

**TOWN OF KIAWAH ISLAND
ORDINANCE 2013-16**

**AN ORDINANCE TO ENTER INTO AN AMENDED AND RESTATED
DEVELOPMENT AGREEMENT BY AND BETWEEN KIAWAH RESORT
ASSOCIATES, L.P. AND THE TOWN OF KIAWAH ISLAND**

WHEREAS, Section 6-31-10 et. seq. of the South Carolina Code of Laws, 1976, as amended, allows municipalities to enter into Development Agreements; and,

WHEREAS, the Town is currently party to a Development Agreement dated October 12, 2005, recorded in the RMC Office for Charleston County at Book Z 558, Page 004; and,

WHEREAS, the Town and Property Owner entered six (6) amendments to the 2005 Development Agreement, all of which are referenced in or fully incorporated by reference, if not fully set forth herein, to the 2005 Development Agreement; and,

WHEREAS, the Town and Property Owner have agreed to the annexation into the Town of certain real property comprising the development known as Freshfields and at a later date the Property Owner may annex into the Town a portion of the development known as Cassique; and,

WHEREAS, the Town desires that the Amended and Restated Development Agreement shall replace the 2005 Development Agreement and the applicable Amendments thereto shall remain in effect solely as to Lodema R. Adams as Trustee for Bear Island Holding Trust, Charles P. Darby, III and John C. L. Darby, Jr. as Trustees of the Charles P. Darby, Jr. Issue Trust, and Vanderhorst, LLC who are not parties to the Amended and Restated Development Agreement; and,

WHEREAS, under S.C. Code Section 6-31-50(a) the Town Council conducted public hearings regarding its consideration of the Amended and Restated Development Agreement on October 30, 2013 and on November 18, 2013 after publishing and announcing notice as required by law; and,

WHEREAS, under S.C. Code Section 6-31-60(A)(7) the Town Council determined on December 3, 2013 that the Amended and Restated Development Agreement is consistent with the Town's Comprehensive Plan and Land Development Regulations.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL

Section 1. Purpose

The purpose of this Ordinance is to authorize the Town to enter into the Amended and Restated Development Agreement.

Section 2. Ordinance

The Town is hereby authorized to enter into the Amended and Restated Development Agreement attached hereto and incorporated herein fully and identified as Exhibit "A."

Section 3. Severability

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

Section 4. Effective Date and Duration

This Ordinance shall be effective upon its enactment by the Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS _____ DAY OF _____, 2013.

Charles R. Lipuma, Mayor

Petra Reynolds, Town Clerk

First Reading Approval _____

Second Reading Approval _____