TEN MILLION and NO/100
13 (\$10,000,000.00) DOLLARS, or so much thereof as may be advanced from time to time in
14 immediately available funds, together with interest computed daily on the outstanding
15 principal balance hereunder, at an annual interest rate, and in accordance with the payment
16 schedule, indicated below.

17 1. Rate. The outstanding principal balance of this Note will bear interest at a rate
18 per annum equal to the greater of (i) Three and 25/100 (3.25%) percent; or (ii) Wall Street
19 Journal stated prime rate of interest, plus zero percent (currently 3.25%) per annum, which
20 for purposes of this revolving line of credit promissory note (hereinafter referred to as the
21 "Note"), shall mean the highest base rate on corporate loans posted by at least seventy-five
22 (75%) percent of the nation's thirty (30) largest banks that the Wall Street Journal (or a
23 similar source should the Wall Street Journal cease to publish such information) publish as the
24 prime rate (hereinafter the "Prime Rate"). Changes in the Prime Rate shall be effective on
25 the date of each such change. The Lender lends at rates above and below the Prime Rate,
26 which is but one of several interest rate bases used by the Lender.

27 2. Accrual Method. Unless otherwise indicated, interest at the Rate set forth
28 above will be calculated by the 365/360 day method (a daily amount of interest is computed
29 for a hypothetical year of 360 days; that amount is multiplied by the actual number of days
30 for which any principal is outstanding hereunder).

31 3. Draws. Subject to the availability limitations in the preamble of this Note, as
32 long as the City is not in default hereunder and as long as the outstanding principal balance
33 due hereunder does not exceed TEN MILLION and NO/100 (\$10,000,000.00) DOLLARS, the
34 City may submit a draw request as follows:

35 A. In writing to Lender at the address provided herein or at such other address as
36 Lender may designate from time to time.

37 B. The draw request must state the purpose and amount of the requested draw,
38 delivered not less than forty-eight (48) hours prior to the date of proposed advancement by
39 Lender.

40 4. Repayment Terms. Principal and interest shall be payable as follows:

41 A. From the date of execution hereof through the Maturity Date, accrued interest will
42 be due and payable on the first day of each calendar quarter, commencing April 1, 2021 and

1 continuing thereafter on the first day of each of July, October, January and April during each
2 calendar year thereafter; and

3 **B. THE ENTIRE UNPAID PRINCIPAL BALANCE OF THIS NOTE, TOGETHER WITH ALL**
4 **ACCRUED AND UNPAID INTEREST SHALL BE DUE AND PAYABLE IN FULL ON JANUARY 25,**
5 **2031 (the "Maturity Date").**

6 **5. Revolving Feature.** Subject to the availability limitations in the preamble of
7 this Note, the City may borrow, repay and reborrow hereunder at any time, up to a maximum
8 aggregate amount outstanding at any one time equal to the principal amount of this Note,
9 provided that the City is not in default under any provision of this Note, any other documents
10 executed in connection with this Note, or any other note or other loan documents now or
11 hereafter executed in connection with any other obligation of the City to Lender, and
12 provided that the borrowings hereunder do not exceed any borrowing base or other limitation
13 on borrowings by the City.

14 **6. Application of Payment.** All payments on this Note shall be applied first to
15 accrued interest, then to principal and then to late charges. Any remaining funds shall be
16 applied to the further reduction of principal. Notwithstanding the foregoing, upon the
17 occurrence of an Event of Default, payments shall be applied as determined by Lender in its
18 sole discretion. Additionally, all Disposition Proceeds (as such term is defined in the
19 hereinafter defined Note Ordinance) shall be applied to the outstanding balance of the
20 indebtedness in such order as Lender may elect.

21 **7. Prepayment.** The City may prepay all or any portion of this Note at any time
22 without prepayment compensation. Any prepayment shall be applied in the manner provided
23 in Section 6 above.

24 **8. Interest After Default.** Any past due payments, whether or principal or
25 interest, shall bear interest at the rate or rates herein set out until paid, except that after
26 this Note shall become due, whether by acceleration or otherwise, this Note shall bear
27 interest at the rate equal the rate in effect prior to the Note becoming due, plus an
28 additional Four (4.0%) percent per annum. The applicable interest rate herein shall apply
29 whether before or after any judgment hereon.

30 **9. Late Charge.** Time is of the essence of this Note. To the extent not prohibited
31 by law (i) a late charge of Two and 50/100 (2.5%) percent, (ii) Twenty Five and No/100
32 (\$25.00) Dollars, whichever is greater, but in no event shall that amount exceed Two Hundred
33 Fifty and No/100 (\$250.00) Dollars. This late shall be paid promptly but only once for each
34 late payment.

35 **10. Loan Agreement and Collateral.** This Note is made pursuant to that certain
36 loan agreement of even date herewith between Lender and the City (hereinafter referred to
37 as the "Loan Agreement") and is secured, inter alia, by certain collateral set forth in the
38 Loan Agreement, and pursuant to the Loan Documents, as defined in the Loan Agreement.
39 The terms and conditions contained in the Loan Agreement, together with the terms and
40 conditions contained in the Loan Documents as defined in the Loan Agreement, shall be
41 considered a part hereof to the same extent as if written herein.

42 **11. Events of Default; Acceleration.** The following shall constitute defaults or
43 events of default hereunder ("Events of Default" and each an "Event of Default"):

1 A. Failure by the City to pay any payment of principal or interest required to be paid
2 by this Note and such failure is not cured within ten (10) days after written notice from
3 Lender to the City: or

4 B. Failure by the City, or any other party, to keep, perform or observe any other
5 agreement, covenant or condition contained herein or in the Loan Agreement or the Note
6 Ordinance, and such failure is not cured within the applicable notice period (if any) set forth
7 therein.

8 The remaining unpaid principal of this Note and all accrued and unpaid interest
9 thereon shall immediately become due and payable, at the option of the holder hereof, upon
10 the occurrence of an Event of Default. Lender shall be entitled to recover all expenses,
11 including reasonable attorneys' fees and expenses of legal counsel, incurred by Lender in any
12 way arising from or relating to the enforcement or attempted enforcement of this Note, the
13 Note Ordinance, and any other document and the collection or attempted collection, whether
14 by litigation or otherwise, of this Note.

15 The principal and accrued interest on this Note are payable in any coin or currency of
16 the United States of America which is, at the time of payment, legal tender for public and
17 private debts; provided, however, that interest on this Note shall be paid by check or draft
18 or otherwise as set forth above.

19 **12. Authorization.** This Note is issued pursuant to and in accordance with
20 the Constitution and laws of the State of South Carolina, including Article X, Section 14, of
21 the Constitution of the State of South Carolina, 1895, as amended; Title 31, Chapter 6, Code
22 of Laws of South Carolina 1976, as amended (the "Act"), Ordinance No. 2020-053, duly
23 enacted by the City Council of the City of Myrtle Beach, South Carolina ("City Council") on
24 January 12, 2021 (the "Note Ordinance"). Capitalized terms not otherwise defined herein
25 shall have the meanings given to them in the Note Ordinance.

26 **13. Authentication.** The City shall not subject a draw request under this Note, nor
27 shall this Note be entitled to any benefit under the Note Ordinance nor become valid or
28 obligatory for any purpose, until the certificate of authentication hereon shall have been duly
29 executed by the City, as registrar, as provided in the Note Ordinance.

30 **14. Purpose.** This Note is issued for the purposes of (a) defraying the cost of
31 Redevelopment Projects as defined under the Note Ordinance; and (b) paying the cost of
32 issuance of this Note and as otherwise provided in the Note Ordinance.

33 **15. Security.** This Note is a special obligation of the City payable solely from, and
34 secured by a pledge of the Revenues as provided in the Note Ordinance. **THE FULL FAITH,
35 CREDIT AND TAXING POWERS OF THE CITY ARE NOT PLEDGED FOR THE PAYMENT OF THIS
36 NOTE AND THE INTEREST HEREON.** The Note Ordinance contains provisions defining terms;
37 sets forth the moneys, funds and revenues pledged for the payment of the principal and
38 interest on this Note under the Note Ordinance; sets forth the nature, extent and manner of
39 enforcement of the security of this Note and of such pledge, and the rights and remedies of
40 the holder hereof with respect thereto; sets forth the terms and conditions upon which this
41 Note is issued; sets forth the rights, duties and obligations of the City thereunder; and sets
42 forth the terms and conditions upon which the pledge made in the Note Ordinance for the
43 security of this Note and upon which the covenants, agreements and other obligations of the
44 City made herein may be amended or discharged at or prior to the maturity or redemption of

1 this Note with provision of the payment thereof in the manner set forth in the Note
2 Ordinance. Reference is hereby made to the Note Ordinance, to all of the provisions of which
3 any holder of this Note by the acceptance hereof thereby assents. The provisions of the Act
4 and the Note Ordinance shall be a contract with the holder of this Note, the terms of which
5 are incorporated herein by reference.

6 **16. Transfer.** This Note is transferable as provided in the Note Ordinance, only
7 upon the books of the City kept for that purpose at the designated office of the Registrar by
8 the registered holder in person by his duly authorized attorney upon surrender of this Note
9 together with a written instrument of transfer satisfactory to the Registrar duly executed by
10 the registered holder or his duly authorized attorney. Thereupon a new fully registered Note
11 in the aggregate principal amount, interest rate, and maturity shall be issued to the
12 transferee in exchange therefor as provided in the Note Ordinance. The City and the
13 Registrar may deem and treat the person in whose name this Note is registered as the
14 absolute owner hereof for the purpose of receiving payment of or on account of the principal
15 hereof and interest due hereon and for all other purposes.

16 **17. State Tax Exemption.** Under the laws of the State of South Carolina, this Note
17 and the income herefrom are exempt from all State, county, municipal, school district and all
18 other taxes or assessments, except estate or other transfer taxes, direct or indirect, general
19 or special, whether imposed for the purpose of general revenue or otherwise.

20 It is hereby certified and recited that all acts, conditions and things required by the
21 Constitution and laws of the State of South Carolina to exist, to happen and to be performed
22 precedent to or in the issuance of this Note exist, have happened and have been performed in
23 regular and due time, form and manner as required by law; that the Note does not exceed
24 any constitutional or statutory limitation of indebtedness; and that provision has been made
25 for the payment of the principal of and interest on this Note as provided in the Note
26 Ordinance.

27 **18. Assignment.** This Note, or any portion thereof, may be assigned by Lender,
28 with or without recourse, subject to the registration requirements set forth herein and in the
29 Note Ordinance.

30 [Signatures appear on the following page]

31

1 **IN WITNESS WHEREOF**, the CITY OF MYRTLE BEACH SOUTH CAROLINA, has caused this
2 Note to be signed with the manual or facsimile signature of the Mayor of the City, attested by
3 the manual or facsimile signature of the Clerk of the City and the seal of the City impressed,
4 imprinted or reproduced hereon.

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CITY OF MYRTLE BEACH, SOUTH CAROLINA

Mayor

(SEAL)

ATTEST:

Clerk