



# CITY OF CAYCE

*MAYOR*  
ELISE PARTIN

*MAYOR PRO-TEM*  
JAMES E. JENKINS

*COUNCIL MEMBERS*  
TARA S. ALMOND  
PHIL CARTER  
EVA CORLEY

*CITY MANAGER*  
REBECCA VANCE

*ASSISTANT CITY MANAGER*  
SHAUN M. GREENWOOD

**City of Cayce  
Regular Council Meeting  
Tuesday, February 2, 2016  
6:00 p.m. – Cayce Tennis and Fitness Center – 1120 Fort Congaree Trail  
[www.cityofcayce-sc.gov](http://www.cityofcayce-sc.gov)**

**I. Call to Order**

- A. Invocation and Pledge of Allegiance
- B. Approval of Minutes  
January 5, 2016 Regular Meeting  
January 20 2016, 2015 Special Meeting

**II. Public Comment Regarding Items on the Agenda**

**III. Presentations**

- A. Recognition of Mr. Larry Joe Watts re Flood Waters Rescue
- B. Recognition of Mr. Elijah Jordan for Little Free Library Eagle Scout Project

**IV. Ordinances and Resolutions**

- A. Discussion and Approval of Master Bond Ordinance 2016-01 Collapsing and Terminating an Amended and Restated Indenture of Trust in Order to Provide for the Issuance and Sale of Water and Sewer System Revenue Bonds of the City of Cayce, South Carolina, and Other Matters Relating Thereto – Second Reading
- B. Discussion and Approval of Ordinance 2016-02 Providing for the Issuance and Sale of Water and Sewer System Refunding Revenue Bonds, to be Designated Series 2016, in the Principal Amount of Not Exceeding Fifteen Million Dollars (\$15,000,000), of the City of Cayce, South Carolina, and Other Matters Relating Thereto – Second Reading
- C. Consideration and Approval of Resolution Authorizing the Imposition of Financial Policies for the Waterworks and Sewer System of the City of Cayce, South Carolina; and Other Matters Relating Thereto
- D. Discussion and Approval of Ordinance 2016-03 Amending Section 6.10-3 (“Development Standards”) of the Zoning Ordinance of the City of Cayce - Second Reading
- E. Discussion and Approval of Ordinance 2016-04 Annexing Property Located at the Corner of Ninth Street and F Avenue (TMS# 004675-01-004(P)) and

Properties Located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005(P)) into the City Limits Under the Provisions of South Carolina Code Section 5-3-150(3) – Second Reading

- F. Consideration and Approval of Resolution Approving Multijurisdictional Law Enforcement Gang Investigation Agreement

**V. Other**

- A. Discussion and Approval for Funding of Bicycle and Pedestrian Plan
- B. Discussion and Approval for Funding of New Offices and Storage for Parks and Sanitation Departments

**VI. City Manager's Report**

**VII. Committee Matters**

- A. Approval to enter the following approved Committee Minutes into the City's Record

Cayce Housing Authority – August 18, 2016  
Events Committee – November 12, 2015  
Board of Zoning Appeals – December 21, 2015  
Planning Commission – December 21, 2015

- B. Appointments and Reappointments  
Museum Commission – One (1) Position

**VIII. Council Comments**

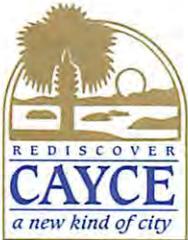
**IX. Executive Session**

- A. Receipt of legal advice relating to claims and potential claims by the City and other matters covered by the attorney-client privilege
- B. Discussion and receipt of legal advice concerning proposed contractual arrangements for refinancing of utility debt
- C. Discussion of employment status of an employee

**X. Possible Actions by Council in follow up to Executive Session**

**XI. Adjourn**

**SPECIAL NOTE: Upon request, the City of Cayce will provide this document in whatever form necessary for the physically challenged or impaired.**



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### CITY OF CAYCE Regular Council Meeting January 5, 2016

The January Regular Council Meeting was held this evening at 6:00 p.m. at the Cayce Tennis and Fitness Center. Those present included Mayor Elise Partin, Council Members Tara Almond, Phil Carter and James Jenkins. Council Member Corley was out of the state and not in attendance. City Manager Rebecca Vance, Assistant City Manager Shaun Greenwood, Municipal Clerk Mendy Corder, Municipal Treasurer Garry Huddle, City Attorney Danny Crowe, Director of Utilities Blake Bridwell, and Chief Charles McNair were also in attendance.

Mayor Partin asked if members of the press and the public were duly notified of the Council Meeting in accordance with the FOIA. Ms. Corder confirmed they were notified.

#### **Call to Order**

Mayor Partin called the meeting to order. Council Member Jenkins gave the invocation. Mayor Partin introduced Cayce Master Public Safety Officer Daniel Smoak to lead the assembly in the Pledge of Allegiance. Officer Smoak has been employed with Cayce Public Safety for approximately 8 years. He is currently a Sergeant at the 132<sup>nd</sup> Military Police Company, 51<sup>st</sup> Military Police Battalion, of the United States Army South Carolina National Guard. Officer Smoak was a combat veteran of the Operation Enduring Freedom (OEF) and the Operation Iraqi Freedom (OIF) Campaign. He was deployed to Afghanistan with the 132<sup>nd</sup> MP Co. attached under an attachment to a Special Operations Command Task Force.

#### **Approval of Minutes**

Council Member Jenkins made a motion to approve the December 1, 2015 Regular Council Meeting minutes and the December 16, 2015 Public Hearing and Special Council Meeting minutes as written. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

#### **Public Comment Regarding Items on the Agenda**

No one signed up for Public Comment.

#### **Presentations**

A. Presentation of Whole Sole Awards

Mayor Partin invited Parks Manager Mr. James Denny, Mr. Virgil Dillon, Mr. Jeff Pruett, Mr. David Sharpe, Mr. Travis Stover, Mr. Michael Yates, Mr. Randy Tuten Jr., Mr. Kenny Reynolds, Mr. Brandon Barnette, Mr. Joe Boyd, Mr. Camden Sheehan and Mr. Dallas Turner to join her in front of the assembly. She stated that Mr. Denny had nominated his staff for the Whole Sole Award for their tremendous work during the rains and floods.

Mayor Partin stated that in his nomination Mr. Denny wrote that half of his department's employees had less than a year's experience but their performance had still been outstanding. During a season of unprecedented weather events, this team of employees had met and overcome each challenge they had faced. Through all of the floods and extra duties, the Parks Department staff maintained a great attitude and drive to get it done, and not just get it done but done right. They took on extra duties, outside of their normal day to day responsibilities without question or hesitation. Mayor Partin thanked all the Whole Sole Award recipients for their dedication and hard work during the floods.

**B. Presentation by Mr. Robert Milhous of the City of Cayce FY14/15 Comprehensive Annual Financial Report**

Mr. Robert Milhous, the City's auditor, presented the FY14/15 Comprehensive Annual Financial Report to Council. Mr. Milhous went over the financial statement with Council and stated it was a good audit and good report. He stated that based on fiscal management that was instilled by the City Manager and staff there was a positive fund balance in the General Fund. The Water and Sewer Utility Fund also had a positive fund balance and the City met its debt coverage ratio, therefore the City is in compliance with its bond covenants.

Council Member Carter asked Mr. Milhous to go into further detail regarding the net pension liability. Mr. Milhous explained that the Governmental Accounting Standards Board requires governments to accrue an actuarial determined liability based on its current employees.

**Ordinances**

**A. Discussion and Approval of Master Bond Ordinance 2016-01 Collapsing and Terminating an Amended and Restated Indenture of Trust in Order to Provide for the Issuance and Sale of Water and Sewer System Revenue Bonds of the City of Cayce, South Carolina, and Other Matters Relating Thereto – First Reading**

Ms. Vance stated that the City currently has an indentured trust for all of its bonds. She explained that in the future the City will have a Master Bond Ordinance and

will no longer have indentures. Therefore any time the City does a new bond it will be a Series. Mr. Lawrence Flynn explained that the Master Bond will make the City's documents up to date with all the changes that have occurred in the market.

Council Member Carter made a motion to approve the first reading of the Master Bond Ordinance. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

- B. Discussion and Approval of Ordinance 2016-02 Providing for the Issuance and Sale of Water and Sewer System Refunding Revenue Bonds, to be Designated Series 2016, in the Principal Amount of Not Exceeding Fifteen Million Dollars (\$15,000,000), of the City of Cayce, South Carolina, and Other Matters Relating Thereto – First Reading

Ms. Vance stated that the refinancing and refunding of the 2007(A) bonds will allow the City to reduce its annual debt service and reduce some of the pressure on its water and sewer customers.

Council Member Almond made a motion to approve the Ordinance on First Reading. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

- C. Discussion and Approval of Ordinance 2016-03 Amending Section 6.10-3 ("Development Standards") of the Zoning Ordinance of the City of Cayce - First Reading

Ms. Vance stated that staff is requesting to amend Section 6.10-3 Development Standards of the Zoning Ordinance to add language that will require all signage in the Knox Abbott Drive Overlay District (OD) to conform to C-3 (Central Commercial) district standards. She explained that the Knox Abbott OD begins at the Blossom Street Bridge and ends at 12<sup>Th</sup> Street. The zoning within this overlay district has been uniformly C-3 (Central Commercial) in the past, but recent re-zonings have included various zoning districts. Staff believes it is the intention of the Zoning Ordinance to require all signage in the Knox Abbott Drive OD to be uniform and consistent. The C-3 zoning districts permits signs to have a maximum height of 7 feet. The amendment will ensure that all future development on Knox Abbott Drive will follow the same standards regardless of zoning district.

Ms. Vance stated that the Planning Commission considered the request for the text amendment at its regular meeting on December 21, 2015. The text amendment request was opened for public hearing. No one from the public was present to speak for or against the text amendment. She stated that the Planning Commission voted unanimously to recommend the requested text amendment.

Council Member Jenkins made a motion to approve the Ordinance on First Reading. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

- D. Discussion and Approval of Ordinance 2016-04 Annexing Property Located at the Corner of Ninth Street and F Avenue (TMS# 004675-01-004 (P)) and Properties Located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005 (P)) into the City Limits Under the Provisions of South Carolina Code Section 5-3-150(3) – First Reading

Ms. Vance stated that the owner of the property located at the corner of Ninth Street and F Avenue (TMS# 004675-01-004(P)) and properties located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005(P)) has requested to be annexed into the City. The properties are undeveloped and jurisdiction is split between the City and Lexington County. The applicant wishes to annex so that each parcel, in its entirety, will be under the jurisdiction of the City. The requested C-3 zoning designation is in compliance with surrounding parcels.

Ms. Vance stated that the Planning Commission considered the request for annexation in conjunction with a C-3 zoning designation at its regular meeting on December 21, 2015. The annexation request was opened for public hearing. A few from the public were present to speak for and against the map amendment. Comments against the development of the land mostly centered on the issue of the trees that will be removed in conjunction with any new development. The Planning Commission voted unanimously to recommend the request for annexation in conjunction with a C-3 zoning designation.

Council Member Almond made a motion to approve the Ordinance on first reading. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

#### **Other**

- A. Discussion and Approval of Funding of Electrical Upgrades for Cayce Public Safety Department

Ms. Vance stated that staff is requesting to utilize up to \$100,000 in the General Fund fund balance to upgrade the electrical system at the Cayce Public Safety Complex. She explained that there were air quality issues in the Fire Department and it was recommended that the HVAC units and ductwork be replaced. At that time it was discovered that the electrical panels at Public Safety were operating at its maximum capacity and nothing else could be added to it. The current system is a single phase

residential which needs to be upgraded to a three phase commercial system. This would increase the amps from 150 to 300. It was not practical to connect new HVAC units to the old existing electrical service in the building since it would have to be torn out and replaced when the service was upgraded.

Ms. Vance stated that a licensed electrical contractor would need to be hired to perform the necessary work. After the electrical improvements are made, the HVAC system improvements can be designed and funding for those improvements will be requested at that time. Ms. Vance stated that staff did apply for Pre-Disaster Mitigation Funds to fund the electrical upgrade project but the City did not receive that funding. Council Member Carter and Council Member Jenkins asked if the upgrade to 300 amps would handle all future electrical needs at Public Safety. Ms. Vance stated that it was the recommendation of the electrical engineer.

Council Member Jenkins made a motion to authorize the City Manager to use General Fund fund balance monies up to \$100,000 for the electrical upgrades and allow the City Manager to enter into a contract with a licensed electrical contractor for this work. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

### **City Manager's Report**

Ms. Vance stated that staff received a draft of the drainage plan for the older part of the City's watershed. She stated there were three different suggestions on how the drainage could be improved and the costs ranged from \$7,000,000 to \$15,000,000. She stated once the plan is complete staff will have American Engineering attend a Council Meeting to explain the plan in detail.

Ms. Vance stated staff also received the draft of the economic development plan and will present it to Council once it has been reviewed. She stated the City did receive a partial permit to operate the 321 waterline and the project should be completed by the end of January. She stated that all phases of the Riverwalk are currently closed due to heavy rains. Ms. Vance stated that the Annual Employee Awards Breakfast will be held on January 20<sup>th</sup>.

Council Member Jenkins asked if there was a plan to plant additional trees in the Riverwalk since so many of the trees have fallen. Ms. Vance stated there was not a plan to plant additional trees but she would speak to the Parks Manager to see if there are any areas he feels need to have more trees planted.

### **Committee Matters**

A. Approval to Enter the Following Approved Committee Minutes into the City's

### Official Record

Council Member Almond made a motion to approve entering the following Committee minutes into the City's official record:

Board of Zoning Appeals – November 16, 2015  
Planning Commission – November 16, 2015

Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

### B. Annual Appointment of Council Members to City Foundations

After discussion, it was decided to leave the Council Members on the Foundations they are currently serving on.

### Council Comments

Mayor Partin congratulated Mr. Greenwood and his wife on the arrival of their baby. Council Member Almond thanked the Parks staff for all their hard work.

### Executive Session

- A. Receipt of legal advice relating to claims and potential claims by the City and other matters covered by the attorney-client privilege
- B. Discussion of negotiations incident to proposed contractual arrangements with Lexington County
- C. Receipt of legal advice regarding possible Utility debt refinancing
- D. Personnel Matter – City Manager's Annual Evaluation and Salary Review

Mayor Partin stated that Council would not be discussing Executive Session Item D but would discuss the other three items. Council Member Jenkins made a motion to move into Executive Session. Council Member Carter seconded the motion which was unanimously approved by roll call vote.

### Possible Actions by Council in follow up to Executive Session

#### Item IX. B.

Council Member Carter made a motion to approve the 911 call answering pPoint agreement with Lexington County as discussed in Executive Session and authorize the

City Manager to negotiate the contract with the recommended changes and sign the contract. Council Member Almond seconded the motion which was approved by roll call vote.

**Adjourn**

There being no further business, Council Member Almond made a motion to adjourn the meeting. Council Member Carter seconded the motion which was unanimously approved by roll call vote. The meeting adjourned at 8:20 p.m.

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Elise Partin, Mayor

ATTEST:

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Mendy C. Corder, Municipal Clerk



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PHIL CARTER  
EVA CORLEY

*CITY MANAGER*  
REBECCA VANCE

*ASSISTANT CITY MANAGER*  
SHAUN M. GREENWOOD

### City of Cayce Special Council Meeting January 20, 2015

A Special Council Meeting was held this afternoon at 5:00 p.m. at the Cayce Tennis and Fitness Center. Those present included Mayor Elise Partin, Council Members Tara Almond, Phil Carter, Eva Corley, and James Jenkins. City Manager Rebecca Vance, Assistant City Manager Shaun Greenwood, Municipal Clerk Mendy Corder, City Treasurer Garry Huddle, Chief Charles McNair and City Attorney Danny Crowe were also in attendance. Mayor Partin asked if members of the press and the public were duly notified of the meeting in accordance with the FOIA. Ms. Corder confirmed they were notified.

#### Call to Order

Mayor Partin called the meeting to order and Council Member Carter gave the invocation. Mayor Partin led the assembly in reciting the Pledge of Allegiance.

#### Public Comment Regarding Items in the Agenda

Ms. Corder stated no one had signed up for public comment.

#### Resolutions and Ordinances

##### A. Discussion and Approval of Hospitality Tax Fund Requests for 2016

Ms. Vance stated that the City received 15 requests for approximately \$234,329 in Hospitality Tax Funds for 2015-2016. As of July 1, 2015, the City had a Hospitality Fund balance of \$273,000. Staff has budgeted \$881,000 in Hospitality Tax Revenues for the 2015-2016 year. Council approved the use of \$605,000 in Hospitality Funds for the operation and maintenance of tourism-related activities and capital items. This leaves approximately \$276,000 in 2015- 2016 revenue that can be allocated from the Hospitality Tax Fund for those 15 requests.

Ms. Vance explained that Council asked staff to review the Hospitality Tax Fund requests and determine the amount that each applicant will be granted. Ms. Vance stated that Council may approve, deny or reduce any of the requests. Council may also wish to set up a plan to build up a fund balance that will allow for the City to take advantage of any unbudgeted opportunities.

Council Member Almond stated that some of the applicants requested amounts were lowered by staff for specific reasons. For example, not having the proper zip code information or attendance data. Ms. Vance stated staff could answer any questions an applicant may have regarding the reduction in funds and explain exactly what is needed so in the future they can fill the application out correctly.

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Ms. Vance suggested that Council try every year to put aside \$50,000 in reserves for unforeseen issues that come up throughout the year. For example, the Riverwalk flooded and experienced extensive damage in the past year. She stated that the Riverwalk is in a floodway so it is not covered by the City's insurance.

Ms. Vance stated that there were \$234,329 of hospitality tax funds requested for 2016. After staff revisions, the approved funds were \$166,425 so over \$67,000 will be placed in reserve.

Mayor Partin stated that last year City staff created a brochure listing all the City's restaurants along with their contact information. The brochures have been distributed to establishments in the City that receive a lot of out of town patrons. Mayor Partin stated that she met with Mr. John Banks with the Greater Cayce West Columbia Visitors Center that day. He had come up with the tagline "Cayce Has Great Tastes" and wants to create portable ads that can be used at events with the City's restaurants on it along with pictures of their signature dishes.

Council Member Carter made a motion to approve the hospitality tax fund requests per staff recommendations. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

**B. Consideration and Approval of Easement to SCE&G for Electric Lines and Equipment in and for Granby Gardens Park**

Ms. Vance stated the easement is required for the electrical upgrades that are being made in Granby Gardens Park. SCE&G is installing an underground electrical line on the back of the property for the necessary upgrades.

Council Member Almond made a motion to approve the easement and authorize the City Manager to sign it. Council Member Corley seconded the motion which was unanimously approved by roll call vote.

**C. Consideration and Approval of Resolution Approving Multijurisdictional Law Enforcement Gang Investigation Agreement**

Ms. Vance stated that Richland County is in its second year of a five year Gang Task Force Grant and has asked the City to join the task force. The grant does not require that the City hire a new employee and it will pay for equipment for the Officer assigned to work with the Task Force. She stated that Public Safety already has someone on staff that does gang related investigations but this will assist them in this endeavor. Lexington County currently does not have a Gang Task Force.

Council Member Carter made a motion to approve the multijurisdictional agreement. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

### **Council Comments**

Council Member Carter stated that he attended the City's Annual Employee Awards Breakfast that morning and he was very impressed with the City's staff. He stated that Mr. Rodney Thomas, the City's Risk Manager, was very knowledgeable and organized.

### **Executive Session**

Council Member Corley made a motion to move into Executive Session. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

- A. Receipt of legal advice relating to claims and potential claims by the City and other matters covered by the attorney-client privilege
- B. Personnel Matter – City Manager's annual evaluation and salary review

### **Reconvene**

After the Executive Session was concluded, Council Member Almond made a motion to reconvene the Regular meeting. Council Member Corley seconded the motion which was unanimously approved by roll call vote. Mayor Partin announced that no vote was taken in Executive Session other than to adjourn and resume the Regular meeting.

### **Possible Actions by Council in follow up to Executive Session**

#### **V. A.**

Council Member Almond made a motion to approve the settlement of the World Wide Recycling case on the terms outlined by the City Attorney in Executive Session and authorize the City Manager and City Attorney to execute any documents necessary. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote.

#### **V.B.**

Council Member Corley made a motion to adjust the City Manager's compensation package as discussed in Executive Session. Council Member Almond seconded the motion which was unanimously approved by roll call vote.

### **Adjourn**

Council Member Almond made a motion to adjourn the meeting. Council Member Jenkins seconded the motion which was unanimously approved by roll call vote. There being no further business, the meeting adjourned at 6:45 p.m.

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Elise Partin, Mayor

ATTEST:

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Mendy Corder, Municipal Clerk

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager

**Date:** January 29, 2016

**Subject:** Discussion and Approval of Master Bond Ordinance 2016-01 Collapsing and Terminating an Amended and Restated Indenture of Trust in Order to Provide for the Issuance and Sale of Water and Sewer System Revenue Bonds of the City of Cayce, South Carolina, and Other Matters Relating Thereto – Second Reading

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**Issue**

Council approval is needed for the Master Ordinance 2016-01.

**Background/Discussion**

This Ordinance collapses and terminates the Master Indenture of Trust for the City's Utility Debt by the enactment of a new Master Bond Ordinance. The terms of the bond ordinance provide for the issuance of water and sewer revenue bonds on parity basis. This document has been drafted to bring the City current with debt issuance policies in the market place and to streamline some of the provisions of the master indenture.

**Recommendation:**

Staff recommends approval of second reading of this Ordinance.

**A MASTER BOND ORDINANCE**

**COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.**

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**MASTER BOND ORDINANCE**

**DATED: FEBRUARY 2, 2016**

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and is for convenience of reference only.)

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STATE OF SOUTH CAROLINA	)	<u>ORDINANCE</u>
	)	
COUNTY OF LEXINGTON	)	MASTER BOND ORDINANCE
	)	COLLAPSING AND TERMINATING
CITY OF CAYCE	)	AN AMENDED AND RESTATED
	)	INDENTURE OF TRUST IN ORDER
	)	TO PROVIDE FOR THE ISSUANCE
	)	AND SALE OF WATER AND SEWER
	)	SYSTEM REVENUE BONDS OF THE
	)	CITY OF CAYCE, SOUTH
	)	CAROLINA, AND OTHER
	)	MATTERS RELATING THERETO.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CAYCE, IN COUNCIL, DULY ASSEMBLED, THAT:

**ARTICLE I - FINDINGS AND DETERMINATIONS**

Section 1.01. Findings and Determinations.

Incident to the enactment of this bond ordinance (this “*Bond Ordinance*”), the City Council of the City of Cayce (the “*City Council*”), the governing body of the City of Cayce, South Carolina (the “*City*”), finds that the facts set forth in this Article exist, and the statements herein are in all respects true and correct:

1. The City is a municipal corporation of the State of South Carolina (the “*State*”), located in Lexington County, South Carolina (the “*County*”), and as such possesses all general powers granted by the Constitution and laws of the State to municipal corporations, including the power to operate utility systems and to furnish water and sewer collection for domestic and industrial use both within and without the corporate limits of the City.

2. The City, pursuant to State law, owns, operates, and maintains a water system, which furnishes water to commercial, industrial and residential users, and a sewer system which provides for the collection, treatment and disposal of sewage from commercial, industrial and residential users.

3. On February 16, 1955 the City Council approved the combining its water system and its sewer system into a single system which is now known as the Water and Sewer System of the City of Cayce, South Carolina (the “*System*”).

4. The City, acting by and through the City Council, is responsible for the management of the System and the issuance of revenue bonds to defray the costs of capital improvements to the System.

5. The revenues of the System are presently pledged and hypothecated to secure the payment of the following revenue bonds issued by the City:

(a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the “**2002 Bond**”);

(b) the now outstanding installments of the originally issued \$18,795,000 Water and Sewer System Refunding and Improvement Revenue Bonds, Series 2007A (the “**2007 Bonds**”);

(c) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the “**2009 Bond**”); and

(d) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the “**2015 Bond**” and together with the 2002 Bond, the 2007 Bonds and the 2009 Bond, the “**Outstanding Bonds**”).

6. The Outstanding Bonds were issued in accordance with and are currently governed by the provisions of the Amended and Restated Indenture of Trust dated as of July 15, 2004, by and between the City and U.S. Bank National Association, as successor to Wachovia Bank, N.A. (formerly known as First Union National Bank) (the “**Trustee**”), as amended and supplemented by the Supplemental Trust Indenture of 2008-1 dated as of August 13, 2008, and as further amended and supplemented by the Supplemental Trust Indenture of 2013-1 dated as of January 16, 2013 (as amended and supplemented, the “**Indenture of Trust**”).

7. By the terms of this Bond Ordinance, the City proposes to collapse and terminate the Indenture of Trust. In order to effect the collapse and termination of the Indenture of Trust, the City shall procure the written consent of all of the holders of the Outstanding Bonds.

8. The 2002 Bond, the 2009 Bond and the 2015 Bond (the “**SRF Bonds**”) are held by the South Carolina Water Quality Revolving Fund Authority (the “**Water Quality Authority**”). The 2007 Bonds were sold and issued in the public markets.

9. The City is currently contemplating the issuance of its not exceeding \$15,000,000 Water and Sewer System Refunding Revenue Bonds, Series 2016 (the “**2016 Bonds**”). It is anticipated that a portion of the proceeds of the 2016 Bonds will be utilized to effect the defeasance in full of the 2007 Bonds.

10. The provisions of the Indenture of Trust shall remain in full force and effect until such time as one or more of the following conditions has been met:

(a) the Outstanding Bonds shall have been paid at their respective stated maturities or redemption dates, if redeemed as a whole;

(b) Outstanding Bonds shall have been redeemed or defeased in accordance with the provisions of the Indenture of Trust; or

(c) the consent of the holders of the Outstanding Bonds with respect to the implementation of this Bond Ordinance shall have been obtained in accordance with the provisions of the Indenture of Trust.

The earliest date on which one of the above stated conditions has been met with respect to each of the Outstanding Bonds is herein referred to as the “*Effective Date*.” Certain of the conditions may be combined in order to achieve the Effective Date.

11. The Water Quality Authority has initially indicated that it will grant its consent to the implementation of this Bond Ordinance with respect to the SRF Bonds. In order to confirm and evidence such consent, the City has requested that the Water Quality Authority execute a written consent certificate, the form of which is attached hereto as Exhibit A.<sup>1</sup>

12. The City has requested that the Trustee, as the counterparty to the Indenture of Trust, acknowledge the collapse and termination of the Indenture of Trust (the “*Acknowledgment*”); the form of such acknowledgement is attached hereto as Exhibit B. The execution and delivery of the Acknowledgement is for notice purposes only and shall not be deemed a condition precedent to the implementation of this Bond Ordinance.

13. The Holders of any Bonds issued on or after the date of enactment hereof, including the 2016 Bonds, shall be deemed to have consented to the provisions of this Bond Ordinance and shall, upon the Effective Date, be subject to the terms hereof.

14. Upon the Effective Date, the provisions of this Bond Ordinance shall be in full force and effect.

[End of Article I]

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<sup>1</sup> Upon the receipt of the consent from the Water Quality Authority and the defeasance of the 2007 Bonds in full by and through the issuance of the 2016 Bonds, the Effective Date shall have occurred.

## ARTICLE II - DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

### Section 2.01 Definition of Ordinance.

This ordinance may be hereafter cited and is hereinafter sometimes referred to as the Bond Ordinance; such term shall include all ordinances supplemental to, or amendatory of, this Bond Ordinance.

### Section 2.02 Defined Terms.

In this Bond Ordinance, terms defined in Article I shall have the meaning assigned therein, and unless a different meaning clearly appears from the context, the following terms shall have the meanings assigned below:

**“Accreted Value”** shall mean the amounts set forth in or the amounts determined in the manner set forth in, a Series Ordinance, authorizing the issuance of Bonds in the form of Capital Appreciation Bonds.

**“Accounting Principles”** shall mean generally accepted accounting principles and practices applicable to governmental entities, including those applicable to governmentally owned and operating utility systems such as the System.

**“Annual Budget”** shall mean the budget or amended budget of the City for the System in effect as provided in or adopted pursuant to the provisions of this Bond Ordinance.

**“Annual Principal and Interest Requirement”** shall mean, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (1) all interest payable on such Series of Bonds during such Fiscal Year, plus (2) any Principal Installment of such Series of Bonds during such Fiscal Year, minus (3) any Interest Payment Subsidies received by the City for such Series of Bonds during such Fiscal Year and used to pay debt service on such Series of Bonds during such Fiscal Year.

For purposes of computing the Annual Principal and Interest Requirement:

(a) the rate of interest used to determine (1) above shall be a rate per annum equal to (i) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (ii) with respect to any Series of Variable Rate Bonds, the actual rate of interest on the date of calculation; provided however, if the Variable Rate Bonds have been Outstanding for at least twelve (12) months, the average rate over the twelve months immediately preceding the date of calculation.

(b) the Principal Installments for each Series of Bonds used to determine (2) above will be the actual planned Principal Installments, except as for any Series of Bonds in which 25% or more of the Principal Installments are payable in a single Fiscal Year, the Principal Installment in such year will be assumed to be the result derived by dividing (A) the aggregate

outstanding principal due on such Series of Bonds by (B) the number of full years in the remaining term of such Series of Bonds, but if the date of calculation is within twelve (12) months of the final maturity date of such Series of Bonds and a binding commitment by an institutional lender or municipal underwriting firm exists to provide money to refinance the outstanding aggregate principal amount of such Series of Bonds then Outstanding, the payment terms contained in the commitment are to be used for purposes of calculating the Principal Installments for such Series of Bonds.

(c) the amounts available in the Debt Service Reserve Fund established for a Series of Bonds may be applied against the interest payable on and the Principal Installments due on such Series of Bonds in the last Fiscal Year that such Series of Bonds is Outstanding.

**“Auditor”** shall mean an independent firm of certified public accountants of suitable standing selected by the City who audit the books, records, and accounts of the City. For purposes of the Outstanding Bonds, all references to the Independent Certified Public Accountant shall be replaced with the term Auditor.

**“Authorized Investments”** shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Section 6-5-10 of the South Carolina Code, or any successor or similar statute, and shall also include the South Carolina Investment Fund established at Sections 6-6-10 to 6-6-40 of the South Carolina Code or any successor or similar statute and as the same may be further limited pursuant to the provisions of a Series Ordinance.

**“Authorized Officers”** means the Mayor, the City Manager, the Municipal Treasurer, or any other official authorized by the City Council to act on behalf of the City.

**“Bond Counsel”** shall mean an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal, state and public agency financing, selected by the City.

**“Bondholder”** or **“Holder”**, or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond.

**“Bond Ordinance”** shall mean this amended and restated Bond Ordinance. Upon the occurrence of the Effective Date, this Bond Ordinance shall be in full force and effect and the Indenture of Trust shall collapse and terminate. Further, upon the Effective Date, for purposes of the Outstanding Bonds or any contractual obligations of the City related to the administration and operation of the System, any reference to the Indenture of Trust shall be construed and interpreted as referring solely to the Bond Ordinance.

**“Bond Payment Date”** shall mean each date as shall be prescribed by any applicable Series Ordinance on which interest on any of the Bonds shall be payable or on which both principal and interest shall be payable on any of the Bonds according to their respective terms.

**“Bonds”** shall mean any indebtedness or obligations (issued as tax-exempt or taxable obligations) including those entered into under the provisions of long-term contracts payable

from the revenues of the System, issued in accordance with the provisions of the Enabling Act, this Bond Ordinance and a Series Ordinance, excluding indebtedness incurred in accordance with Article VI hereof.

**“Business Day”** shall mean, except as set forth in a Series Ordinance with respect to the Series of Bonds issued thereunder, any day other than a Saturday, a Sunday, a day on which banking institutions in the State or in the State of New York are required or authorized by law (including executive orders) to close or a day on which the United States federal reserve payment system is not operational.

**“Capital Appreciation Bonds”** shall mean Bonds that bear interest payable only at maturity or payable prior to maturity only on the redemption dates set forth in, and in the amounts determined by reference to the Accreted Value established in accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital Appreciation Bonds.

**“City”** means the City of Cayce, South Carolina.

**“City Council”** means the City Council of the City of Cayce, the governing body of the City.

**“City Manager”** shall mean the City Manager of the City of Cayce, South Carolina or in the absence of the City Manager, the assistant City Manager or the interim City Manager.

**“Clerk”** shall mean the Municipal Clerk of the City. The term shall include the acting Clerk or such other person designated by City Council to fulfill such role whenever, by reason of absence, illness or other reason, the person who is the Clerk is unable to act.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended, and the Treasury Regulations issued thereunder, in each case, as from time to time in force.

**“Date of Issue”** shall mean that date established in any Series Ordinance from which interest shall accrue on the Bonds of the applicable Series.

**“Debt Service Account”** shall mean the account of that name created in the Debt Service Fund and established for each Series of Bonds issued under the terms hereof. Within each Debt Service Account, the Trustee may, but is not required, to further create an interest account, principal account and bond redemption account with respect to each such series of Bonds. Respecting the Outstanding Bonds (as defined in 1.01(5)(d) herein), such subaccounts, as established under the Indenture of Trust, shall be governed by the provisions of this Bond Ordinance.

**“Debt Service Fund”** shall mean the fund of that name established pursuant to Section 7.3 of this Bond Ordinance, which fund is designed to provide for the payment of the principal of, premium, if any, and interest on all Bonds Outstanding and issued pursuant hereto, as the same respectively fall due.

***“Debt Service Reserve Fund”*** shall mean the funds, if any, so designated and designed (1) to secure the timely payment of the principal of and interest on the respective Series of Bonds Outstanding and issued pursuant to this Bond Ordinance and the applicable Series Ordinance, and (2) to provide for the redemption of such Series of Bonds Outstanding prior to their stated maturity, as established by the provisions of Section 7.05 hereof.

***“Defeasance Obligations”***, unless otherwise provided in a Series Ordinance for a particular Series of Bonds, shall mean non-callable: (i) Government Obligations; (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian; (iii) non-callable, U.S. Treasury Securities – State and Local Government Series Securities; and (iv) AAA-rated general obligation bonds, issued by at least one nationally recognized credit rating organization, of the State, its institutions, agencies, school districts and political subdivisions.

***“Depository”*** shall mean any bank or trust company selected by the City as a depository of moneys or securities held under the provisions of this Bond Ordinance and may include the Trustee.

***“Depreciation and Contingent Fund”*** shall mean the fund herein so designated and designed to provide for contingencies, for the replacement of depreciated or obsolete parts of the System and for improvements, betterments and extensions of the System, as established by the provisions of Section 7.06 hereof. To the extent the City had previously maintained a separate Depreciation Fund and a separate Contingent Fund, such funds shall hereafter be combined into the Depreciation and Contingent Fund. For purposes of the Outstanding Bonds, all references to Depreciation and Capital Improvement Fund shall be replaced with the term Depreciation and Contingent Fund.

***“Electronic Means”*** shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

***“Enabling Act”*** shall mean Chapter 17 of Title 6, and Chapter 21 of Title 11 of the South Carolina Code, and all other statutory authorizations authorizing and enabling the City to adopt this Bond Ordinance. For purposes of the Outstanding Bonds, all references to the Act shall be replaced with the term Enabling Act.

***“Events of Default”*** shall mean those events set forth in Section 13.01 of this Bond Ordinance.

***“Facilities”*** shall mean (i) all of the physical assets of the System, and all parts thereof, now existing; (ii) any physical assets which may thereafter be added to the System, or any part thereof, by any additions, replacements, or betterments; and (iii) any capacity acquired by the

City in physical assets not owned by it for the treatment of water or wastewater or the transportation thereof.

**“Fiduciary”** or **“Fiduciaries”** shall mean the Trustee and any Registrar and any other agent of the City appointed pursuant to the authorizations of this Bond Ordinance or any Series Ordinance or any or all of them, as may be appropriate.

**“Fiscal Year”** shall mean the period of twelve (12) calendar months, beginning on July 1 of each year, and ending on June 30 of the following year, unless the same shall have been changed pursuant to the authorization of Section 3.01 hereof.

**“Gross Revenue Fund”** shall mean the account or accounts established and maintained by the City in such fashion as to adequately reflect all of the receipts and revenues derived from the operation of the System and all interest and other income earned by the City in connection with the System, as established by the provisions of Section 7.02 hereof.

**“Government Obligations”** shall mean: (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; (b) obligations, the payment of the principal (if any), or the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America; and (c) obligations issued by the Federal Home Loan Bank and/or the Federal National Mortgage Association as permitted by Section 6-5-10(a)(2) of the South Carolina Code, as amended.

**“Gross Revenues”** or **“Gross Revenues of the System”** shall mean:

(a) all receipts and revenues derived from the operation of the System, except for those allocable to the operation of Special Facilities to the extent the same have been pledged to the payment of Special Facilities Bonds, including all service fees (including connection, tap and impact fees, capacity fees, availability fees, and metered purchases);

(b) all proceeds from the sale or other disposition of any property owned directly or beneficially by the City in connection with the operation of the System;

(c) all interest and other income received directly or indirectly by the City from the investment of moneys or accounts relating to the System; excluding, however, investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service, and specifically excluding (whether or not so restricted) interest earned on any construction fund or construction account created with the proceeds of borrowing by the City;

(d) all other unencumbered money to which the City may become entitled from any source whatsoever in connection with the operation of the System, but specifically excluding any amounts received by way of government grants, developer contributions and aids-to-construction; and

(e) all Interest Payment Subsidies to the extent such monies are not otherwise used to pay debt service on a Series of Bonds. Any Interest Payment Subsidies received by the City and used to pay debt service on a Series of Bonds shall not be included in Gross Revenues.

All amounts received as *ad valorem* taxes shall not be included in Gross Revenues.

**“Independent Consultant”** shall mean such firm or firms, professional engineers, architects, financial advisors, accountants, rate consultants or other professionals who are nationally recognized and have a favorable reputation for consulting services for utility systems similar to the System. Such Independent Consultant shall not be an employee of the City and shall be engaged by the City to perform the tasks set forth to be performed by such Independent Consultant under the provisions of this Bond Ordinance.

**“Insurance Consultant”** shall mean a person or firm who is not, and no member, director, officer or employee of which is, an officer or employee of the City, which is qualified to survey risks and to recommend insurance coverage for public utilities and services and organizations engaged in such operations. The Insurance Consultant shall be selected by the City.

**“Insurer”**, with respect to any Series of Bonds, shall mean an insurance company that has written a Municipal Bond Insurance Policy covering such Series of Bonds.

**“Interest Payment Subsidies”** shall mean the refundable tax credit subsidies payable to the City from the federal government under any section of the Code that authorizes such tax credits.

**“Junior Lien Bonds”** shall mean any revenue bonds or other obligations issued by the City which are secured by pledges of the revenues of the System which are junior and subordinate in all respects to the pledges made to secure Bonds and to the payment by the City of all Operation and Maintenance Expenses.

**“Mayor”** shall mean the Mayor of the City. The term shall include the acting Mayor or the Mayor Pro Tempore whenever, by reason of absence, illness or other reason, the person who is the Mayor is unable to act.

**“Municipal Bond Insurance Policy”** shall mean any municipal bond insurance policy insuring the payment, when due, of the principal of and interest on a Series of Bonds.

**“Net Earnings”** shall mean, for the period in question, the Gross Revenues of the System, less Operation and Maintenance Expenses, and shall otherwise be adjusted as provided in (a) and (b) below:

(a) Net Earnings shall include amounts transferred into the Operation and Maintenance Fund from the Rate Stabilization Fund.

(b) Net Earnings shall not include: (i) amounts transferred from Rate Stabilization Fund into any other fund, excluding the Operation and Maintenance Fund as provided in (a) above; and (ii) amounts transferred into the Rate Stabilization Fund.

“*Net Revenues*” or “*Pledged Revenues*” shall mean the Gross Revenues of the System, less Operation and Maintenance Expenses.

“*Operation and Maintenance Expenses*” shall mean for the period in question all expenses incurred in connection with the administration and the operation of the System and its Facilities, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, principal and interest payments with respect to lease financing arrangements under Section 6.03 hereof, the fees and charges of the Trustee and the custodian or trustee of any fund, the costs of audits required hereunder, the costs of computation and payment of any arbitrage rebate, and the premiums for all insurance and fidelity bonds required by this Bond Ordinance. For purposes of the Outstanding Bonds, all references to Expenses of Operating and Maintaining the System shall be replaced with the term Operation and Maintenance Expenses. Operation and Maintenance Expenses shall not include:

- (a) depreciation and amortization allowances;
- (b) amounts paid as interest on Bonds;
- (c) amounts expended for extraordinary repairs to the System;
- (d) amounts paid from government grants or aids-to-construction;
- (e) unfunded net pension liabilities, other post-employment benefit liabilities or similar accounting determinations under Accounting Principles that do not result in any actual disposition of cash;
- (f) any financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental non-recurring expenses resulting from the issuance or refinancing of Bonds; and
- (g) any transfers to the general fund (which shall only be payable out of surplus revenues under Section 8.08 herein).

“*Operation and Maintenance Fund*” shall mean the fund established by the provisions of Section 7.05 hereof and which is designed to provide for the payment of all Operation and Maintenance Expenses.

“*Outstanding*”, when used with reference to any Bonds, subject to Section 17.01 hereof, and except as may be modified for any Series of Bonds pursuant to the provisions of a Series Ordinance, shall mean, as of any date, all such Bonds theretofore or then being authenticated and delivered except:

- (a) Bonds cancelled at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (c) Bonds deemed to have been paid as provided in Article XVI hereof; and
- (d) for purposes of any consent or other action to be taken by the holders of a specified percentage of Bonds, Bonds, as to which a Responsible Officer (as defined herein) has actual knowledge, held by, or for the account of, the City, or by any person controlling, controlled by, or under common control with the City (unless all Bonds are so held).

**“Paying Agent”** shall mean the financial institution which is authorized by the City Council to pay the principal of or interest on and redemption premium, if any, on any Bonds and having the duties, responsibilities and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance. Pursuant to the provisions of Section 15.02 of this Bond Ordinance, the Trustee serves as the Paying Agent.

**“Principal Installment”** shall mean, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a Bond Payment Date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due of, and application in accordance with, any mandatory sinking fund payment payable before such future date, plus (ii) any mandatory sinking fund payment due on such certain future date, together with the aggregate amount of the premiums, if any, applicable to such mandatory sinking fund payments, plus (iii) with respect to any Capital Appreciation Bonds required to be paid on such certain date, the Accreted Value as of such certain date of such Capital Appreciation Bonds; and in this latter respect, any reference to “principal” of Bonds in this Bond Ordinance shall mean, with respect to Capital Appreciation Bonds, the Accreted Value of such Capital Appreciation Bonds as of the date of calculation.

**“Rate Stabilization Fund”** shall mean the fund designed to provide for the stabilization of water and sewer rates by carrying forward surplus revenues.

**“Record Date”** shall mean the fifteenth (15th) day of the month immediately preceding each Bond Payment Date (or such other time or times as shall be prescribed by any applicable Series Ordinance).

**“Redemption Price”** shall mean, with respect to Bonds of any Series or a portion thereof, the principal amount of such Bonds or portion thereof plus the applicable premium, if any, payable upon redemption thereof in the manner contemplated in accordance with its terms, this Bond Ordinance and the applicable Series Ordinance.

**“Registrar”** shall mean the Trustee or any bank, trust company, or national banking association which is authorized by the City to maintain an accurate list of those who from time to

time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds in accordance with the provisions of this Bond Ordinance and having the duties, responsibilities, and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance; however, the City Council may, pursuant to a Series Ordinance, authorize the City to serve as Registrar for the applicable Series of Bonds, in lieu of the institutions referred to above.

**“Reserve Requirement”** shall mean as of any date of calculation, the debt service reserve requirement, if any, established by a Series Ordinance authorizing a Series of Bonds.

**“Responsible Officer”** means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee having direct responsibility for the administration of this Bond Ordinance.

**“Securities Depository”** shall mean The Depository Trust Company, New York, New York, or any other recognized securities depository selected by the City, which securities depository maintains a book-entry system in respect of the Bonds of any Series, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

**“Securities Depository Nominee”** shall mean, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by any Registrar, the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

**“Serial Bonds”** shall mean the Bonds of any Series which are stated to mature in installments and for which there are no mandatory sinking fund provisions.

**“Series”** shall mean all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction and designated as a single Series by the authorizing Series Ordinance, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided, regardless of variations in maturity, interest rate or other provisions.

**“Series Ordinance”** shall mean an ordinance of City Council authorizing the issuance of a Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, adopted by City Council in accordance with Article IV hereof.

**“South Carolina Code”** shall mean the Code of Laws of South Carolina, 1976, as from time to time amended.

**“Special Facilities”** shall mean those facilities financed with the proceeds of Special Facilities Bonds as described in Section 6.02 hereof.

**“Special Facilities Bonds”** shall mean those obligations issued in accordance with Section 6.02 hereof.

**“State”** shall mean the State of South Carolina.

**“State Treasurer’s Office”** shall mean the office of the South Carolina State Treasurer.

**“System”** shall mean the water and sewer system of the City as the same is now, or in accordance with Sections 11.02 and 11.03 of this Bond Ordinance may be constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter; provided, that during such time as any Special Facilities Bonds issued to finance Special Facilities are outstanding, the term “System” shall not include such Special Facilities.

**“Term Bonds”** shall mean the Bonds of any Series which are stated to mature in a single year and which are subject to mandatory sinking fund redemption prior to the stated maturity date.

**“Treasurer”** shall mean the municipal treasurer of the City, as the person responsible for supervising and maintaining records and accounts relating to the collection and disbursement of the revenues derived from the operation and maintenance of the System.

**“Trustee”** shall mean the financial institution serving as Trustee pursuant to this Bond Ordinance and which shall have such other duties, privileges and functions as are set forth herein. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

**“Variable Rate Bonds”** shall mean, for any period of time, any Bonds which during such period bear interest at a variable rate; provided that Bonds, the interest rate on which has been fixed for the remainder of the term thereof, shall no longer be Variable Rate Bonds.

**“Water Quality Authority”** shall mean the South Carolina Water Quality Revolving Fund Authority.

Section 2.03 Interpretations.

In this Bond Ordinance, unless the context otherwise requires:

(A) Articles, Sections and paragraphs referred to by number shall mean the corresponding Articles, Sections and paragraphs of this Bond Ordinance.

(B) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms,

associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(C) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder”, and any similar terms, as used in this Bond Ordinance refer to this Bond Ordinance or Sections or paragraphs of this Bond Ordinance and the term “hereafter” shall mean any date after the date of enactment of this Bond Ordinance.

(D) References to the payment of principal of Bonds shall be deemed to include payment of principal both at maturity and by mandatory redemption pursuant to any sinking fund payment obligations.

(E) Any Fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Bond Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

### **ARTICLE III - FISCAL YEAR**

#### Section 3.01 Establishment and Modification of Fiscal Year.

The System shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on the first (1st) day of July of each year and shall end on the thirtieth (30th) day of June of the following year. The City may, by ordinance duly enacted by City Council, change the Fiscal Year at any time from that then existing to a different twelve (12) month period. Upon any change to the Fiscal Year, the City shall provide the Trustee with a copy of the ordinance authorizing such change.

[End of Article III]

## ARTICLE IV - THE BONDS

### Section 4.01 Authorization for Bonds in Series.

(A) From time to time and for the purposes of:

(1) Obtaining funds for expansions, additions and improvements of the System, including the recoupage of funds already so expended;

(2) Providing funds for the payment of any bond anticipation note or notes issued in order to defray the costs of expansions, additions and improvements to the System and that were issued in anticipation of the issuance and sale of Bonds;

(3) Refunding Bonds or other obligations issued to provide land or facilities or equipment which are or are to become a part of the System or which are or were payable in whole or in part from revenues of the System;

(4) Providing funds for the payment of interest due on any Bonds;

(5) Funding any Debt Service Reserve Fund or restoring the value of the cash and securities in any Debt Service Reserve Fund to the amount equal to its Reserve Requirement, and reimbursing amounts owed to any providers of a surety bond, line of credit, insurance policy or letter of credit established pursuant to Section 7.05(E) hereof; and

(6) Paying the costs of issuance of Bonds, including any credit enhancement therefor;

but subject to the terms, limitations and conditions herein, the City Council may authorize the issuance of a Series of Bonds by the enactment of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of this Article. The Bonds of each Series shall be issued in fully registered form, without coupons, and may be issued in the form of book-entry bonds. The Bonds shall, in addition to the title City of Cayce, South Carolina, Water and Sewer System Revenue Bonds, bear a letter or number Series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments, or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable Series Ordinance.

(B) Each Series Ordinance shall include a determination to the effect that the issuance of such Series of Bonds is necessary to provide funds to be used and expended for one or more of the purposes enumerated in paragraph (A) above. In addition each Series Ordinance shall specify and determine:

- (1) The then period of usefulness of the System;
- (2) The Date of Issue of such Series of Bonds or method for determining the same;
- (3) The maximum authorized principal amount of such Series of Bonds, and the manner of determining the precise principal amount and the officials authorized to make such determination;
- (4) Bond Payment Dates and the date or dates of maturity and the amounts thereof, or the manner of determining such dates and amounts and the officials authorized to make such determinations, provided that the Series Ordinance shall specify a date beyond which the final maturity of such Series shall not extend, which date shall not be longer than forty-five (45) years from the Date of Issue;
- (5) The purposes for which such Series of Bonds are being issued;
- (6) The title and designation of the Bonds of such Series;
- (7) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;
- (8) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series, including whether and on what terms there shall be entered by the City an agreement for any form of interest rate swap or similar transaction with respect to such Series;
- (9) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the manner of making such designations and the officials authorized to make such designations;
- (10) The Redemption Price or Redemption Prices and the redemption date or redemption dates and other terms of redemption, if any, applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;
- (11) The Trustee, the Paying Agent, and the Registrar for such Bonds and if other than the Trustee, the manner of determining the Paying Agent, the Registrar and the escrow agent, if such Bonds are refunding Bonds;
- (12) The form or forms of the Bonds of such Series;
- (13) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;

(14) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.20 hereof;

(15) That the then applicable Reserve Requirement, if any, for all Series of Bonds Outstanding have been met;

(16) The disposition of the proceeds of the sale of the Bonds of such Series and the manner of their application;

(17) That a Debt Service Account (within the Debt Service Fund) shall be and a Debt Service Reserve Fund may be established for the Series of Bonds, and that a construction fund be established if the proceeds of the Bonds of any Series are intended to be used for the expansion or improvement of the System, and that a capitalized interest account and/or a cost of issuance account be established as a standalone account or within any such construction fund if interest for any period is to be paid from proceeds of such Series of Bonds; and

(18) Any other provisions or funds deemed advisable by the City for the Bonds and any other applicable redemption requirement for the Bonds of such Series and the method of satisfying the same and not in conflict with or in substitution for the provisions of this Bond Ordinance.

#### Section 4.02 Conditions to Issuance of Bonds of a Series.

All Bonds shall be issued in compliance with the following provisions of this Section 4.02:

(1) Bonds shall be stated to mature and/or have mandatory or sinking fund redemptions on such day or days in the years and amounts prescribed or approved by the Series Ordinance.

(2) Bonds shall bear interest at the rate or rates and on the occasions prescribed or approved by the Series Ordinance.

(3) Bonds shall be issued for a purpose or purposes set forth in Section 4.01(A) herein.

(4) There shall exist, on the occasion of the issuance of the Bonds, no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding.

(5) Unless on the date of delivery of such Series of Bonds there shall be on deposit in each Debt Service Reserve Fund the amount equal to the applicable Reserve Requirement, there shall be deposited in such Debt Service Reserve Funds such amounts

as may be necessary to make the value of the moneys and securities in each Debt Service Reserve Fund equal to the applicable Reserve Requirement, unless:

(a) the Series Ordinance and any previous Series Ordinances shall have provided for successive monthly payments beginning in the first month following the date of the issuance of the Bonds of any such Series in substantially equal monthly amounts (the “*Monthly Series Payments*”) so that by the end of twelve (12) months from the date of issuance of such Series of Bonds there shall be in the applicable Debt Service Reserve Fund an amount equal to the applicable Reserve Requirement with respect to such Bonds; and

(b) there shall be no unremedied defaults of any Monthly Series Payments required to have been made.

(6) Except in the case of the first Series of Bonds issued under this Bond Ordinance or in the event no Bonds are Outstanding:

Net Earnings during the most recent Fiscal Year for which audited financial statements of the System are completed shall be certified by the Auditors or the Independent Consultant on the basis of such audited financial statements to be not less than one hundred twenty percent (120%) of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds; provided that for purposes of this Section 4.02(6), such Net Earnings may be adjusted to reflect (1) any rate increases currently adopted and to be in effect prior to, coincident with or during the current Fiscal Year of the issuance of such proposed Series of Bonds and determined pro forma as though such rate increases had been in continuous effect during such recent Fiscal Year; (2) in the event a utility, system or enterprise that is in existence and operating and whose current customers have become customers of the System prior to the issuance of the proposed Series of Bonds or will become customers of the System concurrently with the issuance of such proposed Series of Bonds, 100% of the Net Earnings that the Auditors or the Independent Consultant estimate would have been received during such Fiscal Year if the utility, system or enterprise had been a part of the System throughout such recent Fiscal Year, taking into account, for the estimation of such Net Earnings in this subparagraph (2) only, the then-existing customer base and population of the acquired utility, system or enterprise; (3) in the event proceeds of such proposed Series of Bonds will be used to construct or to acquire a newly-constructed utility, system, enterprise, or component of the System which will serve an existing customer base and currently-populated area, 100% of the Net Earnings, estimated by the Independent Consultant, to be received by the System during the first Fiscal Year beginning after the date on which such project constructed or acquired with the proceeds of the proposed Series of Bonds is placed in service, taking into account for the estimation of such Net Earnings in this subparagraph (3) only the then-existing customer base and population; (4) in the event proceeds of such proposed Series

of Bonds will be used to pay interest on such proposed Series, 100% of the interest that will accrue on such Series of Bonds following the date of delivery of the proposed Series and that will be paid from such proceeds; and (5) in the event proceeds of such proposed Series of Bonds will be used to construct or to acquire an expansion to the System and to the extent not included by sub-paragraph (3), 100% of estimated Net Earnings to be received by the System in the first Fiscal Year following the completion of such project, certified by the Independent Consultant, from customers under long-term contracts which extend for the life of such proposed Series of Bonds.

Provided that in the instance of any Series of Bonds in the aggregate principal amount of \$5,000,000 or less, such calculation required by Section 4.02(6) may, unless provided to the contrary in any Series Ordinance, be made by the Treasurer.

In the event that a Series of Bonds is Outstanding and the City determines to issue a note or other obligation in anticipation of the issuance of a Series of Bonds, for the purposes of complying with the additional bonds test established in this Section 4.02(6) above, the Auditors, the Independent Consultant, or the City shall project the maturity schedule (including rate, term and principal maturities) of the future Series of Bonds that will be used to pay the note or other obligation at maturity; such future Series of Bonds and the accompanying projections shall qualify as a proposed Series of Bonds for purposes of the additional bonds test in Section 4.02(6) herein.

Whenever this Section 4.02(6) requires a certification for the most recent Fiscal Year for which audited financial statements are available, the City may, in its discretion, provide for a special audit and a certification based upon such special audit, in lieu of the audit for such Fiscal Year, provided such special audit covers twelve (12) consecutive calendar months of the eighteen (18) full consecutive calendar months preceding the date of issuance of the proposed Series of Bonds.

(7) Notwithstanding Section 4.02(6) hereinabove, in the case of Bonds issued for the purpose of refunding any Bonds, Series of Bonds, or a portion of a Series of Bonds:

(a) the Annual Principal and Interest Requirement of the refunding Bonds shall not exceed one hundred ten percent (110%) of the Annual Principal and Interest Requirement of the refunded Bonds for any Fiscal Year until a time subsequent to the last maturity of Bonds issued prior to the issuance of such refunding Bonds which are not refunded and which remain Outstanding following the issuance of the refunding Bonds; or

(b) the additional bonds test prescribed by paragraph (6) herein shall be complied with.

(8) If any Series of Bonds shall contain Variable Rate Bonds:

(a) The Series Ordinance shall provide for and specify a maximum interest rate on (i) such Bonds and (ii) any reimbursement obligation to a liquidity provider for such Bonds;

(b) The liquidity provider for such Bonds shall be rated within the highest two short term rating categories by any rating agency then rating any Series of Bonds; and

(c) Any accelerated principal payments or any interest computed at a rate in excess of that on such Bonds due to the liquidity provider for such Bonds pursuant to any reimbursement agreement with such liquidity provider shall be subordinate to the payment of debt service on all Bonds; provided, however, if either of the tests referred to in Section 4.02(6) or 4.02(7) of this Bond Ordinance is calculated (and met) assuming such accelerated principal payment and such excess interest amount to the liquidity provider, then such accelerated principal payment and excess interest amount may be on a parity with the payment of debt service on all Bonds.

(9) All amounts then due under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid.

#### Section 4.03 Reliance on Certificates.

Each of the City, the Trustee and any purchaser of any Bonds shall be entitled to conclusively rely upon certificates of the Auditors and the certificates and reports of the Independent Consultant and certificates of any Insurance Consultant, made in good faith, pursuant to any provision of this Bond Ordinance.

#### Section 4.04 Execution of Bonds.

(A) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the City by the Mayor or in his absence another Authorized Officer, the corporate seal of the City shall be impressed or reproduced thereon and the same shall be attested by the Clerk. Such officers may employ facsimiles of their signatures.

(B) In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office.

#### Section 4.05 Authentication.

Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Trustee or the Registrar shall be entitled to any right or benefit under this Bond Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate

of authentication shall have been duly executed by the Trustee or Registrar, and such executed certificate of the Trustee or Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Ordinance. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee or by any authorized officer of the Registrar.

Section 4.06 Medium of Payment.

The Bonds shall be payable with respect to principal, interest, and premium, if any, in lawful money of the United States of America, unless otherwise provided in a Series Ordinance.

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute and the Trustee may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and to the Trustee evidence of such loss, theft or destruction satisfactory to the City and the Trustee together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the City shall pay the same. The City and the Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) in connection with such actions.

Section 4.08 Transfer and Registry; Persons Treated as Owners.

(A) As long as any Bonds shall be Outstanding, the City shall cause books for the registration and for the transfer of Bonds to be kept. Such books shall be kept by the Trustee unless there shall have been appointed a Registrar other than the Trustee to keep the books of registration for any particular Series of Bonds. The transfer of each Bond may be registered only upon the registration books of the City kept for that purpose by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof and an assignment with a written instrument of transfer satisfactory to the Trustee or the Registrar, as the case may be, duly executed by the registered owner or his duly authorized attorney. Upon the registration or transfer of any Bond, the City shall cause to be issued, subject to the provisions of Section 4.11 hereof, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond.

(B) The City, the Trustee, and any Registrar may deem and treat the person in whose name any Bond shall be registered upon the registration books of the City as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or, upon his order, shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid; and none of the City, the Trustee and any Registrar shall be affected by any notice to the contrary.

(C) Notwithstanding anything in paragraphs (A) and (B) of this Section 4.08 to the contrary, Bonds may be issued in the form of contractual obligations which are not instruments and which may be transferred as provided in such contracts.

Section 4.09 Date and Payment Provisions.

Unless otherwise provided in any Series Ordinance with respect to Bonds issued thereunder, each Bond of a Series shall be authenticated on such dates as they shall, in each case, be delivered. Each Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Bond's authentication.

Owners of at least \$1,000,000 principal amount of Bonds may, by written notice containing wiring instructions filed with the Trustee at least twenty (20) days prior to any Bond Payment Date, provide for the payment of the interest on such Bonds by wire transfer to an account at a bank located in the continental United States.

Section 4.10 Transferability of Bonds.

Bonds of a Series, upon surrender thereof at the office of the Trustee or the Registrar, as the case may be, for the Bonds of such Series with a written instrument of transfer satisfactory to the Trustee or the Registrar, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder and upon payment by such Holder of any charges made pursuant to Section 4.11 hereof, be exchanged for an equal aggregate principal amount of Bonds of such Series of like maturity and interest rate of any other authorized denominations.

Section 4.11 Regulations With Respect to Exchanges and Transfer.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the City shall execute and the Trustee or the Registrar, as the case may be, shall authenticate and deliver Bonds in accordance with the provisions of this Bond Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee or the Registrar, as the case may be, to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance. There shall be no charge to the Holder for such exchange or transfer of Bonds except that the Trustee or the Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. Neither the City nor the Trustee or the Registrar, as the case may be, shall be required to register, transfer or exchange Bonds of a Series during the period between a Record Date and its related Bond Payment Date, or to register, transfer or exchange any Bonds called for redemption after the mailing of any notice of redemption of such Bond.

Section 4.12 Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds.

Upon the surrender of mutilated Bonds pursuant to Section 4.07 hereof, or Bonds paid or surrendered, the same shall be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate evidencing such destruction shall be furnished by the Trustee or the Registrar, as the case may be, to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

Section 4.13 Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the Trustee, shall give notice to the Holders of any Bonds to be redeemed, in the name of the City, of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by the Trustee by first class mail, postage prepaid, at least thirty (30) but no more than sixty (60) days prior to the redemption date to each registered owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

(1) notices must contain, at a minimum, the complete official name of the Bonds, CUSIP number, Bond numbers, principal amount of each Bond to be redeemed (if less than all), publication date, redemption date, redemption price, redemption agent's name and address with contact person and phone number, Trustee's name and address, date of the Bonds, interest rate, maturity date, the place or places where amounts due will be payable, and any other descriptive information deemed necessary by the Trustee;

(2) notices must be sent to Bondholders of \$1,000,000 or more, to the Municipal Securities Rulemaking Board, if necessary (via its Electronic Municipal Market Access (EMMA) system, as may be amended or modified), and any Securities Depository by such method or such other method as is standard in the industry; in addition, any Bondholder holding in excess of \$1,000,000 principal amount of Bonds may request the Trustee to send notices to any additional addressee specified;

(3) a second notice to registered owners of the Bonds must be mailed by the means specified above to any registered owner of Bonds who has not presented Bonds for redemption sixty (60) days after the redemption date;

(4) notice of redemptions effected by advance refundings must also be given notice in accordance with the above requirements at least thirty (30) days but no more than sixty (60) days prior to the actual redemption date; and

(5) CUSIP number identification with appropriate dollar amounts for each CUSIP number must accompany all redemption payments and interest payments, whether by check or by wire transfer.

The obligation to provide notice shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the redemption price of the Bonds to which such notice relates or the interest thereon to the redemption date.

If at the time of mailing of a notice of redemption, there shall not have been deposited with the Trustee or Paying Agent moneys sufficient to redeem all the Bonds or portions thereof called for redemption, which moneys are or will be available for redemption of such Bonds, such notice is required to state that it is conditional on the deposit of the redemption moneys with the Trustee or Paying Agent not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

The failure of the Trustee to give notice to a Bondholder or any defect in such notice shall not affect the validity of the redemption of any other Bonds for which notice is properly given. Any Bondholder may waive notice of redemption by delivery of a written waiver to the Trustee.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument or providing for Bonds in bearer form may provide alternative methods for delivery of notice of redemption.

Provided sufficient funds for such redemption are on deposit with the Trustee, all Bonds so called for redemption shall cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding hereunder. If said money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

#### Section 4.14 Cancellation of Bonds Which Have Been Redeemed.

All Bonds which have been redeemed shall be cancelled and destroyed by the Trustee and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

#### Section 4.15 Restriction on Optional Redemption.

Notwithstanding anything in this Bond Ordinance to the contrary, no optional redemption of Bonds may occur unless all amounts payable by the City owing under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid in full.

#### Section 4.16 Selection of Bonds To Be Redeemed.

In the event that less than all of the Bonds of any Series are to be redeemed at the option of the City, Bonds to be redeemed shall be in such order of maturity as selected by the City. In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the Trustee. The portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum

denomination; provided further that, if less than all of the beneficial interests in a Bond of a single maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot or in such manner as may be directed by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the City shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination. The procedures for selection of Bonds of a Series for redemption set forth in this Section 4.16 are subject, however, to any alternative provisions set forth in a Series Ordinance applicable to such Series of Bonds.

#### Section 4.17 Purchase of Bonds.

The Trustee shall, if and to the extent practicable, purchase Bonds at the written direction of the City at such time, in such manner and at such price as may be specified by the City. The Trustee may so purchase Bonds with any money then held by the Trustee which is available for the redemption or purchase of Bonds and in excess of that set aside for the payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion of Bond Counsel to the effect that such redemption or purchase complies with any limitations or restrictions on such redemption or purchase contained in this Bond Ordinance.

#### Section 4.18. Bonds Issued as Taxable Obligations.

Notwithstanding anything in this Bond Ordinance to the contrary, the City may from time to time, pursuant to one or more Series Ordinances, provide for the issuance of Bonds the interest on which may be includable in gross income of the Holders of such Bonds for federal income taxation purposes. In such event, such Bonds may, at the option of the City, be issued as coupon bonds, payable to bearer, as provided in the applicable Series Ordinance. Such Series Ordinance shall provide such rules and regulations with respect to the ownership, transfer and substitution of such Bonds as are not inconsistent with the other provisions of this Bond Ordinance.

#### Section 4.19 Security for Payment of Bonds; Priority of Lien.

The Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of and a lien upon the Net Revenues. Such pledge and lien securing the Bonds shall at all times and in all respects be and remain superior to pledges and liens made and given to secure any other bonds or other obligations payable from the revenues of the System. The Bonds shall not constitute an indebtedness of the City within the meaning of any provision, limitation or restriction of the Constitution or the laws of the State, other than those provisions authorizing indebtedness payable solely from a revenue-producing project not involving revenues from any tax or license, and the faith, credit and taxing power of the City are expressly not pledged therefor. The City is not obligated to pay any of the Bonds or the interest thereon except from the Net Revenues.

Section 4.20 Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in fully registered form registerable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in a form satisfactory to the Treasurer and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.21 Waiver of Certain Provisions.

Notwithstanding anything in this Bond Ordinance to the contrary, whenever all of the debt issued or all of the obligations incurred by the City under a Series Ordinance are acquired by and are held by a single entity, that single entity, at its sole option, may waive any provision or requirement of this Bond Ordinance that relates separately to the governance of such Series and is for the protection and benefit of such single entity only and not for the protection or benefit of any other Holder or Holders of Bonds.

[End of Article IV]

## **ARTICLE V - RATES AND CHARGES**

### Section 5.01 Rate Covenant.

(A) It is hereby determined that the rates for services and facilities furnished by the System shall, until otherwise revised, be as now established. Said rates and charges are determined to be sufficient to meet the requirements of this Bond Ordinance but they shall be revised by the City Council whenever necessary in order that they shall at all times be maintained on a basis sufficient to meet the requirements of this Bond Ordinance. The City specifically covenants and agrees to maintain rates and charges for all services furnished by the System which shall at all times be sufficient:

- (1) To provide for the payment of the Operation and Maintenance Expenses as may be necessary to preserve the same in good repair and working order;
- (2) To maintain the Debt Service Fund and the Debt Service Fund Accounts and thus provide for the punctual payment of the principal of and interest on the Bonds;
- (3) To maintain the Debt Service Reserve Funds in the manner prescribed herein and in any applicable Series Ordinance;
- (4) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof;
- (5) To provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding;
- (6) To build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order; and
- (7) To discharge all obligations imposed by the Enabling Act and by this Bond Ordinance and any applicable Series Ordinance.

(B) The City covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System which, together with other income, are reasonably expected to yield annual Net Earnings in the current Fiscal Year equal to at least the sum of one hundred fifteen percent (115%) of the Annual Principal and Interest Requirement in such Fiscal Year for all Bonds Outstanding. Promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the City, with or without the aid of an Independent Consultant, shall review the rates and charges for its services and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, the City shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable

detail the estimated revenues and operating expenses and other expenditures of the System for such Fiscal Year which shall include the amount to be deposited during such Fiscal Year in the Depreciation and Contingent Fund. The City may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year.

(C) If the City, in adopting the Annual Budget, determines that revenues may not be sufficient to meet the rate covenant established hereinabove or if the audited financial statements of the City indicate that the City did not satisfy the rate covenant for the prior year, the City shall, within forty-five (45) days, engage an Independent Consultant to prepare a report recommending such actions which will provide sufficient revenues in the following Fiscal Year to permit the City to meet the rate covenant. Copies of such report shall be made available to the City and the Trustee no later than sixty (60) days after the engagement of the Independent Consultant.

The City agrees that it shall use its best efforts to effect such changes recommended by the Independent Consultant in its report. So long as the City uses its best efforts to comply with such recommendations, failure to comply with the rate covenant shall not constitute an Event of Default under Article XIII hereof; provided however, a failure to comply with the rate covenant for a period of two consecutive Fiscal Years shall constitute an Event of Default.

[End of Article V]

## ARTICLE VI - JUNIOR LIEN BONDS AND SPECIAL FACILITIES BONDS

### Section 6.01 Right to Issue Junior Lien Bonds; Accession Thereof to Status of Bonds.

Notwithstanding that Bonds may be Outstanding, the City may at any time, and without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of revenues of the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledges of revenues made or authorized for the Bonds and to the payment of all Operation and Maintenance Expenses; and provided, further, that the maturity of Junior Lien Bonds may not be accelerated and paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article XVI hereof.

By proceedings authorizing the issuance of Junior Lien Bonds, the City may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the following conditions are met. Any such subsequent proceedings adopted by the City Council providing for such accession shall make the findings provided in subparagraphs (1) through (4) and state whether and to what extent a Debt Service Reserve Fund shall be established as set forth in subparagraph (5).

(1) The Junior Lien Bonds were issued for a purpose or purposes set forth in Section 4.01(A) hereof.

(2) There shall exist on the date of accession (a) no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding, (b) no default in the performance of any duties required under the provisions of this Bond Ordinance, and (c) no amount owed by the City with respect to the full funding of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other funding mechanism, except in accordance with Section 4.02(5)(a) hereof.

(3) There shall be deposited in the Debt Service Fund Account for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of Section 8.03 hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

(4) On the date of accession, the earnings tests prescribed by Section 4.02(6) hereof shall have been met.

(5) In the event such proceedings require a Reserve Requirement to be maintained for such Series of newly-acceded Bonds, then in such event, there shall be on deposit on the date of accession in a Debt Service Reserve Fund an amount equal to the Reserve Requirement established for such Junior Lien Bonds which are being acceded to the status of Bonds.

(6) The City shall obtain an opinion of Bond Counsel to the effect that: (a) this Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been

duly adopted and are in full force and effect; (b) the Junior Lien Bonds have been duly and lawfully authorized and executed by the City and are valid and binding upon, and enforceable against, the City (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); and (c) this Bond Ordinance creates the valid pledge which it purports to create of the revenues and of moneys and securities on deposit in any of the funds established hereunder subject to the application thereof to the purposes and on the conditions permitted by this Bond Ordinance.

(7) In the event such Junior Lien Bonds were issued with variable rates, the provisions of subparagraph (8) of Section 4.02 shall have been met.

### Section 6.02 Right to Issue Special Facilities Bonds.

The City shall have at all times the right to enter into contracts, leases or other agreements pursuant to which it will agree to construct, operate and pay the costs of Special Facilities to be financed by its issuance of Special Facilities Bonds, subject to the following conditions:

(A) It shall have been determined to the satisfaction of the City that the rents, revenues or receipts to be derived from the Special Facilities shall be at least equal to the principal, interest and any reserve requirements contained in the ordinance authorizing such Special Facilities Bonds and to pay all operation, maintenance and other costs and expenses applicable to such Special Facilities; and

(B) The revenues derived from Special Facilities need not be deposited in the Gross Revenue Fund, and may be pledged to secure Special Facilities Bonds; but no debt service or other costs or expense related to any Special Facilities may be paid from System revenues deposited in the Gross Revenue Fund except pursuant to Section 8.08 hereof.

For purposes of this Section 6.02, the term “Special Facilities” shall include all or a portion of water or sewer facilities (or those enterprises, if any referred to in Section 11.02 hereof) and rights to all or a portion of the use of, or the capacity available from, any such facilities.

### Section 6.03. Lease Financing Agreements.

The City shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on the property, plant and equipment comprising a part of the System; provided, however, that: (1) the aggregate principal amount of such obligations outstanding at any time shall not exceed ten percent (10%) of the value of the property, plant and equipment of the System, less accumulated depreciation, as shown on the audited balance sheet of the City for the most recent Fiscal Year for which audited financial statements are available; and (2) the loss of the property secured by the lien will not materially adversely affect the ability of the City to meet its financial obligations under this Bond Ordinance.

[End of Article VI]

## **ARTICLE VII - ESTABLISHMENT OF FUNDS**

### Section 7.01 Requirement for Special Funds.

For so long a time as any sum remains due and payable by way of principal or interest on Bonds, the following funds or accounts relating to the Gross Revenues of the System shall be established and maintained, and deposits shall be made therein in the manner herein required.

### Section 7.02. The Gross Revenue Fund.

(A) There shall be established and maintained a fund or account designated as the Gross Revenue Fund. This account shall be so maintained as to accurately reflect:

- (1) the Gross Revenues of the System; and
- (2) Net Earnings.

(B) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited in accordance with and in the manner prescribed by Article VIII hereof into this fund. Money in the Gross Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article VIII hereof. So long as the City establishes, under Accounting Principles, proper records of receipts and disbursements for the Gross Revenue Fund, the Gross Revenue Fund may be used for the purposes of the Operation and Maintenance Fund, the Depreciation and Contingent Fund, subject to the prior applications of the amounts in the Gross Revenue Fund for the purposes set forth in Sections 7.04 and 7.05 hereof.

### Section 7.03. The Operation and Maintenance Fund.

(A) There shall be established and maintained an Operation and Maintenance Fund. The Operation and Maintenance Fund is intended to provide for the payment of the Operation and Maintenance Expenses.

(B) Withdrawals from the Operation and Maintenance Fund shall be made by or on the order of the City in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

### Section 7.04. Debt Service Fund.

(A) There shall be established and maintained a Debt Service Fund. Within the Debt Service Fund, there shall be established a Debt Service Fund Account for each Series of Bonds Outstanding. Each Debt Service Fund Account is intended to provide for the ratable payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds as the same respectively fall due. Payments into the Debt Service Fund shall be made in the manner prescribed by this Bond Ordinance, including the applicable provisions of Article VIII hereof,

and, except as herein provided, all money in the respective Debt Service Fund Accounts shall be used solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose. Each Debt Service Fund Account shall bear a number Series designation as may be necessary to distinguish each Debt Service Fund Account.

(B) The Debt Service Fund and each Debt Service Fund Account thereunder shall be kept in the complete custody and control of the Trustee and withdrawals from the Debt Service Fund Accounts shall be made only by such Trustee who shall transmit to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Amounts held by the Trustee due to non-presentment of Bonds on any redemption date must be retained by the Trustee for a period of at least one year after the final maturity of such Bonds.

(C) Moneys in the Debt Service Fund shall be invested and reinvested by the Trustee at the written direction of the Treasurer or his designee in Authorized Investments, maturing not later than the date on which such money is required to pay the principal of, premium, if any, and interest on the next occurring maturity of the Bonds. The Trustee shall have no responsibility for the investment of money in the Debt Service Fund that is not held by the Trustee. Unless otherwise provided in a Series Ordinance, all earnings from such investments shall be added to and become a part of the Debt Service Fund Account in which such investments are held, but shall be credited against payments that would otherwise be made to such Debt Service Fund Account pursuant to the provisions of Section 8.03 hereof.

(D) All monies received by the Trustee as Interest Payment Subsidies shall be deposited in the Debt Service Fund Account for such Series of Bonds and used to pay debt service on the Series of Bonds with respect to which such Interest Payment Subsidy was received.

(E) Within each Debt Service Fund Account, the Trustee, or as otherwise provided in the Series Ordinance, is authorized to create sub-accounts, as it determines necessary for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.05. The Debt Service Reserve Funds.

(A) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of the principal of, and premium, if any, and interest on, that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement for such Series of Bonds. Unless otherwise provided in a Series Ordinance, money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

(1) To prevent a default in the payment of the principal of or interest on that Series of Bonds, by reason of the fact that money in its Debt Service Fund Account is insufficient for such purposes;

(2) To pay the principal of, interest on, and redemption premium, if any, of the Bonds of that Series in the event that all Outstanding Bonds of that Series be redeemed as a whole; or

(3) To effect partial redemption of the Bonds of that Series; but subject to the restrictions of Section 4.15 hereof and provided that subsequent to said partial redemption, the market value of the cash and securities in the Debt Service Reserve Fund shall be not less than the Reserve Requirement therefor.

Notwithstanding the provisions of Section 7.05(A)(1-3) above and as permitted by the Code and Section 4.21 hereof, if the Debt Service Reserve Fund was funded with cash generated by the System, then, upon the written consent of the Holder of such Series of Bonds secured by such Debt Service Reserve Fund, the monies in such Debt Service Reserve Fund may be returned to the City prior to the final maturity of such Series. The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of this Bond Ordinance shall, in references to “the Debt Service Reserve Fund”, “the Reserve Requirement” and “the Bonds”, be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, if any, and in each case to the respective Reserve Requirement for the respective Series of Bonds, and to Bonds only of that respective Series and not to any other Bonds.

(B) (1) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee and withdrawals therefrom shall be made only by the Trustee who shall transmit to the Bondholders, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds.

(2) If a Series of Bonds is held by the Water Quality Authority, then the Debt Service Reserve Fund for such Series of Bonds may be kept in the custody and control of the State Treasurer’s Office and invested in the Local Government Investment Pool in Authorized Investments. Withdrawals therefrom shall be made only as directed by the Water Quality Authority at such times as may be required to pay the principal and interest on such Series of Bonds. Any withdrawal of the monies in a Debt Service Reserve Fund that exceeds the Reserve Requirement shall be transferred in accordance with the provisions of Section 7.05(C) hereof.

(C) Except as provided in Section 7.05(B)(2) herein, money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of the Treasurer or his designee in Authorized Investments. Subject to the remaining provisions of this paragraph (C), the earnings from such investments shall be added to and become a part of the Debt Service Reserve Fund. Except as provided in a Series Ordinance, if as of any date of calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall either be used to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service Reserve Fund and, either (i) transferred into the applicable Debt Service Fund Account, as directed in writing by the Treasurer, or (ii) transferred to the Gross Revenue Fund, as permitted by the provisions of the Code.

(D) In the event a Series Ordinance requires a Debt Service Reserve Fund to be established for a Series of Bonds, unless otherwise required by such Series Ordinance, the City, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may alternatively satisfy the Reserve Requirement by causing to be so credited an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy equal to the Reserve Requirement therefor.

(E) In the event the amount credited to a Debt Service Reserve Fund under a surety bond, letter of credit, or insurance policy (the “*Original Funding Instrument*”) also includes amounts available under another surety bond, letter of credit, or insurance policy (the “*Additional Funding Instrument*”), draws on the Original Funding Instrument and the Additional Funding Instrument shall be made on a pro rata basis to fund any insufficiency in the Debt Service Fund Account. In the event a Debt Service Reserve Fund is funded with both monies and a surety bond, letter of credit, or insurance policy (1) any withdrawals from such Debt Service Reserve Fund shall be made first from such monies (or the liquidation of investments made therewith) and second from such surety bond, line of credit, letter of credit, or insurance policy, and (2) cash deposits to such Debt Service Reserve Fund shall be used first to restore the cash balance and second to reinstate the surety bond, line of credit, letter of credit, or insurance policy. The surety bond, line of credit, letter of credit, or insurance policy shall be payable (upon the giving of notice as required thereunder) on any Bond Payment Date on which moneys will be required to be withdrawn from such Debt Service Reserve Fund and applied to the payment of the principal of or interest on the Outstanding Series of Bonds to which such surety bond, line of credit, letter of credit, or insurance policy relates when such payments cannot be made by amounts otherwise credited to such Debt Service Reserve Fund.

Section 7.06. The Depreciation and Contingent Fund.

(A) There shall be established and maintained a Depreciation and Contingent Fund held and administered by the City. This fund shall be maintained in an amount to be established not less frequently than annually by the City Council in order to provide a reasonable reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions of the System.

(B) Money in this fund shall be used solely:

- (1) For the purpose of restoring depreciated or obsolete items of the System;
- (2) For improvements, betterments and extensions to the System, other than for those things which are reasonably necessary to maintain the System in good repair and working order;
- (3) To defray the cost of unforeseen contingencies and extraordinary repairs to the System;
- (4) To prevent defaults of Bonds and Junior Lien Bonds; and

(5) For optional redemption of Bonds or Junior Lien Bonds.

(C) Withdrawals from this fund shall be made by or on order of the City.

Section 7.07. The Rate Stabilization Fund.

The City Council may establish a Rate Stabilization Fund, as needed, and, if created, shall administer such fund under the provisions of this Bond Ordinance and State law.

Section 7.08. Investments of Funds.

Whenever, in the opinion of the City, it becomes desirable to invest money in any of the funds established by this Article (other than the Debt Service Reserve Funds, the Debt Service Fund, and any capitalized interest account) the City may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the Gross Revenue Fund (i) except as otherwise provided in Sections 7.04, 7.05 and 7.07 hereof, and (ii) unless the City Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein.

[End of Article VII]

## **ARTICLE VIII - DISPOSITION OF REVENUES**

### Section 8.01. Deposits to Gross Revenue Fund; Dispositions Therefrom.

The Gross Revenues of the System, except customers' deposits and that money the disposition of which is controlled by other provisions of this Bond Ordinance, are declared to be a part of the Gross Revenue Fund and shall from time to time be promptly deposited in a bank or depository in an account which will reflect the fact that they are a part of the Gross Revenue Fund. If Bonds are Outstanding, the dispositions from the Gross Revenue Fund required by the remaining Sections of this Article shall be made on or before the last Business Day of each month. Payments from the Gross Revenue Fund shall be made in the order of priority established by the sequence of the remaining Sections of this Article.

### Section 8.02. Deposits for the Operation and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund, either from the Gross Revenue Fund or the Rate Stabilization Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing month and any amounts required for an operational reserve.

### Section 8.03. Payments for Bonds.

Provision shall be made for the payment of principal of, premium, if any, and interest on all Bonds then Outstanding without priority of any other Bonds but ratably as to each Series of Bonds. To that end:

(1) There shall be deposited into Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective interest sub-account, if any) the monthly fraction of the aggregate amount of interest to become due on the respective Series of Bonds on the next ensuing Bond Payment Date; provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Bonds, or the Trustee is in receipt of any Interest Payment Subsidies, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(2) There shall be deposited into each Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective principal sub-account, if any) the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable (whether at stated maturity or by sinking fund installments), so that on each principal maturity date, the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of

investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(3) If, on the occasion when the deposits required by paragraphs (1) and (2) of this Section, are to be made, the sum total of the deposits required thereby plus previous monthly deposits and the remaining deposits to be made prior to the next succeeding principal and interest payment dates, will be less than the sum required to effect the payment of the next succeeding installment of either principal or interest, or both on the respective Series of Bonds, as the case may be, a sum equal to such deficiency shall be added to the deposits so to be made.

Section 8.04. Deposits for the Debt Service Reserve Funds - Valuation.

Deposits shall next be made in the amounts required by this Section 8.04 or Section 4.02(5) into the respective Debt Service Reserve Funds. Except as provided in Section 7.05(B)(2), the Trustee shall calculate the value of the cash and securities in each Debt Service Reserve Fund forty-five days prior to each Bond Payment Date in order to determine if each Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to this Bond Ordinance and the respective Series Ordinances. To the extent the Trustee determines that a deficiency exists, but such deficiency is solely the result of accounting practices governing the valuation of securities in the Debt Service Reserve Fund, the Trustee may alternatively calculate the value of the securities in each Debt Service Reserve Fund as of the maturity date of such securities, so long as such securities mature on or prior to the Bond Payment Date. Unless a Debt Service Reserve Fund is being funded pursuant to Section 4.02(5)(a) of this Bond Ordinance or then contains in cash and securities (or a surety bond, insurance policy, or letter of credit as herein described) an amount at least equal to its Reserve Requirement, unless otherwise provided in the Series Ordinance, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the twenty-four (24) months following a determination of a deficiency in such Debt Service Reserve Fund one-twenty-fourth (1/24) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the City from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. Any surety bond, line of credit, insurance policy or letter of credit being used to meet the Reserve Requirement of a Debt Service Reserve Fund shall be valued at the amount still remaining to be drawn thereon; and in the event that any such surety bond, line of credit, insurance policy or letter of credit has been drawn upon, the amount necessary to restore the principal balance thereof shall be paid by the City in the same manner and on a parity with the payments described in this Section 8.04 or as provided in an insurance agreement or applicable Series Ordinance.

The market value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if published therein, then in The New York

Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(2) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(3) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(4) as to any investment not specified above, the value thereof established by prior agreement between the City and the Trustee.

Section 8.05. Reimbursement of Interest on Amounts Advanced by Credit Providers for the Debt Service Reserve Fund.

Provision shall then be made for payment of interest and any fees or penalties on amounts advanced by the provider of any surety bond, line of credit, letter of credit or insurance policy as contemplated in Section 7.05(D) hereof.

Section 8.06. Payments for Junior Lien Bonds.

Provision shall then be made for the payment of any other indebtedness which is junior and subordinate to the Bonds in the order of priority contemplated by the proceedings authorizing their issuance.

Section 8.07. Deposits for the Depreciation and Contingent Fund.

There shall be deposited into the Depreciation and Contingent Fund that sum which is one-twelfth (1/12) of the sum which has been currently determined by the City Council to be the budgeted requirement therefor for the then current Fiscal Year.

Section 8.08. Use of Surplus Money.

All money remaining after making the payments required by Sections 8.01 to 8.07, shall be disposed of for any lawful purpose in such manner as the City Council shall from time to time determine.

The City may determine, at any time, to deposit any percentage or any set amount of surplus money under this Section 8.08 into the Rate Stabilization Fund. Amounts on deposit in the Rate Stabilization Fund may, at the direction of an Authorized Officer, be used to make deposits into the Operation and Maintenance Fund required by Section 8.04 hereof. Amounts on deposit in the Rate Stabilization Fund may, at the option of the City Council, be withdrawn and

used for any other required purpose of the System, but in such event, such withdrawal, if for a purpose other than the payments of Operation and Maintenance Expenses, shall be excluded from Net Earnings.

[End of Article VIII]

**ARTICLE IX - AGREEMENT TO FURNISH INFORMATION  
WITH RESPECT TO SYSTEM**

Section 9.01 Keeping Records.

The City recognizes that those who may from time to time hereafter be Bondholders will, throughout the life of the Bonds, require full information with respect to the System, the fiscal affairs of the System, and all matters incident to each. To that end, the City hereby covenants and agrees that it will install and thereafter at all times maintain proper books of records and accounts, separate and distinct from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the System, and all revenues and receipts derived therefrom, directly or indirectly. Such books and records shall be kept in such fashion as to reveal in detail:

- (A) The number of customers who may from time to time make use of the System;
- (B) The Gross Revenues of the System and the source from whence derived;
- (C) All expenses incurred in the operation of the System suitably identified as to purpose;
- (D) The Net Earnings of the System and a schedule demonstrating compliance with Section 5.01(B) hereof for such Fiscal Year;
- (E) All expenditures made from the several funds established by this Bond Ordinance, and Series Ordinances authorizing the issuance of the Bonds; and
- (F) The rate schedules that may from time to time be in force.

Section 9.02 Audit Required.

The City further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than one hundred eighty (180) days after the close of each Fiscal Year, cause to be made and completed by the Auditors, an audit of the records, books and accounts pertaining to the System, made in accordance with Accounting Principles, showing, among other things, Gross Revenues and Net Earnings; and that it will furnish a copy of such audit to the Trustee. Such audit shall comment upon any violation of any provision of any resolution authorizing the issuance of any Bonds or Junior Lien Bonds and any violation of any provision of this Bond Ordinance noted by the Auditors, and such other matters as to them seem pertinent. The cost of such audit shall be treated as an Operation and Maintenance Expense. Any audits made available to the City shall not otherwise be restricted as to their subsequent dissemination to any party.

[End of Article IX]

## ARTICLE X - INSURANCE

### Section 10.01 Requirement of Insurance.

(A) The City covenants and agrees that so long as any Bonds are Outstanding:

(1) To the extent insurance coverage is available, that it will insure and at all times keep the System insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amount as private corporations engaged in similar endeavors would customarily insure for;

(2) That it will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the City against defalcation of all persons handling money derived from the System or signing checks on any bank accounts relating to the System, other than the Trustee or any Registrar;

(3) That all premiums on all bonds or insurance policies shall be deemed an Operation and Maintenance Expense and paid out of Gross Revenues of the System;

(4) That all insurance policies shall be open to the inspection of any Bondholder at any reasonable time;

(5) That all money received by the City as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All sums received by the City from insurance policies covering the System may, to the extent necessary, be applied to the repair and replacement of the damaged or destroyed property, but, in the event that such money is not used for such purposes, then the same shall be deposited in the Depreciation and Contingent Fund; and

(6) That it will comply with the requirements of State law regarding the mandatory purchase of liability insurance contained in Section 15-78-140(b) of the South Carolina Code.

(B) Insurance required by this Section 10.01 may be provided through the South Carolina Insurance Reserve Fund. The City may obtain or adopt alternative risk management programs which an Insurance Consultant determines to be reasonable, including, without limitation, self-insurance in whole or in part individually or in connection with other institutions, participation in programs of captive insurance companies; participation with other governmental entities in mutual or other cooperative insurance or other risk management programs, participation in state or federal insurance programs, taking advantage of state or federal laws now or hereafter in existence limiting liability, or establishing or participating in other alternative risk management programs; all as may be approved by the Insurance Consultant as reasonable and appropriate risk management by the City. If the City shall be self-insured for any coverage, the City shall obtain a report of an Insurance Consultant stating whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the required funding to produce such

result and such coverage shall be reviewed by the Insurance Consultant not less frequently than annually. Any self-insurance program shall be subject to annual review by the Insurance Consultant who shall provide a written report to the City which shall include recommendations relating to such self-insurance program. The City shall provide to the Trustee annual certification evidencing compliance with the Insurance Consultant's recommendations. The Trustee has no duty or obligation to make any determination as to the sufficiency of the insurance required to be maintained hereunder.

[End of Article X]

## **ARTICLE XI - ADDITIONAL COVENANTS**

### Section 11.01 Additional Covenants to Secure Bonds.

The City further covenants and agrees:

(A) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except in accordance with the provisions hereof;

(B) That it will permit no free service to be rendered, or use to be made of the services and facilities of the System, and for the services and facilities of the System used by the City, the reasonable cost and value of such services and facilities shall be paid as such services accrue. The revenue so received from the City shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;

(C) That, to the extent lawful, it will not permit competing systems to operate within its boundaries;

(D) That, it will permit no customer to be connected to the System, or to receive any service afforded by the System, unless a proper meter is installed, and such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force;

(E) That so long as there are any Bonds Outstanding and unpaid, it will perform all duties with reference to the System required by the Constitution and statutes of the State;

(F) That it will not pledge, mortgage, or otherwise encumber the System or any portion thereof, or any revenues therefrom except in the manner herein authorized, and (except as provided in Section 11.03 herein) it will not sell, lease or otherwise dispose of any portion of the System, necessary or useful in the operation of the System, until all Bonds shall be paid in full, or unless and until provision shall have been made for the payment of all Bonds and the interest thereon in full, and the City further obligates itself and covenants and agrees with the Bondholders to maintain in good condition and to operate said System, and to collect and charge such rates for the services and facilities of the System so that the income and revenues of the System will be sufficient at all times to meet the requirements of this Bond Ordinance. If, pursuant to this Section, anything belonging to the System which is not deemed by the City to be necessary or useful therefor shall be sold or disposed of, the proceeds of such sale or disposition shall be deposited in the Depreciation and Contingent Fund;

(G) That it will permit, so long as there are any Bonds Outstanding, any Bondholder to inspect the System and all records and accounts thereof under reasonable terms and conditions and after reasonable notice has been given;

(H) That it will not make any use, and it shall direct the Trustee and each Fiduciary not to make any use of the proceeds of any Series of Bonds which Bonds were intended upon the issuance thereof to be exempt from federal income taxation, which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series would have caused such Bonds or any other Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

(I) That, as to any Series of Bonds that was intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that are necessary to preserve the tax-exempt status of such Series of Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;

(J) That it will make all payments or deposits required under Articles VII and VIII of this Bond Ordinance in a timely manner; and

(K) That no payments on account of appropriations to the general fund of the City shall be made except as permitted under Section 8.08 hereof.

Section 11.02 Acquisition of Additional Utilities.

No provision of this Bond Ordinance shall prevent the combining of the System with any other utility system or enterprise of whatever type if such combination then be permitted or authorized by the provisions of the South Carolina Code and if the requirements set forth below are met; but no such combination shall impair the validity or priority of the pledge of revenues and the lien thereon created by this Bond Ordinance. The City shall have the right, from time to time, to add other utilities, enterprises, activities and facilities (which at the date of enactment of this Bond Ordinance were not included in the definition of System hereunder) to the definition of System hereunder, provided that:

(A) the City Council shall have determined that such utilities, enterprises, activities or facilities are of a similar public utility nature as are the utilities now constituting the System;

(B) if necessary, the City Council shall have adopted an appropriate amendatory ordinance to this Bond Ordinance;

(C) the City shall have received an opinion of Bond Counsel to the effect that such action to be taken under this Section is authorized under this Bond Ordinance and the laws of the State and will not adversely affect the excludability of interest on the Bonds which were intended upon their issuance to be exempt from federal income taxation; and

(D) for each of the five (5) Fiscal Years following the date of the additions to the System, Net Earnings, as shall have been forecasted either by Independent Consultants with a reputation for expertise in the type of enterprise being added to the System, by the Auditors or by the Treasurer, will be not less than one hundred twenty percent (120%) of the Annual Principal

and Interest Requirements on all Bonds then proposed to be Outstanding in each of such five (5) Fiscal Years; provided, however, that in the event that Bonds are being issued to acquire or improve the acquired utility, this paragraph (D) shall not apply and the City shall meet the requirements of Article IV hereof before issuing such Bonds and acquiring such utility.

Section 11.03. Sale, Exchange, Removal or Disposal of Component of System.

(A) The City may from time to time sell, exchange, remove or dispose of, (but not lease, contract or agree for the use thereof) an entire component comprising a part of the System, if it determines by ordinance:

(1) that the sale, exchange, removal or other disposition thereof would not materially reduce Net Earnings; or

(2) that the sale, exchange, removal or other disposition thereof (1) would not materially adversely affect the ability of the City to comply with the rate covenant, set forth in Section 5.01 hereof, for the current and next succeeding Fiscal Year, and (2) would be for a consideration of not less than reasonable value as may be determined in the sole discretion of the City Council.

(B) In addition to the provisions of Section 11.03(A) hereof, if the City determines to sell, exchange, remove or dispose of an entire component comprising a part of the System the following conditions shall also be met:

(1) an opinion of Bond Counsel to the effect that the sale, exchange, removal or disposal of a component of the System from the System has been effected in accordance with the terms of this Bond Ordinance; and

(2) notice shall be provided to any rating agency, if any, then rating any Series of Bonds regarding the sale, exchange, removal or disposal of such component from the System.

(C) If the City sells, exchanges, removes or otherwise disposes a component of the System, the proceeds, if any, of such transaction may be applied, at the discretion of the City, as follows:

(1) to the payment or satisfaction, in whole or in part, of (1) Bonds associated with or related to such component and (2) any other type of indebtedness of the City associated with or related to such component; or

(2) to the payment or satisfaction, in whole or in part, of the amount due under any type of contractual obligations of the City associated with or related to such component; or

(3) to the payment of the construction or purchase of additional improvements or expansions to the System.

[End of Article XI]

## **ARTICLE XII - MODIFICATION OF ORDINANCE**

### Section 12.01 Modification Without Bondholder Approval.

(A) Provided always that the security of the Bonds shall not be diminished, or in any manner impaired, the City Council may for any one or more of the following purposes at any time, or from time to time, enact an ordinance, supplementing this Bond Ordinance, which supplemental ordinance shall be fully effective in accordance with its terms:

(1) to provide for the issuance of a Series of Bonds in accordance with Article IV of this Bond Ordinance;

(2) to add to the covenants and agreements of the City in this Bond Ordinance, other covenants and agreements thereafter to be observed;

(3) to surrender any right, power or privilege reserved to or conferred upon the City by this Bond Ordinance;

(4) to cure, correct and remove any ambiguity or inconsistent provisions contained in this Bond Ordinance;

(5) to implement an addition to the System pursuant to Section 11.02 hereof; and

(6) for any other purpose which, in the opinion of Bond Counsel, does not materially affect the interests of the Bondholders.

(B) It is further provided that such supplemental ordinance shall not become effective until a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for the County. The Trustee will promptly give notice of enactment and a copy of any modification made hereunder to any Insurer.

### Section 12.02 Modification with Bondholder Approval.

The rights and duties of the City and the Bondholders and the terms and provisions of this Bond Ordinance may be modified or altered in any respect by an ordinance enacted by the City Council with the consent of the Holders of fifty-one percent (51%) in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding, if any, of each such Series of Bonds, such consent to be evidenced in such manner as may be acceptable to the Trustee, however no such modification or alteration shall, without the consent of the Holders of all Bonds affected by such change or modification:

(A) Effect a change as to the type of currency in which the City is obligated to effect payment of the principal, interest and redemption premium of any Bond;

- (B) Permit the creation of a pledge of the revenues of the System prior to or equal to the Bonds except as may be permitted under the provisions of this Bond Ordinance;
- (C) Permit preference or priority of any Bonds to others;
- (D) Alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII; or
- (E) Reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Ordinance.

Section 12.03 Procedure for Procuring Bondholder Approval.

The City and the Trustee may rely upon the registry books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made pursuant to Section 12.02 shall not become effective until (1) there has been filed with the Clerk of Court for the County and with the Trustee a copy of such amendatory ordinance hereinabove provided for, duly certified, and (2) proof of consent to such modification by the Holders (depending on the type of type of type of modification) of (A) fifty-one percent (51%) in principal amount of the Bonds of each Series then Outstanding or (B) all Bonds Outstanding, shall be filed with the Trustee. In the event that any Series of Bonds are held under a book-entry system pursuant to Section 4.20, the approvals of Bondholders may be obtained in the manner provided in the agreement with the Securities Depository.

Section 12.04 Notice to Rating Agencies.

Any rating agency rating a Series of Bonds shall be provided notice and a copy of any amendment to this Bond Ordinance or to any Series Ordinance within fifteen (15) days of its execution or enactment; notice provided via the Municipal Securities Rulemaking Board's EMMA system shall be sufficient for purposes of this Section 12.04.

[End of Article XII]

## ARTICLE XIII - EVENTS OF DEFAULT

### Section 13.01 Events of Default.

(A) Each of the following events is hereby declared to be an “*Event of Default*”:

(1) Payment of the principal of any of the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption;

(2) Payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable;

(3) Payment of any installment of either interest or principal on any Junior Lien Bonds shall not be made when the same becomes due and payable or any other event of default shall exist with respect to any Junior Lien Bonds;

(4) Except as provided in Section 5.01(C) hereof, the City shall not comply with the rate covenant in Section 5.01(B) herein;

(5) The City shall for any reason be rendered incapable of fulfilling its obligations hereunder;

(6) An order or decree shall be entered with the consent or acquiescence of the City appointing a receiver, or receivers, of the System, or of the revenues thereof, or any proceedings shall be instituted with the consent or acquiescence of the City for the purpose of effecting a composition between the City and its creditors whose claims relate to the System, or for the purpose of adjusting claims of such creditors, pursuant to any federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed on appeal within sixty (60) days after entry thereof, or if such proceeding having been instituted without the consent or acquiescence of the City, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within sixty (60) days after the institution of such proceedings, or the entry of such orders;

(7) The City shall fail to operate the System in an efficient and businesslike fashion so as to materially impair the operations of the System or shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in the Bonds or in this Bond Ordinance, and such default as to efficient operation or otherwise shall continue for thirty (30) days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the City by any Bondholder, provided that in the case of default specified in this paragraph (7), if the default be such that it cannot be corrected within the said thirty (30) day period, it shall not constitute an event of default if corrective action is instituted by the City within said thirty (30) day period and diligently pursued until the default is corrected;

(8) The occurrence of an event of default on the part of the City under any reimbursement agreement between the City and a provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof; and

(9) Such other events of default as may be specified in a Series Ordinance.

In determining whether a default in payment has occurred under paragraphs (1) or (2) of this subsection (A) and in determining whether a payment on Bonds has been made under any other provision of this Bond Ordinance, no effect shall be given to payments made under a Municipal Bond Insurance Policy.

(B) The foregoing provisions of paragraphs (4), (5) and (6) of the preceding subsection (A) are subject to the following limitations: If by reason of “force majeure” the City is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the City contained in any of Section 4.02 or Articles V, VII and VIII as to which this paragraph shall have no application), the City shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the City, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the City unfavorable to the City.

[End of Article XIII]

## ARTICLE XIV - REMEDIES

### Section 14.01 Acceleration; Annulment of Acceleration.

(A) Upon the occurrence of an Event of Default, the Trustee may, and shall, upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding, by notice in writing to the City, declare all Bonds Outstanding immediately due and payable, and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(B) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Ordinance, the Trustee may annul such declaration and its consequences with respect to any Bonds not then due by their terms if:

(1) Moneys shall have been deposited in Debt Service Fund sufficient to pay all matured installments of interest and principal (other than principal then due only because of such declaration) of all Outstanding Bonds;

(2) Moneys shall have been deposited with the Trustee sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee;

(3) All other amounts then payable by the City hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and

(4) Every Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee.

No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

### Section 14.02 Additional Remedies and Enforcement of Remedies.

(A) Upon the occurrence and continuance of any Event of Default, subject to the provisions of Section 17.01 hereof, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

(1) Seeking a *writ of mandamus*, requiring the City to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;

(2) Suit upon all or any part of the Bonds;

(3) Civil action to require the City to account as if it were the trustee of an express trust for the Holders of Bonds;

(4) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds; or

(5) Enforcement of any other right of the Bondholders conferred by law or by this Bond Ordinance including the right to make application for the appointment of a receiver to administer and operate the System.

(B) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding, and upon receipt of assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion, shall institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

(1) To prevent any impairment of the security under this Bond Ordinance by any acts which may be unlawful or in violation of this Bond Ordinance; or

(2) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Ordinance and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

(C) When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

#### Section 14.03 Application of Revenues and Other Moneys After an Event of Default.

(A) The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon demand of the Trustee, shall pay or cause to be paid over to the Trustee:

(1) Forthwith, all moneys and securities then held by the City which are credited to any fund under this Bond Ordinance. Any moneys and securities in any construction fund created with proceeds of Bonds if construction of the projects to be paid for thereby has been completed or terminated but exclusive of any amounts

remaining in such construction fund that are in dispute between the City and any contractor. However, any monies in a Debt Service Reserve Fund shall be applied only toward a Series of Bonds for which such Debt Service Reserve Fund was established; and

(2) As promptly as practicable after receipt thereof, all Gross Revenues.

(B) During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, Gross Revenues, payments and receipts in its possession and the income therefrom as follows and in the following order:

(1) To the payment of the reasonable and proper charges of the Trustee and its reasonable counsel fees and expenses;

(2) To the payment of necessary Operation and Maintenance Expenses;

(3) To the payment of the interest and principal (and redemption premium, if any) then due on the Bonds, as follows:

(a) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

(i) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;

(ii) Second: To the payment to the persons entitled thereto of the unpaid Principal Installments (and redemption premiums, if any) of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal (plus redemption premium, if any) due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any differences as to the respective rates of interest specified in the Bonds;

- (4) To the payment of the amounts required by Section 8.04, ratably, according to the amounts due thereon to the persons entitled thereto;
- (5) To the payment of the amounts required by Section 8.05, ratably, according to the amounts due thereon to the persons entitled thereto;
- (6) To the payment of the amounts required by Section 8.06, ratably, according to the amounts due thereon to the persons entitled thereto; and
- (7) To the payment of the amounts required by Section 8.07, ratably, according to the amounts due thereon to the persons entitled thereto.

#### Section 14.04 Remedies Not Exclusive.

No remedy by the terms of this Bond Ordinance conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Bond Ordinance or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

#### Section 14.05 Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Bond Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 14.03 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

#### Section 14.06 Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by Bondholders.

Section 14.07 Individual Bondholder Action Restricted.

(A) No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Bond Ordinance or for the execution of any trust hereunder or for any remedy under this Bond Ordinance unless:

(1) An Event of Default has occurred:

(a) under paragraph (1) or (2) of subsection (A) of Section 13.01 hereof;

(b) as to which a Responsible Officer of the Trustee has actual notice; and

(c) as to which the Trustee has been notified in writing

(2) The Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Ordinance or to institute such action, suit or proceeding in its own name; and

(3) Such Bondholders shall have provided assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion; and

(4) The Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

(B) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Bond Ordinance or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(C) Nothing contained in this Bond Ordinance shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond:

(1) To receive payment of the principal of or interest on such Bond on the due date thereof; or

(2) To institute suit for the enforcement of any such payment on or after such due date.

Section 14.08 Termination of Proceedings.

In case any proceeding taken by the Trustee or any Bondholder on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondholders, the City, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 14.09 Waiver and Nonwaiver of Event of Default.

(A) No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article XIV to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(B) The Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Ordinance, or before the completion of the enforcement of any other remedy under this Bond Ordinance.

(C) Notwithstanding anything contained in this Bond Ordinance to the contrary but subject to the provisions of Section 17.01 hereof, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in subsection (B) of Section 14.01 hereof or subsection (B) of this Section 14.09, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds at the time Outstanding.

(D) In case of any waiver by the Trustee of an Event of Default hereunder, the City, the Trustee, each Insurer and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 14.09.

Section 14.10 Notice of Events of Default.

(A) Within thirty (30) days after:

(1) The receipt of notice of an Event of Default as provided in Section 14.07(A)(1)(b) or (c) hereof; or

(2) The occurrence of an Event of Default under paragraphs (1) or (2) of subsection (A) of Section 13.01 hereof, as to which the Trustee shall be deemed to have notice,

the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Insurer of any Series of Bonds then Outstanding, if any, and to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(B) The Trustee shall immediately notify the City and each Insurer of any Series of Bonds then Outstanding of any Event of Default actually known to a Responsible Officer of the Trustee.

[End of Article XIV]

## **ARTICLE XV - TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES**

### Section 15.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the City shall appoint the Trustee. Such appointment shall be made by means of the Series Ordinance adopted by the City Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder but the right of the Bondholders to appoint a Trustee hereunder is limited to the circumstances contemplated by Section 15.10 hereof.

### Section 15.02 Functions of Trustee.

The Trustee shall have the following additional functions:

- (A) To authenticate the Bonds of all Series that may be issued;
- (B) To act as custodian of the Debt Service Fund;
- (C) Except as otherwise provided herein, to act as custodian of the Debt Service Reserve Funds, if any;
- (D) Except as otherwise provided herein, to act as Paying Agent for the Bonds;
- (E) Unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds;
- (F) To make reports to the City on a monthly or such other basis as may be requested by the City, but not less often than semi-annually:
  - (1) Establishing balances on hand;
  - (2) Listing investments made for any fund handled by the Trustee;
  - (3) Establishing the market value of the Debt Service Reserve Funds; and
  - (4) Listing all securities, if any, pursuant to Section 15.13 hereof.

### Section 15.03 Duty of Trustee with Respect to Deficits in the Debt Service Fund.

It shall be the further duty of the Trustee to give written notice to the City three (3) Business Days prior to each Bond Payment Date, if there is any deficiency in any Debt Service Fund Account which would result in a need for further moneys to meet the payment of interest

and/or principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to the respective Debt Service Reserve Fund to meet such deficiency.

Section 15.04 Acceptance by Trustee Required.

Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the City a written acceptance thereof.

Section 15.05 Liability as to Recitals in Bond Ordinance and Bonds.

The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as statements of the City, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be under any responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 15.06 Trustee May Rely on Notices, etc.

The Trustee shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 15.07 Trustee Permitted to Resign.

The Trustee may, at any time, resign and be discharged of its duties and obligations hereunder by giving to the City and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of such successor. If after sixty (60) days no successor has been appointed, the Trustee may petition a court of competent jurisdiction to appoint a successor.

Section 15.08 Removal of Trustee.

(A) The Trustee may be removed at any time by the Holders of not less than fifty percent (50%) of the principal amount of Bonds at such time Outstanding upon 30 days written notice to the Trustee.

(B) Provided an Event of Default has not occurred and is not continuing, the Trustee may be removed at any time by the City upon 30 days written notice to the Trustee.

(C) Any such removal shall take effect immediately (after the 30 day notice period) upon, but not before the appointment and qualification of such successor.

Section 15.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(A) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by an ordinance of the City duly enacted. Such successor shall in all instances be a bank or a trust company, and duly chartered pursuant to the laws of the United States or of any state and shall have a combined capital and surplus of not less than \$500,000,000.

(B) Immediately following such appointment the City shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

Section 15.10 When Bondholder May Seek Successor Trustee.

If, in a proper case, no appointment of a successor Trustee shall be promptly made pursuant to Section 15.09, any Bondholder, the resigning or removed Trustee may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 15.11 Acceptance by Successor Trustee.

Any successor Trustee appointed hereunder shall execute and deliver to its predecessor and to the City a written acceptance of such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder with like effect as if originally named as such Trustee and its predecessor shall be obligated to pay over, transfer, assign and deliver all moneys, securities and other property held by it to its successor, and on the written request of the City, or the successor, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may be reasonably required for the vesting and confirming in such successor all the right, title and interest of the predecessor in and to any property held by it.

Section 15.12 Effect of Trustee Merging With Another Bank.

Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated, or any bank or trust company resulting from any merger or consolidation to which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the City shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the City may at any time within thirty (30) days after such action

name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the Trustee then acting.

Section 15.13 Trustee to Secure Funds and Securities Held in Trust.

Unless the same be secured as trust funds in the manner provided by the regulations of the Comptroller of the Currency as from time to time in effect, all funds or securities in the custody of the Trustee, in excess of the amount of such deposit insured by the Federal Deposit Insurance Corporation, shall be invested in Authorized Investments at the written direction of the City.

Section 15.14 Disposition of Paid Bonds.

It shall be the duty of the Trustee to cancel all Bonds which shall have been paid, whether upon their maturity or redemption prior to maturity; such cancellation shall be done in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In any event it shall furnish appropriate certificates to the City indicating the disposition of such Bonds. Upon effecting such cancellation, the Trustee shall furnish appropriate certificates to the City setting forth the disposition made of the Bonds so canceled.

Section 15.15 Appointment of Substitute Registrar.

The City may, from time to time, appoint a Registrar or Registrars to act in the place and stead of the Trustee as Registrar of the Bonds of one or more Series. The City shall cause written notice of such appointment to be mailed to the Holders of all Bonds affected by such appointment thirty (30) days prior to the effective date of such appointment.

Section 15.16. Additional Provisions Regarding the Trustee.

The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Bond Ordinance, and no implied covenants or obligations should be read into this Bond Ordinance against the Trustee. If any Event of Default under this Bond Ordinance shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

The Trustee agrees to perform the trust functions provided herein upon and subject to the following expressed terms and conditions:

(A) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care.

(B) The permissive items assigned to the Trustee as enumerated herein shall not be construed as a duty.

(C) The Trustee shall not be accountable for the use or application by the City of any money paid over by the Trustee in accordance with the provisions of this Bond Ordinance.

(D) Before taking any action under this Bond Ordinance relating to an Event of Default or in connection with its duties under this Bond Ordinance other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by this Bond Ordinance, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be put (including legal fees, costs and expenses) and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken.

(E) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(F) None of the provisions of this Bond Ordinance shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds cannot be assured to the Trustee's satisfaction.

(G) So long as investments are made in Authorized Investments, the Trustee may conclusively rely upon the City's written instructions as to both the suitability and legality of all investments directed hereunder. To the extent invested in Authorized Investments, the Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge reasonable fees for such trades, including cash sweep accounts. Notwithstanding anything to the contrary herein, in the absence of written investment instructions from the City, the Trustee shall not be responsible or liable for keeping moneys held by it hereunder fully invested. While invested in Authorized Investments, the Trustee shall not be liable for any losses from such investments. Broker confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered.

(H) The Trustee shall have no duty to review or analyze any financial statements delivered to it hereunder (including the audit required by Section 9.02 hereof) or verify the accuracy thereof and shall hold such financial statements solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or Event of Default which may be disclosed therein.

(I) The City shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also its reasonable expenses, charges and other disbursements and the fees, costs, and expenses of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties hereunder. If the Trustee is required by governmental agency or court proceeding initiated by a third party to undertake efforts beyond that which is set forth herein but related thereto, the Trustee shall notify the City of same in writing. Payment for such extraordinary fees, costs and expenses (including but not limited to reasonable attorney's fees, costs and expenses) shall be made promptly by the City only after said notice.

(J) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Bond Ordinance arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation: acts of God; earthquakes; fire; flood; hurricanes or other catastrophic storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(K) Upon request from any Bondholder and absent any further direction or consent of the City, the Trustee may disseminate a copy of the financial statements to such requester.

(L) The Trustee shall have the right to accept and act upon directions or instructions delivered using Electronic Means; provided, however, that the City shall provide to the Trustee an incumbency certificate listing Qualified Officers with the authority to provide such directions or instructions (each a "*Qualified Officer*") and containing specimen signatures of such Qualified Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustee's understanding of such directions or instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Qualified Officer listed on the incumbency certificate provided to the Trustee have been sent by such Qualified Officer. The City shall be responsible for ensuring that only Qualified Officers transmit such directions or instructions to the Trustee and that all Qualified Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may

be more secure methods of transmitting directions or instructions and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

[End of Article XV]

## **ARTICLE XVI - DEFEASANCE**

### Section 16.01 Defeasance Generally.

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to this Bond Ordinance and any other amounts required to be paid to a provider of a surety bond, line of credit, insurance policy or letter of credit hereunder shall have been paid and discharged, then the obligations of the City under this Bond Ordinance, the pledge of Pledged Revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(A) The Trustee shall hold, at the stated maturities of such Bonds, in trust and irrevocably appropriated thereto, sufficient money for the payment thereof.

(B) If default in the payment of the principal of such Bonds or the interest thereon shall have occurred and thereafter tender of such payment shall have been made, and the Trustee shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment.

(C) If the City shall have deposited with the Trustee, or any other bank or trust company which would otherwise meet the chartering and capital and surplus requirements contained in Section 15.09(A) hereof, in irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will, as certified in a verification report provided by an independent entity providing such services and selected by the City, provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity, or, if the City has irrevocably elected to redeem Bonds, on and prior to the redemption date, of such Bonds.

### Section 16.02 Money to be Held in Trust - When Returnable to the City.

Any money which at any time shall be deposited with the Trustee or other escrow holder authorized under Section 16.01(C), by or on behalf of the City, for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to the Trustee or such other escrow holder in trust for the respective Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of the Trustee or such other escrow holder to forthwith return said funds to the City.

### Section 16.03 Deposits With Trustee Subject to Conditions of Article XVI.

The City covenants and agrees that any money which it shall deposit with the Trustee shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Article, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and

obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee to cause the publication of such notice of redemption in its name and on its behalf.

Section 16.04 No Defeasance of Series of Bonds Paid by Insurer.

In the event that the principal and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City until the Insurer has been reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the Net Revenues of the System and all covenants, agreements and other obligations of the City to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

[End of Article XVI]

## ARTICLE XVII - MISCELLANEOUS

### Section 17.01 Miscellaneous Rights of an Insurer.

(A) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Bonds insured by that Insurer, for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies. No rights granted to an Insurer by this Bond Ordinance shall be effective at any time that such Insurer is in breach of its obligations under the Municipal Bond Insurance Policy or is subject to bankruptcy or receivership proceedings. Additionally, this paragraph (A) shall be effective only in the event the Insurer's Municipal Bond Insurance Policy results in the applicable Series of Bonds being rated at least investment grade by either Standard & Poor's or Moody's Investors Service, Inc.

(B) Any provision of this Bond Ordinance expressly recognizing or granting rights in or to an Insurer may not be amended in any manner which affects the rights of such Insurer hereunder without the prior written consent of each such Insurer.

(C) To the extent that an Insurer makes payment of the principal of or interest on any Bonds, it shall become the owner and Holder of such Bonds, appurtenant coupons or right to payment of such principal of or interest on such Bonds and shall be fully subrogated to all of the registered Holders' rights thereunder, including the registered Holders' rights to payment thereof. To evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note Insurer's rights as subrogee on the registration books of the City maintained by the Trustee or Registrar upon receipt of proof from the Insurer as to payment of interest thereon to the registered Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Insurer's rights as subrogee on the registration books of the City maintained by the Trustee or Registrar upon surrender of the Bonds by the registered Holders thereof to the Insurer or its agent.

(D) In the event that the principal of and/or interest on any Bonds shall be paid by the Insurer pursuant to the terms of its Municipal Bond Insurance Policy, (i) such Bonds shall continue to be "Outstanding" under this Bond Ordinance and (ii) the assignment and pledge of the Net Revenues and all covenants, agreements and other obligations of the City to the registered Holders shall continue to exist, and the Insurer shall be fully subrogated to all of the rights of such registered Holders in accordance with the terms and conditions of subparagraph (C) above and the Insurer's Municipal Bond Insurance Policy.

(E) The terms and provisions of this Bond Ordinance or of any applicable Series Ordinance may not be terminated as long as there are any moneys owed to an Insurer under such terms and provisions of this Bond Ordinance or the applicable Series Ordinance or any agreement between such Insurer and the City.

Section 17.02 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the City, as set forth in this Bond Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the City and the Bondholders and shall be enforceable accordingly. In this connection, any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third party beneficiary hereunder. Nothing in this Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, an Insurer, the Trustee, and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, an Insurer, the Trustee, and the registered owners of the Bonds.

Section 17.03 Severability.

If any Section, paragraph, clause or provision of this Bond Ordinance shall be held invalid, the invalidity of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 17.04 Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

If it shall be held by any court of competent jurisdiction that any right or remedy granted by the Bond Ordinance or any Series Ordinance to the Holders of any Bond is not available to the Holders of all other Bonds, then such rights and remedies are herewith conferred upon the Holders of such other Bonds.

Section 17.05 Authorization to Sign.

For purposes of all consents and other necessary documentation associated with the issuance of Bonds, the Authorized Officers and the Clerk shall be authorized to sign on behalf of the City and the City Council.

Section 17.06 Repealing Clause.

All resolutions, or parts thereof, inconsistent herewith shall be and the same are hereby repealed to the extent of such inconsistencies.

Section 17.07 Governing Law.

The provisions of this Bond Ordinance shall be governed by the laws of the State, without regard to conflict of law principles.



**EXHIBIT A**

**CONSENT OF SOUTH CAROLINA WATER QUALITY  
REVOLVING FUND AUTHORITY**

The undersigned hereby certifies that she is authorized to execute and deliver this Consent on behalf of the South Carolina Water Quality Revolving Fund Authority (the "**Authority**") as holder of the now outstanding installments of the original issued:

- (a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the "**2002 Bond**");
- (b) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the "**2009 Bond**"); and
- (c) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the "**2015 Bond**" and together with the 2002 Bond and the 2009 Bond, the "**Outstanding Bonds**").

The Authority hereby consents to the execution and delivery of "A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO" dated February 2, 2016 (the "**Bond Ordinance**").

By granting this Consent and subject to the Effective Date condition in the Bond Ordinance, the Authority expressly authorizes the Outstanding Bonds to be governed by the terms of the Bond Ordinance. Further, the Authority expresses no opinion as to whether the consent of any other person is required for such amendment.

**SOUTH CAROLINA WATER QUALITY REVOLVING  
FUND AUTHORITY**

By: \_\_\_\_\_  
Bonnie Ammons  
Office of Local Government  
SC Rural Infrastructure Authority

Dated: February 3, 2016

**EXHIBIT B**

**ACKNOWLEDGMENT OF U.S. BANK NATIONAL ASSOCIATION**

The undersigned, as a duly authorized representative of U.S. Bank National Association (successor to Wachovia Bank, N.A., formerly known as First Union National Bank), as Trustee under the Indenture of Trust acknowledges, subject to the occurrence of the Effective Date under the terms of the Bond Ordinance, the collapse and termination of the Indenture of Trust by City Council. Upon the Effective Date, all Bonds of the City shall be issued under the terms and provisions of the Bond Ordinance and to the extent recited therein, U.S. Bank National Association shall serve as Trustee under the terms and provisions thereof.

**U.S. BANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**A MASTER BOND ORDINANCE**

**COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.**

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**MASTER BOND ORDINANCE**

**DATED: FEBRUARY 2, 2016**

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**EXHIBIT A    CONSENT**  
**EXHIBIT B    ACKNOWLEDGMENT**

STATE OF SOUTH CAROLINA	)	<u>ORDINANCE</u>
	)	
COUNTY OF LEXINGTON	)	MASTER BOND ORDINANCE
	)	COLLAPSING AND TERMINATING
CITY OF CAYCE	)	AN AMENDED AND RESTATED
	)	INDENTURE OF TRUST IN ORDER
	)	TO PROVIDE FOR THE ISSUANCE
	)	AND SALE OF WATER AND SEWER
	)	SYSTEM REVENUE BONDS OF THE
	)	CITY OF CAYCE, SOUTH
	)	CAROLINA, AND OTHER MATTERS
	)	RELATING THERETO.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CAYCE, IN COUNCIL, DULY ASSEMBLED, AS FOLLOWS THAT:

**ARTICLE I - FINDINGS AND DETERMINATIONS**

Section 1.01. Findings and Determinations.

Incident to the enactment of this bond ordinance (this “*Bond Ordinance*”), the City Council of the City of Cayce (the “*City Council*”), the governing body of the City of Cayce, South Carolina (the “*City*”), finds that the facts set forth in this Article exist, and the statements herein are in all respects true and correct:

1. The City is a municipal corporation of the State of South Carolina (the “*State*”), located in Lexington County, South Carolina (the “*County*”), and as such possesses all general powers granted by the Constitution and laws of the State to municipal corporations, including the power to operate utility systems and to furnish water and sewer collection for domestic and industrial use both within and without the corporate limits of the City.

2. The City, pursuant to State law, owns, operates, and maintains a water system, which furnishes water to commercial, industrial and residential users, and a sewer system which provides for the collection, treatment and disposal of sewage from commercial, industrial and residential users.

3. On February 16, 1955 the City Council approved the combining its water system and its sewer system into a single system which is now known as the Water and Sewer System of the City of Cayce, South Carolina (the “*System*”).

4. The City, acting by and through the City Council, is responsible for the management of the System and the issuance of revenue bonds to defray the costs of capital improvements to the System.

5. The revenues of the System are presently pledged and hypothecated to secure the payment of the following revenue bonds issued by the City:

(a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the “**2002 Bond**”);

(b) the now outstanding installments of the originally issued \$18,795,000 Water and Sewer System Refunding and Improvement Revenue Bonds, Series 2007A (the “**2007 Bonds**”);

(c) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the “**2009 Bond**”); and

(d) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the “**2015 Bond**” and together with the 2002 Bond, the 2007 Bonds and the 2009 Bond, the “**Outstanding Bonds**”).

6. The Outstanding Bonds were issued in accordance with and are currently governed by the provisions of the Amended and Restated Indenture of Trust dated as of July 15, 2004, by and between the City and U.S. Bank National Association, as successor to Wachovia Bank, N.A. (formerly known as First Union National Bank) (the “**Trustee**”), as amended and supplemented by the Supplemental Trust Indenture of 2008-1 dated as of August 13, 2008, and as further amended and supplemented by the Supplemental Trust Indenture of 2013-1 dated as of January 16, 2013 (as amended and supplemented, the “**Indenture of Trust**”).

7. By the terms of this Bond Ordinance, the City proposes to collapse and terminate the Indenture of Trust. In order to effect the collapse and termination of the Indenture of Trust, the City shall procure the written consent of all of the holders of the Outstanding Bonds.

8. The 2002 Bond, the 2009 Bond and the 2015 Bond (the “**SRF Bonds**”) are held by the South Carolina Water Quality Revolving Fund Authority (the “**Water Quality Authority**”). The 2007 Bonds were sold and issued in the public markets.

9. The City is currently contemplating the issuance of ~~their~~ [its](#) not exceeding [\\$15,000,000](#) Water and Sewer System Refunding Revenue Bonds, Series 2016 (the “**2016 Bonds**”). It is anticipated that a portion of the proceeds of the 2016 Bonds will be utilized to effect the defeasance in full of the 2007 Bonds.

10. The provisions of the Indenture of Trust shall remain in full force and effect until such time as one or more of the following conditions has been met:

(a) the Outstanding Bonds shall have been paid at their respective stated maturities or redemption dates, if redeemed as a whole;

(b) Outstanding Bonds shall have been redeemed or defeased in accordance with the provisions of the Indenture of Trust; or

(c) the consent of the holders of the Outstanding Bonds with respect to the implementation of this Bond Ordinance shall have been obtained in accordance with the provisions of the Indenture of Trust.

The earliest date on which one of the above stated conditions has been met with respect to each of the Outstanding Bonds is herein referred to as the “*Effective Date*.” Certain of the conditions may be combined in order to achieve the Effective Date.

11. The Water Quality Authority has initially indicated that it will grant its consent to the implementation of this Bond Ordinance with respect to the SRF Bonds. In order to confirm and evidence such consent, the City has requested that the Water Quality Authority execute a written consent certificate, the form of which is attached hereto as Exhibit A.<sup>1</sup>

12. The City has requested that the Trustee, as the counterparty to the Indenture of Trust, acknowledge the collapse and termination of the Indenture of Trust (the “*Acknowledgment*”); the form of such acknowledgement is attached hereto as Exhibit B. The execution and delivery of the Acknowledgement is for notice purposes only and shall not be deemed a condition precedent to the implementation of this Bond Ordinance.

13. The Holders of any Bonds issued on or after the date of enactment hereof, including the 2016 Bonds, shall be deemed to have consented to the provisions of this Bond Ordinance and shall, upon the Effective Date, be subject to the terms hereof.

14. Upon the Effective Date, the provisions of this Bond Ordinance shall be in full force and effect.

[End of Article I]

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<sup>1</sup> Upon the receipt of the consent from the Water Quality Authority and the ~~redemption~~ defeasance of the 2007 Bonds in full by and through the issuance of the 2016 Bonds, the Effective Date shall have occurred.

## ARTICLE II - DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

### Section 2.01 Definition of Ordinance.

This ordinance may be hereafter cited and is hereinafter sometimes referred to as the Bond Ordinance; such term shall include all ordinances supplemental to, or amendatory of, this Bond Ordinance.

### Section 2.02 Defined Terms.

In this Bond Ordinance, terms defined in Article I shall have the meaning assigned therein, and unless a different meaning clearly appears from the context, the following terms shall have the meanings assigned below:

**“Accreted Value”** shall mean the amounts set forth in or the amounts determined in the manner set forth in, a Series Ordinance, authorizing the issuance of Bonds in the form of Capital Appreciation Bonds.

**“Accounting Principles”** shall mean generally accepted accounting principles and practices applicable to governmental entities, including those applicable to governmentally owned and operating utility systems such as the System.

**“Annual Budget”** shall mean the budget or amended budget of the City for the System in effect as provided in or adopted pursuant to the provisions of this Bond Ordinance.

**“Annual Principal and Interest Requirement”** shall mean, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (1) all interest payable on such Series of Bonds during such Fiscal Year, plus (2) any Principal Installment of such Series of Bonds during such Fiscal Year, minus (3) any Interest Payment Subsidies received by the City for such Series of Bonds during such Fiscal Year and used to pay debt service on such Series of Bonds during such Fiscal Year.

For purposes of computing the Annual Principal and Interest Requirement:

(a) the rate of interest used to determine (1) above shall be a rate per annum equal to (i) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (ii) with respect to any Series of Variable Rate Bonds, the actual rate of interest on the date of calculation; provided however, if the Variable Rate Bonds have been Outstanding for at least twelve (12) months, the average rate over the twelve months immediately preceding the date of calculation.

(b) the Principal Installments for each Series of Bonds used to determine (2) above will be the actual planned Principal Installments, except as for any Series of Bonds in which 25% or more of the Principal Installments are payable in a single Fiscal Year, the Principal Installment in such year will be assumed to be the result derived by dividing (A) the aggregate outstanding

principal due on such Series of Bonds by (B) the number of full years in the remaining term of such Series of Bonds, but if the date of calculation is within twelve (12) months of the final maturity date of such Series of Bonds and a binding commitment by an institutional lender or municipal underwriting firm exists to provide money to refinance the outstanding aggregate principal amount of such Series of Bonds then Outstanding, the payment terms contained in the commitment are to be used for purposes of calculating the Principal Installments for such Series of Bonds.

(c) the amounts available in the Debt Service Reserve Fund established for a Series of Bonds may be applied against the interest payable on and the Principal Installments due on such Series of Bonds in the last Fiscal Year that such Series of Bonds is Outstanding.

“**Auditor**” shall mean an independent firm of certified public accountants of suitable standing selected by the City who audit the books, records, and accounts of the City. For purposes of the Outstanding Bonds, all references to the Independent Certified Public Accountant shall be replaced with the term Auditor.

“**Authorized Investments**” shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Section 6-5-10 of the South Carolina Code, or any successor or similar statute, and shall also include the South Carolina Investment Fund established at Sections 6-6-10 to 6-6-40 of the South Carolina Code or any successor or similar statute and as the same may be further limited pursuant to the provisions of a Series Ordinance.

“**Authorized Officers**” means the Mayor, the City Manager, the ~~Chief Financial Officer~~Municipal Treasurer, or any other official authorized by the City Council to act on behalf of the City.

“**Bond Counsel**” shall mean an attorney or firm of attorneys of nationally recognized standing in the field of law relating to municipal, state and public agency financing, selected by the City.

“**Bondholder**” or “**Holder**”, or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond.

“**Bond Ordinance**” shall mean this amended and restated Bond Ordinance. Upon the occurrence of the Effective Date, this Bond Ordinance shall be in full force and effect and the Indenture of Trust shall collapse and terminate. Further, upon the Effective Date, for purposes of the Outstanding Bonds or any contractual obligations of the City related to the administration and operation of the System, any reference to the Indenture of Trust shall be construed and interpreted as referring solely to the Bond Ordinance.

“**Bond Payment Date**” shall mean each date as shall be prescribed by any applicable Series Ordinance on which interest on any of the Bonds shall be payable or on which both principal and interest shall be payable on any of the Bonds according to their respective terms.

**“Bonds”** shall mean any indebtedness or obligations (issued as tax-exempt or taxable obligations) including those entered into under the provisions of long-term contracts payable from the revenues of the System, issued in accordance with the provisions of the Enabling Act, this Bond Ordinance and a Series Ordinance, excluding indebtedness incurred in accordance with Article VI hereof.

**“Business Day”** shall mean, except as set forth in a Series Ordinance with respect to the Series of Bonds issued thereunder, any day other than a Saturday, a Sunday, a day on which banking institutions in the State or in the State of New York are required or authorized by law (including executive orders) to close or a day on which the United States federal reserve payment system is not operational.

**“Capital Appreciation Bonds”** shall mean Bonds that bear interest payable only at maturity or payable prior to maturity only on the redemption dates set forth in, and in the amounts determined by reference to the Accreted Value established in accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital Appreciation Bonds.

~~**“Chief Financial Officer”** shall mean the employee of the City with the title of chief financial officer, or in the absence of such person, the individual to whom the City Council has delegated the responsibility of supervising and maintaining records and accounts relating to the collection and disbursement of the revenues derived from the operation and maintenance of the System.~~

**“City”** means the City of Cayce, South Carolina.

**“City Council”** means the City Council of the City of Cayce, the governing body of the City.

**“City Manager”** shall mean the City Manager of the City of Cayce, South Carolina or in the absence of the City Manager, the assistant City Manager or the interim City Manager.

**“Clerk”** shall mean the Municipal Clerk of the City. The term shall include the acting Clerk or such other person designated by City Council to fulfill such role whenever, by reason of absence, illness or other reason, the person who is the Clerk is unable to act.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended, and the Treasury Regulations issued thereunder, in each case, as from time to time in force.

**“Date of Issue”** shall mean that date established in any Series Ordinance from which interest shall accrue on the Bonds of the applicable Series.

**“Debt Service Account”** shall mean the account of that name created in the Debt Service Fund and established for each Series of Bonds issued under the terms hereof. Within each Debt Service Account, the Trustee may, but is not required, to further create an interest account, principal account and bond redemption account with respect to each such series of Bonds. Respecting the Outstanding Bonds (as defined in 1.01(5)(d) herein), such subaccounts, as

established under the Indenture of Trust, shall be governed by the provisions of this Bond Ordinance.

**“Debt Service Fund”** shall mean the fund of that name established pursuant to Section 7.3 of this Bond Ordinance, which fund is designed to provide for the payment of the principal of, premium, if any, and interest on all Bonds Outstanding and issued pursuant hereto, as the same respectively fall due.

**“Debt Service Reserve Fund”** shall mean the funds, if any, so designated and designed (1) to secure the timely payment of the principal of and interest on the respective Series of Bonds Outstanding and issued pursuant to this Bond Ordinance and the applicable Series Ordinance, and (2) to provide for the redemption of such Series of Bonds Outstanding prior to their stated maturity, as established by the provisions of Section 7.05 hereof.

**“Defeasance Obligations”**, unless otherwise provided in a Series Ordinance for a particular Series of Bonds, shall mean non-callable: (i) Government Obligations; (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian; (iii) non-callable, U.S. Treasury Securities – State and Local Government Series Securities; and (iv) AAA-rated general obligation bonds, [issued by at least one nationally recognized credit rating organization](#), of the State, its institutions, agencies, school districts and political subdivisions.

**“Depository”** shall mean any bank or trust company selected by the City as a depository of moneys or securities held under the provisions of this Bond Ordinance and may include the Trustee.

**“Depreciation and Contingent Fund”** shall mean the fund herein so designated and designed to provide for contingencies, for the replacement of depreciated or obsolete parts of the System and for improvements, betterments and extensions of the System, as established by the provisions of Section 7.06 hereof. To the extent the City had previously maintained a separate Depreciation Fund and a separate Contingent Fund, such funds shall hereafter be combined into the Depreciation and Contingent Fund. For purposes of the Outstanding Bonds, all references to Depreciation and Capital Improvement Fund shall be replaced with the term Depreciation and Contingent Fund.

**“Electronic Means”** shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

**“Enabling Act”** shall mean Chapter 17 of Title 6, and Chapter 21 of Title 11 of the South Carolina Code, and all other statutory authorizations authorizing and enabling the City to adopt this Bond Ordinance. For purposes of the Outstanding Bonds, all references to the Act shall be replaced with the term Enabling Act.

“*Events of Default*” shall mean those events set forth in Section 13.01 of this Bond Ordinance.

“*Facilities*” shall mean (i) all of the physical assets of the System, and all parts thereof, now existing; (ii) any physical assets which may thereafter be added to the System, or any part thereof, by any additions, replacements, or betterments; and (iii) any capacity acquired by the City in physical assets not owned by it for the treatment of water or wastewater or the transportation thereof.

“*Fiduciary*” or “*Fiduciaries*” shall mean the Trustee and any Registrar and any other agent of the City appointed pursuant to the authorizations of this Bond Ordinance or any Series Ordinance or any or all of them, as may be appropriate.

“*Fiscal Year*” shall mean the period of twelve (12) calendar months, beginning on July 1 of each year, and ending on June 30 of the following year, unless the same shall have been changed pursuant to the authorization of Section 3.01 hereof.

~~“*General Revenue Fund*” or “*Gross Revenue Fund*” shall mean the account or accounts established and maintained by the City in such fashion as to adequately reflect all of the receipts and revenues derived from the operation of the System and all interest and other income earned by the City in connection with the System, as established by the provisions of Section 7.02 hereof. For purposes of the Outstanding Bonds, all references to Gross Revenue Fund shall be replaced with the term General Revenue Fund.~~

“*Government Obligations*” shall mean: (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; (b) obligations, the payment of the principal (if any), or the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America; and (c) obligations issued by the Federal Home Loan Bank and/or the Federal National Mortgage Association as permitted by Section 6-5-10(a)(2) of the South Carolina Code, as amended.

“*Gross Revenues*” or “*Gross Revenues of the System*” shall mean:

(a) all receipts and revenues derived from the operation of the System, except for those allocable to the operation of Special Facilities to the extent the same have been pledged to the payment of Special Facilities Bonds, including all service fees (including connection, tap and impact fees, capacity fees, availability fees, and ~~meter~~metered purchases);

(b) all proceeds from the sale or other disposition of any property owned directly or beneficially by the City in connection with the operation of the System;

(c) all interest and other income received directly or indirectly by the City from the investment of moneys or accounts relating to the System; excluding, however, investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service, and specifically excluding (whether or not so restricted) interest earned on any construction fund or construction account created with the proceeds of borrowing by the City;

(d) all other unencumbered money to which the City may become entitled from any source whatsoever in connection with the operation of the System, but specifically excluding any amounts received by way of government grants, developer contributions and aids-to-construction; and

(e) all Interest Payment Subsidies to the extent such monies are not otherwise used to pay debt service on a Series of Bonds. Any Interest Payment Subsidies ~~payable to~~ received by the ~~Trustee~~ City and used to pay debt service on a Series of Bonds shall not be included in Gross Revenues.

All amounts received as *ad valorem* taxes shall not be included in Gross Revenues.

**“Independent Consultant”** shall mean such firm or firms, professional engineers, architects, financial advisors, accountants, rate consultants or other professionals who are nationally recognized and have a favorable reputation for consulting services for utility systems similar to the System. Such Independent Consultant shall not be an employee of the City and shall be engaged by the City to perform the tasks set forth to be performed by such Independent Consultant under the provisions of this Bond Ordinance.

**“Insurance Consultant”** shall mean a person or firm who is not, and no member, director, officer or employee of which is, an officer or employee of the City, which is qualified to survey risks and to recommend insurance coverage for public utilities and services and organizations engaged in such operations. The Insurance Consultant shall be selected by the City.

**“Insurer”**, with respect to any Series of Bonds, shall mean an insurance company that has written a Municipal Bond Insurance Policy covering such Series of Bonds.

**“Interest Payment Subsidies”** shall mean the refundable tax credit subsidies payable to the City from the federal government under any section of the Code that authorizes such tax credits.

**“Junior Lien Bonds”** shall mean any revenue bonds or other obligations issued by the City which are secured by pledges of the revenues of the System which are junior and subordinate in all respects to the pledges made to secure Bonds and to the payment by the City of all Operation and Maintenance Expenses.

**“Mayor”** shall mean the Mayor of the City. The term shall include the acting Mayor or the Mayor Pro Tempore whenever, by reason of absence, illness or other reason, the person who is the Mayor is unable to act.

**“Municipal Bond Insurance Policy”** shall mean any municipal bond insurance policy insuring the payment, when due, of the principal of and interest on a Series of Bonds.

**“Net Earnings”** shall mean, for the period in question, the Gross Revenues of the System, ~~and~~ less Operation and Maintenance Expenses, and shall otherwise be adjusted as provided in (a) and (b) below:

(a) Net Earnings shall include amounts transferred into the Operation and Maintenance Fund from the Rate Stabilization Fund.

(b) Net Earnings shall not include: (i) amounts transferred from Rate Stabilization Fund into any other fund, excluding the Operation and Maintenance Fund as provided in (a) above; and (ii) amounts transferred into the Rate Stabilization Fund.

“*Net Revenues*” or “*Pledged Revenues*” shall mean the Gross Revenues of the System, ~~and~~ less Operation and Maintenance Expenses.

“*Operation and Maintenance Expenses*” shall mean for the period in question all expenses incurred in connection with the administration and the operation of the System and its Facilities, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, principal and interest payments with respect to lease financing arrangements under Section 6.03 hereof, the fees and charges of the Trustee and the custodian or trustee of any fund, the costs of audits required hereunder, the costs of computation and payment of any arbitrage rebate, and the premiums for all insurance and fidelity bonds required by this Bond Ordinance. For purposes of the Outstanding Bonds, all references to Expenses of Operating and Maintaining the System shall be replaced with the term Operation and Maintenance Expenses. Operation and Maintenance Expenses shall not include:

- (a) depreciation and amortization allowances;
- (b) amounts paid as interest on Bonds;
- (c) amounts expended for extraordinary repairs to the System;
- (d) amounts paid from government grants or aids-to-construction;
- (e) unfunded net pension liabilities, other post-employment benefit liabilities or similar accounting determinations under Accounting Principles that do not result in any actual disposition of cash;
- (f) any financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental non-recurring expenses resulting from the issuance or refinancing of Bonds; and
- (g) any transfers to the general fund (which shall only be payable out of surplus revenues under Section 8.08 herein).

“*Operation and Maintenance Fund*” shall mean the fund established by the provisions of Section 7.05 hereof and which is designed to provide for the payment of all Operation and Maintenance Expenses.

**“Outstanding”**, when used with reference to any Bonds, subject to Section 17.01 hereof, and except as may be modified for any Series of Bonds pursuant to the provisions of a Series Ordinance, shall mean, as of any date, all such Bonds theretofore or then being authenticated and delivered except:

- (a) Bonds cancelled at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (c) Bonds deemed to have been paid as provided in Article XVI hereof; and
- (d) for purposes of any consent or other action to be taken by the holders of a specified percentage of Bonds, Bonds, as to which a Responsible Officer (as defined herein) has actual knowledge, held by, or for the account of, the City, or by any person controlling, controlled by, or under common control with the City (unless all Bonds are so held).

**“Paying Agent”** shall mean the financial institution which is authorized by the City Council to pay the principal of or interest on and redemption premium, if any, on any Bonds and having the duties, responsibilities and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance. Pursuant to the provisions of Section 15.02 of this Bond Ordinance, the Trustee serves as the Paying Agent.

**“Principal Installment”** shall mean, as of any date of calculation, (i) the aggregate principal amount of Outstanding Bonds due on a Bond Payment Date, reduced by the aggregate principal amount of such Bonds which would be retired by reason of the payment when due of, and application in accordance with, any mandatory sinking fund payment payable before such future date, plus (ii) any mandatory sinking fund payment due on such certain future date, together with the aggregate amount of the premiums, if any, applicable to such mandatory sinking fund payments, plus (iii) with respect to any Capital Appreciation Bonds required to be paid on such certain date, the Accreted Value as of such certain date of such Capital Appreciation Bonds; and in this latter respect, any reference to “principal” of Bonds in this Bond Ordinance shall mean, with respect to Capital Appreciation Bonds, the Accreted Value of such Capital Appreciation Bonds as of the date of calculation.

**“Rate Stabilization Fund”** shall mean the fund designed to provide for the stabilization of water and sewer rates by carrying forward surplus revenues.

**“Record Date”** shall mean the fifteenth (15th) day of the month immediately preceding each Bond Payment Date (or such other time or times as shall be prescribed by any applicable Series Ordinance).

**“Redemption Price”** shall mean, with respect to Bonds of any Series or a portion thereof, the principal amount of such Bonds or portion thereof plus the applicable premium, if any, payable

upon redemption thereof in the manner contemplated in accordance with its terms, this Bond Ordinance and the applicable Series Ordinance.

**“Registrar”** shall mean the Trustee or any bank, trust company, or national banking association which is authorized by the City to maintain an accurate list of those who from time to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds in accordance with the provisions of this Bond Ordinance and having the duties, responsibilities, and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance; however, the City Council may, pursuant to a Series Ordinance, authorize the City to serve as Registrar for the applicable Series of Bonds, in lieu of the institutions referred to above.

**“Reserve Requirement”** shall mean as of any date of calculation, the debt service reserve requirement, if any, established by a Series Ordinance authorizing a Series of Bonds.

**“Responsible Officer”** means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee having direct responsibility for the administration of this Bond Ordinance.

**“Securities Depository”** shall mean The Depository Trust Company, New York, New York, or any other recognized securities depository selected by the City, which securities depository maintains a book-entry system in respect of the Bonds of any Series, and shall include any substitute for or successor to the securities depository initially acting as Securities Depository.

**“Securities Depository Nominee”** shall mean, as to any Securities Depository, such Securities Depository or the nominee of such Securities Depository in whose name there shall be registered on the registration books maintained by any Registrar, the Bond certificates to be delivered to and immobilized at such Securities Depository during the continuation with such Securities Depository of participation in its book-entry system.

**“Serial Bonds”** shall mean the Bonds of any Series which are stated to mature in installments and for which there are no mandatory sinking fund provisions.

**“Series”** shall mean all of the Bonds authenticated and delivered on original issuance in a simultaneous transaction and designated as a single Series by the authorizing Series Ordinance, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for (but not to refund) such Bonds as herein provided, regardless of variations in maturity, interest rate or other provisions.

**“Series Ordinance”** shall mean an ordinance of City Council authorizing the issuance of a Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, adopted by City Council in accordance with Article IV hereof.

**“South Carolina Code”** shall mean the Code of Laws of South Carolina, 1976, as from time to time amended.

“**Special Facilities**” shall mean those facilities financed with the proceeds of Special Facilities Bonds as described in Section 6.02 hereof.

“**Special Facilities Bonds**” shall mean those obligations issued in accordance with Section 6.02 hereof.

“**State**” shall mean the State of South Carolina.

“**State Treasurer’s Office**” shall mean the office of the South Carolina State Treasurer.

“**System**” shall mean the water and sewer system of the City as the same is now, or in accordance with Sections 11.02 and 11.03 of this Bond Ordinance may be constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter; provided, that during such time as any Special Facilities Bonds issued to finance Special Facilities are outstanding, the term “System” shall not include such Special Facilities.

“**Term Bonds**” shall mean the Bonds of any Series which are stated to mature in a single year and which are subject to mandatory sinking fund redemption prior to the stated maturity date.

“**Treasurer**” shall mean the municipal treasurer of the City, as the person responsible for supervising and maintaining records and accounts relating to the collection and disbursement of the revenues derived from the operation and maintenance of the System.

“**Trustee**” shall mean the financial institution serving as Trustee pursuant to this Bond Ordinance and which shall have such other duties, privileges and functions as are set forth herein. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as successor trustee hereunder.

“**Variable Rate Bonds**” shall mean, for any period of time, any Bonds which during such period bear interest at a variable rate; provided that Bonds, the interest rate on which has been fixed for the remainder of the term thereof, shall no longer be Variable Rate Bonds.

“**Water Quality Authority**” shall mean the South Carolina Water Quality Revolving Fund Authority.

### Section 2.03 Interpretations.

In this Bond Ordinance, unless the context otherwise requires:

(A) Articles, Sections and paragraphs referred to by number shall mean the corresponding Articles, Sections and paragraphs of this Bond Ordinance.

(B) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations, or other legal entities, including public bodies, as well as natural persons.

(C) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder”, and any similar terms, as used in this Bond Ordinance refer to this Bond Ordinance or Sections or paragraphs of this Bond Ordinance and the term “hereafter” shall mean any date after the date of enactment of this Bond Ordinance.

(D) References to the payment of principal of Bonds shall be deemed to include payment of principal both at maturity and by mandatory redemption pursuant to any sinking fund payment obligations.

(E) Any Fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Bond Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

## **ARTICLE III - FISCAL YEAR**

### Section 3.01 Establishment and Modification of Fiscal Year.

The System shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on the first (1st) day of July of each year and shall end on the thirtieth (30th) day of June of the following year. The City may, by ordinance duly enacted by City Council, change the Fiscal Year at any time from that then existing to a different twelve (12) month period. Upon any change to the Fiscal Year, the City shall provide the Trustee with a copy of the ordinance authorizing such change.

[End of Article III]

## ARTICLE IV - THE BONDS

### Section 4.01 Authorization for Bonds in Series.

- (A) From time to time and for the purposes of:
- (1) Obtaining funds for expansions, additions and improvements of the System, including the recoupment of funds already so expended;
  - (2) Providing funds for the payment of any bond anticipation note or notes issued in order to defray the costs of expansions, additions and improvements to the System and that were issued in anticipation of the issuance and sale of Bonds;
  - (3) Refunding Bonds or other obligations issued to provide land or facilities or equipment which are or are to become a part of the System or which are or were payable in whole or in part from revenues of the System;
  - (4) Providing funds for the payment of interest due on any Bonds;
  - (5) Funding any Debt Service Reserve Fund or restoring the value of the cash and securities in any Debt Service Reserve Fund to the amount equal to its Reserve Requirement, and reimbursing amounts owed to any providers of a surety bond, line of credit, insurance policy or letter of credit established pursuant to Section 7.05(E) hereof; and
  - (6) Paying the costs of issuance of Bonds, including any credit enhancement therefor;

but subject to the terms, limitations and conditions herein, the City Council may authorize the issuance of a Series of Bonds by the enactment of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of this Article. The Bonds of each Series shall be issued in fully registered form, without coupons, and may be issued in the form of book-entry bonds. The Bonds shall, in addition to the title City of Cayce, South Carolina, Water and Sewer System Revenue Bonds, bear a letter or number Series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments, or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable Series Ordinance.

(B) Each Series Ordinance shall include a determination to the effect that the issuance of such Series of Bonds is necessary to provide funds to be used and expended for one or more of the purposes enumerated in paragraph (A) above. In addition each Series Ordinance shall specify and determine:

- (1) The then period of usefulness of the System;

- (2) The Date of Issue of such Series of Bonds or method for determining the same;
- (3) The maximum authorized principal amount of such Series of Bonds, and the manner of determining the precise principal amount and the officials authorized to make such determination;
- (4) Bond Payment Dates and the date or dates of maturity and the amounts thereof, or the manner of determining such dates and amounts and the officials authorized to make such determinations, provided that the Series Ordinance shall specify a date beyond which the final maturity of such Series shall not extend, which date shall not be longer than forty-five (45) years from the Date of Issue;
- (5) The purposes for which such Series of Bonds are being issued;
- (6) The title and designation of the Bonds of such Series;
- (7) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;
- (8) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series, including whether and on what terms there shall be entered by the City an agreement for any form of interest rate swap or similar transaction with respect to such Series;
- (9) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the manner of making such designations and the officials authorized to make such designations;
- (10) The Redemption Price or Redemption Prices and the redemption date or redemption dates and other terms of redemption, if any, applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;
- (11) The Trustee, the Paying Agent, and the Registrar for such Bonds and if other than the Trustee, the manner of determining the Paying Agent, the Registrar and the escrow agent, if such Bonds are refunding Bonds;
- (12) The form or forms of the Bonds of such Series;
- (13) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;

(14) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.20 hereof;

(15) That the then applicable Reserve Requirement, if any, for all Series of Bonds Outstanding have been met;

(16) The disposition of the proceeds of the sale of the Bonds of such Series and the manner of their application;

(17) That a Debt Service Account (within the Debt Service Fund) shall be and a Debt Service Reserve Fund may be established for the Series of Bonds, and that a construction fund be established if the proceeds of the Bonds of any Series are intended to be used for the expansion or improvement of the System, and that a capitalized interest account and/or a cost of issuance account be established as a standalone account or within any such construction fund if interest for any period is to be paid from proceeds of such Series of Bonds; and

(18) Any other provisions or funds deemed advisable by the City for the Bonds and any other applicable redemption requirement for the Bonds of such Series and the method of satisfying the same and not in conflict with or in substitution for the provisions of this Bond Ordinance.

#### Section 4.02 Conditions to Issuance of Bonds of a Series.

All Bonds shall be issued in compliance with the following provisions of this Section 4.02:

(1) Bonds shall be stated to mature and/or have mandatory or sinking fund redemptions on such day or days in the years and amounts prescribed or approved by the Series Ordinance.

(2) Bonds shall bear interest at the rate or rates and on the occasions prescribed or approved by the Series Ordinance.

(3) Bonds shall be issued for a purpose or purposes set forth in Section 4.01(A) herein.

(4) There shall exist, on the occasion of the issuance of the Bonds, no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding.

(5) Unless on the date of delivery of such Series of Bonds there shall be on deposit in each Debt Service Reserve Fund the amount equal to the applicable Reserve Requirement, there shall be deposited in such Debt Service Reserve Funds such amounts as may be necessary to make the value of the moneys and securities in each Debt Service Reserve Fund equal to the applicable Reserve Requirement, unless:

(a) the Series Ordinance and any previous Series Ordinances shall have provided for successive monthly payments beginning in the first month following the date of the issuance of the Bonds of any such Series in substantially equal monthly amounts (the “*Monthly Series Payments*”) so that by the end of twelve (12) months from the date of issuance of such Series of Bonds there shall be in the applicable Debt Service Reserve Fund an amount equal to the applicable Reserve Requirement with respect to such Bonds; and

(b) there shall be no unremedied defaults of any Monthly Series Payments required to have been made.

(6) Except in the case of the first Series of Bonds issued under this Bond Ordinance or in the event no Bonds are Outstanding:

Net Earnings during the most recent Fiscal Year for which audited financial statements of the System are completed shall be certified by the Auditors or the Independent Consultant on the basis of such audited financial statements to be not less than one hundred twenty percent (120%) of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds; provided that for purposes of this Section 4.02(6), such Net Earnings may be adjusted to reflect (1) any rate increases currently adopted and to be in effect prior to, coincident with or during the current Fiscal Year of the issuance of such proposed Series of Bonds and determined pro forma as though such rate increases had been in continuous effect during such recent Fiscal Year; (2) in the event a utility, system or enterprise that is in existence and operating and whose current customers have become customers of the System prior to the issuance of the proposed Series of Bonds or will become customers of the System concurrently with the issuance of such proposed Series of Bonds, 100% of the Net Earnings that the Auditors; ~~or~~ the Independent Consultant estimate would have been received during such Fiscal Year if the utility, system or enterprise had been a part of the System throughout such recent Fiscal Year, taking into account, for the estimation of such Net Earnings in this subparagraph (2) only, the then-existing customer base and population of the acquired utility, system or enterprise; (3) in the event proceeds of such proposed Series of Bonds will be used to construct or to acquire a newly-constructed utility, system, enterprise, or component of the System which will serve an existing customer base and currently-populated area, 100% of the Net Earnings, estimated by the Independent Consultant, to be received by the System during the first Fiscal Year beginning after the date on which such project constructed or acquired with the proceeds of the proposed Series of Bonds is placed in service, taking into account for the estimation of such Net Earnings in this subparagraph (3) only the then-existing customer base and population; (4) in the event proceeds of such proposed Series of Bonds will be used to pay interest on such proposed Series, 100% of the interest that will accrue on such Series of Bonds following the date of delivery of the proposed Series and that will be paid from such proceeds; and (5) in the event proceeds of such proposed Series of Bonds will

be used to construct or to acquire an expansion to the System and to the extent not included by sub-paragraph (3), 100% of estimated Net Earnings to be received by the System in the first Fiscal Year following the completion of such project, certified by the Independent Consultant, from customers under long-term contracts which extend for the life of such proposed Series of Bonds.

Provided that in the instance of any Series of Bonds in the aggregate principal amount of \$5,000,000 or less, such calculation required by Section 4.02(6) may, unless provided to the contrary in any Series Ordinance, be made by the ~~Chief Financial Officer~~ Treasurer.

In the event that a Series of Bonds is Outstanding and the City determines to issue a note or other obligation in anticipation of the issuance of a Series of Bonds, for the purposes of complying with the additional bonds test established in this Section 4.02(6) above, the Auditors, the Independent Consultant, or the City shall project the maturity schedule (including rate, term and principal maturities) of the future Series of Bonds that will be used to pay the note or other obligation at maturity; such future Series of Bonds and the accompanying projections shall qualify as a proposed Series of Bonds for purposes of the additional bonds test in Section 4.02(6) herein.

Whenever this Section 4.02(6) requires a certification for the most recent Fiscal Year for which audited financial statements are available, the City may, in its discretion, provide for a special audit and a certification based upon such special audit, in lieu of the audit for such Fiscal Year, provided such special audit covers twelve (12) consecutive calendar months of the eighteen (18) full consecutive calendar months preceding the date of issuance of the proposed Series of Bonds.

(7) Notwithstanding Section 4.02(6) hereinabove, in the case of Bonds issued for the purpose of refunding any Bonds, Series of Bonds, or a portion of a Series of Bonds:

(a) the Annual Principal and Interest Requirement of the refunding Bonds shall not exceed one hundred ten percent (110%) of the Annual Principal and Interest Requirement of the refunded Bonds for any Fiscal Year until a time subsequent to the last maturity of Bonds issued prior to the issuance of such refunding Bonds which are not refunded and which remain Outstanding following the issuance of the refunding Bonds; or

(b) the additional bonds test prescribed by paragraph (6) herein shall be complied with.

(8) If any Series of Bonds shall contain Variable Rate Bonds:

(a) The Series Ordinance shall provide for and specify a maximum interest rate on (i) such Bonds and (ii) any reimbursement obligation to a liquidity provider for such Bonds;

(b) The liquidity provider for such Bonds shall be rated within the highest two short term rating categories by any rating agency then rating any Series of Bonds; and

(c) Any accelerated principal payments or any interest computed at a rate in excess of that on such Bonds due to the liquidity provider for such Bonds pursuant to any reimbursement agreement with such liquidity provider shall be subordinate to the payment of debt service on all Bonds; provided, however, if either of the tests referred to in Section 4.02(6) or 4.02(7) of this Bond Ordinance is calculated (and met) assuming such accelerated principal payment and such excess interest amount to the liquidity provider, then such accelerated principal payment and excess interest amount may be on a parity with the payment of debt service on all Bonds.

(9) All amounts then due under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid.

#### Section 4.03 Reliance on Certificates.

Each of the City, the Trustee and any purchaser of any Bonds shall be entitled to conclusively rely upon certificates of the Auditors and the certificates and reports of the Independent Consultant and certificates of any Insurance Consultant, made in good faith, pursuant to any provision of this Bond Ordinance.

#### Section 4.04 Execution of Bonds.

(A) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the City by the Mayor or in his absence another Authorized Officer, the corporate seal of the City shall be impressed or reproduced thereon and the same shall be attested by the Clerk. Such officers may employ facsimiles of their signatures.

(B) In case any officer whose signature or facsimile signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office.

#### Section 4.05 Authentication.

Only such Bonds as shall have endorsed thereon a certificate of authentication duly executed by the Trustee or the Registrar shall be entitled to any right or benefit under this Bond Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee or Registrar, and such executed certificate of the Trustee or Registrar upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Bond Ordinance. The Trustee's certificate

of authentication on any Bond shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee or by any authorized officer of the Registrar.

Section 4.06 Medium of Payment.

The Bonds shall be payable with respect to principal, interest, and premium, if any, in lawful money of the United States of America, unless otherwise provided in a Series Ordinance.

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute and the Trustee may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and to the Trustee evidence of such loss, theft or destruction satisfactory to the City and the Trustee together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the City shall pay the same. The City and the Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) in connection with such actions.

Section 4.08 Transfer and Registry; Persons Treated as Owners.

(A) As long as any Bonds shall be Outstanding, the City shall cause books for the registration and for the transfer of Bonds to be kept. Such books shall be kept by the Trustee unless there shall have been appointed a Registrar other than the Trustee to keep the books of registration for any particular Series of Bonds. The transfer of each Bond may be registered only upon the registration books of the City kept for that purpose by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof and an assignment with a written instrument of transfer satisfactory to the Trustee or the Registrar, as the case may be, duly executed by the registered owner or his duly authorized attorney. Upon the registration or transfer of any Bond, the City shall cause to be issued, subject to the provisions of Section 4.11 hereof, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate as the surrendered Bond.

(B) The City, the Trustee, and any Registrar may deem and treat the person in whose name any Bond shall be registered upon the registration books of the City as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or, upon his order, shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid; and none of the City, the Trustee and any Registrar shall be affected by any notice to the contrary.

(C) Notwithstanding anything in paragraphs (A) and (B) of this Section 4.08 to the contrary, Bonds may be issued in the form of contractual obligations which are not instruments and which may be transferred as provided in such contracts.

#### Section 4.09 Date and Payment Provisions.

Unless otherwise provided in any Series Ordinance with respect to Bonds issued thereunder, each Bond of a Series shall be authenticated on such dates as they shall, in each case, be delivered. Each Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Bond's authentication.

Owners of at least \$1,000,000 principal amount of Bonds may, by written notice containing wiring instructions filed with the Trustee at least twenty (20) days prior to any Bond Payment Date, provide for the payment of the interest on such Bonds by wire transfer to an account at a bank located in the continental United States.

#### Section 4.10 Transferability of Bonds.

Bonds of a Series, upon surrender thereof at the office of the Trustee or the Registrar, as the case may be, for the Bonds of such Series with a written instrument of transfer satisfactory to the Trustee or the Registrar, duly executed by the Holder or his duly authorized attorney, may, at the option of the Holder and upon payment by such Holder of any charges made pursuant to Section 4.11 hereof, be exchanged for an equal aggregate principal amount of Bonds of such Series of like maturity and interest rate of any other authorized denominations.

#### Section 4.11 Regulations With Respect to Exchanges and Transfer.

In all cases in which the privilege of exchanging or transferring Bonds is exercised, the City shall execute and the Trustee or the Registrar, as the case may be, shall authenticate and deliver Bonds in accordance with the provisions of this Bond Ordinance. All Bonds surrendered in any such exchanges or transfers shall forthwith be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee or the Registrar, as the case may be, to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance. There shall be no charge to the Holder for such exchange or transfer of Bonds except that the Trustee or the Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or transfer. Neither the City nor the Trustee or the Registrar, as the case may be, shall be required to register, transfer or exchange Bonds of a Series during the period between a Record Date and its related Bond Payment Date, or to register, transfer or exchange any Bonds called for redemption after the mailing of any notice of redemption of such Bond.

#### Section 4.12 Cancellation and Destruction of Mutilated, Paid or Surrendered Bonds.

Upon the surrender of mutilated Bonds pursuant to Section 4.07 hereof, or Bonds paid or surrendered, the same shall be cancelled and destroyed and shall not be reissued, and a counterpart of the certificate evidencing such destruction shall be furnished by the Trustee or the Registrar, as the case may be, to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

#### Section 4.13 Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the Trustee, shall give notice to the Holders of any Bonds to be redeemed, in the name of the City, of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by the Trustee by first class mail, postage prepaid, at least thirty (30) but no more than sixty (60) days prior to the redemption date to each registered owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

(1) notices must contain, at a minimum, the complete official name of the Bonds, CUSIP number, Bond numbers, principal amount of each Bond to be redeemed (if less than all), publication date, redemption date, redemption price, redemption agent's name and address with contact person and phone number, Trustee's name and address, date of the Bonds, interest rate, maturity date, the place or places where amounts due will be payable, and any other descriptive information deemed necessary by the Trustee;

(2) notices must be sent to Bondholders of \$1,000,000 or more, to the Municipal Securities Rulemaking Board, if necessary (via its Electronic Municipal Market Access (EMMA) system, as may be amended or modified), and any Securities Depository by such method or such other method as is standard in the industry; in addition, any Bondholder holding in excess of \$1,000,000 principal amount of Bonds may request the Trustee to send notices to any additional addressee specified;

(3) a second notice to registered owners of the Bonds must be mailed by the means specified above to any registered owner of Bonds who has not presented Bonds for redemption sixty (60) days after the redemption date;

(4) notice of redemptions effected by advance refundings must also be given notice in accordance with the above requirements at least thirty (30) days but no more than sixty (60) days prior to the actual redemption date; and

(5) CUSIP number identification with appropriate dollar amounts for each CUSIP number must accompany all redemption payments and interest payments, whether by check or by wire transfer.

The obligation to provide notice shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the redemption price of the Bonds to which such notice relates or the interest thereon to the redemption date.

If at the time of mailing of a notice of redemption, there shall not have been deposited with the Trustee or Paying Agent moneys sufficient to redeem all the Bonds or portions thereof called for redemption, which moneys are or will be available for redemption of such Bonds, such notice is required to state that it is conditional on the deposit of the redemption moneys with the Trustee or Paying Agent not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

The failure of the Trustee to give notice to a Bondholder or any defect in such notice shall not affect the validity of the redemption of any other Bonds for which notice is properly given. Any Bondholder may waive notice of redemption by delivery of a written waiver to the Trustee.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument or providing for Bonds in bearer form may provide alternative methods for delivery of notice of redemption.

Provided sufficient funds for such redemption are on deposit with the Trustee, all Bonds so called for redemption shall cease to bear interest on the specified redemption date and shall no longer be deemed to be Outstanding hereunder. If said money shall not be so available on the redemption date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

#### Section 4.14 Cancellation of Bonds Which Have Been Redeemed.

All Bonds which have been redeemed shall be cancelled and destroyed by the Trustee and shall not be reissued, and a counterpart of the certificate of destruction evidencing such destruction shall be furnished by the Trustee to the City. All Bonds so destroyed shall thereafter no longer be considered Outstanding for any purposes of this Bond Ordinance.

#### Section 4.15 Restriction on Optional Redemption.

Notwithstanding anything in this Bond Ordinance to the contrary, no optional redemption of Bonds may occur unless all amounts payable by the City owing under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid in full.

#### Section 4.16 Selection of Bonds To Be Redeemed.

In the event that less than all of the Bonds of any Series are to be redeemed at the option of the City, Bonds to be redeemed shall be in such order of maturity as selected by the City. In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the Trustee. The portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum denomination; provided further that, if less than all of the beneficial interests in a Bond of a single

maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot or in such manner as may be directed by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the City shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination. The procedures for selection of Bonds of a Series for redemption set forth in this Section 4.16 are subject, however, to any alternative provisions set forth in a Series Ordinance applicable to such Series of Bonds.

#### Section 4.17 Purchase of Bonds.

The Trustee shall, if and to the extent practicable, purchase Bonds at the written direction of the City at such time, in such manner and at such price as may be specified by the City. The Trustee may so purchase Bonds with any money then held by the Trustee which is available for the redemption or purchase of Bonds and in excess of that set aside for the payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion of Bond Counsel to the effect that such redemption or purchase complies with any limitations or restrictions on such redemption or purchase contained in this Bond Ordinance.

#### Section 4.18. Bonds Issued as Taxable Obligations.

Notwithstanding anything in this Bond Ordinance to the contrary, the City may from time to time, pursuant to one or more Series Ordinances, provide for the issuance of Bonds the interest on which may be includable in gross income of the Holders of such Bonds for federal income taxation purposes. In such event, such Bonds may, at the option of the City, be issued as coupon bonds, payable to bearer, as provided in the applicable Series Ordinance. Such Series Ordinance shall provide such rules and regulations with respect to the ownership, transfer and substitution of such Bonds as are not inconsistent with the other provisions of this Bond Ordinance.

#### Section 4.19 Security for Payment of Bonds; Priority of Lien.

The Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a [pledge of and a](#) lien upon the Net Revenues. Such pledge and lien securing the Bonds shall at all times and in all respects be and remain superior to pledges and liens made and given to secure any other bonds or other obligations payable from the revenues of the System. The Bonds shall not constitute an indebtedness of the City within the meaning of any provision, limitation or restriction of the Constitution or the laws of the State, other than those provisions authorizing indebtedness payable solely from a revenue-producing project not involving revenues from any tax or license, and the faith, credit and taxing power of the City are expressly not pledged therefor. The City is not obligated to pay any of the Bonds or the interest thereon except from the Net Revenues.

#### Section 4.20 Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in fully registered form registerable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in a form satisfactory to the ~~Chief Financial Officer~~Treasurer and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.21 Waiver of Certain Provisions.

Notwithstanding anything in this Bond Ordinance to the contrary, whenever all of the debt issued or all of the obligations incurred by the City under a Series Ordinance are acquired by and are held by a single entity, that single entity, at its sole option, may waive any provision or requirement of this Bond Ordinance that relates separately to the governance of such Series and is for the protection and benefit of such single entity only and not for the protection or benefit of any other Holder or Holders of Bonds.

[End of Article IV]

## **ARTICLE V - RATES AND CHARGES**

### Section 5.01 Rate Covenant.

(A) It is hereby determined that the rates for services and facilities furnished by the System shall, until otherwise revised, be as now established. Said rates and charges are determined to be sufficient to meet the requirements of this Bond Ordinance but they shall be revised by the City Council whenever necessary in order that they shall at all times be maintained on a basis sufficient to meet the requirements of this Bond Ordinance. The City specifically covenants and agrees to maintain rates and charges for all services furnished by the System which shall at all times be sufficient:

- (1) To provide for the payment of the Operation and Maintenance Expenses as may be necessary to preserve the same in good repair and working order;
- (2) To maintain the Debt Service Fund and the Debt Service Fund Accounts and thus provide for the punctual payment of the principal of and interest on the Bonds;
- (3) To maintain the Debt Service Reserve Funds in the manner prescribed herein and in any applicable Series Ordinance;
- (4) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof;
- (5) To provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding;
- (6) To build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order; and
- (7) To discharge all obligations imposed by the Enabling Act and by this Bond Ordinance and any applicable Series Ordinance.

(B) The City covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System which, together with other income, are reasonably expected to yield annual Net Earnings in the current Fiscal Year equal to at least the sum of one hundred fifteen percent (115%) of the Annual Principal and Interest Requirement in such Fiscal Year for all Bonds Outstanding. Promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the City, with or without the aid of an Independent Consultant, shall review the rates and charges for its services and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, the City shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable detail

the estimated revenues and operating expenses and other expenditures of the System for such Fiscal Year which shall include the amount to be deposited during such Fiscal Year in the Depreciation and Contingent Fund. The City may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year.

(C) If the City, in adopting the Annual Budget, determines that revenues may not be sufficient to meet the rate covenant established hereinabove or if the audited financial statements of the City indicate that the City did not satisfy the rate covenant for the prior year, the City shall, within forty-five (45) days, engage an Independent Consultant to prepare a report recommending such actions which will provide sufficient revenues in the following Fiscal Year to permit the City to meet the rate covenant. Copies of such report shall be made available to the City and the Trustee no later than sixty (60) days after the engagement of the Independent Consultant.

The City agrees that it shall use its best efforts to effect such changes recommended by the Independent Consultant in its report. So long as the City uses its best efforts to comply with such recommendations, failure to comply with the rate covenant shall not constitute an Event of Default under Article XIII hereof; provided however, a failure to comply with the rate covenant for a period of two consecutive Fiscal Years shall constitute an Event of Default.

[End of Article V]

## **ARTICLE VI - JUNIOR LIEN BONDS AND SPECIAL FACILITIES BONDS**

### Section 6.01 Right to Issue Junior Lien Bonds; Accession Thereof to Status of Bonds.

Notwithstanding that Bonds may be Outstanding, the City may at any time, and without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of revenues of the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledges of revenues made or authorized for the Bonds and to the payment of all Operation and Maintenance Expenses; and provided, further, that the maturity of Junior Lien Bonds may not be accelerated and paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article XVI hereof.

By proceedings authorizing the issuance of Junior Lien Bonds, the City may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the following conditions are met. Any such subsequent proceedings adopted by the City Council providing for such accession shall make the findings provided in subparagraphs (1) through (4) and state whether and to what extent a Debt Service Reserve Fund shall be established as set forth in subparagraph (5).

(1) The Junior Lien Bonds were issued for a purpose or purposes set forth in Section 4.01(A) hereof.

(2) There shall exist on the date of accession (a) no default in the payment of the principal of or interest on any Bonds or any Junior Lien Bonds then Outstanding, (b) no default in the performance of any duties required under the provisions of this Bond Ordinance, and (c) no amount owed by the City with respect to the full funding of a Debt Service Reserve Fund, either by way of cash or reimbursement of any other funding mechanism, except in accordance with Section 4.02(5)(a) hereof.

(3) There shall be deposited in the Debt Service Fund Account for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of Section 8.03 hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

(4) On the date of accession, the earnings tests prescribed by Section 4.02(6) hereof shall have been met.

(5) In the event such proceedings require a Reserve Requirement to be maintained for such Series of newly-acceded Bonds, then in such event, there shall be on deposit on the date of accession in a Debt Service Reserve Fund an amount equal to the Reserve Requirement established for such Junior Lien Bonds which are being acceded to the status of Bonds.

(6) The City shall obtain an opinion of Bond Counsel to the effect that: (a) this Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been duly

adopted and are in full force and effect; (b) the Junior Lien Bonds have been duly and lawfully authorized and executed by the City and are valid and binding upon, and enforceable against, the City (except to the extent that the enforceability thereof may be limited by the operation of bankruptcy, insolvency and similar laws affecting rights and remedies of creditors); and (c) this Bond Ordinance creates the valid pledge which it purports to create of the revenues and of moneys and securities on deposit in any of the funds established hereunder subject to the application thereof to the purposes and on the conditions permitted by this Bond Ordinance.

(7) In the event such Junior Lien Bonds were issued with variable rates, the provisions of subparagraph (8) of Section 4.02 shall have been met.

#### Section 6.02 Right to Issue Special Facilities Bonds.

The City shall have at all times the right to enter into contracts, leases or other agreements pursuant to which it will agree to construct, operate and pay the costs of Special Facilities to be financed by its issuance of Special Facilities Bonds, subject to the following conditions:

(A) It shall have been determined to the satisfaction of the City that the rents, revenues or receipts to be derived from the Special Facilities shall be at least equal to the principal, interest and any reserve requirements contained in the ordinance authorizing such Special Facilities Bonds and to pay all operation, maintenance and other costs and expenses applicable to such Special Facilities; and

(B) The revenues derived from Special Facilities need not be deposited in the ~~General~~Gross Revenue Fund, and may be pledged to secure Special Facilities Bonds; but no debt service or other costs or expense related to any Special Facilities may be paid from System revenues deposited in the ~~General~~Gross Revenue Fund except pursuant to Section 8.08 hereof.

For purposes of this Section 6.02, the term “Special Facilities” shall include all or a portion of water or sewer facilities (or those enterprises, if any referred to in Section 11.02 hereof) and rights to all or a portion of the use of, or the capacity available from, any such facilities.

#### Section 6.03. Lease Financing Agreements.

The City shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on the property, plant and equipment comprising a part of the System; provided, however, that: (1) the aggregate principal amount of such obligations outstanding at any time shall not exceed ten percent (10%) of the value of the property, plant and equipment of the System, less accumulated depreciation, as shown on the audited balance sheet of the City for the most recent Fiscal Year for which audited financial statements are available; and (2) the loss of the property secured by the lien will not materially adversely affect the ability of the City to meet its financial obligations under this Bond Ordinance.

[End of Article VI]

## ARTICLE VII - ESTABLISHMENT OF FUNDS

### Section 7.01 Requirement for Special Funds.

For so long a time as any sum remains due and payable by way of principal or interest on Bonds, the following funds or accounts relating to the Gross Revenues of the System shall be established and maintained, and deposits shall be made therein in the manner herein required.

### Section 7.02. The ~~General~~Gross Revenue Fund.

(A) There shall be established and maintained a fund or account designated as the ~~General~~Gross Revenue Fund. This account shall be so maintained as to accurately reflect:

- (1) the Gross Revenues of the System; and
- (2) Net Earnings.

(B) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited in accordance with and in the manner prescribed by Article VIII hereof into this fund. Money in the ~~General~~Gross Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article VIII hereof. So long as the City establishes, ~~from an~~under Accounting ~~standpoint~~Principles, proper records of receipts and disbursements for the ~~General~~Gross Revenue Fund, the ~~General~~Gross Revenue Fund may be used for the purposes of the Operation and Maintenance Fund, the Depreciation and Contingent Fund, subject to the prior applications of the amounts in the ~~General~~Gross Revenue Fund for the purposes set forth in Sections 7.04 and 7.05 hereof.

### Section 7.03. The Operation and Maintenance Fund.

(A) There shall be established and maintained an Operation and Maintenance Fund. The Operation and Maintenance Fund is intended to provide for the payment of the Operation and Maintenance Expenses.

(B) Withdrawals from the Operation and Maintenance Fund shall be made by or on the order of the City in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

### Section 7.04. Debt Service Fund.

(A) There shall be established and maintained a Debt Service Fund. Within the Debt Service Fund, there shall be established a Debt Service Fund Account for each Series of Bonds Outstanding. Each Debt Service Fund Account is intended to provide for the ratable payment of the principal of, redemption premium, if any, and interest on the respective Series of Bonds as the same respectively fall due. Payments into the Debt Service Fund shall be made in the manner prescribed by this Bond Ordinance, including the applicable provisions of Article VIII hereof, and, except as herein provided, all money in the respective Debt Service Fund Accounts shall be used

solely to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds, and for no other purpose. Each Debt Service Fund Account shall bear a number Series designation as may be necessary to distinguish each Debt Service Fund Account.

(B) The Debt Service Fund and each Debt Service Fund Account thereunder shall be kept in the complete custody and control of the Trustee and withdrawals from the Debt Service Fund Accounts shall be made only by such Trustee who shall transmit to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Amounts held by the Trustee due to non-presentment of Bonds on any redemption date must be retained by the Trustee for a period of at least one year after the final maturity of such Bonds.

(C) Moneys in the Debt Service Fund shall be invested and reinvested by the Trustee at the written direction of the ~~Chief Financial Officer~~Treasurer or his designee in Authorized Investments, maturing not later than the date on which such money is required to pay the principal of, premium, if any, and interest on the next occurring maturity of the Bonds. The Trustee shall have no responsibility for the investment of money in the Debt Service Fund that is not held by the Trustee. Unless otherwise provided in a Series Ordinance, all earnings from such investments shall be added to and become a part of the Debt Service Fund Account in which such investments are held, but shall be credited against payments that would otherwise be made to such Debt Service Fund Account pursuant to the provisions of Section 8.03 hereof.

(D) All monies received by the Trustee as Interest Payment Subsidies shall be deposited in the Debt Service Fund Account for such Series of Bonds and used to pay debt service on the Series of Bonds with respect to which such Interest Payment Subsidy was received.

(E) Within each Debt Service Fund Account, the Trustee, or as otherwise provided in the Series Ordinance, is authorized to create sub-accounts, as it determines necessary for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.05. The Debt Service Reserve Funds.

(A) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of the principal of, and premium, if any, and interest on, that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement for such Series of Bonds. Unless otherwise provided in a Series Ordinance, money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

(1) To prevent a default in the payment of the principal of or interest on that Series of Bonds, by reason of the fact that money in its Debt Service Fund Account is insufficient for such purposes;

(2) To pay the principal of, interest on, and redemption premium, if any, of the Bonds of that Series in the event that all Outstanding Bonds of that Series be redeemed as a whole; or

(3) To effect partial redemption of the Bonds of that Series; but subject to the restrictions of Section 4.15 hereof and provided that subsequent to said partial redemption, the market value of the cash and securities in the Debt Service Reserve Fund shall be not less than the Reserve Requirement therefor.

Notwithstanding the provisions of Section 7.05(A)(1-3) above and as permitted by the Code and Section 4.21 hereof, if the Debt Service Reserve Fund was funded with cash generated by the System, then, upon the written consent of the Holder of such Series of Bonds secured by such Debt Service Reserve Fund, the monies in such Debt Service Reserve Fund may be returned to the City prior to the final maturity of such Series. The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of this Bond Ordinance shall, in references to “the Debt Service Reserve Fund”, “the Reserve Requirement” and “the Bonds”, be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, if any, and in each case to the respective Reserve Requirement for the respective Series of Bonds, and to Bonds only of that respective Series and not to any other Bonds.

(B) (1) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee and withdrawals therefrom shall be made only by the Trustee who shall transmit to the Bondholders, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds.

(2) If a Series of Bonds is held by the Water Quality Authority, then the Debt Service Reserve Fund for such Series of Bonds may be kept in the custody and control of the State Treasurer’s Office and invested in the Local Government Investment Pool in Authorized Investments. Withdrawals therefrom shall be made only as directed by the Water Quality Authority at such times as may be required to pay the principal and interest on such Series of Bonds. Any withdrawal of the monies in a Debt Service Reserve Fund that exceeds the Reserve Requirement shall be transferred in accordance with the provisions of Section 7.05(C) hereof.

(C) Except as provided in Section 7.05(B)(2) herein, money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of the ~~Chief Financial Officer~~Treasurer or his designee in Authorized Investments. Subject to the remaining provisions of this paragraph (C), the earnings from such investments shall be added to and become a part of the Debt Service Reserve Fund. Except as provided in a Series Ordinance, if as of any date of calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall either be used to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service Reserve Fund and, either (i) transferred into the applicable Debt Service Fund Account, as directed in writing by the ~~Chief Financial Officer~~Treasurer, or (ii) transferred to the ~~General~~Gross Revenue Fund, as permitted by the provisions of the Code.

(D) In the event a Series Ordinance requires a Debt Service Reserve Fund to be established for a Series of Bonds, unless otherwise required by such Series Ordinance, the City, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may alternatively satisfy the Reserve Requirement by causing to be so credited an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy equal to the Reserve Requirement therefor.

(E) In the event the amount credited to a Debt Service Reserve Fund under a surety bond, letter of credit, or insurance policy (the “**Original Funding Instrument**”) also includes amounts available under another surety bond, letter of credit, or insurance policy (the “**Additional Funding Instrument**”), draws on the Original Funding Instrument and the Additional Funding Instrument shall be made on a pro rata basis to fund any insufficiency in the Debt Service Fund Account. In the event a Debt Service Reserve Fund is funded with both monies and a surety bond, letter of credit, or insurance policy (1) any withdrawals from such Debt Service Reserve Fund shall be made first from such monies (or the liquidation of investments made therewith) and second from such surety bond, line of credit, letter of credit, or insurance policy, and (2) cash deposits to such Debt Service Reserve Fund shall be used first to restore the cash balance and second to reinstate the surety bond, line of credit, letter of credit, or insurance policy. The surety bond, line of credit, letter of credit, or insurance policy shall be payable (upon the giving of notice as required thereunder) on any Bond Payment Date on which moneys will be required to be withdrawn from such Debt Service Reserve Fund and applied to the payment of the principal of or interest on the Outstanding Series of Bonds to which such surety bond, line of credit, letter of credit, or insurance policy relates when such payments cannot be made by amounts otherwise credited to such Debt Service Reserve Fund.

Section 7.06. The Depreciation and Contingent Fund.

(A) There shall be established and maintained a Depreciation and Contingent Fund held and administered by the City. This fund shall be maintained in an amount to be established not less frequently than annually by the City Council in order to provide a reasonable reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions of the System.

(B) Money in this fund shall be used solely:

- (1) For the purpose of restoring depreciated or obsolete items of the System;
- (2) For improvements, betterments and extensions to the System, other than for those things which are reasonably necessary to maintain the System in good repair and working order;
- (3) To defray the cost of unforeseen contingencies and extraordinary repairs to the System;
- (4) To prevent defaults of Bonds and Junior Lien Bonds; and
- (5) For optional redemption of Bonds or Junior Lien Bonds.

(C) Withdrawals from this fund shall be made by or on order of the City.

Section 7.07. The Rate Stabilization Fund.

The City Council may establish a Rate Stabilization Fund, as needed, and, if created, shall administer such fund under the provisions of this Bond Ordinance and State law.

Section 7.08. Investments of Funds.

Whenever, in the opinion of the City, it becomes desirable to invest money in any of the funds established by this Article (other than the Debt Service Reserve Funds, the Debt Service Fund, and any capitalized interest account) the City may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the ~~General~~Gross Revenue Fund (i) except as otherwise provided in Sections 7.04, 7.05 and 7.07 hereof, and (ii) unless the City Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein.

[End of Article VII]

## ARTICLE VIII - DISPOSITION OF REVENUES

### Section 8.01. Deposits to GeneralGross Revenue Fund; Dispositions Therefrom.

The Gross Revenues of the System, except customers' deposits and that money the disposition of which is controlled by other provisions of this Bond Ordinance, are declared to be a part of the GeneralGross Revenue Fund and shall from time to time be promptly deposited in a bank or depository in an account which will reflect the fact that they are a part of the GeneralGross Revenue Fund. If Bonds are Outstanding, the dispositions from the GeneralGross Revenue Fund required by the remaining Sections of this Article shall be made on or before the last Business Day of each month. Payments from the GeneralGross Revenue Fund shall be made in the order of priority established by the sequence of the remaining Sections of this Article.

### Section 8.02. Deposits for the Operation and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund, either from the GeneralGross Revenue Fund or the Rate Stabilization Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing month and any amounts required for an operational reserve.

### Section 8.03. Payments for Bonds.

Provision shall be made for the payment of principal of, premium, if any, and interest on all Bonds then Outstanding without priority of any other Bonds but ratably as to each Series of Bonds. To that end:

(1) There shall be deposited into Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective interest sub-account, if any) the monthly fraction of the aggregate amount of interest to become due on the respective Series of Bonds on the next ensuing Bond Payment Date; provided, however, that if provision has been made for the payment of all or part of the next installment of interest to become due on any Bonds, or the Trustee is in receipt of any Interest Payment Subsidies, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(2) There shall be deposited into each Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective principal sub-account, if any) the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable (whether at stated maturity or by sinking fund installments), so that on each principal maturity date, the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of this Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(3) If, on the occasion when the deposits required by paragraphs (1) and (2) of this Section, are to be made, the sum total of the deposits required thereby plus previous monthly deposits and the remaining deposits to be made prior to the next succeeding principal and interest payment dates, will be less than the sum required to effect the payment of the next succeeding installment of either principal or interest, or both on the respective Series of Bonds, as the case may be, a sum equal to such deficiency shall be added to the deposits so to be made.

Section 8.04. Deposits for the Debt Service Reserve Funds - Valuation.

Deposits shall next be made in the amounts required by this Section 8.04 or Section 4.02(5) into the respective Debt Service Reserve Funds. Except as provided in Section 7.05(B)(2), the Trustee shall calculate the value of the cash and securities in each Debt Service Reserve Fund forty-five days prior to each Bond Payment Date in order to determine if each Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to this Bond Ordinance and the respective Series Ordinances. To the extent the Trustee determines that a deficiency exists, but such deficiency is solely the result of accounting practices governing the valuation of securities in the Debt Service Reserve Fund, the Trustee may alternatively calculate the value of the securities in each Debt Service Reserve Fund as of the maturity date of such securities, so long as such securities mature on or prior to the Bond Payment Date. Unless a Debt Service Reserve Fund is being funded pursuant to Section 4.02(5)(a) of this Bond Ordinance or then contains in cash and securities (or a surety bond, insurance policy, or letter of credit as herein described) an amount at least equal to its Reserve Requirement, unless otherwise provided in the Series Ordinance, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the twenty-four (24) months following a determination of a deficiency in such Debt Service Reserve Fund one-twenty-fourth (1/24) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the City from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. Any surety bond, line of credit, insurance policy or letter of credit being used to meet the Reserve Requirement of a Debt Service Reserve Fund shall be valued at the amount still remaining to be drawn thereon; and in the event that any such surety bond, line of credit, insurance policy or letter of credit has been drawn upon, the amount necessary to restore the principal balance thereof shall be paid by the City in the same manner and on a parity with the payments described in this Section 8.04 or as provided in an insurance agreement or applicable Series Ordinance.

The market value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if published therein, then in The New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(2) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

(3) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and

(4) as to any investment not specified above, the value thereof established by prior agreement between the City and the Trustee.

Section 8.05. Reimbursement of Interest on Amounts Advanced by Credit Providers for the Debt Service Reserve Fund.

Provision shall then be made for payment of interest and any fees or penalties on amounts advanced by the provider of any surety bond, line of credit, letter of credit or insurance policy as contemplated in Section 7.05(D) hereof.

Section 8.06. Payments for Junior Lien Bonds.

Provision shall then be made for the payment of any other indebtedness which is junior and subordinate to the Bonds in the order of priority contemplated by the proceedings authorizing their issuance.

Section 8.07. Deposits for the Depreciation and Contingent Fund.

There shall be deposited into the Depreciation and Contingent Fund that sum which is one-twelfth (1/12) of the sum which has been currently determined by the City Council to be the budgeted requirement therefor for the then current Fiscal Year.

Section 8.08. Use of Surplus Money.

All money remaining after making the payments required by Sections 8.01 to 8.07, shall be disposed of for any lawful purpose in such manner as the City Council shall from time to time determine.

The City may determine, at any time, to deposit any percentage or any set amount of surplus money under this Section 8.08 into the Rate Stabilization Fund. Amounts on deposit in the Rate Stabilization Fund may, at the direction of an Authorized Officer, be used to make deposits into the Operation and Maintenance Fund required by Section 8.04 hereof. Amounts on deposit in the Rate Stabilization Fund may, at the option of the City Council, be withdrawn and used for any other required purpose of the System, but in such event, such withdrawal, if for a purpose other than the payments of Operation and Maintenance Expenses, shall be excluded from Net Earnings.

[End of Article VIII]

**ARTICLE IX - AGREEMENT TO FURNISH INFORMATION  
WITH RESPECT TO SYSTEM**

Section 9.01 Keeping Records.

The City recognizes that those who may from time to time hereafter be Bondholders will, throughout the life of the Bonds, require full information with respect to the System, the fiscal affairs of the System, and all matters incident to each. To that end, the City hereby covenants and agrees that it will install and thereafter at all times maintain proper books of records and accounts, separate and distinct from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the System, and all revenues and receipts derived therefrom, directly or indirectly. Such books and records shall be kept in such fashion as to reveal in detail:

- (A) The number of customers who may from time to time make use of the System;
- (B) The Gross Revenues of the System and the source from whence derived;
- (C) All expenses incurred in the operation of the System suitably identified as to purpose;
- (D) The Net Earnings of the System and a schedule demonstrating compliance with Section 5.01(B) hereof for such Fiscal Year;
- (E) All expenditures made from the several funds established by this Bond Ordinance, and Series Ordinances authorizing the issuance of the Bonds; and
- (F) The rate schedules that may from time to time be in force.

Section 9.02 Audit Required.

The City further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than one hundred eighty (180) days after the close of each Fiscal Year, cause to be made and completed by the Auditors, an audit of the records, books and accounts pertaining to the System, made in accordance with ~~generally accepted Accounting practices~~ Principles, showing, among other things, Gross Revenues and Net Earnings; and that it will furnish a copy of such audit to the Trustee. Such audit shall comment upon any violation of any provision of any resolution authorizing the issuance of any Bonds or Junior Lien Bonds and any violation of any provision of this Bond Ordinance noted by the Auditors, and such other matters as to them seem pertinent. The cost of such audit shall be treated as an Operation and Maintenance Expense. Any audits made available to the City shall not otherwise be restricted as to their subsequent dissemination to any party.

[End of Article IX]

## ARTICLE X - INSURANCE

### Section 10.01 Requirement of Insurance.

(A) The City covenants and agrees that so long as any Bonds are Outstanding:

(1) To the extent insurance coverage is available, that it will insure and at all times keep the System insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amount as private corporations engaged in similar endeavors would customarily insure for;

(2) That it will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the City against defalcation of all persons handling money derived from the System or signing checks on any bank accounts relating to the System, other than the Trustee or any Registrar;

(3) That all premiums on all bonds or insurance policies shall be deemed an Operation and Maintenance Expense and paid out of Gross Revenues of the System;

(4) That all insurance policies shall be open to the inspection of any Bondholder at any reasonable time;

(5) That all money received by the City as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All sums received by the City from insurance policies covering the System may, to the extent necessary, be applied to the repair and replacement of the damaged or destroyed property, but, in the event that such money is not used for such purposes, then the same shall be deposited in the Depreciation and Contingent Fund; and

(6) That it will comply with the requirements of State law regarding the mandatory purchase of liability insurance contained in Section 15-78-140(b) of the South Carolina Code.

(B) Insurance required by this Section 10.01 may be provided through the South Carolina Insurance Reserve Fund. The City may obtain or adopt alternative risk management programs which an Insurance Consultant determines to be reasonable, including, without limitation, self-insurance in whole or in part individually or in connection with other institutions, participation in programs of captive insurance companies; participation with other governmental entities in mutual or other cooperative insurance or other risk management programs, participation in state or federal insurance programs, taking advantage of state or federal laws now or hereafter in existence limiting liability, or establishing or participating in other alternative risk management programs; all as may be approved by the Insurance Consultant as reasonable and appropriate risk management by the City. If the City shall be self-insured for any coverage, the City shall obtain a report of an Insurance Consultant stating whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the required funding to produce such result and such coverage

shall be reviewed by the Insurance Consultant not less frequently than annually. Any self-insurance program shall be subject to annual review by the Insurance Consultant who shall provide a written report to the City which shall include recommendations relating to such self-insurance program. The City shall provide to the Trustee annual certification evidencing compliance with the Insurance Consultant's recommendations. The Trustee has no duty or obligation to make any determination as to the sufficiency of the insurance required to be maintained hereunder.

~~(C) All costs and expenses of providing the insurance required by this Section 10.01 shall be payable solely from the Gross Revenues of the System as an Operation and Maintenance Expense.~~

[End of Article X]

## ARTICLE XI - ADDITIONAL COVENANTS

### Section 11.01 Additional Covenants to Secure Bonds.

The City further covenants and agrees:

(A) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except in accordance with the provisions hereof;

(B) That it will permit no free service to be rendered, or use to be made of the services and facilities of the System, and for the services and facilities of the System used by the City, the reasonable cost and value of such services and facilities shall be paid as such services accrue. The revenue so received from the City shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;

(C) That, to the extent lawful, it will not permit competing systems to operate within its boundaries;

(D) That, it will permit no customer to be connected to the System, or to receive any service afforded by the System, unless a proper meter is installed, and such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force;

(E) That so long as there are any Bonds Outstanding and unpaid, it will perform all duties with reference to the System required by the Constitution and statutes of the State;

(F) That it will not pledge, mortgage, or otherwise encumber the System or any portion thereof, or any revenues therefrom except in the manner herein authorized, and (except as provided in Section 11.03 herein) it will not sell, lease or otherwise dispose of any portion of the System, necessary or useful in the operation of the System, until all Bonds shall be paid in full, or unless and until provision shall have been made for the payment of all Bonds and the interest thereon in full, and the City further obligates itself and covenants and agrees with the Bondholders to maintain in good condition and to operate said System, and to collect and charge such rates for the services and facilities of the System so that the income and revenues of the System will be sufficient at all times to meet the requirements of this Bond Ordinance. If, pursuant to this Section, anything belonging to the System which is not deemed by the City to be necessary or useful therefor shall be sold or disposed of, the proceeds of such sale or disposition shall be deposited in the Depreciation and Contingent Fund;

(G) That it will permit, so long as there are any Bonds Outstanding, any Bondholder to inspect the System and all records and accounts thereof under reasonable terms and conditions and after reasonable notice has been given;

(H) That it will not make any use, and it shall direct the Trustee and each Fiduciary not to make any use of the proceeds of any Series of Bonds which Bonds were intended upon the issuance thereof to be exempt from federal income taxation, which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series would have caused such Bonds or any other Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

(I) That, as to any Series of Bonds that was intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that are necessary to preserve the tax-exempt status of such Series of Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;

(J) That it will make all payments or deposits required under Articles VII and VIII of this Bond Ordinance in a timely manner; and

(K) That no payments on account of appropriations to the general fund of the City shall be made except as permitted under Section 8.08 hereof.

#### Section 11.02 Acquisition of Additional Utilities.

No provision of this Bond Ordinance shall prevent the combining of the System with any other utility system or enterprise of whatever type if such combination then be permitted or authorized by the provisions of the South Carolina Code and if the requirements set forth below are met; but no such combination shall impair the validity or priority of the pledge of revenues and the lien thereon created by this Bond Ordinance. The City shall have the right, from time to time, to add other utilities, enterprises, activities and facilities (which at the date of enactment of this Bond Ordinance were not included in the definition of System hereunder) to the definition of System hereunder, provided that:

(A) the City Council shall have determined that such utilities, enterprises, activities or facilities are of a similar public utility nature as are the utilities now constituting the System;

(B) if necessary, the City Council shall have adopted an appropriate amendatory ordinance to this Bond Ordinance;

(C) the City shall have received an opinion of Bond Counsel to the effect that such action to be taken under this Section is authorized under this Bond Ordinance and the laws of the State and will not adversely affect the excludability of interest on the Bonds which were intended upon their issuance to be exempt from federal income taxation; and

(D) for each of the five (5) Fiscal Years following the date of the additions to the System, Net Earnings, as shall have been forecasted either by Independent Consultants with a reputation for expertise in the type of enterprise being added to the System, by the Auditors or by the ~~Chief Financial Officer~~ Treasurer, will be not less than one hundred twenty percent (120%) of the Annual Principal and Interest Requirements on all Bonds then proposed to be Outstanding in

each of such five (5) Fiscal Years; provided, however, that in the event that Bonds are being issued to acquire or improve the acquired utility, this paragraph (D) shall not apply and the City shall meet the requirements of Article IV hereof before issuing such Bonds and acquiring such utility.

Section 11.03. Sale, Exchange, Removal or Disposal of Component of System.

(A) The City may from time to time sell, exchange, remove or dispose of, (but not lease, contract or agree for the use thereof) an entire component comprising a part of the System, if it determines by ordinance:

(1) that the sale, exchange, removal or other disposition thereof would not materially reduce Net Earnings; or

(2) that the sale, exchange, removal or other disposition thereof (1) would not materially adversely affect the ability of the City to comply with the rate covenant, set forth in Section 5.01 hereof, for the current and next succeeding Fiscal Year, and (2) would be for a consideration of not less than reasonable value as may be determined in the sole discretion of the City Council.

(B) In addition to the provisions of Section 11.03(A) hereof, if the City determines to sell, exchange, remove or dispose of an entire component comprising a part of the System the following conditions shall also be met:

(1) an opinion of Bond Counsel to the effect that the sale, exchange, removal or disposal of a component of the System from the System has been effected in accordance with the terms of this Bond Ordinance; and

(2) notice shall be provided to any rating agency, if any, then rating any Series of Bonds regarding the sale, exchange, removal or disposal of such component from the System.

(C) If the City sells, exchanges, removes or otherwise disposes a component of the System, the proceeds, if any, of such transaction may be applied, at the discretion of the City, as follows:

(1) to the payment or satisfaction, in whole or in part, of (1) Bonds associated with or related to such component and (2) any other type of indebtedness of the City associated with or related to such component; or

(2) to the payment or satisfaction, in whole or in part, of the amount due under any type of contractual obligations of the City associated with or related to such component; or

(3) to the payment of the construction or purchase of additional improvements or expansions to the System.

[End of Article XI]

## **ARTICLE XII - MODIFICATION OF ORDINANCE**

### Section 12.01 Modification Without Bondholder Approval.

(A) Provided always that the security of the Bonds shall not be diminished, or in any manner impaired, the City Council may for any one or more of the following purposes at any time, or from time to time, enact an ordinance, supplementing this Bond Ordinance, which supplemental ordinance shall be fully effective in accordance with its terms:

(1) to provide for the issuance of a Series of Bonds in accordance with Article IV of this Bond Ordinance;

(2) to add to the covenants and agreements of the City in this Bond Ordinance, other covenants and agreements thereafter to be observed;

(3) to surrender any right, power or privilege reserved to or conferred upon the City by this Bond Ordinance;

(4) to cure, correct and remove any ambiguity or inconsistent provisions contained in this Bond Ordinance;

(5) to implement an addition to the System pursuant to Section 11.02 hereof; and

(6) for any other purpose which, in the opinion of Bond Counsel, does not materially affect the interests of the Bondholders.

(B) It is further provided that such supplemental ordinance shall not become effective until a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for the County. The Trustee will promptly give notice of enactment and a copy of any modification made hereunder to any Insurer.

### Section 12.02 Modification with Bondholder Approval.

The rights and duties of the City and the Bondholders and the terms and provisions of this Bond Ordinance may be modified or altered in any respect by an ordinance enacted by the City Council with the consent of the Holders of fifty-one percent (51%) in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding, if any, of each such Series of Bonds, such consent to be evidenced in such manner as may be acceptable to the Trustee, however no such modification or alteration shall, without the consent of the Holders of all Bonds affected by such change or modification:

(A) Effect a change as to the type of currency in which the City is obligated to effect payment of the principal, interest and redemption premium of any Bond;

- (B) Permit the creation of a pledge of the revenues of the System prior to or equal to the Bonds except as may be permitted under the provisions of this Bond Ordinance;
- (C) Permit preference or priority of any Bonds to others;
- (D) Alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII; or
- (E) Reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Ordinance.

Section 12.03 Procedure for Procuring Bondholder Approval.

The City and the Trustee may rely upon the registry books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made pursuant to Section 12.02 shall not become effective until (1) there has been filed with the Clerk of Court for the County and with the Trustee a copy of such amendatory ordinance hereinabove provided for, duly certified, and (2) proof of consent to such modification by the Holders (depending on the type of type of modification) of (A) fifty-one percent (51%) in principal amount of the Bonds of each Series then Outstanding or (B) all Bonds Outstanding, shall be filed with the Trustee. In the event that any Series of Bonds are held under a book-entry system pursuant to Section 4.20, the approvals of Bondholders may be obtained in the manner provided in the agreement with the Securities Depository.

Section 12.04 Notice to Rating Agencies.

Any rating agency rating a Series of Bonds shall be provided notice and a copy of any amendment to this Bond Ordinance or to any Series Ordinance within fifteen (15) days of its execution or enactment; notice provided via the Municipal Securities Rulemaking Board's EMMA system shall be sufficient for purposes of this Section 12.04.

[End of Article XII]

## ARTICLE XIII - EVENTS OF DEFAULT

### Section 13.01 Events of Default.

(A) Each of the following events is hereby declared to be an “*Event of Default*”:

(1) Payment of the principal of any of the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption;

(2) Payment of any installment of interest on any Bonds shall not be made when the same becomes due and payable;

(3) Payment of any installment of either interest or principal on any Junior Lien Bonds shall not be made when the same becomes due and payable or any other event of default shall exist with respect to any Junior Lien Bonds;

(4) Except as provided in Section 5.01(C) hereof, the City shall not comply with the rate covenant in Section 5.01(B) herein;

(5) The City shall for any reason be rendered incapable of fulfilling its obligations hereunder;

(6) An order or decree shall be entered with the consent or acquiescence of the City appointing a receiver, or receivers, of the System, or of the revenues thereof, or any proceedings shall be instituted with the consent or acquiescence of the City for the purpose of effecting a composition between the City and its creditors whose claims relate to the System, or for the purpose of adjusting claims of such creditors, pursuant to any federal or State statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed on appeal within sixty (60) days after entry thereof, or if such proceeding having been instituted without the consent or acquiescence of the City, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within sixty (60) days after the institution of such proceedings, or the entry of such orders;

(7) The City shall fail to operate the System in an efficient and businesslike fashion so as to materially impair the operations of the System or shall default in the due and punctual performance of any other of the covenants, conditions, agreements or provisions contained in the Bonds or in this Bond Ordinance, and such default as to efficient operation or otherwise shall continue for thirty (30) days after written notice, specifying such default and requiring the same to be remedied, shall have been given to the City by any Bondholder, provided that in the case of default specified in this paragraph (7), if the default be such that it cannot be corrected within the said thirty (30) day period, it shall not constitute an event of default if corrective action is instituted by the City within said thirty (30) day period and diligently pursued until the default is corrected;

(8) The occurrence of an event of default on the part of the City under any reimbursement agreement between the City and a provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof; and

(9) Such other events of default as may be specified in a Series Ordinance.

In determining whether a default in payment has occurred under paragraphs (1) or (2) of this subsection (A) and in determining whether a payment on Bonds has been made under any other provision of this Bond Ordinance, no effect shall be given to payments made under a Municipal Bond Insurance Policy.

(B) The foregoing provisions of paragraphs (4), (5) and (6) of the preceding subsection (A) are subject to the following limitations: If by reason of “force majeure” the City is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the City contained in any of Section 4.02 or Articles V, VII and VIII as to which this paragraph shall have no application), the City shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the City, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the City unfavorable to the City.

[End of Article XIII]

## ARTICLE XIV - REMEDIES

### Section 14.01 Acceleration; Annulment of Acceleration.

(A) Upon the occurrence of an Event of Default, the Trustee may, and shall, upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding, by notice in writing to the City, declare all Bonds Outstanding immediately due and payable, and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(B) At any time after the principal of the Bonds shall have been so declared to be due and payable and before the entry of final judgment or decree in any suit, action or proceeding instituted on account of such default, or before the completion of the enforcement of any other remedy under this Bond Ordinance, the Trustee may annul such declaration and its consequences with respect to any Bonds not then due by their terms if:

(1) Moneys shall have been deposited in Debt Service Fund sufficient to pay all matured installments of interest and principal (other than principal then due only because of such declaration) of all Outstanding Bonds;

(2) Moneys shall have been deposited with the Trustee sufficient to pay the charges, compensation, expenses, disbursements, advances and liabilities of the Trustee;

(3) All other amounts then payable by the City hereunder shall have been paid or a sum sufficient to pay the same shall have been deposited with the Trustee; and

(4) Every Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee.

No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

### Section 14.02 Additional Remedies and Enforcement of Remedies.

(A) Upon the occurrence and continuance of any Event of Default, subject to the provisions of Section 17.01 hereof, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

(1) Seeking a *writ of mandamus*, requiring the City to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;

(2) Suit upon all or any part of the Bonds;

(3) Civil action to require the City to account as if it were the trustee of an express trust for the Holders of Bonds;

(4) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds; or

(5) Enforcement of any other right of the Bondholders conferred by law or by this Bond Ordinance including the right to make application for the appointment of a receiver to administer and operate the System.

(B) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding, and upon receipt of assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion, shall institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

(1) To prevent any impairment of the security under this Bond Ordinance by any acts which may be unlawful or in violation of this Bond Ordinance; or

(2) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Ordinance and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

(C) When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

#### Section 14.03 Application of Revenues and Other Moneys After an Event of Default.

(A) The City covenants that if an Event of Default shall happen and shall not have been remedied, the City, upon demand of the Trustee, shall pay or cause to be paid over to the Trustee:

(1) Forthwith, all moneys and securities then held by the City which are credited to any fund under this Bond Ordinance. Any moneys and securities in any construction fund created with proceeds of Bonds if construction of the projects to be paid for thereby has been completed or terminated but exclusive of any amounts remaining in such construction fund that are in dispute between the City and any contractor. However,

any monies in a Debt Service Reserve Fund shall be applied only toward a Series of Bonds for which such Debt Service Reserve Fund was established; and

(2) As promptly as practicable after receipt thereof, all Gross Revenues.

(B) During the continuance of an Event of Default, the Trustee shall apply all moneys, securities, Gross Revenues, payments and receipts in its possession and the income therefrom as follows and in the following order:

(1) To the payment of the reasonable and proper charges of the Trustee and its reasonable counsel fees and expenses;

(2) To the payment of necessary Operation and Maintenance Expenses;

(3) To the payment of the interest and principal (and redemption premium, if any) then due on the Bonds, as follows:

(a) Unless the principal of all of the Bonds shall have become or have been declared due and payable,

(i) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;

(ii) Second: To the payment to the persons entitled thereto of the unpaid Principal Installments (and redemption premiums, if any) of any Bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal (plus redemption premium, if any) due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal of all of the Bonds shall have become or have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any differences as to the respective rates of interest specified in the Bonds;

- (4) To the payment of the amounts required by Section 8.04, ratably, according to the amounts due thereon to the persons entitled thereto;
- (5) To the payment of the amounts required by Section 8.05, ratably, according to the amounts due thereon to the persons entitled thereto;
- (6) To the payment of the amounts required by Section 8.06, ratably, according to the amounts due thereon to the persons entitled thereto; and
- (7) To the payment of the amounts required by Section 8.07, ratably, according to the amounts due thereon to the persons entitled thereto.

#### Section 14.04 Remedies Not Exclusive.

No remedy by the terms of this Bond Ordinance conferred upon or reserved to the Trustee or the Bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Bond Ordinance or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

#### Section 14.05 Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Bond Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of Section 14.03 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

#### Section 14.06 Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by Bondholders.

Section 14.07 Individual Bondholder Action Restricted.

(A) No Holder of any Bond shall have any right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Bond Ordinance or for the execution of any trust hereunder or for any remedy under this Bond Ordinance unless:

- (1) An Event of Default has occurred:
  - (a) under paragraph (1) or (2) of subsection (A) of Section 13.01 hereof;
  - (b) as to which a Responsible Officer of the Trustee has actual notice;and
  - (c) as to which the Trustee has been notified in writing

(2) The Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Ordinance or to institute such action, suit or proceeding in its own name; and

(3) Such Bondholders shall have provided assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion; and

(4) The Trustee shall have failed or refused to exercise the powers herein granted or to institute such action, suit or proceedings in its own name for a period of sixty (60) days after receipt by it of such request and offer of indemnity.

(B) No one or more Holders of Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the security of this Bond Ordinance or to enforce any right hereunder except in the manner herein provided and for the equal benefit of the Holders of all Bonds Outstanding.

(C) Nothing contained in this Bond Ordinance shall affect or impair, or be construed to affect or impair, the right of the Holder of any Bond:

- (1) To receive payment of the principal of or interest on such Bond on the due date thereof; or
- (2) To institute suit for the enforcement of any such payment on or after such due date.

Section 14.08 Termination of Proceedings.

In case any proceeding taken by the Trustee or any Bondholder on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or the Bondholders, the City, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee and the Bondholders shall continue as if no such proceeding had been taken.

Section 14.09 Waiver and Nonwaiver of Event of Default.

(A) No delay or omission of the Trustee or of any Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every power and remedy given by this Article XIV to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

(B) The Trustee may waive any Event of Default which in its opinion shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Ordinance, or before the completion of the enforcement of any other remedy under this Bond Ordinance.

(C) Notwithstanding anything contained in this Bond Ordinance to the contrary but subject to the provisions of Section 17.01 hereof, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in subsection (B) of Section 14.01 hereof or subsection (B) of this Section 14.09, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds at the time Outstanding.

(D) In case of any waiver by the Trustee of an Event of Default hereunder, the City, the Trustee, each Insurer and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 14.09.

Section 14.10 Notice of Events of Default.

(A) Within thirty (30) days after:

(1) The receipt of notice of an Event of Default as provided in Section 14.07(A)(1)(b) or (c) hereof; or

(2) The occurrence of an Event of Default under paragraphs (1) or (2) of subsection (A) of Section 13.01 hereof, as to which the Trustee shall be deemed to have notice,

the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Insurer of any Series of Bonds then Outstanding, if any, and to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(B) The Trustee shall immediately notify the City and each Insurer of any Series of Bonds then Outstanding of any Event of Default actually known to a Responsible Officer of the Trustee.

~~Section 14.11 Rights of Insurers.~~

~~Any Series Ordinance may provide that any Insurer, insuring the applicable Series of Bonds, upon the occurrence of an Event of Default and with respect to all remedies provided herein, may prevent the acceleration of the Bonds of all Series or may prevent the annulment of the acceleration of the Bonds of all Series. Such Insurer may be subrogated to the rights to payment of the Holders of any Bonds with respect to which it pays any principal or interest on the Bonds owned by that Holder.~~

[End of Article XIV]

## **ARTICLE XV - TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES**

### Section 15.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the City shall appoint the Trustee. Such appointment shall be made by means of the Series Ordinance adopted by the City Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder but the right of the Bondholders to appoint a Trustee hereunder is limited to the circumstances contemplated by Section 15.10 hereof.

### Section 15.02 Functions of Trustee.

The Trustee shall have the following additional functions:

- (A) To authenticate the Bonds of all Series that may be issued;
- (B) To act as custodian of the Debt Service Fund;
- (C) Except as otherwise provided herein, to act as custodian of the Debt Service Reserve Funds, if any;
- (D) Except as otherwise provided herein, to act as Paying Agent for the Bonds;
- (E) Unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds;
- (F) To make reports to the City on a monthly or such other basis as may be requested by the City, but not less often than semi-annually:
  - (1) Establishing balances on hand;
  - (2) Listing investments made for any fund handled by the Trustee;
  - (3) Establishing the market value of the Debt Service Reserve Funds; and
  - (4) Listing all securities, if any, pursuant to Section 15.13 hereof.

### Section 15.03 Duty of Trustee with Respect to Deficits in the Debt Service Fund.

It shall be the further duty of the Trustee to give written notice to the City three (3) Business Days prior to each Bond Payment Date, if there is any deficiency in any Debt Service Fund Account which would result in a need for further moneys to meet the payment of interest and/or

principal falling due on the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to the respective Debt Service Reserve Fund to meet such deficiency.

Section 15.04 Acceptance by Trustee Required.

Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the City a written acceptance thereof.

Section 15.05 Liability as to Recitals in Bond Ordinance and Bonds.

The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as statements of the City, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be under any responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 15.06 Trustee May Rely on Notices, etc..

The Trustee shall at all times be protected in acting upon any notice, resolution, request, consent, order, certificate, statement, opinion, bond, or other paper or document believed to be genuine and to have been signed by the proper party or parties.

Section 15.07 Trustee Permitted to Resign.

The Trustee may, at any time, resign and be discharged of its duties and obligations hereunder by giving to the City and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of such successor. If after sixty (60) days no successor has been appointed, the Trustee may petition a court of competent jurisdiction to appoint a successor.

Section 15.08 Removal of Trustee.

(A) The Trustee may be removed at any time by the Holders of not less than fifty percent (50%) of the principal amount of Bonds at such time Outstanding upon 30 days written notice to the Trustee.

(B) Provided an Event of Default has not occurred and is not continuing, the Trustee may be removed at any time by the City upon 30 days written notice to the Trustee.

(C) Any such removal shall take effect immediately (after the 30 day notice period) upon, but not before the appointment and qualification of such successor.

Section 15.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(A) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by an ordinance of the City duly enacted. Such successor shall in all instances be a bank or a trust company, and duly chartered pursuant to the laws of the United States or of any state and shall have a combined capital and surplus of not less than \$500,000,000.

(B) Immediately following such appointment the City shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

Section 15.10 When Bondholder May Seek Successor Trustee.

If, in a proper case, no appointment of a successor Trustee shall be promptly made pursuant to Section 15.09, any Bondholder, the resigning or removed Trustee may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 15.11 Acceptance by Successor Trustee.

Any successor Trustee appointed hereunder shall execute and deliver to its predecessor and to the City a written acceptance of such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of its predecessor hereunder with like effect as if originally named as such Trustee and its predecessor shall be obligated to pay over, transfer, assign and deliver all moneys, securities and other property held by it to its successor, and on the written request of the City, or the successor, shall execute, acknowledge and deliver such instruments of conveyance and further assurance and do such other things as may be reasonably required for the vesting and confirming in such successor all the right, title and interest of the predecessor in and to any property held by it.

Section 15.12 Effect of Trustee Merging With Another Bank.

Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated, or any bank or trust company resulting from any merger or consolidation to which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the City shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the City may at any time within thirty (30) days after such action name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the Trustee then acting.

Section 15.13 Trustee to Secure Funds and Securities Held in Trust.

Unless the same be secured as trust funds in the manner provided by the regulations of the Comptroller of the Currency as from time to time in effect, all funds or securities in the custody of the Trustee, in excess of the amount of such deposit insured by the Federal Deposit Insurance Corporation, shall be invested in Authorized Investments at the written direction of the City.

Section 15.14 Disposition of Paid Bonds.

It shall be the duty of the Trustee to cancel all Bonds which shall have been paid, whether upon their maturity or redemption prior to maturity; such cancellation shall be done in such fashion as to render such Bonds incapable of further negotiation or hypothecation. In any event it shall furnish appropriate certificates to the City indicating the disposition of such Bonds. Upon effecting such cancellation, the Trustee shall furnish appropriate certificates to the City setting forth the disposition made of the Bonds so canceled.

Section 15.15 Appointment of Substitute Registrar.

The City may, from time to time, appoint a Registrar or Registrars to act in the place and stead of the Trustee as Registrar of the Bonds of one or more Series. The City shall cause written notice of such appointment to be mailed to the Holders of all Bonds affected by such appointment thirty (30) days prior to the effective date of such appointment.

Section 15.16. Additional Provisions Regarding the Trustee.

The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Bond Ordinance, and no implied covenants or obligations should be read into this Bond Ordinance against the Trustee. If any Event of Default under this Bond Ordinance shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

The Trustee agrees to perform the trust functions provided herein upon and subject to the following expressed terms and conditions:

(A) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care.

(B) The permissive items assigned to the Trustee as enumerated herein shall not be construed as a duty.

(C) The Trustee shall not be accountable for the use or application by the City of any money paid over by the Trustee in accordance with the provisions of this Bond Ordinance.

(D) Before taking any action under this Bond Ordinance relating to an Event of Default or in connection with its duties under this Bond Ordinance other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by this Bond Ordinance, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be put (including legal fees, costs and expenses) and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken.

(E) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(F) None of the provisions of this Bond Ordinance shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds cannot be assured to the Trustee's satisfaction.

(G) So long as investments are made in Authorized Investments, the Trustee may conclusively rely upon the City's written instructions as to both the suitability and legality of all investments directed hereunder. To the extent invested in Authorized Investments, the Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge reasonable fees for such trades, including cash sweep accounts. Notwithstanding anything to the contrary herein, in the absence of written investment instructions from the City, the Trustee shall not be responsible or liable for keeping moneys held by it hereunder fully invested. While invested in Authorized Investments, the Trustee shall not be liable for any losses from such investments. Broker confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered.

(H) The Trustee shall have no duty to review or analyze any financial statements delivered to it hereunder (including the audit required by Section 9.02 hereof) or verify the accuracy thereof and shall hold such financial statements solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or Event of Default which may be disclosed therein.

(I) The City shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also its reasonable expenses, charges and other disbursements and the fees, costs, and expenses of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties hereunder. If the Trustee is required by governmental agency or court proceeding initiated by a third party to undertake efforts beyond

that which is set forth herein but related thereto, the Trustee shall notify the City of same in writing. Payment for such extraordinary fees, costs and expenses (including but not limited to reasonable attorney's fees, costs and expenses) shall be made promptly by the City only after said notice.

(J) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Bond Ordinance arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation: acts of God; earthquakes; fire; flood; hurricanes or other catastrophic storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(K) Upon request from any Bondholder and absent any further direction or consent of the City, the Trustee may disseminate a copy of the financial statements to such requester.

(L) The Trustee shall have the right to accept and act upon directions or instructions delivered using Electronic Means; provided, however, that the City shall provide to the Trustee an incumbency certificate listing Qualified Officers with the authority to provide such directions or instructions (each a "*Qualified Officer*") and containing specimen signatures of such Qualified Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustee's understanding of such directions or instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Qualified Officer listed on the incumbency certificate provided to the Trustee have been sent by such Qualified Officer. The City shall be responsible for ensuring that only Qualified Officers transmit such directions or instructions to the Trustee and that all Qualified Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

[End of Article XV]



## **ARTICLE XVI - DEFEASANCE**

### Section 16.01 Defeasance Generally.

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to this Bond Ordinance and any other amounts required to be paid to a provider of a surety bond, line of credit, insurance policy or letter of credit hereunder shall have been paid and discharged, then the obligations of the City under this Bond Ordinance, the pledge of Pledged Revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(A) The Trustee shall hold, at the stated maturities of such Bonds, in trust and irrevocably appropriated thereto, sufficient money for the payment thereof.

(B) If default in the payment of the principal of such Bonds or the interest thereon shall have occurred and thereafter tender of such payment shall have been made, and the Trustee shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment.

(C) If the City shall have deposited with the Trustee, or any other bank or trust company which would otherwise meet the chartering and capital and surplus requirements contained in Section 15.09(A) hereof, in irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will, as certified in a verification report provided by an independent entity providing such services and selected by the City, provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity, or, if the City has irrevocably elected to redeem Bonds, on and prior to the redemption date, of such Bonds.

### Section 16.02 Money to be Held in Trust - When Returnable to the City.

Any money which at any time shall be deposited with the Trustee or other escrow holder authorized under Section 16.01(C), by or on behalf of the City, for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to the Trustee or such other escrow holder in trust for the respective Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of the Trustee or such other escrow holder to forthwith return said funds to the City.

### Section 16.03 Deposits With Trustee Subject to Conditions of Article XVI.

The City covenants and agrees that any money which it shall deposit with the Trustee shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Article, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and

obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee to cause the publication of such notice of redemption in its name and on its behalf.

Section 16.04 No Defeasance of Series of Bonds Paid by Insurer.

In the event that the principal and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City until the Insurer has been reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the Net Revenues of the System and all covenants, agreements and other obligations of the City to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

[End of Article XVI]

## **ARTICLE XVII - MISCELLANEOUS**

### Section 17.01 Miscellaneous Rights of an Insurer.

(A) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Bonds insured by that Insurer, for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies. No rights granted to an Insurer by this Bond Ordinance shall be effective at any time that such Insurer is in breach of its obligations under the Municipal Bond Insurance Policy or is subject to bankruptcy or receivership proceedings. Additionally, this paragraph (A) shall be effective only in the event the Insurer's Municipal Bond Insurance Policy results in the applicable Series of Bonds being rated at least investment grade by either Standard & Poor's or Moody's Investors Service, Inc.

(B) Any provision of this Bond Ordinance expressly recognizing or granting rights in or to an Insurer may not be amended in any manner which affects the rights of such Insurer hereunder without the prior written consent of each such Insurer.

(C) To the extent that an Insurer makes payment of the principal of or interest on any Bonds, it shall become the owner and Holder of such Bonds, appurtenant coupons or right to payment of such principal of or interest on such Bonds and shall be fully subrogated to all of the registered Holders' rights thereunder, including the registered Holders' rights to payment thereof. To evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee shall note Insurer's rights as subrogee on the registration books of the City maintained by the Trustee or Registrar upon receipt of proof from the Insurer as to payment of interest thereon to the registered Holders of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Trustee shall note the Insurer's rights as subrogee on the registration books of the City maintained by the Trustee or Registrar upon surrender of the Bonds by the registered Holders thereof to the Insurer or its agent.

(D) In the event that the principal of and/or interest on any Bonds shall be paid by the Insurer pursuant to the terms of its Municipal Bond Insurance Policy, (i) such Bonds shall continue to be "Outstanding" under this Bond Ordinance and (ii) the assignment and pledge of the Net Revenues and all covenants, agreements and other obligations of the City to the registered Holders shall continue to exist, and the Insurer shall be fully subrogated to all of the rights of such registered Holders in accordance with the terms and conditions of subparagraph (C) above and the Insurer's Municipal Bond Insurance Policy.

(E) The terms and provisions of this Bond Ordinance or of any applicable Series Ordinance may not be terminated as long as there are any moneys owed to an Insurer under such terms and provisions of this Bond Ordinance or the applicable Series Ordinance or any agreement between such Insurer and the City.

### Section 17.02 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the City, as set forth in this Bond Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the City and the Bondholders and shall be enforceable accordingly. In this connection, any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third party beneficiary hereunder. Nothing in this Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, an Insurer, the Trustee, and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, an Insurer, the Trustee, and the registered owners of the Bonds.

Section 17.03 Severability.

If any Section, paragraph, clause or provision of this Bond Ordinance shall be held invalid, the invalidity of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Bond Ordinance.

Section 17.04 Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

If it shall be held by any court of competent jurisdiction that any right or remedy granted by the Bond Ordinance or any Series Ordinance to the Holders of any Bond is not available to the Holders of all other Bonds, then such rights and remedies are herewith conferred upon the Holders of such other Bonds.

Section 17.05 Authorization to Sign.

For purposes of all consents and other necessary documentation associated with the issuance of Bonds, the Authorized Officers and the Clerk shall be authorized to sign on behalf of the City and the City Council.

Section 17.06 Repealing Clause.

All resolutions, or parts thereof, inconsistent herewith shall be and the same are hereby repealed to the extent of such inconsistencies.

Section 17.07 Governing Law.

The provisions of this Bond Ordinance shall be governed by the laws of the State, without regard to conflict of law principles.

Section 17.08 Date Effective.



**EXHIBIT A**

**CONSENT OF SOUTH CAROLINA WATER QUALITY  
REVOLVING FUND AUTHORITY**

The undersigned hereby certifies that she is authorized to execute and deliver this Consent on behalf of the South Carolina Water Quality Revolving Fund Authority (the “*Authority*”) as holder of the now outstanding installments of the original issued:

- (a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the “*2002 Bond*”);
- (b) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the “*2009 Bond*”); and
- (c) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the “*2015 Bond*” and together with the 2002 Bond and the 2009 Bond, the “*Outstanding Bonds*”).

The Authority hereby consents to the execution and delivery of “A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO” dated February 2, 2016 (the “*Bond Ordinance*”).

By granting this Consent and subject to the Effective Date condition in the Bond Ordinance, the Authority expressly authorizes the Outstanding Bonds to be governed by the terms of the Bond Ordinance. Further, the Authority expresses no opinion as to whether the consent of any other person is required for such amendment.

**SOUTH CAROLINA WATER QUALITY REVOLVING  
FUND AUTHORITY**

By: \_\_\_\_\_  
Bonnie Ammons  
Office of Local Government  
SC Rural Infrastructure Authority

Dated: February 3, 2016

**EXHIBIT B**

**ACKNOWLEDGMENT OF U.S. BANK NATIONAL ASSOCIATION**

The undersigned, as a duly authorized representative of U.S. Bank National Association (successor to Wachovia Bank, N.A., formerly known as First Union National Bank), as Trustee under the Indenture of Trust acknowledges, subject to the occurrence of the Effective Date under the terms of the Bond Ordinance, the collapse and termination of the Indenture of Trust by City Council. Upon the Effective Date, all Bonds of the City shall be issued under the terms and provisions of the Bond Ordinance and to the extent recited therein, U.S. Bank National Association shall serve as Trustee under the terms and provisions thereof.

**U.S. BANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_

Its: \_\_\_\_\_

<b>Summary report:</b>	
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<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
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<b>Modified filename:</b> Amended and Restated Bond Ordinance(1).doc	
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<u>Add</u>	53
<del>Delete</del>	47
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<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>106</b>

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager

**Date:** January 29, 2016

**Subject:** Discussion and Approval of Ordinance 2016-02 Providing for the Issuance and Sale of Water and Sewer System Refunding Revenue Bonds, to be Designated Series 2016, in the Principal Amount of Not Exceeding Fifteen Million Dollars (\$15,000,000), of the City of Cayce, South Carolina, and Other Matters Relating Thereto – Second Reading

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## **Issue**

Council approval is needed for Ordinance 2016-02.

## **Background/Discussion**

As authorized by the Master Bond Ordinance, the 2016 Series Ordinance authorizes the issuance of the not to exceed \$15,000,000 Water and Sewer System Refunding Revenue Bonds, Series 2016. The 2016 Bonds will defease/pay off the outstanding portions of the City's originally issued \$18,795,000 Water and Sewer System Refunding and Improvement Bonds, Series 2007 A. The bonds are being refunded to reduce annual debt service costs and underlying rate pressures on the City's utility customers.

## **Recommendation:**

Staff recommends approval of second reading of this Ordinance.

**AN ORDINANCE**

**PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, TO BE DESIGNATED SERIES 2016, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING FIFTEEN MILLION DOLLARS (\$15,000,000), OF THE CITY OF CAYCE, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO.**

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**DATED: FEBRUARY 2, 2016  
(2016 SERIES ORDINANCE)**

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STATE OF SOUTH CAROLINA	)	<u>ORDINANCE</u>
	)	
COUNTY OF LEXINGTON	)	AN ORDINANCE
	)	PROVIDING FOR THE ISSUANCE
CITY OF CAYCE	)	AND SALE OF WATER AND SEWER
	)	SYSTEM REFUNDING REVENUE
	)	BONDS, TO BE DESIGNATED
	)	SERIES 2016, IN THE PRINCIPAL
	)	AMOUNT OF NOT EXCEEDING
	)	FIFTEEN MILLION DOLLARS
	)	(\$15,000,000), OF THE CITY OF
	)	CAYCE, SOUTH CAROLINA; AND
	)	OTHER MATTERS RELATING
	)	THERE TO.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CAYCE, IN COUNCIL, DULY ASSEMBLED, THAT:

**ARTICLE I - FINDINGS OF FACT**

Section 1.01 Findings.

Incident to the enactment of this series ordinance (this “*2016 Series Ordinance*”), and the issuance of the bonds provided for herein, the City Council of the City of Cayce (the “*City Council*”), the governing body of the City of Cayce, South Carolina (the “*City*”), finds that the facts set forth in this Article exist and the following statements are in all respects true and correct:

(1) The City Council has made general provision for the issuance from time to time of Water and Sewer System Revenue Bonds (the “*Bonds*”) of the City by an amended and restated bond ordinance entitled, “A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO,” enacted by the City Council on February 2, 2016 (the “*Bond Ordinance*”). Terms utilizing initial capitals and not otherwise defined herein shall have the meanings ascribed thereto in the Bond Ordinance.

(2) It is provided in and by the Bond Ordinance that, upon enactment of a “Series Ordinance,” there may be issued one or more series of Bonds for the purpose of, among other things: (1) obtaining funds for expansions, additions and improvements to the Water and Sewer System of the City (the “*System*”), including the recoupment of funds already so expended; (2) providing funds for the payment of any bond anticipation notes; (3) refunding Bonds or other obligations; (4) providing funds for the payment of interest due on any Bonds; (5) funding a

Debt Service Reserve Fund, if any, in an amount equal to the Reserve Requirement; and (6) paying the costs of issuance of Bonds, including any credit enhancement therefor.

(3) The City currently has the following indebtedness which is paid solely from the revenues derived from the System:

(a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the “**2002 Bond**”);

(b) the now outstanding installments of the originally issued \$18,795,000 Water and Sewer System Refunding and Improvement Revenue Bonds, Series 2007A (the “**2007 Bonds**”);

(c) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the “**2009 Bond**”); and

(d) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the “**2015 Bond**” and together with the 2002 Bond and the 2009 Bond, the “**SRF Bonds**”).

(4) The City has determined to provide for the advance refunding of all of the 2007 Bonds (the “**Refunded Bonds**”).

(5) The City has determined to issue the Series 2016 Bonds (as defined herein) to: (1) provide for the defeasance of the Refunded Bonds; (2) fund, if necessary, the 2016 Debt Service Reserve Fund (as defined herein) with cash, or to pay the premium associated with the issuance of a liquidity facility for the 2016 Debt Service Reserve Fund; and (3) pay the costs of issuance of the Series 2016 Bonds, including the payment of any premium due on any Municipal Bond Insurance Policy (as defined in the Bond Ordinance).

(6) Upon the defeasance of the Refunded Bonds and the receipt of the consent from the holder of the SRF Bonds, the Effective Date shall have occurred and the provisions of the Bond Ordinance shall be in full force and effect. It is intended that the Series 2016 Bonds be issued under the terms of the Bond Ordinance as a Series of Bonds thereunder.

(7) By reason of the foregoing, the City has determined to enact this 2016 Series Ordinance in accordance with the terms and provisions of the Bond Ordinance in order to issue bonds for the purposes described in Paragraph 5 above.

[End of Article I]

## ARTICLE II - DEFINITIONS AND CONSTRUCTION

### Section 2.01 Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in Section 2.02 of the Bond Ordinance shall have the same meanings in this 2016 Series Ordinance as such terms are prescribed to have in the Bond Ordinance.

(b) As used in this 2016 Series Ordinance, unless the context shall otherwise require the following terms shall have the following respective meanings:

***“2016 Series Ordinance”*** shall mean this ordinance of the City Council.

***“2016 Debt Service Account”*** shall mean the account of that name established by this 2016 Series Ordinance pursuant to Section 7.04 of the Bond Ordinance.

***“2016 Debt Service Reserve Fund”*** shall mean the fund of that name established by this 2016 Series Ordinance pursuant to Section 7.05 of the Bond Ordinance.

***“2016 Reserve Requirement”*** if any, shall mean an amount determined by the Authorized Officer in compliance with the provisions and requirements of the Code.

***“Authorized Officer”*** shall have the meaning ascribed thereto in the Bond Ordinance, but for purposes of making the determinations provided for under the provisions of this 2016 Series Ordinance, the City Manager shall constitute the Authorized Officer.

***“Bond Purchase Agreement”*** shall mean the contract between the City and the Underwriter pursuant to Section 7.01 of this 2016 Series Ordinance.

***“City Manager”*** shall mean the City Manager of the City of Cayce, South Carolina.

***“Continuing Disclosure Agreement”*** shall mean the agreement, which may also be referred to as the Disclosure Dissemination Agent Agreement, of the City pursuant to Section 9.02 of this 2016 Series Ordinance.

***“Insurer”*** shall mean the institution, if any, chosen by the City, acting through the Authorized Officer, to insure the Series 2016 Bonds.

***“Series 2016 Bonds”*** shall mean the Series of Bonds authorized and designated by Section 4.01 of this 2016 Series Ordinance.

***“Trustee”*** shall mean U.S. Bank National Association, its successors and assigns.

***“Underwriter”*** shall Wells Fargo Securities or such other banking institutions, as senior manager and including any co-managers, chosen by the Authorized Officer upon the advice of the City’s financial advisor.

Section 2.02 Authority for this 2016 Series Ordinance.

This 2016 Series Ordinance is enacted pursuant to the provisions of the Bond Ordinance and its provisions shall become fully effective on the Effective Date.

[End of Article II]

## **ARTICLE III - USEFUL LIFE**

### Section 3.01 Determination of the Useful Life of the System.

The period of usefulness of the System is hereby determined to be not less than forty (40) years from the date of enactment of this 2016 Series Ordinance.

[End of Article III]

## **ARTICLE IV - AUTHORIZATION AND TERMS OF THE SERIES 2016 BONDS**

### Section 4.01 Principal Amount; Designation of Series 2016 Bonds.

Pursuant to the provisions of the Bond Ordinance, one or more Series of Bonds of the City entitled to the benefits, protection, and security of the provisions of the Bond Ordinance is hereby authorized in the aggregate principal amount of not exceeding fifteen million dollars (\$15,000,000); such Bonds so authorized shall be designated the “City of Cayce Water and Sewer System Revenue Refunding Bonds, Series 2016” (the “*Series 2016 Bonds*”). As determined by the Authorized Officer, the Series 2016 Bonds may be sold in multiple series bearing any such designation as appropriate. References herein to the Series 2016 Bonds shall include all Series of Bonds. As authorized by Section 4.18 of the Bond Ordinance, any series of the Series 2016 Bonds issued as taxable obligations shall bear an appropriate designation so as to distinguish its tax status.

### Section 4.02 Purposes of the Series 2016 Bonds.

The Series 2016 Bonds are authorized for the principal purposes of:

- (1) providing for the advance refunding of all of the Refunded Bonds;
- (2) funding the 2016 Debt Service Reserve Fund, if any, in an amount equal to the 2016 Reserve Requirement, or for paying the premium associated with the issuance of a credit instrument, which, in lieu of cash, shall satisfy the 2016 Reserve Requirement for the 2016 Debt Service Reserve Fund; and
- (3) paying certain costs and expenses relating to the issuance of the Series 2016 Bonds, including the payment of any premium due on any Municipal Bond Insurance Policy.

### Section 4.03 Date of Issue; Interest Rates; Maturity; Redemption.

The Date of Issue of the Series 2016 Bonds shall be the date of delivery thereof, or such date as designated by the Authorized Officer. The Series 2016 Bonds shall have such principal amounts and shall bear interest at such rates and shall mature as Serial Bonds or as Term Bonds with such mandatory sinking fund installments as are set forth in a schedule approved by the Authorized Officer prior to or simultaneously with the issuance of the Series 2016 Bonds, provided that the final maturity of the Series 2016 Bonds shall not extend beyond 45 years from the Date of Issue.

Interest on the Series 2016 Bonds shall be payable on such dates as determined by the Authorized Officer. The Record Dates for the payment of interest on the Series 2016 Bonds shall be the 15th day of the month prior to each interest payment date.

The Series 2016 Bonds shall be subject to redemption prior to maturity, upon such terms and conditions, and at such prices, as may be established by the Authorized Officer prior to or simultaneously with the issuance of the Series 2016 Bonds.

Section 4.04 Authentication; Payment of Series 2016 Bonds.

(a) Each of the Series 2016 Bonds shall be authenticated on such dates as they shall, in each case, be delivered. Each Series 2016 Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Series 2016 Bond's authentication.

(b) The interest on all Series 2016 Bonds shall be paid by check or draft mailed from the office of the Trustee to the person in whose name each Series 2016 Bond is registered at the close of business on the Record Date; provided, however, that any Holder of Series 2016 Bonds in the aggregate principal amount of \$1,000,000 or more may request (in writing, delivered to the paying agent), prior to the applicable Record Date, that interest payments be made by wire transfer to such Holder at an account maintained by a financial institution located in the continental United States specified in such request.

Section 4.05 Denomination and Numbering of the Series 2016 Bonds.

The Series 2016 Bonds shall be issued in denominations of \$5,000 or any multiple thereof, not exceeding the principal amount of the Series 2016 Bonds maturing in such year. Each Series 2016 Bond shall be numbered by the Trustee in such a fashion as to reflect the fact that it is one of the Series 2016 Bonds, and to identify the owner thereof on the books kept by the Registrar.

Section 4.06 Establishment of 2016 Debt Service Account.

In accordance with Section 7.04 of the Bond Ordinance, the 2016 Debt Service Account is hereby directed to be established by the Trustee on the date of original delivery of the Series 2016 Bonds for the benefit of the Holders of the Series 2016 Bonds. In the event that more than one Series of Bonds is issued pursuant to the terms of this 2016 Series Ordinance, a Debt Service Account shall be established for each such Series.

Section 4.07 2016 Debt Service Reserve Fund.

In accordance with Section 7.05 of the Bond Ordinance and the terms of this 2016 Series Ordinance, if an Authorized Officer determines that the 2016 Debt Service Reserve Fund is necessary and desirable, he shall direct the Trustee to establish such 2016 Debt Service Reserve Fund. If established, the 2016 Debt Service Reserve Fund shall be maintained by the Trustee in accordance with the provisions of the Bond Ordinance in an amount equal to the 2016 Reserve Requirement, as may be determined in accordance with Section 4.11 hereof. The 2016 Debt Service Reserve Fund, if established, may be funded by cash or another method permitted by Section 7.05(D) of the Bond Ordinance, such method of funding to be determined by an Authorized Officer.

Section 4.08 Appointment of Trustee, Paying Agent and Registrar.

The Trustee is hereby appointed to act as Trustee, Paying Agent, and Registrar under the Bond Ordinance and this 2016 Series Ordinance. The Trustee shall signify its acceptance of the duties of Trustee, Paying Agent and Registrar upon delivery of the Series 2016 Bonds. The City shall pay to the Trustee from time to time reasonable compensation based on the then-standard fee schedule of such parties for all services rendered under the Bond Ordinance and this 2016 Series Ordinance, and also all reasonable expenses, charges, counsel fees, and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under the Bond Ordinance and this 2016 Series Ordinance.

The Series 2016 Bonds shall be presented for registration of transfers and exchanges, and notices and demands to or upon the Trustee and the City in respect of the Series 2016 Bonds may be served, at the corporate trust office of the Trustee.

The Trustee shall be a member of the Federal Deposit Insurance Corporation (the “*FDIC*”) and shall remain such a member throughout the period during which it shall act as Trustee, Paying Agent, and Registrar. The Trustee, in its capacity as Trustee, Paying Agent, and Registrar, shall accept its appointment by a written instrument embodying its agreement to remain a member of the FDIC. Unless the same be secured as trust funds in the manner provided by the applicable regulations of the Comptroller of the Currency of the United States of America, and unless otherwise provided for in the Bond Ordinance and in this 2016 Series Ordinance, all moneys in the custody of the Trustee in excess of the amount of such deposit insured by the FDIC, shall be secured by Government Obligations at least equal to the sum on deposit and not insured by the FDIC.

Section 4.09 Form of Series 2016 Bonds.

The Series 2016 Bonds, together with the certificate of authentication, certificate of assignment and/or statement of insurance, if any, are to be in substantially the following form with necessary and appropriate variations, omissions and insertions as permitted or required by the Bond Ordinance or this 2016 Series Ordinance, to wit:

(FORM OF BOND)

**CITY OF CAYCE  
STATE OF SOUTH CAROLINA  
WATER AND SEWER SYSTEM  
REFUNDING REVENUE BOND  
SERIES 2016\_\_**

No. \_\_\_\_\_

Interest Rate

Maturity Date

Date of Issue

CUSIP

Registered Holder:

Principal Amount: DOLLARS (\$\_\_\_\_\_)

**THE CITY OF CAYCE, SOUTH CAROLINA** (the “*City*”), acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount set forth above on the Maturity Date stated above, unless this Series 2016\_\_ Bond (this “*Series 2016 Bond*”) be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, at the corporate trust office of U.S. Bank National Association. (the “*Trustee*”) in the City of Columbia, State of South Carolina, and to pay interest on such principal amount at the annual Interest Rate stated above (calculated on the basis of a 360-day year of twelve (12) 30-day months) until the obligation of the City with respect to the payment of such principal amount shall be discharged.

This Series 2016 Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Trustee, as Registrar.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances (as such term is defined below). Certified copies of the Ordinances are on file in the office of the Trustee and in the offices of the Clerk of Court for Lexington County, South Carolina.

This Series 2016 Bond is one of the Series 2016 Bonds issued in the aggregate principal amount of not exceeding \_\_\_\_\_ Dollars (\$\_\_\_\_\_) of like tenor, except as to number, rate of interest, date of maturity and redemption provisions issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the “*State*”) including particularly Chapter 17, Title 6 and Chapter 21, Title 11, inclusive, Code of Laws of South Carolina, 1976, as amended (the “*South Carolina Code*”), and by an ordinance entitled, “A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO,” enacted by the City Council of the City of Cayce (the “*City Council*”), the governing body of the City, on February 2, 2016 (the “*Bond Ordinance*”), and a series ordinance entitled, “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, TO BE DESIGNATED SERIES 2016, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING FIFTEEN MILLION DOLLARS (\$15,000,000), OF THE CITY OF CAYCE, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO” (the “*2016 Series Ordinance*”) duly enacted by the City Council on February 2, 2016 (the *Bond Ordinance* and the *2016 Series Ordinance* are hereinafter together referred to as the “*Ordinances*”).

This Bond is being issued to: (1) provide for the advance refunding of all of the Refunded Bonds (as defined in the 2016 Series Ordinance); (2) fund, if necessary, the 2016 Debt Service Reserve Fund (as defined in the 2016 Series Ordinance) with cash, or to pay the premium associated with the issuance of a liquidity facility for the 2016 Debt Service Reserve Fund; and (3) pay the costs of issuance of this Bond, including the payment of any premium due on any financial guaranty insurance policy.

The Date of Issue of the Series 2016 Bonds is set forth on the face hereof. The Series 2016 Bonds shall be authenticated on such dates as they shall, in each case, be delivered. Each Series 2016 Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Series 2016 Bond’s authentication. Interest on this Series 2016 Bond is payable on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year beginning \_\_\_\_\_, 20\_\_\_\_. The interest so payable on any \_\_\_\_\_ 1 or \_\_\_\_\_ 1 will be paid to the person in whose name this Series 2016 Bond is registered at the close of business on the \_\_\_\_\_ 15 or \_\_\_\_\_ 15 immediately preceding such \_\_\_\_\_ 1 or \_\_\_\_\_ 1 (the “*Record Date*”).

Interest hereon shall be payable by check or draft mailed at the times provided herein from the office of the Paying Agent to the person in whose name this Series 2016 Bond is registered on the Record Date at the address shown on the registration books; provided, however, that any Holder of Series 2016 Bonds in the aggregate principal amount of \$1,000,000 or more may request in writing delivered to the Paying Agent, prior to the applicable Record Date, that interest payments be made by wire transfer to such Holder at an account maintained by a financial institution located in the continental United States specified in such request. The principal of, redemption premium, if any, and interest on this Series 2016 Bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Series 2016 Bond is being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinances. One bond certificate with respect to each date on which the Series 2016 Bonds are stated to mature is being issued and is required to be deposited with the Securities Depository (as defined in the Bond Ordinance) and immobilized in its custody. The book-entry system will evidence positions held in this Series 2016 Bond by the Securities Depository's participants (as described in the Series Ordinance), beneficial ownership of the Series 2016 Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants.

For the payment of the principal of and interest on this Series 2016 Bond issued pursuant to the Bond Ordinance, there are hereby irrevocably pledged the Net Revenues. Such pledge securing the Series 2016 Bonds shall have priority over all other pledges except those made to secure any Bonds (as defined hereinbelow) as may be currently outstanding or issued from time to time in the future.

**THIS SERIES 2016 BOND SHALL NOT IN ANY EVENT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR STATUTES OF THE STATE, OTHER THAN THOSE PROVISIONS AUTHORIZING INDEBTEDNESS PAYABLE SOLELY FROM A REVENUE-PRODUCING PROJECT NOT INVOLVING REVENUES FROM ANY TAX OR LICENSE; AND THE FAITH, CREDIT AND TAXING POWER OF THE CITY ARE EXPRESSLY NOT PLEDGED THEREFOR. THE CITY IS NOT OBLIGATED TO PAY THIS SERIES 2016 BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM THE NET REVENUES.**

The Bond Ordinance authorizes the issuance of additional bonds on a parity with the Series 2016 Bonds and any outstanding parity bonds which, when issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity herewith and therewith ("*Additional Bonds*" and together with the Series 2016 Bonds and any parity bonds, collectively the "*Bonds*").

The City has covenanted to continuously operate and maintain the System and fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient (a) to provide for the payment of Operation and Maintenance Expenses, (b) to maintain the Debt Service Fund and thus provide for the punctual payment of the principal of and interest on all Bonds, (c) to maintain the Debt Service Reserve Funds, if any, in the manner prescribed in the Bond Ordinance, (d) to pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(d) of the Bond Ordinance, (e) to provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding, (f) to build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order and (g) to discharge all

obligations imposed by the Enabling Act and by the Bond Ordinance and any applicable Series Ordinance.

The Bond Ordinance provides that, in addition to other remedies, upon a default in payment of principal of or interest on any Bond, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding shall, declare all Bonds Outstanding immediately due and payable.

This Series 2016 Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer and certain franchise taxes.

This Series 2016 Bond is transferable, as provided in the Bond Ordinance, only upon the registration books of the City kept for that purpose and maintained by the Registrar, by the holder hereof in person or by his duly authorized attorney, upon (a) surrender of this Series 2016 Bond and an assignment with a written instrument of transfer satisfactory to the Trustee or any other Registrar, as the case may be, duly executed by the Holder hereof or his duly authorized attorney and (b) payment of the charges, if any, prescribed in the Ordinances. Thereupon a new Series 2016 Bond or Series 2016 Bonds of the same aggregate principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City, the Trustee and the Registrar may deem and treat the person in whose name this Series 2016 Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of the Series 2016 Bonds, the City or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

[Insert Redemption Provisions]

If less than all of the Series 2016 Bonds are to be redeemed, the particular Series 2016 Bonds or portions of Series 2016 Bonds to be redeemed shall be selected in such order of maturity as determined by the City. In the event of redemption of less than all of the Series 2016 Bonds of any maturity, the Series 2016 Bonds or portions of Bonds to be redeemed shall be selected by the Trustee by lot. Series 2016 Bonds in a denomination of more than \$5,000 may be redeemed in part from time to time in one or more units of \$5,000 in the manner provided in the Bond Ordinance.

If any of the Series 2016 Bonds, or portions thereof, are called for redemption, the Trustee will give notice to the Holders of any such Series 2016 Bonds to be redeemed, in the name of the City, of the redemption of such Series 2016 Bonds, or portions thereof. Notice and redemption conditions shall otherwise comply with Section 4.13 of the Bond Ordinance.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Series 2016 Bond, exist, have been performed and have happened, that the amount of this Series 2016 Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such Constitution or statutes.

**IN WITNESS WHEREOF, THE CITY OF CAYCE, SOUTH CAROLINA**, has caused this Series 2016 Bond to be signed by the signature of the Mayor of the City, its corporate seal to be reproduced hereon and the same to be attested by the signature of the City Clerk.

**CITY OF CAYCE, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This Series 2016 Bond is one of the Series 2016 Bonds of the issue described in the within mentioned Ordinances.

U.S. BANK NATIONAL ASSOCIATION, as Registrar

By: \_\_\_\_\_  
Authorized Officer

Date: \_\_\_\_\_, 2016

**(FORM OF ASSIGNMENT)**

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

---

(please print or type name and address of Transferee and Social Security or other identifying number of Transferee)

the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_  
(Signature Guaranty)

\_\_\_\_\_  
Authorized Individual or Officer

NOTICE: Signature(s) to the assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or any change whatever.

Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program (“STAMP”) or similar program enlargement.

**(STATEMENT OF INSURANCE)**

\_\_\_\_\_ has delivered its municipal bond insurance policy with respect to the scheduled payments due of principal of and interest on this Series 2016 Bond to \_\_\_\_\_, or its successor, as paying agent for the Bonds. Such policy is on file and available for inspection at the offices of the paying agent and a copy thereof may be obtained therefrom.

#### Section 4.10 Book-Entry System.

Pursuant to Section 4.20 of the Bond Ordinance, the Series 2016 Bonds will be eligible securities for the purposes of the Book-Entry System of transfer maintained by The Depository Trust Company, New York, New York (“*DTC*”), and transfers of beneficial ownership of the Series 2016 Bonds shall be made only through *DTC* and its participants in accordance with rules specified by *DTC*. Such beneficial ownership must be of a \$5,000 principal amount of the Series 2016 Bonds of the same maturity or any integral multiple of \$5,000, with each increment of \$5,000 being separately of a single maturity.

The Series 2016 Bonds shall be issued in fully registered form, one certificate for each of the maturities of the Series 2016 Bonds, in the name of Cede & Co., as the nominee of *DTC*. When any principal of, premium, if any, or interest on the Series 2016 Bonds becomes due, the Trustee, from available monies on deposit for such purposes under the provisions of the Master Bond Ordinance, shall transmit or cause the Paying Agent to transmit to *DTC* an amount equal to such installment of principal, premium, if any, and interest. Such payments will be made to Cede & Co. or other nominee of *DTC* as long as it is owner of record on the applicable Record Date. Cede & Co. or other nominee of *DTC* shall be considered to be the owner of the Series 2016 Bonds so registered for all purposes of this 2016 Series Ordinance, including, without limitation, payments as aforesaid and receipt of notices and exercise of rights of beneficial owners of Series 2016 Bonds.

The Trustee shall notify *DTC* of any notice of redemption required to be given pursuant to this 2016 Series Ordinance at least thirty (30) days prior to the date fixed for redemption.

*DTC* is expected to maintain records of the positions of participants in the Series 2016 Bonds, and the participants and persons acting through participants are expected to maintain records of the beneficial owners in the Series 2016 Bonds. The City makes no assurances that *DTC* and its participants will act in accordance with such rules or expectations on a timely basis, and the City shall have no responsibility for any such maintenance of records of transfer or payments by *DTC* to its participants, or by the participants or persons acting through participants to the beneficial owners.

If (a) *DTC* determines not to continue to act as securities depository for the Series 2016 Bonds, or (b) the City has advised *DTC* of the City’s determination that *DTC* is incapable of discharging its duties, the City shall attempt to retain another qualified securities depository to replace *DTC*. Upon receipt by the City of the Series 2016 Bonds together with an assignment duly executed by *DTC*, the City shall execute and deliver to the successor depository, Series 2016 Bonds of the same principal amount, interest rate and maturity.

If the City is unable to retain a qualified successor to *DTC* or the City has determined that it is in the best interest of the City and the System not to continue the Book-Entry System of transfer or that the interest of the beneficial owners of the Series 2016 Bonds might be adversely affected if the Book-Entry System of transfer is continued (the City undertakes no obligation to make any investigation to determine the occurrence of any events that would permit them to make any such determination), and has made provision to so notify beneficial owners of the

Series 2016 Bonds by mailing an appropriate notice to DTC, upon receipt by the City of the Series 2016 Bonds together with an assignment duly executed by DTC, the City shall execute physical certificates for, and cause to be authenticated and delivered pursuant to the instructions of DTC, the Series 2016 Bonds in fully registered form, in substantially the form set forth in this 2016 Series Ordinance, in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding any other provisions of the Bond Ordinance to the contrary, so long as any Series 2016 Bond is registered in the name of Cede & Co., all payments with respect to the principal of, premium, if any, and interest on such Series 2016 Bonds and all notices with respect to such Series 2016 Bonds shall be made and given, respectively, to DTC, as provided in the letter of representations from the City to DTC.

In connection with any notice or other communication to be provided to the Holders by the City or the Trustee with respect to any consent or other action to be taken by the Holders, the City or the Trustee, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository notice of such record date not less than fifteen (15) days in advance of such record date to the extent possible.

#### Section 4.11 Delegations to Authorized Officer.

The City Council hereby delegates to the Authorized Officer the authority: (a) to determine the aggregate principal amount of the Series 2016 Bonds to be issued, and the interest rates, initial interest payment date, maturities and redemptions provisions with respect thereto; (b) to determine the Date of Issue of the Series 2016 Bonds; (c) to determine whether to use bond insurance with respect to the Series 2016 Bonds and, if so, make appropriate arrangements therefor, including the execution of any documentation associated therewith; (d) to determine the amount of the 2016 Reserve Requirement and the method of funding the 2016 Debt Service Reserve Fund, if any; (e) to determine whether to purchase a credit instrument to fund the 2016 Debt Service Reserve Fund in lieu of cash; (f) to determine whether to issue multiple series of Bonds; (g) to determine the redemption provisions for the Series 2016 Bonds; and (h) to make any such other decisions concerning the Series 2016 Bonds as may be necessary, appropriate or otherwise delegated herein.

The Authorized Officer is further directed to consult with the City's financial advisor and such other advisors as he determines to be appropriate in making any such decisions.

[End of Article IV]

## **ARTICLE V - EXECUTION; NO RECOURSE**

### Section 5.01 Execution of the Series 2016 Bonds.

The Series 2016 Bonds shall be executed and authenticated in accordance with the applicable provisions of the Bond Ordinance.

### Section 5.02 No Recourse on the Series 2016 Bonds.

All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this 2016 Series Ordinance shall be deemed to be the covenants, stipulation, promises, agreements and obligations of the City and not those of any officer or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series 2016 Bonds or for any claim based thereon or on the Bond Ordinance or on this 2016 Series Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Series 2016 Bonds.

[End of Article V]

## ARTICLE VI - APPLICATION OF BOND PROCEEDS

### Section 6.01 Use and Disposition of Bond Proceeds.

Upon the delivery of the Series 2016 Bonds and receipt of the proceeds thereof, net of underwriter's discount or premium, such funds shall be disposed of as follows:

(1) the sum necessary to refund the Refunded Bonds shall be distributed by the City to the Trustee for the 2007 Bonds, for ultimate distribution to the holders of the 2007 Bonds, in accordance with the terms and conditions of an escrow deposit agreement dated as of the date of closing of the Series 2016 Bonds (the "*Escrow Deposit Agreement*");

(2) if the Authorized Officer determines to fund the 2016 Debt Service Reserve Fund: (A) the sum equal to the 2016 Reserve Requirement shall be deposited into the 2016 Debt Service Reserve Fund held with the Trustee; or in the alternative, (B) an amount equal to the premium or fees due on any credit instrument, which in lieu of cash shall be issued in an amount equal to the 2016 Reserve Requirement for the 2016 Debt Service Reserve Fund shall be transferred to the provider thereof; and

(3) the sum necessary to pay costs of issuance shall be deposited with the Trustee in the 2016 Cost of Issuance Fund (the "*2016 COI Fund*") and used to pay the costs of issuance on the Series 2016 Bonds, including the costs of any Municipal Bond Insurance Policy.

### Section 6.02 Establishment of 2016 COI Fund.

There is hereby established, in accordance with Section 4.01 of the Bond Ordinance, the 2016 COI Fund. There shall be paid into the 2016 COI Fund the sums prescribed by Section 6.01(3) hereof. The 2016 COI Fund shall be held and controlled by the Trustee, unless otherwise determined by the Authorized Officer at the closing of the Series 2016 Bonds. Withdrawals for the payment of costs of issuance from the 2016 COI Fund shall be made upon written order of the City. The Trustee shall be fully protected in releasing monies from the 2016 COI Fund based upon such written orders of the City.

Subject to Section 15.16 of the Bond Ordinance, moneys in the 2016 COI Fund shall be invested and reinvested at the written direction of the City in Authorized Investments. Upon written notification from the City that the payment of all costs of issuance for the Series 2016 Bonds have been paid, the remaining sums therein shall be transferred by the Trustee and applied to the 2016 Debt Service Account.

[End of Article VI]

## **ARTICLE VII - SALE OF BONDS**

### Section 7.01 Approval of Underwriter and Execution of Bond Purchase Agreement.

The Series 2016 Bonds shall be sold to the Underwriter pursuant to the terms of the Bond Purchase Agreement to be negotiated by and between the City (acting through the Authorized Officer) and the Underwriter. The Bond Purchase Agreement shall be executed on behalf of the City by the official(s) designated therein and with such changes as such official(s) shall approve. The execution of the Bond Purchase Agreement by such official(s) shall constitute conclusive evidence of their approval to any changes herein authorized and the selection of the Underwriter.

In the event the Series 2016 Bonds are sold in a private placement, no Bond Purchase Agreement shall be required.

### Section 7.02 Approval of Preliminary and Final Official Statement.

The Preliminary Official Statement, in the form presented to City Council prior to the enactment of this 2016 Series Ordinance, with such changes as an Authorized Officer may approve prior to the distribution thereof, is hereby approved and its use by the Underwriter is hereby approved and ratified. Such Preliminary Official Statement is hereby “deemed final” within the meaning of Rule 15c2-12 of the rules and regulations of the United States Securities and Exchange Commission. The preparation and distribution by the Underwriter of a final Official Statement for such purposes, dated the date of the Bond Purchase Agreement, in substantially the form of the Preliminary Official Statement, with such changes as contemplated by the Bond Purchase Agreement and as may be approved by the officials of the City executing the final Official Statement, is hereby approved and authorized. The execution of the final Official Statement by such officials shall constitute conclusive evidence of their approval to any changes herein authorized.

In the event the Series 2016 Bonds are sold in a private placement, no Preliminary Official Statement or final Official Statement shall be disseminated.

[End of Article VII]

## **ARTICLE VIII - COMPLIANCE WITH REQUIREMENTS OF THE CODE**

### **Section 8.01 General Covenant.**

The City hereby represents and covenants that it will comply with all requirements of the Code, and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Series 2016 Bonds to become includable in the gross income of the Holders thereof for federal income tax purposes. Without limiting the generality of the foregoing, the City represents and covenants that:

(a) All property financed or refinanced with the net proceeds of the Series 2016 Bonds will be owned by the City for federal income tax purposes.

(b) The City shall not permit the proceeds of the Series 2016 Bonds or any property financed or refinanced with the proceeds of the Series 2016 Bonds to be used such that (i) five percent (5%) or more of such proceeds are considered as having been used in a Private Business Use; or (ii) an amount greater than the lesser of five percent (5%) of such proceeds or \$5,000,000 are considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(c) The City is not a party to and will not enter into or permit any other party to enter into, any contracts with any entity involving the management of any property provided with the proceeds of the Series 2016 Bonds that do not conform to the guidelines set forth in Revenue Procedure 97-13, as amended by Revenue Procedure 2001-39, or a successor revenue procedure, Code provision or Federal Income Tax Regulation.

(d) The City will not sell or lease or permit any other party to sell or lease, any property financed or refinanced with the proceeds of the Series 2016 Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption of the Series 2016 Bonds.

(e) The Series 2016 Bonds will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. The City shall not enter into any leases or sales or service contracts with any federal government agency unless it obtains the opinion of nationally recognized bond counsel that such action will not adversely affect the tax exemption of the Series 2016 Bonds.

### **Section 8.02 Arbitrage Covenant; Authorization to Execute Tax Compliance Agreement and Arbitrage Certificates.**

(a) The City hereby covenants that no use of the proceeds of the Series 2016 Bonds will be made which, if such use had been reasonably expected on the date of issue of the Series 2016 Bonds, would have caused the Series 2016 Bonds to be an issue of “arbitrage bonds,” as defined in the Code, and that it will comply with the requirements of Section 148 of the Code and Regulations with respect to the Series 2016 Bonds.

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

(c) Supplemental to the covenants of Section 8.01 hereof and in no way in limitation thereof, the Authorized Officer of the City is hereby authorized and directed to execute, at or prior to delivery of the Series 2016 Bonds, a certificate or certificates specifying actions taken or to be taken by the City, and the reasonable expectations of such officials, with respect to the Series 2016 Bonds, the proceeds thereof or the System.

Section 8.03. Qualified Tax-Exempt Obligation.

To the extent the City has not issued and does not intend to issue tax-exempt obligations in calendar year 2016, which together with the Series 2016 Bond do not add up to more than \$10,000,000 in the aggregate, the Series 2016 Bond is hereby accordingly designated a “qualified tax-exempt obligation” in accordance with Section 265(b)(3) of the Code.

[End of Article VIII]

## **ARTICLE IX – CONTINUING DISCLOSURE**

### Section 9.01 State Law Continuing Disclosure.

The City covenants to comply with the requirements of S.C. Code Section 11-1-85 by filing with a central repository for availability in the secondary bond market when requested:

- (i) An annual independent audit, within thirty (30) days of the City’s receipt of the audit; and
- (ii) Event specific information within thirty (30) days of an event adversely affecting more than five percent (5%) of the Gross Revenues or the City’s tax base.

The City specifically reserves the right to amend the above covenant in order to reflect any applicable change in law, including without limitation said Section 11-1-85, without the consent of the Insurer, the Trustee or the Holders of any Series 2016 Bonds.

### Section 9.02 Rule 15c2-12 Undertaking.

The Mayor of the City and/or the Authorized Officer is hereby authorized to execute and deliver on behalf of the City the Continuing Disclosure Agreement in a form similar to that presented to City Council prior to the enactment of this 2016 Series Ordinance, with such changes thereto as such official(s) shall approve. The City hereby covenants and agrees to comply with and carry out its obligations pursuant to said Continuing Disclosure Agreement. Additionally, the Authorized Officer is authorized to contract with DAC Bond for certain dissemination services associated with the execution and delivery of the Continuing Disclosure Agreement.

In the event the Series 2016 Bonds are sold in a private placement, no Continuing Disclosure Agreement shall be required.

### Section 9.03 Remedy.

The only remedy for failure by the City to comply with the covenants set forth in Sections 9.01 and 9.02 hereof shall be an action for specific performance of such covenants; and failure to comply with such covenants shall not constitute a default or an “Event of Default” under the Bond Ordinance or this 2016 Series Ordinance. The Trustee shall have no responsibility to monitor the City’s compliance with such covenants. However, any holder of the Series 2016 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Article.

[End of Article IX]

**ARTICLE X - AUTHORIZATION TO REDEEM BONDS AND  
EXECUTE ESCROW DEPOSIT AGREEMENT**

Section 10.01. Authorization to Redeem Bonds.

The City Council does hereby determine that the 2007 Bonds to be redeemed by the Series 2016 Bonds shall be irrevocably called for redemption on such dates as determined by the Authorized Officer. The Authorized Officer is hereby authorized to (i) determine and select which maturities of the 2007 Bonds are to be refunded with a portion of the proceeds of the Series 2016 Bonds, and (ii) provide for the notice of defeasance and notice of redemption, in such manner, forms and times as required by the proceedings authorizing the issuance of the 2007 Bonds and the Enabling Act.

Section 10.02. Authorization to Execute Escrow Deposit Agreements.

The Authorized Officer is authorized to execute and deliver one or more Escrow Deposit Agreements in such form(s) as he deems necessary in order to establish an escrow deposit account(s). The Authorized Officer is further authorized to determine the type of investments that shall be made in each Escrow Deposit Agreement and to select the escrow agent.

[End of Article X]

## **ARTICLE XI – MISCELLANEOUS**

### Section 11.01 Severability.

If any one or more of the covenants or agreements provided in this 2016 Series Ordinance on the part of the City or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 2016 Series Ordinance.

### Section 11.02 Additional Documents.

The City Council authorizes the Authorized Officer to execute and sign all other documents necessary to effect the purchase and sale of the Series 2016 Bonds.

### Section 11.03 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the headings of the several articles and sections of this 2016 Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 2016 Series Ordinance.

[End of Article XI]

**DONE IN MEETING DULY ASSEMBLED**, this 2<sup>nd</sup> day of February, 2016.

**CITY OF CAYCE, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
City Clerk

First Reading:        January 5, 2016  
Second Reading:     February 2, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )

I, the undersigned City Clerk of the City Council of the City of Cayce (the "*City Council*"), the governing body of the City of Cayce, South Carolina (the "*City*"), DO HEREBY CERTIFY THAT:

The foregoing constitutes a true, correct and verbatim copy of an ordinance enacted by the City Council on February 2, 2016 (the "*Ordinance*"). The Ordinance was read at a public meeting of the City Council. At that meeting, a quorum of the City Council was present and remained present throughout the meeting.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City, this \_\_\_\_\_ day of February, 2016.

(SEAL)

\_\_\_\_\_  
City Clerk

**AN ORDINANCE**

**PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, TO BE DESIGNATED SERIES 2016, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING FIFTEEN MILLION DOLLARS (\$15,000,000), OF THE CITY OF CAYCE, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO.**

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**DATED: FEBRUARY 2, 2016  
(2016 SERIES ORDINANCE)**

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STATE OF SOUTH CAROLINA	)	<u>ORDINANCE</u>
	)	
COUNTY OF LEXINGTON	)	AN ORDINANCE
	)	PROVIDING FOR THE ISSUANCE
CITY OF CAYCE	)	AND SALE OF WATER AND SEWER
	)	SYSTEM REFUNDING REVENUE
	)	BONDS, TO BE DESIGNATED
	)	SERIES 2016, IN THE PRINCIPAL
	)	AMOUNT OF NOT EXCEEDING
	)	FIFTEEN MILLION DOLLARS
	)	(\$15,000,000), OF THE CITY OF
	)	CAYCE, SOUTH CAROLINA; AND
	)	OTHER MATTERS RELATING
	)	THERE TO.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF CAYCE, IN COUNCIL, DULY ASSEMBLED, ~~AS FOLLOWS~~THAT:

**ARTICLE I - FINDINGS OF FACT**

Section 1.01 Findings.

Incident to the enactment of this series ordinance (this “*2016 Series Ordinance*”), and the issuance of the bonds provided for herein, the City Council of the City of Cayce (the “*City Council*”), the governing body of the City of Cayce, South Carolina (the “*City*”), finds that the facts set forth in this Article exist and the following statements are in all respects true and correct:

(1) The City Council has made general provision for the issuance from time to time of Water and Sewer System Revenue Bonds (the “*Bonds*”) of the City by an amended and restated bond ordinance entitled, “A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE OF TRUST IN ORDER TO PROVIDE FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO,” enacted by the City Council on February 2, 2016 (the “*Bond Ordinance*”). Terms utilizing initial capitals and not otherwise defined herein shall have the meanings ascribed thereto in the Bond Ordinance.

(2) It is provided in and by the Bond Ordinance that, upon enactment of a “Series Ordinance,” there may be issued one or more series of Bonds for the purpose of, among other things: (1) obtaining funds for expansions, additions and improvements to the Water and Sewer System of the City (the “*System*”), including the recoupment of funds already so expended; (2) providing funds for the payment of any bond anticipation notes; (3) refunding Bonds or other obligations; (4) providing funds for the payment of interest due on any Bonds; (5) funding a Debt Service Reserve Fund, if any, in an amount equal to the Reserve Requirement; and (6) paying the costs of issuance of Bonds, including any credit enhancement therefor.

(3) The City currently has the following indebtedness which is paid solely from the revenues derived from the System:

(a) the now outstanding installments of the originally issued \$1,650,000 Water and Sewer System Revenue Bond, Series 2002 (the “**2002 Bond**”);

(b) the now outstanding installments of the originally issued \$18,795,000 Water and Sewer System Refunding and Improvement Revenue Bonds, Series 2007A (the “**2007 Bonds**”);

(c) the now outstanding installments of the originally issued not exceeding \$33,733,234, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2009 (the “**2009 Bond**”); and

(d) the now outstanding installments of the originally issued not exceeding \$3,734,073, plus capitalized interest, if any, Water and Sewer System Improvement Revenue Bond, Series 2015 (the “**2015 Bond**” and together with the 2002 Bond and the 2009 Bond, the “**SRF Bonds**”).

(4) The City has determined to provide for the advance refunding of all of the 2007 Bonds (the “**Refunded Bonds**”).

(5) The City has determined to issue the Series 2016 Bonds (as defined herein) to: (1) provide for the defeasance of the Refunded Bonds; (2) fund, if necessary, the 2016 Debt Service Reserve Fund (as defined herein) with cash, or to pay the premium associated with the issuance of a liquidity facility for the 2016 Debt Service Reserve Fund; and (3) pay the costs of issuance of the Series 2016 Bonds, including the payment of any premium due on any Municipal Bond Insurance Policy (as defined in the Bond Ordinance).

(6) Upon the defeasance of the Refunded Bonds and the receipt of the consent from the holder of the SRF Bonds, the Effective Date shall have occurred and the provisions of the Bond Ordinance shall be in full force and effect. It is intended that the Series 2016 Bonds be issued under the terms of the Bond Ordinance as a Series of Bonds thereunder.

(7) By reason of the foregoing, the City has determined to enact this 2016 Series Ordinance in accordance with the terms and provisions of the Bond Ordinance in order to issue bonds for the purposes described in Paragraph 5 above.

[End of Article I]

## ARTICLE II - DEFINITIONS AND CONSTRUCTION

### Section 2.01 Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in Section 2.02 of the Bond Ordinance shall have the same meanings in this 2016 Series Ordinance as such terms are prescribed to have in the Bond Ordinance.

(b) As used in this 2016 Series Ordinance, unless the context shall otherwise require the following terms shall have the following respective meanings:

**“2016 Series Ordinance”** shall mean this ordinance of the City Council.

**“2016 Debt Service Fund Account”** shall mean the ~~fund~~ account of that name established by this 2016 Series Ordinance pursuant to Section 7.04 of the Bond Ordinance.

**“2016 Debt Service Reserve Fund”** shall mean the fund of that name established by this 2016 Series Ordinance pursuant to Section 7.05 of the Bond Ordinance.

**“2016 Reserve Requirement”** if any, shall mean an amount determined by the Authorized Officer in compliance with the provisions and requirements of the Code.

**“Authorized Officer”** shall have the meaning ascribed thereto in the Bond Ordinance, but for purposes of making the determinations provided for under the provisions of this 2016 Series Ordinance, the City Manager shall constitute the Authorized Officer.

**“Bond Purchase Agreement”** shall mean the contract between the City and the Underwriter pursuant to Section 7.01 of this 2016 Series Ordinance.

**“City Manager”** shall mean the City Manager of the City of Cayce, South Carolina.

**“Continuing Disclosure Agreement”** shall mean the agreement, which may also be referred to as the Disclosure Dissemination Agent Agreement, of the City pursuant to Section 9.02 of this 2016 Series Ordinance.

**“Insurer”** shall mean the institution, if any, chosen by the City, acting through the Authorized Officer, to insure the Series 2016 Bonds.

**“Series 2016 Bonds”** shall mean the Series of Bonds authorized and designated by Section 4.01 of this 2016 Series Ordinance.

**“Trustee”** shall mean U.S. Bank National Association, its successors and assigns.

**“Underwriter”** shall Wells Fargo Securities or such other banking institutions, as senior manager and including any co-managers, chosen by the Authorized Officer upon the advice of the City’s financial advisor.

Section 2.02 Authority for this 2016 Series Ordinance.

This 2016 Series Ordinance is enacted pursuant to the provisions of the Bond Ordinance and its provisions shall become fully effective on the Effective Date.

[End of Article II]

## **ARTICLE III - USEFUL LIFE**

### Section 3.01 Determination of the Useful Life of the System.

The period of usefulness of the System is hereby determined to be not less than forty (40) years from the date of enactment of this 2016 Series Ordinance.

[End of Article III]

## ARTICLE IV - AUTHORIZATION AND TERMS OF THE SERIES 2016 BONDS

### Section 4.01 Principal Amount; Designation of Series 2016 Bonds.

Pursuant to the provisions of the Bond Ordinance, ~~a~~one or more Series of Bonds of the City entitled to the benefits, protection, and security of the provisions of the Bond Ordinance is hereby authorized in the aggregate principal amount of not exceeding fifteen million dollars (\$15,000,000); such Bonds so authorized shall be designated the “City of Cayce Water and Sewer System Revenue Refunding Bonds, Series 2016” (the “*Series 2016 Bonds*”). As determined by the Authorized Officer, the Series 2016 Bonds may be sold in multiple series bearing any such designation as appropriate. References herein to the Series 2016 Bonds shall include all Series of Bonds. As authorized by Section 4.18 of the Bond Ordinance, any series of the Series 2016 Bonds issued as taxable obligations shall bear an appropriate designation so as to distinguish its tax status.

### Section 4.02 Purposes of the Series 2016 Bonds.

The Series 2016 Bonds are authorized for the principal purposes of:

- (1) providing for the advance refunding of all of the Refunded Bonds;
- (2) funding the 2016 Debt Service Reserve Fund, if any, in an amount equal to the 2016 Reserve Requirement, or for paying the premium associated with the issuance of a credit instrument, which, in lieu of cash, shall satisfy the 2016 Reserve Requirement for the 2016 Debt Service Reserve Fund; and
- (3) paying certain costs and expenses relating to the issuance of the Series 2016 Bonds, including the payment of any premium due on any Municipal Bond Insurance Policy.

### Section 4.03 Date of Issue; Interest Rates; Maturity; Redemption.

The Date of Issue of the Series 2016 Bonds shall be the date of delivery thereof, or such date as designated by the Authorized Officer. The Series 2016 Bonds shall have such principal amounts and shall bear interest at such rates and shall mature as Serial Bonds or as Term Bonds with such mandatory sinking fund installments as are set forth in a schedule approved by the Authorized Officer prior to or simultaneously with the issuance of the Series 2016 Bonds, provided that the final maturity of the Series 2016 Bonds shall not extend beyond 45 years from the Date of Issue.

Interest on the Series 2016 Bonds shall be payable on such dates as determined by the Authorized Officer. The Record Dates for the payment of interest on the Series 2016 Bonds shall be the 15th day of the month prior to each interest payment date.

The Series 2016 Bonds shall be subject to redemption prior to maturity, upon such terms and conditions, and at such prices, as may be established by the Authorized Officer prior to or simultaneously with the issuance of the Series 2016 Bonds.

Section 4.04 Authentication; Payment of Series 2016 Bonds.

(a) Each of the Series 2016 Bonds shall be authenticated on such dates as they shall, in each case, be delivered. Each Series 2016 Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Series 2016 Bond's authentication.

(b) The interest on all Series 2016 Bonds shall be paid by check or draft mailed from the office of the Trustee to the person in whose name each Series 2016 Bond is registered at the close of business on the Record Date; provided, however, that any Holder of Series 2016 Bonds in the aggregate principal amount of \$1,000,000 or more may request (in writing, delivered to the paying agent), prior to the applicable Record Date, that interest payments be made by wire transfer to such Holder at an account maintained by a financial institution located in the continental United States specified in such request.

Section 4.05 Denomination and Numbering of the Series 2016 Bonds.

The Series 2016 Bonds shall be issued in denominations of \$5,000 or any multiple thereof, not exceeding the principal amount of the Series 2016 Bonds maturing in such year. Each Series 2016 Bond shall be numbered by the Trustee in such a fashion as to reflect the fact that it is one of the Series 2016 Bonds, and to identify the owner thereof on the books kept by the Registrar.

Section 4.06 Establishment of 2016 Debt Service ~~Fund~~Account.

In accordance with Section 7.04 of the Bond Ordinance, the 2016 Debt Service ~~Fund~~Account is hereby directed to be established by the Trustee on the date of original delivery of the Series 2016 Bonds for the benefit of the Holders of the Series 2016 Bonds. [In the event that more than one Series of Bonds is issued pursuant to the terms of this 2016 Series Ordinance, a Debt Service Account shall be established for each such Series.](#)

Section 4.07 2016 Debt Service Reserve Fund.

In accordance with Section 7.05 of the Bond Ordinance and the terms of this 2016 Series Ordinance, if an Authorized Officer determines that the 2016 Debt Service Reserve Fund is necessary and desirable, he shall direct the Trustee to establish such 2016 Debt Service Reserve Fund. If established, the 2016 Debt Service Reserve Fund shall be maintained by the Trustee in accordance with the provisions of the Bond Ordinance in an amount equal to the 2016 Reserve Requirement, as may be determined in accordance with Section 4.11 hereof. The 2016 Debt Service Reserve Fund, if established, may be funded by cash or another method permitted by Section 7.05(D) of the Bond Ordinance, such method of funding to be determined by an Authorized Officer.

Section 4.08 Appointment of Trustee, Paying Agent and Registrar.

The Trustee is hereby appointed to act as Trustee, Paying Agent, and Registrar under the Bond Ordinance and this 2016 Series Ordinance. The Trustee shall signify its acceptance of the

duties of Trustee, Paying Agent and Registrar upon delivery of the Series 2016 Bonds. The City shall pay to the Trustee from time to time reasonable compensation based on the then-standard fee schedule of such parties for all services rendered under the Bond Ordinance and this 2016 Series Ordinance, and also all reasonable expenses, charges, counsel fees, and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the performance of their powers and duties under the Bond Ordinance and this 2016 Series Ordinance.

The Series 2016 Bonds shall be presented for registration of transfers and exchanges, and notices and demands to or upon the Trustee and the City in respect of the Series 2016 Bonds may be served, at the corporate trust office of the Trustee.

The Trustee shall be a member of the Federal Deposit Insurance Corporation (the “*FDIC*”) and shall remain such a member throughout the period during which it shall act as Trustee, Paying Agent, and Registrar. The Trustee, in its capacity as Trustee, Paying Agent, and Registrar, shall accept its appointment by a written instrument embodying its agreement to remain a member of the FDIC. Unless the same be secured as trust funds in the manner provided by the applicable regulations of the Comptroller of the Currency of the United States of America, and unless otherwise provided for in the Bond Ordinance and in this 2016 Series Ordinance, all moneys in the custody of the Trustee in excess of the amount of such deposit insured by the FDIC, shall be secured by Government Obligations at least equal to the sum on deposit and not insured by the FDIC.

#### Section 4.09 Form of Series 2016 Bonds.

The Series 2016 Bonds, together with the certificate of authentication, certificate of assignment and/or statement of insurance, if any, are to be in substantially the following form with necessary and appropriate variations, omissions and insertions as permitted or required by the Bond Ordinance or this 2016 Series Ordinance, to wit:

(FORM OF BOND)

**CITY OF CAYCE  
STATE OF SOUTH CAROLINA  
WATER AND SEWER SYSTEM  
REFUNDING REVENUE BOND  
SERIES 2016\_\_**

No. \_\_\_\_\_

Interest Rate

Maturity Date

Date of Issue

CUSIP

Registered Holder:

Principal Amount: DOLLARS (\$\_\_\_\_\_)

**THE CITY OF CAYCE, SOUTH CAROLINA** (the “*City*”), acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount set forth above on the Maturity Date stated above, unless this Series 2016\_\_ Bond (this “*Series 2016 Bond*”) be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, at the corporate trust office of U.S. Bank National Association. (the “*Trustee*”) in the City of Columbia, State of South Carolina, and to pay interest on such principal amount at the annual Interest Rate stated above (calculated on the basis of a 360-day year of twelve (12) 30-day months) until the obligation of the City with respect to the payment of such principal amount shall be discharged.

This Series 2016 Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Trustee, as Registrar.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances (as such term is defined below). Certified copies of the Ordinances are on file in the office of the Trustee and in the offices of the Clerk of Court for Lexington County, South Carolina.

This Series 2016 Bond is one of the Series 2016 Bonds issued in the aggregate principal amount of not exceeding \_\_\_\_\_ Dollars (\$\_\_\_\_\_) of like tenor, except as to number, rate of interest, date of maturity and redemption provisions issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the "**State**") including particularly Chapter 17, Title 6 and Chapter 21, Title 11, inclusive, Code of Laws of South Carolina, 1976, as amended (the "**South Carolina Code**"), and by an ordinance entitled, "A MASTER BOND ORDINANCE COLLAPSING AND TERMINATING AN AMENDED AND RESTATED INDENTURE AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF CAYCE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO," enacted by the City Council of the City of Cayce (the "**City Council**"), the governing body of the City, on February 2, 2016 (the "**Bond Ordinance**"), and a series ordinance entitled, "AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER SYSTEM REFUNDING REVENUE BONDS, TO BE DESIGNATED SERIES 2016, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING FIFTEEN MILLION DOLLARS (\$15,000,000), OF THE CITY OF CAYCE, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO" (the "**2016 Series Ordinance**") duly enacted by the City Council on February 2, 2016 (the Bond Ordinance and the 2016 Series Ordinance are hereinafter together referred to as the "**Ordinances**").

This Bond is being issued to: (1) provide for the advance refunding of all of the Refunded Bonds (as defined in the 2016 Series Ordinance); (2) fund, if necessary, the 2016 Debt Service Reserve Fund (as defined in the 2016 Series Ordinance) with cash, or to pay the premium associated with the issuance of a liquidity facility for the 2016 Debt Service Reserve Fund; and (3) pay the costs of issuance of this Bond, including the payment of any premium due on any financial guaranty insurance policy.

The Date of Issue of the Series 2016 Bonds is set forth on the face hereof. The Series 2016 Bonds shall be authenticated on such dates as they shall, in each case, be delivered. Each Series 2016 Bond shall bear interest from the Date of Issue if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Series 2016 Bond's authentication. Interest on this Series 2016 Bond is payable on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year beginning \_\_\_\_\_, 20\_\_\_. The interest so payable on any \_\_\_\_\_ 1 or \_\_\_\_\_ 1 will be paid to the person in whose name this Series 2016 Bond is registered at the close of business on the \_\_\_\_\_ 15 or \_\_\_\_\_ 15 immediately preceding such \_\_\_\_\_ 1 or \_\_\_\_\_ 1 (the "**Record Date**").

Interest hereon shall be payable by check or draft mailed at the times provided herein from the office of the Paying Agent to the person in whose name this Series 2016 Bond is registered on the Record Date at the address shown on the registration books; provided, however, that any Holder of Series 2016 Bonds in the aggregate principal amount of \$1,000,000 or more may request in writing delivered to the Paying Agent, prior to the applicable Record Date, that interest payments be made by wire transfer to such Holder at an account maintained by a financial institution located in the continental United States specified in such request. The principal of, redemption premium, if any, and interest on this Series 2016 Bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Series 2016 Bond is being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinances. One bond certificate with respect to each date on which the Series 2016 Bonds are stated to mature is being issued and is required to be deposited with the Securities Depository (as defined in the Bond Ordinance) and immobilized in its custody. The book-entry system will evidence positions held in this Series 2016 Bond by the Securities Depository's participants (as described in the Series Ordinance), beneficial ownership of the Series 2016 Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants.

For the payment of the principal of and interest on this Series 2016 Bond issued pursuant to the Bond Ordinance, there are hereby irrevocably pledged the Net Revenues. Such pledge securing the Series 2016 Bonds shall have priority over all other pledges except those made to secure any Bonds (as defined hereinbelow) as may be currently outstanding or issued from time to time in the future.

**THIS SERIES 2016 BOND SHALL NOT IN ANY EVENT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR STATUTES OF THE STATE, OTHER THAN THOSE PROVISIONS AUTHORIZING INDEBTEDNESS PAYABLE SOLELY FROM A REVENUE-PRODUCING PROJECT NOT INVOLVING REVENUES FROM ANY TAX OR LICENSE; AND THE FAITH, CREDIT AND TAXING POWER OF THE CITY ARE EXPRESSLY NOT PLEDGED THEREFOR. THE CITY IS NOT OBLIGATED TO PAY THIS SERIES 2016 BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM THE NET REVENUES.**

The Bond Ordinance authorizes the issuance of additional bonds on a parity with the Series 2016 Bonds and any outstanding parity bonds which, when issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity herewith and therewith ("*Additional Bonds*" and together with the Series 2016 Bonds and any parity bonds, collectively the "*Bonds*").

The City has covenanted to continuously operate and maintain the System and fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient (a) to provide for the payment of Operation and Maintenance Expenses, (b) to maintain the Debt Service ~~Funds~~Fund and thus provide for the punctual payment of the principal of and interest on all Bonds, (c) to maintain the Debt Service Reserve Funds, if any, in the manner prescribed in the Bond Ordinance, (d) to pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(d) of the Bond Ordinance, (e) to provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be outstanding, (f) to build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to

maintain the same in good repair and working order and (g) to discharge all obligations imposed by the Enabling Act and by the Bond Ordinance and any applicable Series Ordinance.

The Bond Ordinance provides that, in addition to other remedies, upon a default in payment of principal of or interest on any Bond, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding shall, declare all Bonds Outstanding immediately due and payable.

This Series 2016 Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer and certain franchise taxes.

This Series 2016 Bond is transferable, as provided in the Bond Ordinance, only upon the registration books of the City kept for that purpose and maintained by the Registrar, by the holder hereof in person or by his duly authorized attorney, upon (a) surrender of this Series 2016 Bond and an assignment with a written instrument of transfer satisfactory to the Trustee or any other Registrar, as the case may be, duly executed by the Holder hereof or his duly authorized attorney and (b) payment of the charges, if any, prescribed in the Ordinances. Thereupon a new Series 2016 Bond or Series 2016 Bonds of the same aggregate principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City, the Trustee and the Registrar may deem and treat the person in whose name this Series 2016 Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of the Series 2016 Bonds, the City or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

[Insert Redemption Provisions]

If less than all of the Series 2016 Bonds are to be redeemed, the particular Series 2016 Bonds or portions of Series 2016 Bonds to be redeemed shall be selected in such order of maturity as determined by the City. In the event of redemption of less than all of the Series 2016 Bonds of any maturity, the Series 2016 Bonds or portions of Bonds to be redeemed shall be selected by the Trustee by lot. Series 2016 Bonds in a denomination of more than \$5,000 may be redeemed in part from time to time in one or more units of \$5,000 in the manner provided in the Bond Ordinance.

If any of the Series 2016 Bonds, or portions thereof, are called for redemption, the Trustee will give notice to the Holders of any such Series 2016 Bonds to be redeemed, in the name of the City, of the redemption of such Series 2016 Bonds, or portions thereof. Notice and redemption conditions shall otherwise comply with Section 4.13 of the Bond Ordinance.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Series 2016 Bond, exist, have been performed and have happened, that the amount of this Series 2016 Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such Constitution or statutes.

**IN WITNESS WHEREOF, THE CITY OF CAYCE, SOUTH CAROLINA**, has caused this Series 2016 Bond to be signed by the signature of the Mayor of the City, its corporate seal to be reproduced hereon and the same to be attested by the signature of the City Clerk.

**CITY OF CAYCE, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This Series 2016 Bond is one of the Series 2016 Bonds of the issue described in the within mentioned Ordinances.

U.S. BANK NATIONAL ASSOCIATION, as Registrar

By: \_\_\_\_\_  
Authorized Officer

Date: \_\_\_\_\_, 2016

**(FORM OF ASSIGNMENT)**

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

---

(please print or type name and address of Transferee and Social Security or other identifying number of Transferee)

the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_  
(Signature Guaranty)

\_\_\_\_\_  
Authorized Individual or Officer

NOTICE: Signature(s) to the assignment must correspond with the name of the registered owner as it appears upon the face of the within bond in every particular, without alteration or any change whatever.

Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program ("STAMP") or similar program enlargement.

**(STATEMENT OF INSURANCE)**

\_\_\_\_\_ has delivered its municipal bond insurance policy with respect to the scheduled payments due of principal of and interest on this Series 2016 Bond to \_\_\_\_\_, or its successor, as paying agent for the Bonds. Such policy is on file and available for inspection at the offices of the paying agent and a copy thereof may be obtained therefrom.

#### Section 4.10 Book-Entry System.

Pursuant to Section 4.20 of the Bond Ordinance, the Series 2016 Bonds will be eligible securities for the purposes of the Book-Entry System of transfer maintained by The Depository Trust Company, New York, New York (“**DTC**”), and transfers of beneficial ownership of the Series 2016 Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of a \$5,000 principal amount of the Series 2016 Bonds of the same maturity or any integral multiple of \$5,000, with each increment of \$5,000 being separately of a single maturity.

The Series 2016 Bonds shall be issued in fully registered form, one certificate for each of the maturities of the Series 2016 Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of, premium, if any, or interest on the Series 2016 Bonds becomes due, the Trustee, from available monies on deposit for such purposes under the provisions of the Master Bond Ordinance, shall transmit or cause the Paying Agent to transmit to DTC an amount equal to such installment of principal, premium, if any, and interest. Such payments will be made to Cede & Co. or other nominee of DTC as long as it is owner of record on the applicable Record Date. Cede & Co. or other nominee of DTC shall be considered to be the owner of the Series 2016 Bonds so registered for all purposes of this 2016 Series Ordinance, including, without limitation, payments as aforesaid and receipt of notices and exercise of rights of beneficial owners of Series 2016 Bonds.

The Trustee shall notify DTC of any notice of redemption required to be given pursuant to this 2016 Series Ordinance at least thirty (30) days prior to the date fixed for redemption.

DTC is expected to maintain records of the positions of participants in the Series 2016 Bonds, and the participants and persons acting through participants are expected to maintain records of the beneficial owners in the Series 2016 Bonds. The City makes no assurances that DTC and its participants will act in accordance with such rules or expectations on a timely basis, and the City shall have no responsibility for any such maintenance of records of transfer or payments by DTC to its participants, or by the participants or persons acting through participants to the beneficial owners.

If (a) DTC determines not to continue to act as securities depository for the Series 2016 Bonds, or (b) the City has advised DTC of the City’s determination that DTC is incapable of discharging its duties, the City shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the City of the Series 2016 Bonds together with an assignment duly executed by DTC, the City shall execute and deliver to the successor depository, Series 2016 Bonds of the same principal amount, interest rate and maturity.

If the City is unable to retain a qualified successor to DTC or the City has determined that it is in the best interest of the City and the System not to continue the Book-Entry System of transfer or that the interest of the beneficial owners of the Series 2016 Bonds might be adversely affected if the Book-Entry System of transfer is continued (the City undertakes no obligation to make any investigation to determine the occurrence of any events that would permit them to make any such determination), and has made provision to so notify beneficial owners of the Series 2016 Bonds by mailing an appropriate notice to DTC, upon receipt by the City of the Series 2016 Bonds

together with an assignment duly executed by DTC, the City shall execute physical certificates for, and cause to be authenticated and delivered pursuant to the instructions of DTC, the Series 2016 Bonds in fully registered form, in substantially the form set forth in this 2016 Series Ordinance, in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding any other provisions of the Bond Ordinance to the contrary, so long as any Series 2016 Bond is registered in the name of Cede & Co., all payments with respect to the principal of, premium, if any, and interest on such Series 2016 Bonds and all notices with respect to such Series 2016 Bonds shall be made and given, respectively, to DTC, as provided in the letter of representations from the City to DTC.

In connection with any notice or other communication to be provided to the Holders by the City or the Trustee with respect to any consent or other action to be taken by the Holders, the City or the Trustee, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository notice of such record date not less than fifteen (15) days in advance of such record date to the extent possible.

#### Section 4.11 Delegations to Authorized Officer.

The City Council hereby delegates to the Authorized Officer the authority: (a) to determine the aggregate principal amount of the Series 2016 Bonds to be issued, and the interest rates, initial interest payment date, maturities and redemptions provisions with respect thereto; (b) to determine the Date of Issue of the Series 2016 Bonds; (c) to determine whether to use bond insurance with respect to the Series 2016 Bonds and, if so, make appropriate arrangements therefor, including the execution of any documentation associated therewith; (d) to determine the amount of the 2016 Reserve Requirement and the method of funding the 2016 Debt Service Reserve Fund, if any; (e) to determine whether to purchase a credit instrument to fund the 2016 Debt Service Reserve Fund in lieu of cash; (f) to determine whether to issue multiple series of Bonds; (g) to determine the redemption provisions for the Series 2016 Bonds; and (h) to make any such other decisions concerning the Series 2016 Bonds as may be necessary, appropriate or otherwise delegated herein.

The Authorized Officer is further directed to consult with the City's financial advisor and such other advisors as he determines to be appropriate in making any such decisions.

[End of Article IV]

## **ARTICLE V - EXECUTION; NO RECOURSE**

### Section 5.01 Execution of the Series 2016 Bonds.

The Series 2016 Bonds shall be executed and authenticated in accordance with the applicable provisions of the Bond Ordinance.

### Section 5.02 No Recourse on the Series 2016 Bonds.

All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this 2016 Series Ordinance shall be deemed to be the covenants, stipulation, promises, agreements and obligations of the City and not those of any officer or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series 2016 Bonds or for any claim based thereon or on the Bond Ordinance or on this 2016 Series Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Series 2016 Bonds.

[End of Article V]

## ARTICLE VI - APPLICATION OF BOND PROCEEDS

### Section 6.01 Use and Disposition of Bond Proceeds.

Upon the delivery of the Series 2016 Bonds and receipt of the proceeds thereof, net of underwriter's discount or premium, such funds shall be disposed of as follows:

(1) the sum necessary to refund the Refunded Bonds shall be distributed by the City to the Trustee for the 2007 Bonds, for ultimate distribution to the holders of the 2007 Bonds, in accordance with the terms and conditions of an escrow deposit agreement dated as of the date of closing of the Series 2016 Bonds (the "*Escrow Deposit Agreement*");

(2) if the Authorized Officer determines to fund the 2016 Debt Service Reserve Fund: (A) the sum equal to the 2016 Reserve Requirement shall be deposited into the 2016 Debt Service Reserve Fund held with the Trustee; or in the alternative, (B) an amount equal to the premium or fees due on any credit instrument, which in lieu of cash shall be issued in an amount equal to the 2016 Reserve Requirement for the 2016 Debt Service Reserve Fund shall be transferred to the provider thereof; and

(3) the sum necessary to pay costs of issuance shall be deposited with the Trustee in the 2016 Cost of Issuance Fund (the "*2016 COI Fund*") and used to pay the costs of issuance on the Series 2016 Bonds, including the costs of any Municipal Bond Insurance Policy.

### Section 6.02 Establishment of 2016 COI Fund.

There is hereby established, in accordance with Section 4.01 of the Bond Ordinance, the 2016 COI Fund. There shall be paid into the 2016 COI Fund the sums prescribed by Section 6.01(3) hereof. The 2016 COI Fund shall be held and controlled by the Trustee, unless otherwise determined by the Authorized Officer at the closing of the Series 2016 Bonds. Withdrawals for the payment of costs of issuance from the 2016 COI Fund shall be made upon written order of the City. The Trustee shall be fully protected in releasing monies from the 2016 COI Fund based upon such written orders of the City.

Subject to Section 15.16 of the Bond Ordinance, moneys in the 2016 COI Fund shall be invested and reinvested at the written direction of the City in Authorized Investments. Upon written notification from the City that the payment of all costs of issuance for the Series 2016 Bonds have been paid, the remaining sums therein shall be transferred by the Trustee and applied to the 2016 Debt Service ~~Fund~~[Account](#).

[End of Article VI]

## **ARTICLE VII - SALE OF BONDS**

### Section 7.01 Approval of Underwriter and Execution of Bond Purchase Agreement.

The Series 2016 Bonds shall be sold to the Underwriter pursuant to the terms of the Bond Purchase Agreement to be negotiated by and between the City (acting through the Authorized Officer) and the Underwriter. The Bond Purchase Agreement shall be executed on behalf of the City by the official(s) designated therein and with such changes as such official(s) shall approve. The execution of the Bond Purchase Agreement by such official(s) shall constitute conclusive evidence of their approval to any changes herein authorized and the selection of the Underwriter.

In the event the Series 2016 Bonds are sold in a private placement, no Bond Purchase Agreement shall be required.

### Section 7.02 Approval of Preliminary and Final Official Statement.

The Preliminary Official Statement, in the form presented to City Council prior to the enactment of this 2016 Series Ordinance, with such changes as an Authorized Officer may approve prior to the distribution thereof, is hereby approved and its use by the Underwriter is hereby approved and ratified. Such Preliminary Official Statement is hereby “deemed final” within the meaning of Rule 15c2-12 of the rules and regulations of the United States Securities and Exchange Commission. The preparation and distribution by the Underwriter of a final Official Statement for such purposes, dated the date of the Bond Purchase Agreement, in substantially the form of the Preliminary Official Statement, with such changes as contemplated by the Bond Purchase Agreement and as may be approved by the officials of the City executing the final Official Statement, is hereby approved and authorized. The execution of the final Official Statement by such officials shall constitute conclusive evidence of their approval to any changes herein authorized.

In the event the Series 2016 Bonds are sold in a private placement, no Preliminary Official Statement or final Official Statement shall be disseminated.

[End of Article VII]

## **ARTICLE VIII - COMPLIANCE WITH REQUIREMENTS OF THE CODE**

### **Section 8.01 General Covenant.**

The City hereby represents and covenants that it will comply with all requirements of the Code, and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Series 2016 Bonds to become includable in the gross income of the Holders thereof for federal income tax purposes. Without limiting the generality of the foregoing, the City represents and covenants that:

(a) All property financed or refinanced with the net proceeds of the Series 2016 Bonds will be owned by the City for federal income tax purposes.

(b) The City shall not permit the proceeds of the Series 2016 Bonds or any property financed or refinanced with the proceeds of the Series 2016 Bonds to be used such that (i) five percent (5%) or more of such proceeds are considered as having been used in a Private Business Use; or (ii) an amount greater than the lesser of five percent (5%) of such proceeds or \$5,000,000 are considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(c) The City is not a party to and will not enter into or permit any other party to enter into, any contracts with any entity involving the management of any property provided with the proceeds of the Series 2016 Bonds that do not conform to the guidelines set forth in Revenue Procedure 97-13, as amended by Revenue Procedure 2001-39, or a successor revenue procedure, Code provision or Federal Income Tax Regulation.

(d) The City will not sell or lease or permit any other party to sell or lease, any property financed or refinanced with the proceeds of the Series 2016 Bonds to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption of the Series 2016 Bonds.

(e) The Series 2016 Bonds will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. The City shall not enter into any leases or sales or service contracts with any federal government agency unless it obtains the opinion of nationally recognized bond counsel that such action will not adversely affect the tax exemption of the Series 2016 Bonds.

### **Section 8.02 Arbitrage Covenant; Authorization to Execute Tax Compliance Agreement and Arbitrage Certificates.**

(a) The City hereby covenants that no use of the proceeds of the Series 2016 Bonds will be made which, if such use had been reasonably expected on the date of issue of the Series 2016 Bonds, would have caused the Series 2016 Bonds to be an issue of “arbitrage bonds,” as defined in the Code, and that it will comply with the requirements of Section 148 of the Code and Regulations with respect to the Series 2016 Bonds.

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

(c) Supplemental to the covenants of Section 8.01 hereof and in no way in limitation thereof, the Authorized Officer of the City is hereby authorized and directed to execute, at or prior to delivery of the Series 2016 Bonds, a certificate or certificates specifying actions taken or to be taken by the City, and the reasonable expectations of such officials, with respect to the Series 2016 Bonds, the proceeds thereof or the System.

Section 8.03. Qualified Tax-Exempt Obligation.

To the extent the City has not issued and does not intend to issue tax-exempt obligations in calendar year 2016, which together with the Series 2016 Bond do not add up to more than \$10,000,000 in the aggregate, the Series 2016 Bond is hereby accordingly designated a “qualified tax-exempt obligation” in accordance with Section 265(b)(3) of the Code.

[End of Article VIII]

## **ARTICLE IX – CONTINUING DISCLOSURE**

### Section 9.01 State Law Continuing Disclosure.

The City covenants to comply with the requirements of S.C. Code Section 11-1-85 by filing with a central repository for availability in the secondary bond market when requested:

- (i) An annual independent audit, within thirty (30) days of the City’s receipt of the audit; and
- (ii) Event specific information within thirty (30) days of an event adversely affecting more than five percent (5%) of the Gross Revenues or the City’s tax base.

The City specifically reserves the right to amend the above covenant in order to reflect any applicable change in law, including without limitation said Section 11-1-85, without the consent of the Insurer, the Trustee or the Holders of any Series 2016 Bonds.

### Section 9.02 Rule 15c2-12 Undertaking.

The Mayor of the City and/or the Authorized Officer is hereby authorized to execute and deliver on behalf of the City the Continuing Disclosure Agreement in a form similar to that presented to City Council prior to the enactment of this 2016 Series Ordinance, with such changes thereto as such official(s) shall approve. The City hereby covenants and agrees to comply with and carry out its obligations pursuant to said Continuing Disclosure Agreement. Additionally, the Authorized Officer is authorized to contract with DAC Bond for certain dissemination services associated with the execution and delivery of the Continuing Disclosure Agreement.

In the event the Series 2016 Bonds are sold in a private placement, no Continuing Disclosure Agreement shall be required.

### Section 9.03 Remedy.

The only remedy for failure by the City to comply with the covenants set forth in Sections 9.01 and 9.02 hereof shall be an action for specific performance of such covenants; and failure to comply with such covenants shall not constitute a default or an “Event of Default” under the Bond Ordinance or this 2016 Series Ordinance. The Trustee shall have no responsibility to monitor the City’s compliance with such covenants. However, any holder of the Series 2016 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Article.

[End of Article IX]

**ARTICLE X - AUTHORIZATION TO REDEEM BONDS AND  
EXECUTE ESCROW DEPOSIT AGREEMENT**

Section 10.01. Authorization to Redeem Bonds.

The City Council does hereby determine that the 2007 Bonds to be redeemed by the Series 2016 Bonds shall be irrevocably called for redemption on such dates as determined by the Authorized Officer. The Authorized Officer is hereby authorized to (i) determine and select which maturities of the 2007 Bonds are to be refunded with a portion of the proceeds of the Series 2016 Bonds, and (ii) provide for the notice of defeasance and notice of redemption, in such manner, forms and times as required by the proceedings authorizing the issuance of the 2007 Bonds and the Enabling Act.

Section 10.02. Authorization to Execute Escrow Deposit ~~Agreement~~Agreements.

The Authorized Officer is authorized to execute and deliver ~~the~~one or more Escrow Deposit ~~Agreement~~Agreements in such ~~form~~form(s) as he deems necessary in order to establish an escrow deposit ~~aeccount~~account(s). The Authorized Officer is further authorized to determine the type of investments that shall be made in ~~the~~each Escrow Deposit Agreement and to select the escrow agent.

[End of Article X]

## **ARTICLE XI – MISCELLANEOUS**

### Section 11.01 Severability.

If any one or more of the covenants or agreements provided in this 2016 Series Ordinance on the part of the City or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this 2016 Series Ordinance.

### Section 11.02 Additional Documents.

The City Council authorizes the Authorized Officer to execute and sign all other documents necessary to effect the purchase and sale of the Series 2016 Bonds.

### Section 11.03 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the headings of the several articles and sections of this 2016 Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this 2016 Series Ordinance.

[End of Article XI]

~~DONE, RATIFIED AND ENACTED~~ IN MEETING DULY ASSEMBLED, this 2<sup>nd</sup> day of February, 2016.

**CITY OF CAYCE, SOUTH CAROLINA**

(SEAL)

By: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
City Clerk

First Reading:        January 5, 2016  
Second Reading:     February 2, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )

I, the undersigned City Clerk of the City Council of the City of Cayce (the “*City Council*”), the governing body of the City of Cayce, South Carolina (the “*City*”), DO HEREBY CERTIFY THAT:

The foregoing constitutes a true, correct and verbatim copy of an ordinance enacted by the City Council on February 2, 2016 (the “*Ordinance*”). The Ordinance was read at a public meeting of the City Council. At that meeting, a quorum of the City Council was present and remained present throughout the meeting.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City, this \_\_\_\_\_ day of February, 2016.

(SEAL)

\_\_\_\_\_  
City Clerk

<b>Summary report:</b>	
<b>Litéra® Change-Pro TDC 7.5.0.112 Document comparison done on 1/15/2016 11:53:56 AM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original DMS:</b> nd://4846-9582-0844/3/2016 Series Ordinance.doc	
<b>Modified filename:</b> 2016 Series Ordinance(1).doc	
<b>Changes:</b>	
<a href="#">Add</a>	27
<del>Delete</del>	19
<del>Move From</del>	0
<a href="#">Move To</a>	0
<a href="#">Table Insert</a>	0
<del>Table Delete</del>	0
<a href="#">Table moves to</a>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>46</b>

STATE OF SOUTH CAROLINA	)	RESOLUTION
	)	
COUNTY OF LEXINGTON	)	AUTHORIZING THE IMPOSITION OF
	)	FINANCIAL POLICIES FOR THE
CITY OF CAYCE	)	WATERWORKS AND SEWER SYSTEM OF
	)	THE CITY OF CAYCE, SOUTH CAROLINA;
	)	AND OTHER MATTERS RELATING
	)	THERE TO

**WHEREAS**, the City of Cayce, South Carolina (the “*City*”) is a municipal corporation organized and existing under South Carolina; and

**WHEREAS**, pursuant to the provisions of Section 5-7-30 of the Code of Laws of South Carolina, 1976, as amended, the City is authorized to “enact regulations;” and

**WHEREAS**, the City intends to certain financial regulations for its waterworks and sewer system (the “*System*”), which is operated as an enterprise of the City; and

**WHEREAS**, finance policies have been developed to provide long-term guidance to the City with respect to its capital plans, budgeting, investments, debt management, transfers and tax and disclosure compliance.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Cayce, in Council duly assembled, as follows:

**Recitals.** Each finding or statement of fact set forth in the recitals hereto has been examined and has been found to be in all respects true and correct.

1. **Implementation.** The City shall implement the financial policies in the form attached hereto as **Exhibit A**. The financial policies shall govern the financial operations of System. Such policies shall take effect as of the passage of this Resolution.

2. **Modification.** Any modification to the financial policies shall be undertaken by and through subsequent amendatory actions of the Council.

ADOPTED this \_\_\_\_\_ day of February 2016.

\_\_\_\_\_  
Elise Partin, Mayor

ATTEST:

\_\_\_\_\_  
Mendy Corder, Municipal Clerk

Approved as to form: \_\_\_\_\_  
Danny C. Crowe, City Attorney

**Financial Policies of the  
Waterworks and Sewer System  
for  
City of Cayce, South Carolina**

The City of Cayce, South Carolina, (the “City”) has developed and adopted a set of financial policies for its Waterworks and Sewer System (the “System”). Financial policies are an integral part of the City’s capital planning, budgeting, debt management (including tax and disclosure compliance) and contingency planning practices. They are intended to provide and ratify certain decision-making authorization and ensure the City’s ongoing financial stability.

All words set out in initial capitals and not otherwise defined herein shall have the meaning ascribed thereto in the Glossary of Terms.

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## **Section 1: Revenue**

### **(A) Administration of Revenue**

#### **Policy:**

The City maintains and administers the System to assure a reliable, equitable and sufficient revenue stream to support the City's activities and services.

#### **Scope:**

Since the principal Revenue stream for the System is composed of the rates, fees and charges established by the Council, it is important that the Council adopt policies that identify the manner in which rates, fees and charges are set and the extent to which they cover the cost of the service provided. A system that requires the identification of both the cost of the programs and the portions of the cost that will be recovered through those Revenues allows the City and its customers to better understand the cost of services and the appropriateness of established rates, fees and charges as implemented.

#### **Guidelines:**

In accordance with the City Code, SC Code and the Bond Ordinance, the City has established the following goals that are used to accomplish this policy:

1. The City will seek to establish all user rates, fees and charges at levels related to the costs (operating, direct, indirect and capital) of providing its services. The City will review these rates, fees and charges annually in the budget process and target amounts that are expected to produce revenues sufficient to fully fund the costs of providing potable water and wastewater services.
2. As necessary, the City will review its rate structure with an independent consultant that is skilled in the development of utility rates. Fees, as necessary, (water and sewer fees, capacity fees, tap fees, etc.) may also be reviewed by the independent consultant.

### **(B) One-Time Revenues**

#### **Policy:**

One time Revenues shall not be relied upon for sustained operations.

#### **Scope:**

One time or special Revenues shall not be used to finance ongoing operations but rather shall be used for the funding of special Capital Projects and one-time expenses.

#### **Guidelines:**

It is anticipated that one-time Revenues may not reoccur in future budget periods. Since the use of one-time Revenues for recurring expenses can have disruptive effects on future services, the City will designate one-time Revenues (e.g. infrequent sales of assets, savings from refunding indebtedness, infrequent Revenues from development, and grants) to be used to fund non-recurring expenditures such as appropriate startup costs, establishing restricted use funds, funding special projects, and defraying the costs of capital purchases. Non-recurring expenditures that, once complete, will add to the ongoing expenditure base are discouraged (e.g., capital expenditures that significantly increase ongoing operating expenses without a sustainable and offsetting long-term revenue plan).

## **Section 2: Adoption of Balanced Budget**

### **(A) Balanced Budget**

#### **Policy:**

The City will annually adopt a balanced budget (“Budget”) and provide full disclosure when a deviation from a balanced budget is planned or when it occurs. This balanced budget will ensure that all operating expenses will not exceed operating revenues at adoption and at year-end.

#### **Scope:**

The Budget will cover the twelve-month period beginning July 1 and ending June 30 of the following year. Citizen input into decisions relating to Revenues will be solicited during a public hearing regarding the Budget process and copies of the Budget (the “Budget Document”) will be made available for public review prior to enactment by the Council. The proposed Budget Document is to be presented to the Council for its approval by June 30 of each year.

#### **Guidelines:**

The following guidelines will be used in the preparation of the Budget Document:

##### 1. Staff Actions

The City Manager, Municipal Clerk and Municipal Treasurer are authorized to publish notice of all hearings necessary to implement the Budget or any supplemental budget. On a periodic basis, the City staff shall review the budget to actual activities of the System Enterprise Fund.

##### 2. Revenue Expectations

- Revenues of the System will be estimated based on actual billings and collections during the Fiscal Year in conjunction with cost of service projections (adjusted for any unusual and infrequent events); and
- All other Revenues will be estimated based on actual billings and collections during the last Fiscal Year (adjusted for any unusual and infrequent events).

### 3. Expense Expectations

- Expenses will generally be based on actual expenses during the last Fiscal Year (adjusted for any unusual and infrequent circumstances), an inflation factor and a cost of living factor;
- Labor expenses will primarily be based on the current level of employees with a cost of living increase and an improvement factor based on performance goals to be based annually;
- All other expenses expectations will be based on the expenses for the previous Fiscal Year (adjusted for any extraordinary circumstances and inflation);
- Multi-year operating cost projections shall be prepared and updated each year to identify the impact of current decision making on future resources; and
- Expenses associated with the City's then existing Capital Improvement Plan shall be built into expense expectations based on available funds.
- Other factors as dictated by circumstances

### **Section 3: Debt Administration**

#### **(A) Debt Management**

##### **Policy:**

In keeping with the Bond Ordinance, the City's debt shall be maintained to provide sustainable debt levels while providing financial support for capital needs; and the City shall strive for its long-term fiscal health through the development of standards and conditions under which debt may be issued.

##### **Scope:**

The following debt management policies establish the general framework for planning the issuance of debt to finance projects and improvements. Debt decisions shall be the result of deliberative consideration of all appropriate factors.

##### **Guidelines:**

1. Bond issues shall be planned as an integral part of the City's ongoing Capital Improvement Plan to reflect needs of System, general City improvements (in limited circumstances where such improvements benefit the System), and special projects. The City shall demonstrate to the rating agencies, its customers, its bond holders and elected officials, that it is following (updating and modifying, as necessary) a prescribed financial plan.
2. The use of Bond proceeds shall be generally used to defray costs of issuance, capitalized interest, refinancing outstanding indebtedness, and capital improvements (including project planning, design, land acquisition, buildings, permanent structures, attached fixtures and equipment, and major moveable pieces of equipment). If required, Bond proceeds may also be used to establish a Debt Service Reserve Fund or any other Fund permitted by the Bond Ordinance and the SC Code.
3. Debt Service Reserve Funds. In the event the cash or other securities securing a Debt Service Reserve Fund for any of the Bonds is determined to be out of compliance with the covenants in the Bond Ordinance or other authorizing document, the Municipal Treasurer is authorized to take all steps necessary to bring such Debt Service Reserve Fund, for any series of Bonds, back into compliance with the Bond Ordinance and any applicable series ordinance. Without limiting the generality of the foregoing, such authorization specifically includes allowing the City to secure a letter of credit, line of credit, or surety bond from a provider who complies with the rating requirements in the Bond Ordinance.
4. Once established, the City shall seek to maintain or improve, if practicable, its debt rating(s) so that the City's borrowing costs are minimized and credit is preserved. This shall include maintaining certain financial debt ratios at levels acceptable to the rating agencies. The City shall maintain good communications with the rating agencies regarding

its financial condition. The City shall inform those agencies about the City's financial condition and policies, budget, Capital Improvement Plans, and other relevant matters.

5. Debt Service Coverage Ratio: The Debt Service coverage ratio is the ratio of annual Net Earnings (as defined in the Bond Ordinance) to the annual Debt Service requirement. Bond covenants in the Bond Ordinance require that the City maintain and collect rates and charges so that the income therefrom is reasonably expected to yield annual Net Earnings equal to One Hundred Fifteen percent (115%) of the annual Debt Service for all outstanding parity Bonds issued for the System. For purposes herein, it is the goal of the City to achieve the ratio of annual Net Earnings to the annual Debt Service requirement at a minimum of One Hundred Twenty percent (120%).

6. The City will establish an appropriate mix of bonded debt and pay-as-you-go financing in the funding of its Capital Projects.

7. The City shall not use long-term revenue debt financing to support current operating expenditures.

8. Except in extraordinary circumstances, the City will not issue notes to finance operating Deficits.

9. Financing Team. The City often employs outside financial specialists to assist it in developing a Bond issuance strategy, preparing bond documents and marketing Bonds to investors. The key players in the City's financing transactions include its bond counsel ("Bond Counsel"), financial advisor, underwriter(s), accountants and City representatives (the City Manager, the Municipal Treasurer, and other City representatives as may be appointed by Council and/or the City Manager), other outside firms, such as those providing paying agent/registrar, trustee, escrow agent, credit enhancement, auditing, or printing services, are retained as required. The financing team will meet periodically or when necessary to review the overall financing strategy of the City and make recommendations to the City Manager and the Municipal Treasurer.

The City acknowledges its responsibility to meet its continuing disclosure obligations on a timely basis. The City Manager and the Municipal Treasurer shall be authorized to provide any continuing disclosure materials on the City's behalf to the Municipal Securities Rulemaking Board's Electronic Municipal Markets Access (EMMA) system or any other information repository. Continuing disclosure materials include, but are not limited to, audits, annual financial reporting, event notices, voluntary events and third-party information. To the extent the City is not in compliance with its continuing disclosure requirements, it will immediately undertake actions to become compliant.

**(B) Post-Issuance Tax Compliance**

**Policy:**

The purpose of these Post-Issuance Tax Compliance Policies (these “Tax Policies”) is to establish policies in connection with the issuance of tax-exempt Bonds by the City. The goal of these Tax Policies is to maximize the likelihood that all applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Bonds are met. Capitalized terms used in this section for the Tax Policies and not otherwise defined in the body of these financial policies or the glossary herein shall have the meanings set forth in the Internal Revenue Code of 1986, as amended (the “IRC”) and the Treasury Regulations promulgated thereunder (the “Regulations”).

**Scope:**

City intends to comply with the requirements of the IRC, the Regulations, and the SC Code to preserve the tax-exempt status of its Bonds. The City intends to implement the guidelines set forth herein to ensure such compliance. To the extent additional guidelines are required, the Municipal Treasurer will be responsible for development and maintenance of such additional guidelines to ensure and demonstrate such compliance. The City Manager shall, as necessary, designate one or more other individuals to assist the Municipal Treasurer.

The Bonds are not and will not be part of any transaction or any series of transactions that attempts to circumvent the provisions of Section 148 of the IRC and the Regulations, enabling the City to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage and overburdening the tax-exempt bond market. No device will be employed in connection with the issuance of the Bonds in order to gain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

Generally, the City Manager, the Municipal Treasurer, and anyone designated by the City Manager to assist the Municipal Treasurer shall consult with Bond Counsel and other legal counsel and advisors, as needed, throughout the Bond issuance process to identify the use of the proceeds of the Bonds, the expected schedule for the expenditure of such proceeds, the expected compliance, if any, with any exemptions from arbitrage rebate requirements, and all other matters related to the information to be represented or certified by the City in all tax certificates (referred to herein as a “Tax Certificate”), Internal Revenue Service (“IRS”) forms, and/or other documents finalized at or before the issuance of the Bonds.

The City will provide training for the Municipal Treasurer and anyone designated by the City Manager to assist the Municipal Treasurer. Training may be in the form of a conference call with Bond Counsel and/or any other consultants to report on issues and questions that have arisen in connection with these Tax Policies and to receive a report on developments affecting the IRC and Regulations and their enforcement that may be relevant to the development and implementation of these Tax Policies.

The Municipal Treasurer shall provide a copy of these Tax Policies and any amendments or supplements to the auditors of the City and shall instruct such auditors to report to the Municipal Treasurer any matters the auditors believe relevant to the matters addressed herein.

Nothing herein shall require or authorize the Municipal Treasurer or anyone else to consult with any lawyer unless such consultation is protected by the attorney-client privilege.

**Guidelines:**

1. General Recordkeeping - The City will retain sufficient records to support the continued tax-exempt status of any tax-exempt Bonds it issues, including books, records, and other informational documents supporting the Bonds continued compliance with federal tax requirements.

The Municipal Treasurer will maintain all records relating to the requirements of the IRC and the representations, certifications and covenants set forth in any Tax Certificate executed in connection with any series of Bonds until the date three (3) years after the last principal amount of such series of Bonds has been paid.

If any series or a portion of any series of Bonds is refunded by tax-exempt obligations (“Refunding Obligations”), the City will maintain all records required to be retained until the later of the date three (3) years after the last principal amount of such series of Bonds has been paid or the date three (3) years after the last Refunding Obligations have been retired.

For all Bonds, the records that will be retained include, but are not limited to:

- (A) Basic records and documents relating to the Bonds;
- (B) Documentation evidencing expenditure of the proceeds of the Bonds, including, without limitation, construction contracts, purchase orders, invoices, trustee requisitions, engineer’s approval of contractor’s pay request, and payment records, as well as documents relating to costs reimbursed with proceeds of Bonds and record identifying the assets or portion of assets that are financed or refinanced with proceeds of Bonds, including a final allocation of Bond proceeds (*see* section of Tax Policies entitled, “Final Expenditure of Bond Proceeds” herein);
- (C) Documentation sufficient to show that all returns related to Bonds submitted to the IRS are correct;
- (D) Documentation evidencing use of any projects financed with proceeds of the Bonds by public and private sources (i.e., copies of management contracts, output contracts, research agreements, leases, etc.);

(E) Documentation evidencing all sources of payment or security for the Bonds;  
and

(F) Documentation pertaining to any investment of proceeds of the Bonds (including the purchase and sale of securities, State and Local Government Series Securities (“SLGs”) subscriptions, yield calculations for each class of investments, actual investment income received from the investment proceeds, guaranteed investment contracts, and rebate calculations.

2. Investment and Arbitrage Compliance – The City will not take any action or fail to take any required action which will cause Bonds to be “Arbitrage Bonds,” as defined in the IRC, and it will comply with the requirements of Section 148 of the IRC regarding the investment of the Gross Proceeds of the Bonds and the rebate of excess earnings to the United States Government as required under the Regulations throughout the terms of the Bonds.

(A) Investment of Bond Proceeds

The Municipal Treasurer shall oversee the investment of any proceeds of the Bonds in accordance with the directions set forth in the Tax Certificate with consultation and direction from the City Manager. The Municipal Treasurer will consult with its Bond Counsel and financial advisor prior to entering into any guaranteed investment contracts.

(B) Arbitrage

If the proceeds of any issue of Bonds (other than a minor portion and other than proceeds held in a reasonably required reserve fund) are not reasonably expected as of the date of issue to be spent on Capital Projects within a temporary period of three years, the Municipal Treasurer will ensure that the proceeds are not invested at a yield materially higher than the yield on such issue of Bonds.

If the proceeds of any issue of Bonds are expected, as of the date of issue, to be spent on Capital Projects within a three-year temporary period, the proceeds may be invested at an unrestricted yield. The Municipal Treasurer will ensure that such proceeds remaining on hand after the expiration of the three-year period will not be invested at a yield more than .125% (or 1/8th of a percentage point) above the yield of the Bonds.

For each investment acquired with Gross Proceeds of the Bonds or otherwise allocated to the Bonds that was not acquired to carry out the governmental purpose of the Bonds, the Municipal Treasurer shall record its purchase date, its purchase price (reduced by broker or dealer Boards or other administrative expenses, which shall also be stated), its Fair Market Value, accrued interest due on its purchase date, its face amount, its coupon rate, the frequency of its interest payments, its disposition price, accrued interest due on its disposition date, and its disposition date.

(C) Rebate

The Municipal Treasurer shall at least annually consider whether any rebate calculation and/or payment is required. The City will retain the services of a rebate analyst (the “Rebate Analyst”) or other professionals who are necessary, in the judgment of the Municipal Treasurer, to ensure that the requirements of the IRC and Regulations regarding arbitrage rebate are met.

The Municipal Treasurer will ensure that records of investment and expenditure of the proceeds of Bonds are timely delivered to the Rebate Analyst and that the Rebate Analyst prepares annual computation reports which advise the City of any rebatable arbitrage accrued with respect to such Bonds.

The Municipal Treasurer will ensure that the Rebate Analyst timely prepares returns relating to payment of arbitrage rebate (currently on IRS Form 8038-T) and that such forms and any rebatable arbitrage are timely paid to the United States as required under Section 148(f)(4) of the IRC. A rebate installment payment must be paid no later than 60 days after the end of every 5<sup>th</sup> bond year throughout the term of an issue of Bonds. The payment must be equal to at least 90% of the amount due as of the end of that 5<sup>th</sup> bond year. Upon redemption of an issue of Bonds, the City will make a payment of 100% of the amount due no later than 60 days after the discharge date.

(D) Annual Examination and Report

In addition, the Municipal Treasurer shall, if necessary and within 180 days of the end of each Fiscal Year, prepare a written report on matters occurring within such Fiscal Year relevant to these Tax Policies. This report shall in reasonable detail set forth any issues relevant to these Tax Policies that occurred in such Fiscal Year, including calculation and payment of rebate, any defeasance or other payment of Bonds other than in the ordinary course of business and any review of contracts related to the sale, lease or use of Bond-financed property.

(E) Monitoring Reserve Funds

If at any time any trustee or other fiduciary holds a Debt Service Reserve Fund or similar Fund in connection with any Bonds, the Municipal Treasurer shall annually review the status of such Fund, including any investment earnings thereon.

3. Expenditures and Assets - The City will not take any action or fail to take any action which will cause Bonds to be Arbitrage Bonds and it will comply with the requirements of Section 148 of the IRC regarding the expenditure of the Gross Proceeds of the Bonds and the use of assets financed or refinanced with Gross Proceeds of the Bonds as required under the Regulations throughout the term of the Bonds.

(A) Expenditure of Bond Proceeds

The Municipal Treasurer will monitor all expenditures of Bond proceeds (including investment earnings). Within 150 days of the issuance of any Bonds and at least once each six months thereafter until the delivery of the final report described in the subsection entitled “Final Expenditure of Bond Proceeds” hereinbelow, the Municipal Treasurer shall prepare a report on the expenditures to date of all proceeds of the Bonds, noting all material departures in both schedule and use from the original expectations for such expenditures as set forth in the Tax Certificate delivered upon the issuance of such Bonds, including whether or not any appropriate spending benchmarks for arbitrage rebate exceptions have been met. The Municipal Treasurer will consult as appropriate with Bond Counsel.

(B) Final Expenditure of Bond Proceeds

The Municipal Treasurer shall be responsible for determining when all proceeds of any issuance of Bonds have been spent (other than those held in qualifying reserve or debt service funds) and shall take steps to close out with reasonable promptness all project and similar Funds holding the proceeds of Bonds. If any proceeds together with investment earnings thereon (together, “Remaining Proceeds”) remain after paying all expected costs of the projects financed, the Municipal Treasurer shall consult with Bond Counsel as to possible ways to apply such proceeds and their investment and use, with the goal of spending all Remaining Proceeds as promptly as is required by law.

Within 60 days of the final expenditure or other disposition of all Remaining Proceeds, the Municipal Treasurer shall prepare a written report on the expenditure of all proceeds of the Bonds (inclusive of investment earnings), including the use of such proceeds and the schedule of such expenditures, together with any allocations or elections made in connection therewith. Such report also shall address whether rebatable arbitrage must be calculated and paid and on what schedule.

If a particular facility is only partially financed with proceeds of Bonds, the Municipal Treasurer shall indicate in the report the percentages of each such facility attributable to equity, the proceeds of Bonds or other sources, including any permitted allocations or reallocations (which, to be valid, must be made within 12 months following completion of such facility).

(C) Use of Bond Financed Facilities

An important goal of these Tax Policies is to ensure that there is no threat to the tax-exempt status of any Bonds because of impermissible private business use or private payment or “security” under the Regulations. Such threat can occur if more than 5% of the proceeds of any Bonds are utilized for facilities that are owned by or otherwise impermissibly used by any entity that is not an “Exempt Entity”. An Exempt Entity is an entity that is either a state or local governmental entity or an entity described in Section 501(c)(3) of the IRC. The federal government is not an Exempt Entity. Such private business use can be created by sales, leases, special entitlements, management contracts and sponsored research agreements.

The Municipal Treasurer shall prepare and regularly update a list of all facilities and equipment that have been financed in whole or in part with the proceeds of Bonds (“Bond Financed Facilities”).

As needed, the Municipal Treasurer shall review all uses of Bond Financed Facilities, including any sales, leases or other conveyance of rights to another person to use or control any portion of any Bond Financed Facility, contracts for sponsored research to be conducted in any Bond Financed Facility, management contracts with respect to any Bond Financed Facility or portion thereof, other uses known of any portion of a Bond Financed Facility by any person other than the City; or any amendments to or other changes in any of the foregoing.

The Municipal Treasurer shall review and consult as appropriate with Bond Counsel as to whether any arrangement discovered pursuant to the preceding paragraph may create any private business use. If it does, the Municipal Treasurer shall so advise the City Manager, who shall, in conjunction with the Municipal Treasurer, take such steps as are within his or her power and which he or she judges appropriate either (1) to alter the proposed contractual arrangement to eliminate any private business use, or (2) to monitor such private business use going forward.

The Municipal Treasurer shall maintain a list of all Bond Financed Facilities determined to be subject to private business use and shall annually determine if such use is within permitted amounts. The Municipal Treasurer shall consult with Bond Counsel if the Municipal Treasurer believes that any such private business use has exceeded or may exceed permitted amounts and shall report such excess to the City Manager with a recommendation of steps that may be taken to limit the private business use or the consequences thereof (including, but not limited to, potential participation in the Voluntary Closing Agreement Program of the IRS or any successor or additional such programs (collectively, “VCAP”).

(D) Change in Use and Remedial Action

In carrying out responsibilities outlined herein, the Municipal Treasurer shall take steps, including conferring with Bond Counsel, if appropriate, to determine if the City has taken any “deliberate action” with respect to the use or ownership of any Bond Financed Facilities resulting in a use of such facilities in an unqualified manner and, if so, to determine and implement on a timely basis appropriate remedial action under Section 1.141-12 of the Regulations.

(E) Reimbursements

The Municipal Treasurer will ensure that all reimbursement allocations to the City for expenditures made prior to any issue of Bonds will be made within eighteen months (18) after the date the expenditure was made or, if later, eighteen months (18) after the date on which the Bond Financed Facilities resulting from the expenditure was placed in service, but in any event, within three years (3) after the date the expenditure was paid.

Within one year after a reimbursement is made, the Municipal Treasurer will not use the reimbursed funds to create a sinking fund without consulting with Bond Counsel prior to the creation of such sinking fund.

4. Any violations of the IRC and/or the Regulations discovered by the City will be resolved on behalf of the City's bondholders as quickly as possible through remedial measures or VCAP.

Upon discovering a violation of the IRC, the Municipal Treasurer will consult promptly with Bond Counsel and other legal counsel and advisors to determine a course of action to remediate such violation, if such counsel advises that a remedial action is necessary. If remedial action is available, the City will undertake to timely implement such remedial action. If remedial action is not available or the time limits for such remedial action have lapsed, the City will undertake to remedy the noncompliance pursuant to VCAP.

## **Section 4: Capital Improvement Plan (CIP)**

### **Policy:**

The City shall prepare and maintain a five-year Capital Improvement Plan (CIP) (including major maintenance and replacement), which shall be updated each year.

### **Scope:**

This policy applies to the creation of the CIP, which is comprised of both a major maintenance and replacement plan and an operations and regulatory compliance master plan.

### **Guidelines:**

1. The CIP shall be a multi-year planning instrument used by the City to identify needed Capital Projects and implement major maintenance and replacement requirements for the System. Updates to the CIP should be coordinated with the City's debt policy.
2. Each department head associated with the System, as part of the annual Budget process, shall prepare a list of capital items and Capital Projects for the System and present such items to the City Manager. Thereafter, the City will coordinate the development/amendment of the CIP with the development of the Budget Document.
3. As needed, the City may procure the services of a qualified, third-party consultant to review the overall needs and health of the System. The findings of the consultant may be utilized to revise, edit, amend and/or restate the then current version of the CIP.
4. While some assets need to be replaced on a recurring basis and thus appropriated from budgeted funds, some assets should be financed over a longer period of time.
5. The City will establish an appropriate mix of Bonds and pay-as-you-go financing in the funding of Capital Projects.

## **Section 5: Cash and Investment Management**

### **Policy:**

It is the policy of Council that the Municipal Treasurer shall maintain an effective program of cash and investment management and follow the legal requirements regarding depositories and collateral requirements.

### **Scope:**

All aspects of cash management operations shall be designed to ensure the absolute safety and integrity of the City's financial assets. The overall financial objective is to provide the highest possible income support to the City and present a very low risk of loss of principal.

### **Guidelines:**

#### 1. Cash Management

(A) Cash management activities shall be conducted in full compliance with prevailing state and federal regulations. Investments of the City **must comply with the Bond Ordinance and Title 6, Chapters 5 and 6 of the SC Code**. The provisions of the SC Code do not impair the power of the City to hold funds in deposit accounts with banking institutions as otherwise authorized by law. Investments shall have maturities consistent with the time or times when the invested monies will be needed in cash.

(B) Operating within appropriately established administrative and procedural parameters, the City shall aggressively pursue optimum financial rewards, while simultaneously controlling its related expenses. Therefore, cash management functions, which provoke interaction with outside financial intermediaries, shall be conducted in the best financial and administrative interests of the City. In pursuit of these interests, the City will comply with its procurement policy whenever practicable, affording no special financial advantage to any individual or corporate member of the financial or investment community.

(C) The Municipal Treasurer shall design and enforce standards and guidelines relating to a variety of cash management issues, such as the eligibility or selection of various financial intermediaries; documentation and safekeeping requirements; philosophical and operational aspects of the investment function; and such other functional and administrative aspects of the cash management program which require the setting of standards in light of Council's pursuit of appropriate prudence, enhanced protection of assets, or procedural improvements.

(D) Investments of the City, or of funds held in its possession in a fiduciary capacity, shall be made with the exercise of that judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the

management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

2. Investment Strategy.

(A) The City's cash management program seeks to achieve three objectives with regards to investments: safety of principal, adequate liquidity to meet daily cash needs, and a reasonable yield commensurate with the preservation of principal and liquidity.

(B) The following investment strategy has been designed to accomplish these objectives:

(i) The primary objective of all City investment activity is the preservation of capital and safety of principal. Each investment transaction shall ensure that capital losses are avoided, whether from security default, sale of instruments prior to maturity or erosion of market value.

(ii) The City will invest in very creditworthy, highly liquid investments with maturities of one year or less and in intermediate-term securities of high credit quality. All investments shall be as permitted by the SC Code.

(iii) At all times, the City shall remain sufficiently liquid to meet cash flow requirements by matching investment maturities with forecasted cash flow requirements, investing in securities with active secondary markets, and maintaining appropriate portfolio diversification. The City will maintain accounts with financial institutions such as checking or money market accounts and/or repurchase agreements for current cash flow requirements and shall also position investments to provide liquidity for certain predictable obligations such as debt service payments. Based on these criteria, the Municipal Treasurer will seek competitive investments for excess cash in order to achieve the highest yield possible in compliance with the SC Code. Currently, the minimum balances have been established as provided below.

(C) In complying with the proposed investment strategy, funds shall be maintained as follows:

(i) "Days Cash on Hand:" defined as cash and cash equivalents plus non-restricted investments less operating expenses and depreciation divided by 365. The City shall strive to maintain Days Cash on Hand at no less than 90 days on an annual basis.

(ii) The Municipal Treasurer monitors financial assets periodically to ensure that appropriate interest is earned and fees charged on accounts with financial institutions, and to ensure compliance with the City's cash and investment policy.

(iii) There may be times when the City has more or less of its funds in particular investment vehicles due to cash flow needs, prevailing market conditions, and other factors. The monthly report along with prevailing market conditions serve as a general guideline for making investment decisions. In this way, the portfolio will be able to take advantage of rising interest rates by re-investing maturing securities at higher yields. In falling rate environments, it will profit from having investments that were made at higher rates.

### 3. Interest Earnings

Interest earned from investments shall be distributed to the Fund from which the money was provided, with the exception that interest earnings received on the investment of proceeds of Bonds shall be attributed and allocated to either the related construction Fund or to the Debt Service Funds responsible for paying the principal and interest due on the particular Bond issue, as provided in the Bond Ordinance.

### 4. Oversight

The Municipal Treasurer shall institute and administer such specific criteria relating to cash management issues in pursuit of ensuring the absolute safety and integrity of the City's financial assets, while optimizing financial return of those assets. Additionally, the Municipal Treasurer with the assistance of the City Manager will be responsible for oversight and will regularly examine and evaluate the Cash and Investment Management policy and investment activities and recommended revisions to the policy and operational rules and regulations, as necessary.

## **Section 6: System Enterprise Fund Overhead Allocation**

### **Policy:**

It is the policy of the City to reimburse the General Fund for indirect and overhead costs attributable to the System Enterprise Fund.

### **Scope:**

It is the intent of City to establish an arrangement that provides for a predictable, reliable and mutually allocation of costs owed to the General Fund from the System Enterprise Fund.

### **Guidelines:**

On an annual basis and with the support of its financial consultants (as necessary), the City conducts a cost of services allocation for the benefit of the System Enterprise Fund. The cost of services allocation assumes that the System is an outside, third-party contractor, which is independent of the City and its General Fund operations. The methodology used to determinate cost of services allocation is based on personnel time of City staff, building usage (on a per square foot-basis), actual material costs, services provided and taxes foregone (similar to a fee in lieu of tax determination).

## **Section 7: Records and Accounts**

### **Policy:**

The City will keep and maintain proper books, records and accounts (separate from all other records and accounts) for the System Enterprise Fund, in which complete and correct entries shall be made of all transactions relating to the System.

### **Scope:**

The City shall properly account for the operations and services performed by the System.

### **Guidelines:**

1. The City shall prepare annual financial statements for the System Enterprise Fund in conformity with accounting principles generally accepted (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles in the United States of America.
2. Under accepted accounting principles, the System Enterprise Fund shall be accounted for as an Enterprise Fund of the City.
3. The System Enterprise Fund distinguishes operating revenues and expenses from non-operating items.
  - (A) Operating revenues and expenses generally result from producing and delivering goods and services in connection with the fund's on-going operations.
  - (B) Operating expenses include the cost of sales and services, administrative expenses, and depreciation on capital assets.
  - (C) All revenue and expenses not meeting the definition of operations are reported as non-operating revenues and expenses, and capital contributions, as appropriate.
4. The financial statements shall reflect revenues, expenses and changes in net position using the economic resources measurement focus and the accrual basis of accounting. Under the accrual basis concept, revenues are recognized when earned and expenses are recognized when incurred.

## GLOSSARY OF TERMS

**Bond(s)** – A written promise to pay a specific amount of money with interest within a specific time period, usually long-term.

**Bond Ordinance** – A formal document which governs the issuance of Bonds by the City, executed by the City on February 2, 2016 as supplemented and amended from time to time.

**Budget** – A budget that applies to all outlays other than capital outlays.

**Budget Document** – A formal document presented to the Board containing the City’s financial plan for a Fiscal Year. The budget document is divided into two major parts – the budget message and a Budget. The Budget section contains summaries of expenditures and resources. The budget document is presented in two phases, preliminary and final.

**Capital Improvement Plan (CIP)** – Multi-year planning instrument for the identification and implementation of Capital Projects.

**Capital Project** – A project expected to have a useful life greater than 2 years and an estimated total cost of \$5,000 or more. Capital Projects include the construction, purchase, or major renovation of the System, or other structures.

**City** – The City of Cayce, South Carolina

**City Code** – The code of ordinances enacted and codified by the City.

**City Manager** – The chief executive officer of the City serving at the pleasure of Council tasked with the overall administration of the City. Where the context allows and as delegated by the City Manager, the term City Manager shall also include the assistant City Manager of the City.

**Council** – The legislative body of the City elected by popular vote, made up of five members consisting of a mayor and councilmembers.

**Debt Service** – The payment of principal and interest on long-term debt.

**Debt Service Reserve Fund** – The Fund required by the Bond Ordinance, typically equal to the maximum annual Debt Service on a series of Bonds.

**Deficit** – An excess of expenditures over revenues or expense over income.

**Enterprise Fund** – A Fund wherein the City accounts for operations (a) that are financed and operated in a manner similar to private business enterprises – where the intent of the governing body is that cost (expenses, including depreciation) of providing goods and services to the general public on a continuing basis be financed or recovered primarily through user charges, or (b) where the governing body has decided that periodic determination of revenue earned, expenses incurred,

and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.

**Fiscal Year** – A 12-month period (July 1 – June 30) to which the annual Budget applies and at the end of which an assessment is made of the City’s financial condition and performance of its operations.

**Fund** – An accounting entity created to record the financial activity for a selected financial grouping. A fund is set up to carry out a special function or attain certain objectives in accordance with particular laws and regulations.

**General Fund** –The Fund wherein the City accounts for the general operations of the City. It is used to account for all financial resources except those required to be accounted for in another Fund.

**Municipal Treasurer** – The Municipal Treasurer of the City as employed by the City Manager tasked with the financial administration of the City.

**Operating Expense** – Expenses which are directly related to the City’s primary activities.

**Revenues** – Financial resources other than from proceeds of Bonds or other sources of borrowed funds.

**SC Code** – The Code of Laws of the State of South Carolina.

**System** – The waterworks and sewer system of the City.

**System Enterprise Fund** – The Enterprise Fund established by the City for the System.

**Transfers** – A cash payment made on an annually basis from one Fund to another.

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager  
Shaun Greenwood, Asst. City Manager  
Layne West, Director of Planning and Development

**Date:** January 27, 2016

**Subject:** Second Reading of an Ordinance amending Section 6.10-3 (“Development Standards”) of the Zoning Ordinance of the City of Cayce (as it pertains to signage in the Overlay District).

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## ISSUE

Council approval is needed for the Second Reading of an Ordinance amending Section 6.10-3 (“Development Standards”) of the Zoning Ordinance of the City of Cayce (as it pertains to signage in the Overlay District).

## BACKGROUND/DISCUSSION

Staff is requesting to amend **Section 6.10-3 Development Standards** to add language that will require all signage in the Knox Abbott Drive Overlay District (OD) to conform to C-3 (Central Commercial) district standards. The Knox Abbott OD begins at the Blossom Street Bridge and ends at 12<sup>th</sup> Street. The zoning within this overlay district has been uniformly C-3 (Central Commercial) in the past, but recent re-zonings have included various zoning districts. Staff believes it is the intention of the Zoning Ordinance to require all signage in the Knox Abbott Drive OD to be uniform and consistent. The C-3 zoning districts permits signs to have a maximum height of 7 feet. The amendment will ensure that all future development on Knox Abbott Drive will follow the same standards regardless of zoning district.

The Planning Commission considered the request for the text amendment at its regular meeting on December 21, 2015. The text amendment request was opened for public hearing. No one from the public was present to speak for or against the text amendment.

The Planning Commission voted unanimously to recommend the requested text amendment.

## **RECOMMENDATION**

The Planning Commission recommends that Council approve Second Reading of an Ordinance amending Section 6.10-3 (“Development Standards”) of the Zoning Ordinance of the City of Cayce (as it pertains to signage in the Overlay District).

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )  
 CITY OF CAYCE )

**ORDINANCE 2016-03**  
**Amending Section 6.10-3**  
**("Development Standards") of the**  
**Zoning Ordinance of the City of**  
**Cayce**

**WHEREAS**, the Council has determined that it is in the interest of the public in understanding the provisions of the Zoning Ordinance, and in the interest of the City in administering and enforcing the Zoning Ordinance, to amend Section 6.10-3 ("Development Standards") of the Zoning Ordinance to add language to include regulations for signage in the Knox Abbott Drive Design Overlay District; and

**WHEREAS**, the Planning Commission held a public hearing on this request to receive comments from the public; and

**WHEREAS**, the Planning Commission met on December 21, 2015, to review public comments and vote on recommending the text amendment and unanimously decided that they do recommend this text amendment,

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Cayce, in Council, duly assembled, that Section 6.10-3 ("Development Standards") of the Zoning Ordinance of the City of Cayce is hereby amended to read as follows:

**Section 6.10-3 Development Standards**

**Applicable to Knox Abbott Drive**

**Applicable to 12<sup>th</sup> Street Ext.**

Walkways shall be provided between the building entrance and the sidewalk	Signage shall be in accord with the requirements for signage in the C-3 District
No portion of a building constructed of unadorned masonry or metal siding shall front on or face Knox Abbott Drive	No portion of a building constructed of unadorned masonry or metal siding shall front on or face 12 <sup>th</sup> Street Extension
Colors shall be consistent with character of development	Colors shall be consistent with character of development
All service utility lines shall be placed underground	All service utility lines shall be placed underground
Signage shall be in accord with the requirements for signage in the C-3 District	No strip shopping malls shall be allowed
	Where possible curb cuts and driveways shall be combined
	All buildings shall observe a 50' setback from 12 <sup>th</sup> Street Extension. Except for walks, driveways and permitted signs, the required setback area (yard) shall be completely landscaped, in accord with guidelines contained in Article 10. No off-street parking shall be permitted in the required setback area

This Ordinance shall be effective from the date of second reading approval by Council.

**DONE IN MEETING DULY ASSEMBLED**, this \_\_\_\_\_ day of \_\_\_\_\_ 2016.

\_\_\_\_\_  
Elise Partin, Mayor

Attest:

\_\_\_\_\_  
Mendy Corder, CMC, Municipal Clerk

First Reading: \_\_\_\_\_

Second Reading and Adoption: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Danny C. Crowe, City Attorney

**Section 6.10-3 Development Standards**

**Applicable to Knox Abbott Drive**

**Applicable to 12<sup>th</sup> Street Ext.**

Walkways shall be provided between the building entrance and the sidewalk	Signage shall be in accord with the requirements for signage in the C-3 District
No portion of a building constructed of unadorned masonry or metal siding shall front on or face Knox Abbott Drive	No portion of a building constructed of unadorned masonry or metal siding shall front on or face 12 <sup>th</sup> Street Extension
Colors shall be consistent with character of development	Colors shall be consistent with character of development
All service utility lines shall be placed underground	All service utility lines shall be placed underground
<u>Signage shall be in accord with the requirements for signage in the C-3 District</u>	No strip shopping malls shall be allowed
	Where possible curb cuts and driveways shall be combined
	All buildings shall observe a 50' setback from 12 <sup>th</sup> Street Extension. Except for walks, driveways and permitted signs, the required setback area (yard) shall be completely landscaped, in accord with guidelines contained in Article 10. No off-street parking shall be permitted in the required setback area

**Section 6.11 Development Agreement District (DAD)**

**Section 6.11-1 Establishment of DAD**

A DAD shall be established on the Official Zoning Map by the same procedure as for amendments generally (Article 4) with an additional Public Hearing to be held by City Council prior to Council action and in accord with the requirements of this section. Both

**CITY OF CAYCE  
PLANNING COMMISSION  
STAFF EVALUATION REPORT**

**CASE NO. TA005-15**

**APPLICANT:** Staff

**TYPE OF REQUEST:** Text Amendment

**LOCATION/ADDRESS:** N/A

**TAX MAP NUMBER:** N/A

**NUMBER OF ACRES:** N/A

**EXISTING ZONING CLASSIFICATION:** N/A

**REQUESTED ACTION:**

The Planning and Development Director is requesting to add criteria to language to the development standards for the Knox Abbott Drive Overlay District (Section 6.10-3).

**COMPLIANCE WITH COMPREHENSIVE PLAN:** N/A

**STAFF COMMENTS/CONCERNS:**

Staff is requesting to amend **Section 6.10-3 Development Standards** to add language applicable to signage regulations in the Knox Abbott Drive Overlay District. The Knox Abbott OD begins at the Blossom Street Bridge and terminates at 12<sup>Th</sup> Street. The zoning within this overlay district has been C-3 (Central Commercial) in the past. Currently re-zoning of some properties has been approved, changing the uniform zoning. Staff believes it is the intention of the Zoning Ordinance to require all signage in the Knox Abbott Drive Overlay to follow C-3 zoning regulations. The C-3 zoning districts permits signs to have a maximum height of 7 feet. Staff further believes signs for new developments along this section of Knox Abbott should be in-line with existing signs.

City of Cayce  
South Carolina

Text Amendment Application

Date Filed : 11-23-15

Request No. : TA005-15

Fee : N/A

Receipt No : N/A

Text amendments may be initiated by a property owner (s), the Planning Commission, the Director of Planning & Development, or the City Council. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not an owner, the owner(s) must sign the Designation of Agent section.

APPLICANT(S) [print]: Planning Director

Address : City Hall

Telephone: \_\_\_\_\_ [business] \_\_\_\_\_ [residence]

Interest: \_\_\_\_\_ Owner(s): \_\_\_\_\_ Agent of owner(s): Other: \_\_\_\_\_

OWNER(S) [if other than Applicant(s)] : \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ [business] \_\_\_\_\_ [residence]

[use reverse side if more space is needed;]

PROPOSED TEXT AMENDMENT

THE APPLICANT HEREBY REQUESTS that the following changes, additions or deletions be considered for the following Code of Ordinances, City of Cayce, South Carolina; Chapter: \_\_\_\_\_, Article: \_\_\_\_\_, Section: 6.10-3

Existing Code States;

N/A

Proposed changes / additions / deletions:

Add criteria for signage in the Knox Abbott Drive Overlay District

Justification;

In the past, zoning along Knox Abbott, from Bridge to 12<sup>th</sup> Street has been CV-3 but now different zoning exists (POD - Bank Area and RA - Apartments)

DESIGNATION OF AGENT [complete only if owner is not applicant]

I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this request.

Date: \_\_\_\_\_ N/A \_\_\_\_\_

Owner signature(s)

CERTIFICATION

I (we) certify that to the best of my(our) knowledge that the information contained herein is accurate and correct.

Date: \_\_\_\_\_ N/A \_\_\_\_\_

Applicant signature(s)

OFFICIAL USE ONLY:

Published in Newspaper on: 12-4-15 The State Newspaper

PLANNING COMMISSION: \_\_\_\_\_ RECOMMENDATION: \_\_\_\_\_  
(Public Hearing)

CITY COUNCIL [1<sup>st</sup> Reading] \_\_\_\_\_ ACTION: \_\_\_\_\_

CITY COUNCIL [2<sup>nd</sup> / Final Reading] \_\_\_\_\_ ACTION: \_\_\_\_\_

Notice to applicant sent on \_\_\_\_\_ advising of Councils action. If approved a statement to the effect that our ordinance now reflects the new text. If disapproved, the reasons for disapproval, and a statement that reconsideration will be in accordance with Section 14-7 of the Zoning Ordinance.

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager  
Shaun Greenwood, Asst. City Manager  
Layne West, Director of Planning and Development

**Date:** January 27, 2016

**Subject:** Second Reading of an Ordinance annexing property located at the corner of Ninth Street and F Avenue (TMS# 004675-01-004(P)) and properties located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005(P)) into the City Limits.

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## ISSUE

Council approval is needed for the Second Reading of an Ordinance annexing property located at the corner of Ninth Street and F Avenue (TMS# 004675-01-004(P)) and properties located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005(P)) into the City Limits.

## BACKGROUND/DISCUSSION

The properties are undeveloped and jurisdiction is split between the City and Lexington County.

The applicant wishes to annex so that each parcel, in its entirety, will be under the jurisdiction of the City. The requested C-3 zoning designation is in compliance with surrounding parcels.

The Planning Commission considered the request for annexation in conjunction with a C-3 zoning designation at its regular meeting on December 21, 2015. The annexation request was opened for public hearing. A few from the public were present to speak for and against the map amendment. Comments against the development of the land mostly centered on the issue of the trees that will be removed in conjunction with any new development.

The Planning Commission voted unanimously to recommend the request for annexation in conjunction with a C-3 zoning designation.

## **RECOMMENDATION**

The Planning Commission recommends Council approve Second Reading of an Ordinance annexing property located at the corner of Ninth Street and F Avenue (TMS# 004675-01-004(P)) and properties located at Still Hopes Drive (TMS# 004675-01-007 and TMS# 04675-01-005(P)) into the City Limits.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )  
CITY OF CAYCE )

**ORDINANCE 2016-04**  
**Annexing Property Located at the Corner**  
**of Ninth Street and F Avenue (TMS#**  
**004675-01-004(P)) and Properties located**  
**at Still Hopes Drive (TMS# 004675-01-007**  
**and TMS# 04675-01-005(P)) into the City**  
**Limits Under the Provisions of South**  
**Carolina Code Section 5-3-150(3).**

**WHEREAS**, a proper petition has been filed with the City of Cayce by the owner of 100 percent of the assessed value of the contiguous properties hereinafter described petitioning for annexation of the properties to the City of Cayce under the provisions of S.C. Code Section 5-3-150(3); and

**WHEREAS**, it appears to Council that annexation would be in the best interest of the property owners and the City of Cayce,

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the City of Cayce, in Council, duly assembled, that the following properties herein described are hereby annexed to and become a part of the City of Cayce:

#### **PROPERTY DESCRIPTION**

All those certain pieces, parcels or lots of land, situate, lying and being near the City of Cayce in the County of Lexington, State of South Carolina, being shown on attached Exhibit "A" which is made part of this Ordinance, and consisting of :

- (1) any portion of the parcel of property not currently within the City that is located at the corner of Ninth Street and F Avenue and is further identified as Lexington County Tax Parcel TMS # 004675-01-004(P),
- (2) any portion of the parcel of property not currently within the City that is located at the corner of Still Hopes Drive and F Avenue and is further identified as Lexington County Tax Parcel TMS# 004675-01-005(P), and
- (3) the parcel of property adjoining parcel (2) above that is located on Still Hopes Drive and is further identified as Lexington County Tax Parcel TMS# 004675-01-007.

The properties shall be zoned C-3, Central Commercial, in accord with City of Cayce Zoning Ordinance, Section 3.15, and this classification shall become effective upon the effective date of this annexation ordinance. These properties are added to Voting District Number (1).

This Ordinance shall be effective from the date of second reading approval by Council.

**DONE IN MEETING DULY ASSEMBLED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Elise Partin, Mayor

Attest:

\_\_\_\_\_  
Mendy Corder, Municipal Clerk

First Reading: \_\_\_\_\_

Second Reading and adoption: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Danny C. Crowe, City Attorney

**CITY OF CAYCE  
PLANNING COMMISSION  
STAFF EVALUATION REPORT**

**CASE NO. MA007-15**

**APPLICANT:** Indigo Associates LLC

**TYPE OF REQUEST:** Map Amendment

**LOCATION/ADDRESS:** N/A

**TAX MAP NUMBER:** 004675-01-004(P), 004675-01-005 and, 004675-01-005

**NUMBER OF ACRES:**

**EXISTING ZONING CLASSIFICATION:** N/A

**REQUESTED ACTION:** The applicant is requesting annexation in conjunction with a C-3 zoning designation.

**COMPLIANCE WITH COMPREHENSIVE PLAN:** N/A

**STAFF COMMENTS/CONCERNS:**

The applicant is requesting annexation of the above mentioned properties, in conjunction with a C-3 zoning designation. The properties are undeveloped and are abutting current C-3 zoning districts.

Annexation Request MA007-15

TO THE MAYOR AND COUNCIL OF THE CITY OF CAYCE, SOUTH CAROLINA

The undersigned, being 100 percent of the freeholders owning 100 percent of the assessed value of the property in the contiguous territory described below and shown on the attached plat or map, hereby petition for annexation of said territory to the City of Cayce by ordinance effective as soon hereafter as possible, pursuant to South Carolina Code Section 5-3-150(3). I (we) also acknowledge receipt of the Resolution adopted April 13, 2004 by the City "Approving the Method and Criteria for Annexing and Zoning Property into the City Limits of the City of Cayce".

The territory to be annexed is described as follows;

SEE ATTACHED

The property is designated as follows on the Lexington/Richland County Tax Maps;  
ANY PORTION OF TMS 4675-01-04 NOT CURRENTLY IN THE CITY.  
ALL OF TMS 4675-01-07  
ANY PORTION OF TMS 4675-01-05 NOT CURRENTLY IN THE CITY.  
It is requested that the property be zoned as follows; C-3

INDIGO ASSOCIATES LLC

P. O. BOX 50909

COLUMBIA, SC 29250

(2116 COLLEGE STREET, SUITE 200) 29205

Signature

Street Address

Date

[Signature], MANAGER 11/12/15

FOR MUNICIPAL USE:

Petition received by: \_\_\_\_\_, Date \_\_\_\_\_

Description and Ownership verified by: \_\_\_\_\_, Date \_\_\_\_\_

Recommendation: \_\_\_\_\_

By: \_\_\_\_\_, Date \_\_\_\_\_

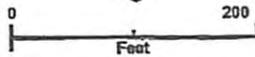
MA001-15



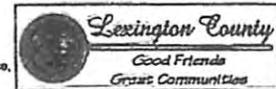
# Lexington County

## This is My Map

Printed: Oct 15, 2015



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**ITEM IV. F.**

<b>STATE OF SOUTH CAROLINA</b>	)	<b>RESOLUTION</b>
	)	<b>Approving Multijurisdictional</b>
<b>COUNTY OF LEXINGTON</b>	)	<b>Law Enforcement Gang</b>
	)	<b>Investigation Agreement</b>
<b>CITY OF CAYCE</b>	)	

**WHEREAS**, the need for law enforcement agencies to enter into contracts with other law enforcement agencies for mutual aid and support and for multijurisdictional task forces is recognized in Chapter 20 (“Law Enforcement Assistance and Support Act”) of Title 23 (“Law Enforcement and Public Safety”) of the South Carolina Code of Laws, and in S.C. Code sections 23-1-210 and 23-1-215; and

**WHEREAS**, S.C. Code section 23-20-50, which is a part of Chapter 20 of Title 23 of the State Code, provides that an agreement entered into pursuant to that chapter on behalf of a law enforcement authority must be approved by the appropriate state, county or local law enforcement authority’s chief executive officer, and by the governing body of each jurisdiction; and

**WHEREAS**, S.C. Code sections 23-1-210 and 23-1-215 also require or may be construed by the Courts to require the approval of the Council in multijurisdictional agreements entered into pursuant to those sections; and

**WHEREAS**, the Council wishes to clarify and confirm the process by which it approves such mutual aid agreements and task force agreements as are entered into between the law enforcement agency of the City of Cayce and the law enforcement agencies of other political subdivisions of the State,

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the City of Cayce, in Council duly assembled, as follows:

The City Council hereby ratifies or approves the City of Cayce entering into a Multijurisdictional Law Enforcement Gang Investigation Agreement, as attached, and the Mayor and the Director of Public Safety are authorized to sign the Agreement on behalf of the City.

**ADOPTED** this \_\_\_\_\_ day of February 2016.

\_\_\_\_\_  
Elise Partin, Mayor

**ATTEST:**

\_\_\_\_\_  
Mendy Corder, Municipal Clerk

Approved as to form: \_\_\_\_\_  
Danny C. Crowe, City Attorney



parties to share jurisdiction under this written agreement to the fullest extent permitted under South Carolina law and it is further agreed as follows:

## 1. ORGANIZATION

- A. A Governing Board, consisting of the heads of each Agency (or a designee), will provide general direction for and supervision of GTF operation and have other responsibilities as described herein. The Richland County Sheriff's Department will serve as lead Agency and its Agency head as lead Governing Board member.
- B. The GTF will consist of qualified Law Enforcement Officers employed by Agencies (hereinafter "Agents"). One Agent will be a qualified officer appointed and employed by the Sheriff of Richland County and will serve as the Officer in Charge (hereinafter "Commander"). The head of each Agency shall, with the advice and consent of the Commander, appoint a Law Enforcement Officer(s) from his agency to be assigned to the GTF as an Agent. Each Agency head shall make his best efforts to ensure that the individuals appointed and assigned to the GTF are of the highest quality available. Each Agency head understands that for the GTF to function properly, consistency is of utmost importance.
- C. One Assistant Solicitor employed through the Fifth Judicial Circuit Solicitor's Office will be appointed to advise the GTF and prosecute criminal charges made pursuant to this agreement. The Assistant Solicitor is a member of an independent institution the primary duty of which is to seek justice. The prosecutor's client is the public, not particular government agencies or victims. The Assistant Solicitor will report to and be solely supervised by the Fifth Judicial Circuit Solicitor's Office. The Assistant Solicitor may provide legal advice to law enforcement agents regarding the use of investigative techniques that law enforcement agents are authorized to use. The Assistant Solicitor will respect the role of law enforcement by providing independent legal advice regarding their investigative decisions. Per the authority granted in this Agreement, the assigned Assistant Solicitor may request revocation of probation or parole status in his discretion to achieve the objectives of this agreement with the cooperation of appropriate Agency party to this agreement.
- D. Each Agent will report to the Commander and the Governing Board. Direct Agent supervision will be left to the Commander. Agents are subject to the lawful orders and commands of Commander and shall exert their best efforts to cooperate with, and aid, the Agency of Commander. All GTF investigations, targets, areas of interest, and activities will be approved through the Commander and/or the Governing Board before execution and reported to same. Agencies will avoid unnecessary involvement in GTF investigations. The GTF will operate from a location as agreed upon and/or approved by the Governing Board.

E. All GTF Agents will adhere to the GTF Policy and Procedure Guidelines (hereinafter "GTF Guidelines"). Failure to do so is grounds for disciplinary action by GTF or dismissal from GTF. GTF Guidelines supersede any other applicable employee guidelines for that Agent and preempt each respective Agency's Guidelines, even when in conflict. GTF Guidelines will be enacted or modified by majority vote of the Governing Board. If an Agent fails to fulfill his duties while assigned to the GTF and/or violates GTF Guidelines, the Commander may suspend the Agent effective immediately from GTF, ceasing his participation in GTF, until the Governing Board meets to determine whether the Agent should be permanently removed from GTF, decided by majority vote. The Commander shall notify the suspended Agent's assigning Agency as soon as possible of any disciplinary action by GTF. If the Commander becomes aware that an assigned Agent has violated the policies of his assigning Agency, he shall notify the appropriate official in that Agency.

## 2. VESTING OF AUTHORITY AND JURISDICTION

A. To the fullest extent permitted by the Constitution and the statutes of this State, GTF Agents shall be vested with authority, jurisdiction, rights, immunities, and privileges in each Agency's jurisdiction equal to that of their resident jurisdiction for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn pursuant to S.C. code §23-1-215. However, local ordinances adopted by a participating party shall not be deemed extended into areas of operation that are located outside the geopolitical territorial limits of that party.

B. This agreement is in no way intended to affect any other multi-jurisdictional agreement(s) which may exist between the Agencies.

## 3. REQUEST FOR ASSISTANCE

The temporary transfer of Officers assigned under this agreement may be requested for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn.

## 4. AGENCY AND AGENT RESPONSIBILITIES:

A. GRANT COMPLIANCE: Agencies agree to abide by the terms and conditions of any grant used to fund GTF. In addition, by signing this agreement, Agencies agree to abide by the terms and conditions of the current Justice Assistance Grant. Further, each Agency is individually responsible for ensuring its own compliance with those terms and conditions and separately liable for any non-compliance, such that non-compliance by any one Agency will not result in liability for any other Agencies or affect the enforceability of this agreement as to all other Agencies.

- B. PERSONNEL: Except as otherwise agreed among the Agencies, each Agency shall maintain control over its personnel. Except as otherwise provided herein, each party shall bear its own costs incurred in the performance of its obligations hereunder, and shall keep its own personnel and other usual records as to its assigned officers.
- C. INSURANCE: All Agencies shall maintain liability and workers compensation insurance on each of their appointed and/or assigned Agents at all times. This insurance shall cover each Agency's appointed and/or assigned Agents while performing duties of the GTF and/or duties of their appointing and/or assigning Agency.
- D. LIABILITY: All Agencies agree to assume all criminal and civil liability, as well as workers compensation liability, for actions of their appointed and/or assigned Agents acting within the scope of his duties, regardless of the location of the incident.
- E. SALARIES: Agencies shall be responsible for all salaries and salary-related costs and benefits associated with regular working hours as well as overtime working hours for its appointed and/or assigned Agent(s). This agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of any Agents assigned under this agreement.

## 5. ASSET FORFEITURE

- A. Forfeitures of property seized pursuant to this agreement will be in compliance with and subject to all applicable laws, including §44-53-520, §44-53-530, and §16-08-260 of the Code of Laws of South Carolina 1976, as amended.
- B. Pursuant to §44-53-530(f), the first \$1,000 of any cash seized and forfeited must be disposed as follows:
  - a. 80% to Agencies, subject to discretion of Governing Board; and
  - b. 20% to the Fifth Circuit Solicitor's Office (prosecuting agency).
- C. All real or personal property, conveyances, and equipment of any value defined in §44-53-520 and 16-08-260, when reduced to proceeds, any cash more than \$1,000, any negotiable instruments, and any securities which are seized and forfeited must be disposed of as follows:
  - a. 75% to Agencies, subject to discretion of Governing Board;
  - b. 20% to the Fifth Circuit Solicitor's Office (prosecuting agency);
  - and
  - c. 5% to the State Treasurer.
- D. After 20% disbursement to the Fifth Circuit Solicitor's Office (prosecuting agency) and 5% to the State Treasurer (if applicable), the remaining assets seized/forfeited valued at less than \$100,000 will be maintained in a separate interest bearing account. Expenditures will be first approved by

the Richland County Sheriff's Department (grantor Agency as required) and used in furtherance of GTF activities.

- E. After 20% disbursement to the Fifth Circuit Solicitor's Office (prosecuting agency) and 5% to the State Treasurer (if applicable), the remaining assets valued at greater than \$100,000 will be presented to the Governing Board for equitable distribution amongst Agencies as determined by the Governing Board.
- F. During Grant periods, GTF shall provide to each Agency an accounting, no less than quarterly. Income from forfeitures or seizures must be used in furtherance of GTF activities. Expenditures must receive written approval from the South Carolina Department of Public Safety Grants Office and the Richland County Grants Administrator prior to the placing of an order and compliance with S.C. Code §44-53-530(i) and §16-08-260.

## 6. CONFIDENTIAL INFORMATION

Agencies agree that any information received during any furtherance of this Agreement that is confidential, including the personal, financial or other affairs of any of the Agencies will be treated by the Agencies in full confidence and will not be revealed to any other persons, firms or organizations.

## 7. SEVERABILITY

Should any part of this Agreement be held invalid or found unenforceable, all other provisions of this Agreement shall remain in full force and effect.

## 8. MODIFICATION AND BINDING SUCCESSORS IN OFFICE

- A. This agreement may be amended or modified only in writing signed by the Parties to the Agreement. Each Agency agrees that any and all successors in interest to their office will be similarly bound by the terms of this agreement without necessitating execution of any amendment.
- B. Should this Agreement require modification to comply with grant or government standards or regulations, the Parties agree that such modifications shall be incorporated herein and shall not serve to terminate the Agreement. This writing shall serve as written agreement for these modifications to occur.

## 9. NON-ASSIGNABILITY

This Agreement may not be assigned by the Parties without the written consent of the other Parties. A failure to obtain the other Parties' written consent shall be grounds for termination of this Agreement.

10. GOVERNING LAW/JURISDICTION

This Agreement shall be governed by the laws of the State of South Carolina. Agencies agree that jurisdiction over any dispute relating to any part of this Agreement is in the County of Richland, State of South Carolina.

11. NO INDEMNIFICATION OR THIRD PARTY RIGHTS

To the extent provided by law, the parties shall be solely responsible for the acts and omissions of their respective employees, officers, and officials, and for any claims, lawsuits and payment of damages that arise from activities of its assigned officers. No right of indemnification is created by this agreement and the parties expressly disclaim such. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any rights or obligations in favor of any party or entity not a party to this agreement.

12. RESPONSIBILITY TO RESPECTIVE GOVERNING BODIES

Each party is responsible for any approval requirements to their respective governing body as may be required under South Carolina law.

13. DISSOLUTION

If one Agency chooses to withdraw from this Agreement, it may terminate its Agreement upon written notice to all other Agencies party to this agreement. Should one Agency terminate, the agreement shall remain in full force and effect as to all other Agencies. Agencies must comply with §23-1-215(D) and (E) regarding notice of both execution and termination.

14. TERMINATION

A. This Agreement shall be allowed to be terminated without penalty to all Agencies party to this Agreement by written agreement signed by all Agencies.

B. All Parties understand that this Agreement may be terminated at the end of a Grant period or if grant appropriations cease at any time for any reason. All positions paid through GTF grant appropriations would be also terminated at that time. Agents employed using grant appropriations may continue to be employed by the assigning Agency if positions are available. If assigning Agency does not have position available for the Agent employed using grant appropriations, that Agency and any other Agencies party to this agreement shall have no duty or responsibility to employ said agent(s). If said Agreement is terminated because of a lack of grant appropriations, the Agencies shall not be liable for such termination and dissolution.

- C. This Agreement shall be allowed to terminate upon conclusion of investigation into criminal gang activity. However, for purposes of an agreement under §23-1-215, it is the opinion of Agencies that the investigation of criminal gang activity is a continuous function of these law enforcement agencies.
- D. Notice of termination for any reason must be delivered or mailed to all Agencies party to this agreement with return receipt requested. Agencies must comply with §23-1-215(D) and (E) regarding notice of both execution and termination.
- E. Upon the expiration or termination of the GTF grant or this agreement, distribution of any assets, forfeitures or seizures will be determined by the Governing Board.

15. **TERM AND RENEWAL**

This agreement is effective as to each party at the date and time of signing and will automatically renew each anniversary date, year to year, and term to term unless a party exercises its right to terminate as further described herein or as required by applicable Grant terms and conditions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under their several seals the day and year first written above.

**RICHLAND COUNTY SHERIFF'S DEPARTMENT**

\_\_\_\_\_  
 BY: Leon Lott, Sheriff \_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**FIFTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE**

\_\_\_\_\_  
 BY: Solicitor Daniel Johnson \_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**FOREST ACRES POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Marion E. Sealy, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

\_\_\_\_\_

**IRMO POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Joe Nates, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

\_\_\_\_\_

**COLUMBIA POLICE DEPARTMENT**

\_\_\_\_\_  
BY: William Holbrook, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

\_\_\_\_\_

**UNIVERSITY OF SOUTH CAROLINA POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Chris L. Wuchenich, Chief of Police

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

\_\_\_\_\_

**CAYCE PUBLIC SAFETY**

\_\_\_\_\_  
BY: Charles E. McNair, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

\_\_\_\_\_

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

\_\_\_\_\_  
BY: Bryan P. Stirling, Director Date \_\_\_\_\_

Witnesses: \_\_\_\_\_

**ALVIN S. GLENN DETENTION CENTER**

\_\_\_\_\_  
BY: Ronaldo Myers, Director Date \_\_\_\_\_

Witnesses: \_\_\_\_\_

**SOUTH CAROLINA DEPT. OF PROBATION, PAROLE, AND PARDON**

\_\_\_\_\_  
BY: Jerry B. Adger, Director Date \_\_\_\_\_

Witnesses: \_\_\_\_\_

**BENEDICT COLLEGE POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Haywood M. Bazemore, Director Date \_\_\_\_\_

Witnesses: \_\_\_\_\_

**CITY OF CAYCE**

\_\_\_\_\_  
BY: Elise Partin, Mayor

\_\_\_\_\_  
Date

Witnesses:

\_\_\_\_\_



parties to share jurisdiction under this written agreement to the fullest extent permitted under South Carolina law and it is further agreed as follows:

## 1. ORGANIZATION

- A. A Governing Board, consisting of the heads of each Agency (or a designee), will provide general direction for and supervision of GTF operation and have other responsibilities as described herein. The Richland County Sheriff's Department will serve as lead Agency and its Agency head as lead Governing Board member.
- B. The GTF will consist of qualified Law Enforcement Officers employed by Agencies (hereinafter "Agents"). One Agent will be a qualified officer appointed and employed by the Sheriff of Richland County and will serve as the Officer in Charge (hereinafter "Commander"). The head of each Agency shall, with the advice and consent of the Commander, appoint a Law Enforcement Officer(s) from his agency to be assigned to the GTF as an Agent. Each Agency head shall make his best efforts to ensure that the individuals appointed and assigned to the GTF are of the highest quality available. Each Agency head understands that for the GTF to function properly, consistency is of utmost importance.
- C. ~~One Assistant Solicitor employed through the Fifth Judicial Circuit Solicitor's Office will be appointed to prosecute and/or oversee the prosecution of all criminal charges made pursuant to this agreement. One Assistant Solicitor employed through the Fifth Judicial Circuit Solicitor's Office will be appointed to advise the Gang Task Force. The Assistant Solicitor is a member of an independent institution the primary duty of which is to seek justice. The prosecutor's client is the public, not particular government agencies or victims. The Assistant Solicitor will report to and be solely supervised by the Fifth Judicial Circuit Solicitor's Office. The Assistant Solicitor may provide legal advice to law enforcement agents regarding the use of investigative techniques that law enforcement agents are authorized to use. The Assistant Solicitor will respect the role of law enforcement by providing independent legal advice regarding their investigative decisions.~~ Per the authority granted in this Agreement, the assigned Assistant Solicitor may request revocation of probation or parole status in his discretion to achieve the objectives of this agreement with the cooperation of appropriate Agency party to this agreement.
- D. Each Agent will report to the Commander and the Governing Board. Direct Agent supervision will be left to the Commander. Agents are subject to the lawful orders and commands of Commander and shall exert their best efforts to cooperate with, and aid, the Agency of Commander. All GTF investigations, targets, areas of interest, and activities will be approved through the Commander and/or the Governing Board before execution and reported to same. Agencies will avoid unnecessary involvement in GTF

investigations. The GTF will operate from a location as agreed upon and/or approved by the Governing Board.

- E. All GTF Agents will adhere to the GTF Policy and Procedure Guidelines (hereinafter “GTF Guidelines”). Failure to do so is grounds for disciplinary action by GTF or dismissal from GTF. GTF Guidelines supersede any other applicable employee guidelines for that Agent and preempt each respective Agency’s Guidelines, even when in conflict. GTF Guidelines will be enacted or modified by majority vote of the Governing Board. If an Agent fails to fulfill his duties while assigned to the GTF and/or violates GTF Guidelines, the Commander may suspend the Agent effective immediately from GTF, ceasing his participation in GTF, until the Governing Board meets to determine whether the Agent should be permanently removed from GTF, decided by majority vote. The Commander shall notify the suspended Agent’s assigning Agency as soon as possible of any disciplinary action by GTF. If the Commander becomes aware that an assigned Agent has violated the policies of his assigning Agency, he shall notify the appropriate official in that Agency.

## 2. VESTING OF AUTHORITY AND JURISDICTION

- A. To the fullest extent permitted by the Constitution and the statutes of this State, GTF Agents shall be vested with authority, jurisdiction, rights, immunities, and privileges in each Agency’s jurisdiction equal to that of their resident jurisdiction for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn pursuant to S.C. code §23-1-215. However, local ordinances adopted by a participating party shall not be deemed extended into areas of operation that are located outside the geopolitical territorial limits of that party.
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## 3. REQUEST FOR ASSISTANCE

The temporary transfer of Officers assigned under this agreement may be requested for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn.

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- A. GRANT COMPLIANCE: Agencies agree to abide by the terms and conditions of any grant used to fund GTF. In addition, by signing this agreement, Agencies agree to abide by the terms and conditions of the current Justice Assistance Grant. Further, each Agency is individually responsible for ensuring its own compliance with those terms and conditions and separately liable for any non-compliance, such that non-

compliance by any one Agency will not result in liability for any other Agencies or affect the enforceability of this agreement as to all other Agencies.

- B. PERSONNEL: Except as otherwise agreed among the Agencies, each Agency shall maintain control over its personnel. Except as otherwise provided herein, each party shall bear its own costs incurred in the performance of its obligations hereunder, and shall keep its own personnel and other usual records as to its assigned officers.
- C. INSURANCE: All Agencies shall maintain liability and workers compensation insurance on each of their appointed and/or assigned Agents at all times. This insurance shall cover each Agency's appointed and/or assigned Agents while performing duties of the GTF and/or duties of their appointing and/or assigning Agency.
- D. LIABILITY: All Agencies agree to assume all criminal and civil liability, as well as workers compensation liability, for actions of their appointed and/or assigned Agents acting within the scope of his duties, regardless of the location of the incident.
- E. SALARIES: Agencies shall be responsible for all salaries and salary-related costs and benefits associated with regular working hours as well as overtime working hours for its appointed and/or assigned Agent(s). This agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of any Agents assigned under this agreement.

## 5. ASSET FORFEITURE

- A. ~~Seizures and assets forfeited~~ Forfeiture of property seized as a result of GTF investigation ~~and prosecution~~ will be done in compliance with and subject to all applicable laws, including §44-53-520, §44-53-530, and §16-08-620 of the Code of Laws of South Carolina 1976, as amended, ~~by all Agencies.~~
- B. All real or personal property, conveyances, and equipment of any value defined in §44-53-520 and 16-08-260, when reduced to proceeds, any cash more than one thousand dollars, any negotiable instruments, and any securities which are seized and forfeited must be disposed of as follows:
  - a. 75% to Agencies, subject to discretion of Governing Board;
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  - c. 5% to the State Treasurer.
- C. Pursuant to §44-53-530(f) the first one thousand dollars of any cash seized and forfeited must be disposed as follows:
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- D. Any After 20% disbursement to the Fifth Circuit Solicitor's Office (prosecuting agency) and 5% to the State Treasurer (if applicable) the remaining assets seized/forfeited valued at less than \$100,000 will be maintained in a separate interest bearing account. Expenditures will be first approved by the Richland County Sheriff's Department (grantor Agency as required) and used in furtherance of GTF activities.
- E. After 20% disbursement to the Fifth Circuit Solicitor's Office (prosecuting agency) and 5% to the State Treasurer (if applicable) the remaining Assets valued at greater than \$100,000 will be presented to the Governing Board for equitable distribution amongst Agencies as determined by the Governing Board.
- F. During Grant periods, GTF shall provide to each Agency an accounting, no less than quarterly. Income from forfeitures or seizures must be used in furtherance of GTF activities. Expenditures must receive written approval from the South Carolina Department of Public Safety Grants Office and the Richland County Grants Administrator prior to the placing of an order and compliance with S.C. Code §44-53-530(i) and §16-08-260.

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B. All Parties understand that this Agreement may be terminated at the end of a Grant period or if grant appropriations cease at any time for any reason. All positions paid through GTF grant appropriations would be also terminated at that time. Agents employed using grant appropriations may continue to be employed by the assigning Agency if positions are available. If assigning Agency does not have position available for the Agent employed using grant appropriations, that Agency and any other Agencies party to this agreement shall have no duty or responsibility to employ said agent(s).

If said Agreement is terminated because of a lack of grant appropriations, the Agencies shall not be liable for such termination and dissolution.

- C. This Agreement shall be allowed to terminate upon conclusion of investigation into criminal gang activity. However, for purposes of an agreement under §23-1-215, it is the opinion of Agencies that the investigation of criminal gang activity is a continuous function of these law enforcement agencies.
- D. Notice of termination for any reason must be delivered or mailed to all Agencies party to this agreement with return receipt requested. Agencies must comply with §23-1-215(D) and (E) regarding notice of both execution and termination.
- E. Upon the expiration or termination of the GTF grant or this agreement, distribution of any assets, forfeitures or seizures will be determined by the Governing Board.

15. **TERM AND RENEWAL**

This agreement is effective as to each party at the date and time of signing and will automatically renew each anniversary date, year to year, and term to term unless a party exercises its right to terminate as further described herein or as required by applicable Grant terms and conditions.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement under their several seals the day and year first written above.

**RICHLAND COUNTY SHERIFF'S DEPARTMENT**

\_\_\_\_\_  
BY: Leon Lott, Sheriff \_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**FIFTH JUDICIAL CIRCUIT SOLICITOR'S OFFICE**

\_\_\_\_\_  
BY: Solicitor Daniel Johnson \_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**FOREST ACRES POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Marion E. Sealy, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**IRMO POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Joe Nates, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**COLUMBIA POLICE DEPARTMENT**

\_\_\_\_\_  
BY: William Holbrook, Police Chief

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**UNIVERSITY OF SOUTH CAROLINA POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Chris L. Wuchenich, Chief of Police

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**CAYCE PUBLIC SAFETY**

\_\_\_\_\_  
BY: Charles E. McNair, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS**

\_\_\_\_\_  
BY: Bryan P. Stirling, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**ALVIN S. GLENN DETENTION CENTER**

\_\_\_\_\_  
BY: Ronaldo Myers, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**SOUTH CAROLINA DEPT. OF PROBATION, PAROLE, AND PARDON**

\_\_\_\_\_  
BY: Jerry B. Adger, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

**BENEDICT COLLEGE POLICE DEPARTMENT**

\_\_\_\_\_  
BY: Haywood M. Bazemore, Director

\_\_\_\_\_  
Date

Witnesses: \_\_\_\_\_

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager  
Tara Greenwood, Special Projects/Grants Coordinator

**Date:** January 29, 2015

**Subject:** Bicycle/Pedestrian Plan for the City of Cayce

---

## Issue

Council approval is needed to join West Columbia and Springdale in working with the Central Midlands Council of Governments on developing a Bicycle/Pedestrian plan for the three municipalities.

## Discussion

City Staff has been working with Central Midlands Council of Governments (COG) to develop a complete bicycle and pedestrian mobility plan for the City of Cayce. The COG has set aside planning funds and is willing to assist Cayce, Springdale and West Columbia with developing such a comprehensive plan. The City will need to provide matching funds in the amount of \$10,000 from the General Fund Fund Balance.

Within this plan, the following activities will be evaluated:

Provide and ensure proper linkages for bicycles and pedestrians by removing obstructions/barriers and enabling access over bridges.

Ensure that all community facilities and schools can be accessed safely using alternative modes of transportation.

Provide all possible opportunities for safe pedestrian movement in the form of sidewalks separated from the streets by planter strips stripes or similar buffer zones.

Require sidewalks to be built on both sides of the street in a separate manner from the streets.

Work to promote and expand implementation for the creation of safe routes for students to walk and bicycle to their schools.

Establish, maintain, and clearly mark crosswalks at appropriate intervals to prevent unprotected street crossings.

Study the length of time given to pedestrians for crossings.

Promote and support bicycling as a means of alternate transportation.

Create safe, continuous, safely-marked bikeways and lanes between activity centers.

Provide adequate facilities that support bicycling as a means of transportation.

**Recommendation**

Staff recommends Council accept the proposal from Central Midlands Council of Governments for the bicycle/pedestrian plan and provide \$10,000 in matching funds

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# Memorandum

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**To:** Mayor and Council

**From:** Rebecca Vance, City Manager  
Shaun Greenwood, Asst. City Manager

**Date:** January 29, 2016

**Subject:** Discussion and approval of funding to construct a new “Pole” style building, to create storage areas and needed office space for the City

---

## ISSUE

Council approval is needed to move forward with plans to construct a new “Pole” style building that will create storage space for equipment, special event materials and City records. The building will also provide office space, a break room and bathroom facilities for the Parks and Sanitation Departments.

## BACKGROUND/DISCUSSION

Over the past several years, the City has steadily been outgrowing its current facilities. Staff believes a viable option for satisfying some of those needs is to construct a “pole” style building near the City Garage. With the current design, this new building will resolve numerous issues the City currently has relating to storage. Specifically, all Christmas in Cayce, Congaree Bluegrass Festival and other special event materials will have a dedicated storage room. The Parks Department will be able to store and repair equipment in another room that will be dedicated specifically to them. There will also be two climate controlled rooms specifically for the storage of the City Clerk’s and Planning and Development’s records.

In addition to the storage areas, the proposed building will serve as the new offices for the Directors of Parks and Sanitation. Currently they share a small office at City Hall. A break room and bathroom facilities are also included in the plans. These facilities include a shower that will provide better access for emergency washing when there is accidental exposure to waste or chemicals.

Initial estimates set the cost of this building anywhere from \$140,000-\$150,000. From experience with similar projects, Staff believes it would be prudent to budget an additional \$15,000 to \$20,000 so that any unforeseen issues can be handled without having to place the project on hold. Staff is currently working to reconfigure the building and to make changes to reduce this cost. Staff will also perform any work in-house that is possible throughout the process in order to reduce costs. Because portions of the building are going to be used to store special events materials and equipment used to

maintain the Riverwalk, Hospitality Tax Funds will be able to be utilized to pay for the appropriate portion of the building.

**RECOMMENDATION**

Staff requests Council approve funds not to exceed \$170,000 from Fund Balance and Hospitality Tax to construct this multi-use building.

THE HOUSING AUTHORITY OF THE CITY OF CAYCE, S.C.  
August 18th, 2015

The Board of Commissioners of The Housing Authority of the City of Cayce, S.C. convened at 5:10 P.M., Tuesday, August 18th, 2015 in Cayce City Hall.

The Chairman called the meeting to order and upon roll call, those present and absent were as follows:

PRESENT: Jack L. Sightler, Jr., Chairman  
Bruce Smith, Chair-Elect  
Silvia Sullivan, Commissioner  
Gilbert Walker, Secretary

ABSENT: Janice Mixon, Commissioner

STAFF: Howard Thomas, Angel Cruz, Arthur Robertson, Shate Griffin

Mr. Smith opened with a prayer.

Upon motion of Ms. Sullivan, seconded by Mr. Smith, the minutes of the April 14<sup>th</sup>, 2015 meeting were unanimously approved. Upon motion of Mr. Smith, seconded by Ms. Sullivan, the minutes of the meeting held June 16<sup>th</sup>, 2015 were unanimously approved.

Mr. Robertson gave the Operations Report for May, June and July. All is going well in the Cayce communities and no issues have presented themselves. The unit damaged by fire has been completed and re-occupied with a new tenant; the former tenant moved into another unit within the same community.

There were 3 reports for the previous reporting period. Columbia Police Department worked with Cayce PD to serve an outstanding warrant on Poplar St. There was a criminal domestic violence report from Poplar and a report of bullet holes in a car with a suspended tag in one of the communities. Final cost on the burned unit was approximately \$63,000.

Mr. Walker gave a briefing on the new Mobi Rec program. Through a partnership with TD Bank and other community partners, a van equipped with recreational equipment has been purchased and outfitted to serve the CHA communities. The van will visit neighborhoods and encourage physical activity; interns from the University of SC will staff the van. A press conference to kick off the program is scheduled for next week.

Ms. Griffin gave an update on FSS activities in Cayce. Approximately 30 residents have had meetings to determine their needs and interests. Community

relationships are being built with local organizations and businesses to supply services to the residents. A homeownership class was held in July and attended by 6 people. Additional programs are being planned with Edventure and updates will be provided as things progress.

Mr. Thomas gave an update on RAD. Staff has been working with the HUD Coordinator and participating in weekly conference calls. The program has changed somewhat since the initial 60,000 units were approved; less funding is available than initially thought. Staff is working through the financial process now to see if the conversion would still be viable. The Riverside unit will be added to the application in January of 2016 and that process has already been started. A Green Physical Needs Assessment will be need to be conducted by an outside service; that will identify any repairs that may need to be done to the units over the next 10 years. Staff expects this assessment to come in high as the numbers are based on replacing equipment based on the manufacturer's recommendations. More information should be available in time for the October meeting.

Mr. Thomas gave an update on the two properties being considered for purchase. Both sellers have verbally committed to sell but staff is currently waiting to hear from Lexington County if they have the funds to proceed. Updates will be provided as needed.

There being no additional business, it was unanimously decided to adjourn the meeting at 5:55pm.

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Secretary

APPROVED: \_\_\_\_\_

**MINUTES OF EVENTS COMMITTEE  
CITY OF CAYCE  
November 12, 2015**

**Present:** Dave Capps, Kimberly Christ, Brenda Cole, Danny Creamer, Jason Munsell, and Rachel Scurry

**Absent, Excused:** Frankie Newman, Ellen Mancke, and Cindy Pedersen

**City Representatives:** Mendy Corder and Kara Carmine

The Committee meeting was held at the Cayce Tennis Center.

Chairperson Danny Creamer called the meeting to order.

Ms. Corder announced that Council had appointed Amy Roper to the Committee.

**All-Inclusive Holiday Event**

Members present engaged in a roundtable discussion about modifying the Christmas in Cayce event to be a more inclusive, multi-cultural event. Perhaps, we will rebrand the event. We will continue the discussion at the January 2016 meeting.

**Carols along the Riverwalk**

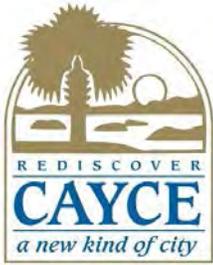
Following an extended discussion and in consultation with Mr. Denny via telephone, Committee members decided to recommend to City Staff and Council that Carols along the Riverwalk be cancelled for December 2015.

Ms. Corder will inform the City Manager of the Committee's recommendation. Ms. Corder will notify Committee members via e-mail of the City's decision. Mrs. Scurry will contact scheduled participants via telephone. Ms. Carmine will follow-up with a letter to scheduled participants.

There being no further business, the meeting was adjourned.

Respectfully submitted,

*Rachel R. Scurry*



**APPROVED MINUTES  
BOARD OF ZONING APPEALS  
CAYCE TENNIS CENTER  
1120 FORT CONGREE TRAIL, CAYCE SC  
Monday, December 21, 2015  
6:00 PM**

**I. CALL TO ORDER**

The meeting was called to order at 6:00 p.m. Members present were Robert McLeod, Frank Dickerson and Jason Simpson. Robin DiPietro and Bob McArver were absent excused. Staff present was Layne West and Monique Ocean.

**II. APPROVAL OF MINUTES**

A motion was made by Mr. Simpson to approve the minutes from November 16, 2015, as written. Mr. Dickerson seconded the motion. All were in favor.

**III. STATEMENT OF NOTIFICATION**

Mr. McLeod asked in the public had been notified of the meeting. Ms. Ocean confirmed that everyone had been notified.

**IV. PUBLIC HEARING – Variance Request No. 002-15 [A request, by the owner, for a variance to exceed the general requirements for accessory building and uses (*Zoning Ordinance Section 5.6-2*).]**

Variance Request No. 002-15 was postponed to the January 25, 2016, meeting because a quorum was not present - Mr. McLeod recused himself because of association with the applicant.

**V. PUBLIC HEARING – Special Exception Request No. 001-15 [A request to allow development of a privately owned little league baseball field. The properties are located at S. Beltline Blvd. (Richland County TMS#R1100-01-08(P) and R1100-01-10 (P))]**

**a. Opening Statement**

Mr. Layne West began by explaining that a new ordinance was created and approved by City Council allowing parks and recreational areas to be permitted as a special exception use, approvable by the Zoning Board of Appeals. Mr. West stated that previously the Zoning Ordinance only permitted parks and recreational areas in the C-4 zoning district. Mr. West explained that the oversight in the zoning ordinance was discovered when a developer wished to re-zone property, to C-4, in order to establish a privately owned baseball field. Mr. West acknowledged that Council and the Planning Commission had reservations about approval of the re-zoning request because of the location of the property and the potential for heavy commercial uses. Mr. West clarified that allowing parks and recreational areas to be permitted as a special exception was a quick way to cure the oversight and to handle the objections, without rewriting the entire Ordinance. Mr. West mentioned that Heathwood Hall School provided a letter to indicate support for the baseball field. Mr. Carol Barker from Genesis Consulting was present to represent the developer and to provide any technical information. Mr. Hayne McCall was present

as the developer to also answer questions. Mr. Barker provided the Board with documents to show the flood plain location and the wetland delineation. Mr. Barker mentioned the property is currently farm land and the parking area for the baseball field will remain grass. Mr. West pointed out that, if the special exception is approved, the development would still need to get any required permits before construction may begin.

**b. Public Testimony**

No one from the public was present to speak for or against the special exception request.

**c. Adjourn Hearing**

The hearing was adjourned by Mr. McLeod.

**VI. MOTION - Special Exception Request No. 001-15**

Mr. McLeod made a motion to grant Special Exception No. 001-15. Mr. Dickerson seconded the motion. All were in favor. The vote passed unanimously.

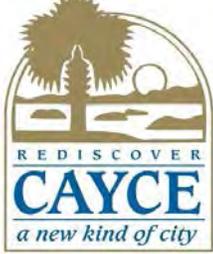
**VII. OTHER BUSINESS**

There was no other business.

**VIII. ADJOURNMENT**

The vote to adjourn was passed unanimously.

**A quorum of Council may be present.  
No discussion or action on the part of Council will be taken.**



**APPROVED MINUTES  
PLANNING COMMISSION  
CAYCE TENNIS CENTER  
1120 FORT CONGREE TRAIL, CAYCE SC  
Monday, December 21, 2015  
6:30 PM**

**i. CALL TO ORDER**

The meeting was called to order by Chair Ed Fuson. Members present were Butch Broehm, John Raley, Maryellyn Cannizzaro, Chris Kueny, and Robert Power. Larry Mitchell was absent excused. Staff present was Monique Ocean and Layne West.

**ii. APPROVAL OF MINUTES– November 16, 2015**

Mr. Raley made a motion to approve the minutes, as written. Mr. Power seconded the motion. All were in favor. The vote to approve the minutes passed unanimously.

**iii. STATEMENT OF NOTIFICATION**

Mr. Fuson asked if the public and media had been notified of the meeting and the public hearings. Ms. Ocean confirmed that everyone had been notified.

**iv. PUBLIC HEARING – Map Amendment 007-15** A request by the Applicant to consider annexation in conjunction with a Central Commercial (C-3) zoning designation. The properties are identified as Lexington County TMS#004675-01-004(P) (located on 9<sup>th</sup> Street) along with 004675-01-007, and 004675-01-005 (P)(located on Still Hopes Drive)).

**a. Opening Statement**

Mr. West began by explaining that the applicant, Still Hopes Episcopal Retirement Community (Still Hopes), wished to annex properties in conjunction with C-3 zoning designations. Mr. West pointed out that the properties are adjacent to the Still Hopes location and that the applicant desires to add buildings similar to existing ones. Mr. West explained that the C-3 zoning is necessary because the properties are contiguous to existing C-3 properties. Mr. West pointed out portions of the subject properties are under Cayce jurisdiction and portions are under County jurisdiction. Mr. West explained the “P” appears beside the tax map number to indicate any portion under County jurisdiction. Charles Thompson appeared, as the owner, to answer questions for the Commission. Mr. Thompson indicated that the parcels are currently under contract to be purchased by Still Hopes. John McArthur and Danny Sanford appeared as the applicant to address any questions from the Commission. The Planning Commission received clarification on the following: (1.) The plan is to build 7 to 8 duplexes that will face internally to Still Hopes. (2.) There will be no entrances on 9<sup>th</sup> Street and buildings will be single story. (3.) The buildings will be copies of existing buildings. (4.) The woods will be demolished. (5.) Buffer yards are required by the Zoning Ordinance. (6.) A tree survey will be done. (7.) The existing parts of Still Hopes will continue to be under West Columbia jurisdiction. (8.) Cayce Public Safety has a mutual aid agreement with West Columbia for police and fire safety. (9.) The supplier for water and sewer service has not been determined yet. (10.) Still Hopes is not assessed for taxes because it is tax exempt.

**b. Public Testimony**

Two individuals were present to comment on the re-zoning request.

**c. Adjourn Hearing**

The public hearing was adjourned by Mr. Fuson.

**v. MOTION – Map Amendment 007-15**

Mr. Broehm made a motion to recommend approval of map amendment 007-15 to Council. Mr. Kueny seconded the motion. All were in favor. The vote passed unanimously.

**vi. PUBLIC HEARING – Text Amendment 005-15** [A request by the Planning Director to amend the *Cayce Zoning Ordinance Section 6.10-3 Development Standards* to add criteria for signs in the Knox Abbott Drive Design Overlay District.]

**a. Opening Statement**

Mr. West began by explaining that various zoning designations exist throughout the Knox Abbott Overlay District. Mr. West stated that the various zoning may pose a problem because it creates possibilities for signs of different sizes to be permitted throughout the Overlay District. Mr. West pointed out that the goal of the Knox Abbott Overlay District is to create uniformity. Mr. West clarified that Staff discussed the matter with the City Attorney and the conclusion was to add criteria requiring all signs in the Knox Abbott Overlay District to follow C-3 zoning regulations. The amendment will not cause the removal of existing signs – it will only apply to new signs.

**b. Public Testimony**

No one was present to speak for or against the text amendment.

**c. Adjourn Hearing**

Mr. Fuson closed the hearing.

**vii. MOTION - Text Amendment 004-15**

Mr. Raley made a motion to recommend approval of text amendment 004-15 to Council. Mr. Broehm seconded the motion. The vote passed unanimously.

**viii. OTHER BUSINESS**

There was no other business.

**ix. ADJOURNMENT**

A motion was made by Mr. Kueny. The vote was seconded by Ms. Cannizzaro. All were in favor.

**A quorum of Council may be present.  
No discussion or action on the part of Council will be taken.**

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All open positions will be advertised on the City's website and Facebook page.

**COUNCIL ACTION REQUIRED**

**MUSEUM COMMISSION – ONE (1) POSITION**

Ms. Lynn Summer recently resigned from the Commission which leaves one open position. The City has received a potential member application from Ms. Judy Corbitt. The Museum Commission recommends her for appointment. Ms. Corbitt's application is attached for Council's review.

**NO COUNCIL ACTION REQUIRED**

The following positions have been postponed by Council until receipt of potential member applications.

**ACCOMMODATIONS TAX COMMITTEE – THREE (3) POSITIONS**

Ms. Cherelle Davis is no longer employed with the Country Inn & Suites. Ms. Sue Wofford is no longer with Knights Inn. These positions must be filled by someone from the motel industry in Cayce. The staff liaison is currently speaking with motel managers regarding this position. Mr. Peter Fikas is no longer employed with Red Lobster. This position must be filled by someone from the restaurant industry in Cayce.

**BEAUTIFICATION BOARD – THREE (3) POSITIONS**

Ms. Sue Perry and Ms. Sue Miles both resigned from the Board in October. There is also one additional open position on the Board. The Board has no recommendations at this time.

**CONSOLIDATED BOARD OF APPEALS – ONE (1) POSITION**

Mr. Charles Mellette has moved out of the City and is no longer able to serve on the Board. Members who serve on this Board must be either an Engineer, Contractor, Architect or Design Professional. There are no recommendations at this time.

**EVENTS COMMITTEE – TWO (2) POSITIONS**

Ms. Ellen Mancke resigned from the Committee in November. There is also one additional open position on the Committee. There are no recommendations at this time.

**PUBLIC SAFETY FOUNDATION – FIVE (5) POSITIONS**

At the February 3, 2015 Council Meeting Council approved amendments to the Cayce Public Safety Foundation's Bylaws. In order to ensure that Council is able to recruit more directors to the Foundation, the Foundation Bylaws now read that Council may appoint directors from within the City at large and directors need not be from particular Council districts.

Also, the amended Bylaws state a quorum consists of the number of directors attending a meeting; provided, that in no event shall a quorum consist of fewer than two (2) directors. Therefore any action needed can be taken at each meeting.

CITY OF CAYCE  
POTENTIAL COMMITTEE MEMBER APPLICATION



cc: Leo  
11/9/15

Name: Judy Corbitt  
Home Address: 2220 Lee Street City, State, Zip CAYCE, SC, 29033  
Telephone: 803-318-1454 E-Mail Address jcorbitt61@gmail.com  
Resident of Cayce:  Yes  No Number of Years 62

Please indicate the Committee(s) for which you are applying:

- Accommodations Tax Committee
- Beautification Board
- Event Committee
- Cayce Housing Authority
- Museum Commission
- Planning Commission
- Housing/Constr Board of Appeals
- Board of Zoning Appeals

Have you ever been convicted of a felony or misdemeanor other than a minor traffic violation?  Yes  No If yes, specify below.

Work Address

Company: Midlands Center-DDSN Position Lead Administrative Officer  
Address: 8301 Farrow Road  
City, State, Zip COLA, SC, 29003 Telephone: 935-7500  
Fax: 935-7519 E-Mail MidDD@dds.sc.gov  
Work Experience: Retired from Midlands Center after thirty two years of service. Worked at the Presbyterian Communities of S.C. eight years.  
Educational Background: Midlands Technical College

Membership Information (Professional, Neighborhood and/or Civic Organizations):

Volunteer Work: Richland School District Two  
Midlands Center - President of the Staff Activities Committee  
Hobbies: Decorating for events/special occasions, Reading  
Keeping abreast of current events, Planning trips/events for family and friends

Return to:

Tammy Barkley, Asst. City Manager/Clerk  
City of Cayce, P.O. Box 2004, Cayce, SC 29171-2004  
Telephone: 803-796-9020 • Fax: 803-796-9072

**Judy Corbitt**  
**2220 Lee Street Cayce, South Carolina 29033**  
**(803)-318-1454 mobile Email: jcorbitt61@gmail.com**

**Work History Summary:** I have worked in the public sector for forty years. Currently, I am retired; however, I have worked with disabled clients and with a retirement community as well. First, I retired from the Department of Disabilities and Special Needs, after thirty-two years of service. While serving the disabled community, my official title was Lead Administrative Officer of the Day (Campus Supervision Department). I mainly supervised and assisted staff members and special needs individuals by ensuring campus safety, addressing residents' and their parents' concerns, and addressing any and all necessary day-to-day operations and affairs. Next, I worked as a Dietary Supervisor at the Presbyterian Communities of South Carolina. My service with the retired community lasted 8 years. At Presbyterian Communities, my duties included greeting and interacting with the residents and making certain their dietary needs were met while dining in the cafeteria. As the Dietary Supervisor I was responsible for making certain the staff was present and that their assignments were clear, concise, and executed efficiently. In addition, I ensured that the food was always prepared and presented creatively, and displayed in an appealing manner. This brief synopsis offers a summarization of my forty years of extensive employment and public sector service.

**Education:**

Midlands Technical College  
Certified Gentle Teacher  
1980

Midlands Technical College  
Certified Basic Supervision  
1978

Columbia Business College  
Certified Nurse Aide  
1972-1973

**Volunteer Work:**

Richland School District Two  
Polo Road Elementary  
Field Study Chaperone

Richland School District Two  
Joseph Keeps Elementary School  
College and Career Day Decorator

**Richland School District Two**  
**E.L. Wright Middle School**  
**P.T.O On-Call Assistant (Great Nephew attends school)**

**Midlands Center**  
**President of the Staff Activities Committee**  
**Safety Committee**  
**Dietary Committee**  
**Health and Wellness**  
**Chairperson of Helping Hand Committee**

**Presbyterian Communities**  
**Chairperson of the Staff Special Treats Committee**

**St. Patrick's Day Family Council Fundraiser**  
**Five Points**

**Kay Patterson**  
**Senate District 19**  
**Campaign**

**Tim Rogers**  
**House District 72**  
**Campaign**

**E.W. Cromartie, II**  
**City Council District 2**  
**Campaign**

**Awards/Clubs:**

- **Employee of the Month 2007**
- **Community Aid Club Award of Appreciation 1983**
- **Helping Hand Committee**
- **Democratic Committee 2008**

**Hobbies:**

- **Decorating for events/special occasions**
- **Keeping abreast of current events**
- **Planning trips/events for family and friends**
- **Reading**

# Little Free Library

Take a Book, Return a Book.

# Little Free Library

Elijah Jordan Eagle Scout Project, BSA Troop 339



# Little Free Library - All Saints Episcopal Church

1001 12<sup>th</sup> Street



# Little Free Library – Broadacres Baptist Church

2350 Taylor Road



# Little Free Library – Grace Chapel

663 Dixiana Road



# Little Free Library – Transfiguration Lutheran Church

1301 12<sup>th</sup> Street

