

# TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

David Bennett  
Mayor

October 28, 2016

William D. Harkins  
Mayor ProTem

**To: Hilton Head Island POA/HOA/Private Road Owners**

## Council Members

Wm. Lee Edwards  
Marc A. Grant  
Thomas W. Lennox  
Kim W. Likins  
John J. McCann

**Subj:** Request for Town Assistance Clearing Debris from Private Road Rights-of-way

We have had a telephone conference with SCEMD and FEMA related to the Town's request for approval to remove debris from private roads outside of the gated communities. FEMA needs additional information from the Town in order to proceed with processing the Town's request. If you desire to request that the Town assist you with removal of debris from the private road rights-of-way for which you own, the Town will need you to provide the following documentation:

1. A statement as to the ownership of the roadways and rights-of-way within your community. Please include a list of each road you own and are requesting assistance from the Town to remove the debris. You must provide proof of ownership of the road as well, such as quit claim deed or covenants conveying ownership to you. You must also identify as best you can (estimate) the distance that the rights-of-way extend beyond each of the center of the identified roads within your community. You must specifically identify whether the POA/HOA owns the roads and rights-of-way, or if any individuals or regimes own them. You must specify the owner for each road right-of-way within your community if it is not the HOA/POA.

2. A copy of your insurance policy related to the road and rights of way you own. You **must identify the relevant portions of the policy as it relates to reimbursement for storm damage and removal of debris** from the rights of way, any amount or percentage that will be paid for work done pursuant to the policy, and how to collect on the policy. FEMA wants to ensure that there is not a duplication of benefits. If your insurance **does not cover removal of debris** from the right of way, include a statement from your insurance carrier so stating.

3. A statement from the appropriate person or body that may speak for the POA/HOA/Road owner indemnifying the Federal and State government and Town; **I have drafted and included this form for you which will grant Right of Entry and indemnification.**

4. Specific authorization from all necessary parties for each parcel of property along the rights-of-way granting a Right of Entry for the work to be completed. Most likely the POA/HOA will own the road rights of way and be able to grant a single

Stephen G. Riley  
Town Manager

Right of Entry. If this is not the case, such as when multiple parties own the road way, please contact the staff attorney to discuss.

Should you have any questions or concerns, please contact staff attorney Brian Hulbert at (843) 341-4633, or by email at [brianh@hiltonheadislandsc.gov](mailto:brianh@hiltonheadislandsc.gov), or Shea Farrar at (843) 341-4768, or by email at [sheaf@hiltonheadislandsc.gov](mailto:sheaf@hiltonheadislandsc.gov).

Sincerely,

Brian E. Hulbert  
Staff Attorney

Enclosures:

Copy to:  
Staff Attorney  
Recovery Team Manager  
Director Public Projects and Facilities  
File

Mr. Brian E. Hulbert  
Staff Attorney  
One Town Center Court  
Hilton Head Island, SC 29928

**Subject:** Request for Assistance From the Town to Remove Debris From Private Road  
Right-of-Way

Dear Mr. Hulbert

I am the \_\_\_\_\_ for \_\_\_\_\_.

Title

Community

I am requesting assistance from the Town to remove debris from our road right-of-ways for the roads identified in the attached list of roads. The amount of debris is a direct result of the high winds of Hurricane Matthew and is overwhelming. Our community owns the roads and right-of-ways identified, but we do not have the financial or physical means to remove the debris. The debris which is in the road right-of-ways in our community has impacted the health and safety of our residents to move about freely within our community.

I believe that it is the Town's legal responsibility to provide essential services to protect the life, health and safety – such as law enforcement, fire protection and emergency medical services, storm water management, and water and sewer for all town residents, the debris that has accumulated and has been deposited on these rights-of-way and storm water drainage easement areas impedes your ability to effectively provide these services equally to all our residents on the identified roadways.

Please find the following hard copy and digital copy of relevant documentation attached to this letter:

1. List of roads owned and for which I am requesting Town assistance to remove debris.
2. Proof of Ownership of the roadways (deeds, covenants, or other documentation).
3. Completed Right of Entry and Indemnification Form.
4. Statement from my insurance carrier related to coverage or lack of coverage of debris removal for the identified roadways.
5. Copy of Insurance Policy if I have insurance coverage and identification of the relevant language of insurance policy.

Please let me know if you need any additional information. I can be reached by telephone at \_\_\_\_\_ or by email at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Print Name:

ROE No.	<b>PRIVATE CONTRACTOR/FORCE ACCOUNT DFA</b> <b>RIGHT OF WAY DEBRIS REMOVAL</b> <b>South Carolina 2016 FEMA-DR-4286-SC</b> <b>Address:</b> <b>Tax ID Block/Lot:</b>

**RIGHT OF ENTRY ONTO PRIVATE RIGHT OF WAYS FOR DEBRIS REMOVAL ASSISTANCE (FEMA-DR-4286-SC)**

Ownership Interest and Grant of Right of Entry for Right of Way Debris Removal

The undersigned hereby certifies they/he/she are/is (check):

The owner(s) with authority to grant access to the property at (address) \_\_\_\_\_, or

The authorized agent of the Property Owner.

The Property Owner(s)/agent authorize(s) the Town of Hilton Head Island, County of Beaufort, State of South Carolina, and the United States of America, their respective agents, successors and assigns, contractors and subcontractors (collectively, the "Governments/Contractors") to have the right of access and to enter the private right of ways above specified for purposes of performing right of way debris removal as it is in the public interest as a public health and safety threat.

Government Not Obligated; No Expense Except For Insurance Proceeds

The Property Owner/agent understands that this Right-of-Entry does not obligate the Governments/Contractors to perform right of way debris removal. Governments/Contractors will access the property under this ROE if the work has been determined necessary in accordance with Federal, State, or local regulations. The Property Owner(s) will not be charged for the work conducted by Governments/Contractors. However, if the Property Owner receives insurance proceeds or compensation from other sources for such right of way debris removal, the Property Owner's obligation is set out in the section below, entitled "Avoidance of Duplication of Benefits...."

Government Indemnified and Held Harmless

The Property Owner(s)/agent agree(s) to indemnify and hold harmless the Governments/Contractors for any damage of any type whatsoever to the above described property or for bodily injury or death to persons on the property, and hereby releases, discharges and waives any and all actions, either legal or equitable, which the Property Owner(s) has/have, or ever might or may have, by reason of any action taken by Governments/Contractors to remove debris.

Avoidance of Duplication of Benefits: Reporting Debris Removal Money Received

Property Owner/agent has an obligation to file an insurance claim if coverage is available. Property Owner/agent understands and acknowledges that receipt of compensation or reimbursement for performance of the aforementioned activities from any source, including Small Business Administration, private insurance, an individual and family grant program or any other public or private assistance program could constitute a duplication of benefits prohibited by federal law. If the Property Owner/agent receives any compensation from any source for debris removal on this property, the Property Owner/agent will report it to the Town of Hilton Head Island Legal Department, Attention Staff Attorney, One Town Center Court, Hilton Head Island 29928 in writing and by phone at 843 341-4633.

Release of Insurance Information

If insured, the Property Owner/agent authorizes its insurer, (Company) \_\_\_\_\_, to release information relating to coverage and payments for right of way debris removal (Claim # \_\_\_\_\_, Policy # \_\_\_\_\_) to the City/County identified herein and/or to the State of South Carolina.

Acknowledgment of Prohibition on Fraud, Intentional Misstatements

The Property Owner/agent understands that an individual who fraudulently or willfully misstates any fact in connection with this agreement may be subject to penalties under state and federal law, including civil penalties, imprisonment for not more than five years, or both, as provided under 18 USC 1001.

Signature(s) and Witnesses  
Property Owner(s) or Authorized Agent

For the considerations and purposes set forth herein, I/we hereby set my/our hand(s) and seal(s) this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Witness 1 \_\_\_\_\_

**Property Owner/Authorized Agent**

Witness 2 \_\_\_\_\_

**Sign** \_\_\_\_\_

Privacy Act Statement: The Property Owner/ Owner’s Authorized Agent acknowledge(s) that information submitted will be shared with other government agencies, federal and non-federal, and contractors, their subcontractors and employees but solely for purposes of disaster relief management to meet the objectives of this Right-of-Entry. This form is signed to allow access to perform right of way debris removal operations on the above-mentioned property and to authorize the release of insurance policy/claim information.

**Print** Property Owner(s)/Authorized Agent  
Current Address and Telephone No.: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_