CITY OF BEAUFORT
1911 BOUNDARY STREET
BEAUFORT MUNICIPAL COMPLEX
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7070

CITY COUNCIL SPECIAL REGULAR MEETING AGENDA
August 11, 2020

NOTE: IF YOU HAVE SPECIAL NEEDS DUE TO A PHYSICAL CHALLENGE, PLEASE CALL IVETTE BURGESS 525-7070 FOR ADDITIONAL INFORMATION

STATEMENT OF MEDIA NOTIFICATION

"In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media was duly notified of the time, date, place and agenda of this meeting."

SPECIAL REGULAR MEETING - Council Chambers, 2nd Floor - 5:00 PM

I. CALL TO ORDER

A. Billy Keyserling, Mayor

II. INVOCATION AND PLEDGE OF ALLEGIANCE

A. Mike McFee, Mayor Pro Tem

III. EXECUTIVE SESSION

A. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Receipt of Legal Advice.

IV. NEW BUSINESS

A. 2020 Series Amended and Restated Ordinance - 1st Reading
B. 2020 Master Bond Amended and Restated Ordinance - 1st Reading
C. Ordinance Ratifying and Confirming Stormwater Utility and IGA - 1st Reading

V. ADJOURN

CITY OF BEAUFORT

DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO:	CITY COUNCIL	**DATE:**	8/7/2020
FROM:	Kathy Todd, Finance Director		
AGENDA ITEM TITLE:	2020 Series Amended and Restated Ordinance - 1st Reading		
MEETING DATE:	8/11/2020		
DEPARTMENT:	Finance		

BACKGROUND INFORMATION:

PLACED ON AGENDA FOR: *Action*

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	8/7/2020

AN AMENDED AND RESTATED SERIES ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF IMPROVEMENT AND REFUNDING LIMITED OBLIGATION BONDS (STORMWATER SYSTEM PLEDGE) OF THE CITY OF BEAUFORT, SOUTH CAROLINA IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING EIGHT MILLION DOLLARS ($8,000,000); AND OTHER MATTERS RELATING THERETO.

2020 SERIES ORDINANCE

Enacted August 18, 2020

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Exhibit A Form of Bond A-1

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEAUFORT, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, THAT:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Findings.

Incident to the enactment of this series ordinance (this "***2020 Series Ordinance***"), and the issuance of the bonds provided for herein, the City Council of the City of Beaufort (the "***City Council***"), the governing body of the City of Beaufort, 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:

(A) The City Council has made general provision for the issuance from time to time of bonds (the "***Bonds***") of the City by a bond ordinance entitled "AN AMENDED AND RESTATED MASTER BOND ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS (STORMWATER SYSTEM PLEDGE) OF THE CITY OF BEAUFORT, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO" enacted by the City Council on August 18, 2020 (the "***Bond Ordinance***"). Terms with initial capitals and not otherwise defined herein shall have the meanings ascribed thereto in the Bond Ordinance.

(B) 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 the acquiring, purchasing, constructing, improving, enlarging, and repairing of the System and improvements and additions thereto, including the recoupment or reimbursement 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.

(C) The City currently has no indebtedness payable from the revenues derived from the System.

(D) The City has determined to issue the Series 2020 Bonds (as defined herein) to: (1) recoup or defray all or a portion of the costs of planning, developing, and constructing stormwater system renovations and improvements located in the City, to include new, renovated or replaced stormwater lines and related infrastructure (the "***2020 Project***"); (2) provide for the refunding of all or a portion of its $6,000,000 General Obligation Bond, Series 2018, dated December 10, 2018 (the "***Refunded Bond***"); (3) fund, if necessary, the 2020 Debt Service Reserve Fund (as defined herein) in a manner permitted by the Bond Ordinance; and (4) pay the costs of issuance of the Series 2020 Bonds.

(E) The Series 2020 Bonds shall be issued under the terms of the Bond Ordinance as the initial Series of Bonds thereunder.

(F) By reason of the foregoing, the City has determined to enact this 2020 Series Ordinance in accordance with the terms and provisions of the Bond Ordinance in order to issue bonds for the purposes described in Paragraph (D) above.

(G) Upon the enactment hereof, the provisions of this 2020 Series Ordinance shall be in full force and effect and this 2020 Series Ordinance shall amend, restate and replace the that certain prior Series Ordinance dated July 14, 2020 in its entirety.

Section 1.02 Determinations Required by Section 4.01(B) of the Bond Ordinance.

(A) The City Council hereby specifies and determines that:

(1) The current period of usefulness of the System is as set forth in Article III hereof;

(2) the Date of Issue of the Series 2020 Bonds shall be the date that the Series 2020 Bonds are executed and delivered, or as otherwise determined by an Authorized Officer pursuant to Article V hereof;

(3) the maximum authorized principal amount of the Series 2020 Bonds is set forth at Section 4.01 hereof, and the exact principal amount of the Series 2020 Bonds shall be determined by an Authorized Officer at the closing of the Series 2020 Bonds pursuant to Article V hereof;

(4) the Bond Payment Dates, the Record Dates, and the dates and amounts of maturity of such Series 2020 Bonds, shall be determined by an Authorized Officer at the closing of such Series 2020 Bonds pursuant to Article V hereof, provided, however, no such Series 2020 Bonds shall mature later than 30 years from the Date of Issue of the initial Series of Series 2020 Bonds;

(5) Series 2020 Bonds are necessary to provide funds to be used and expended for purposes set forth in Section 4.01(A) of the Bond Ordinance, as such purposes are particularly described at Section 4.02 hereof;

(6) the title and designation of the Series 2020 Bonds shall be as set forth at Section 4.01 hereof or as otherwise determined by an Authorized Officer pursuant to Article V hereof;

(7) Series 2020 Bonds shall be sold in accordance with Article VIII hereof in the manner determined by an Authorized Officer as authorized by Article V hereof;

(8) Series 2020 Bonds shall bear interest at rates as determined by an Authorized Officer through the sale procedures of Article VIII hereof, and the City will not enter into any interest rate swap or similar transaction with respect to the Series 2020 Bonds;

(9) Series 2020 Bonds may be issued as either Serial Bonds or Term Bonds (with appropriate mandatory redemption provisions) as determined by an Authorized Officer pursuant to Article V hereof;

(10) The Redemption Prices and dates applicable to any Series of Series 2020 Bonds shall be as determined by an Authorized Officer at the closing of such Series 2020 Bonds pursuant to Article V hereof;

(11) U.S. Bank National Association (the "***Trustee***") shall serve as Trustee, Paying Agent and Registrar for the Series 2020 Bonds;

(12) Series 2020 Bonds shall be in the form as provided at Section 4.09 hereof, with such revisions as may be approved by an Authorized Officer pursuant to Article V hereof upon the advice of Bond Counsel, the execution thereof being conclusive evidence of such approval;

(13) The initial maturity of the Series 2020 Bonds shall be numbered R-1 and any other Series 2020 Bonds thereafter shall be sequentially numbered "R-" thereafter;

(14) The Series 2020 Bonds shall be issued in denominations of $5,000 or any integral multiple thereof in one or more Series in the denomination of the principal amount of such Series of Series 2020 Bonds;

(15) Series 2020 Bonds may be issued in book-entry form as permitted by Section 4.21 of the Bond Ordinance determined by an Authorized Officer at the closing of such Series 2020 Bonds pursuant to Article V hereof;

(16) no Bonds are currently Outstanding and thus there is no Reserve Requirement currently applicable to any Bonds;

(17) no 2020 Debt Service Reserve Fund is contemplated to be established in connection with the Series 2020 Bonds, and thus no Series Reserve Requirement is anticipated to be established, however if the Authorized Officer determines that a Series Debt Service Reserve Fund shall assist the City in obtaining more advantageous terms, he may establish both a Series Debt Service Reserve Fund and establish a Series Reserve Requirement;

(18) the proceeds of Series 2020 Bonds shall be applied as set forth at Article VII hereof;

(19) the 2020 Debt Service Fund Account is established pursuant to Section 4.06 hereof; the 2020 Project Fund and 2020 COI Account are established pursuant to Section 7.02 hereof; and

(20) the City estimates that the cost of the 2020 Project, exclusive of financing and related costs, will be $1,500,000.

[End of Article I]

ARTICLE II

DEFINITIONS AND CONSTRUCTION

Section 2.01 Definitions.

(A) Except as provided in subsection (B) below, all capitalized terms which are defined in Section 2.02 of the Bond Ordinance shall have the meanings given the same in this 2020 Series Ordinance.

(B) As used in this 2020 Series Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

"***2020 COI Account***" shall mean that account created within the 2020 Project Fund pursuant to Section 7.02 hereof.

"***2020 Debt Service Fund Account***" shall mean the account of that name established by this 2020 Series Ordinance pursuant to Section 7.03 of the Bond Ordinance.

"***2020 Debt Service Reserve Fund***" shall mean the fund of that name authorized to be established by this 2020 Series Ordinance pursuant to Section 7.04 of the Bond Ordinance.

"***2020 Project***" shall mean the project defined at Section 1.01(D) hereof.

"***2020 Project Fund***" shall mean the fund created at Section 7.02 hereof.

"***2020 Reserve Requirement***" if any, shall mean an amount determined by the Authorized Officer in compliance with the provisions and requirements of the Code.

"***2020 Series Ordinance***" shall mean this ordinance of the City Council.

"***Authorized Officer***" shall have the meaning ascribed thereto in the Bond Ordinance, but for purposes of making the determinations provided for under Article V of this 2020 Series Ordinance, the City Manager shall constitute the sole Authorized Officer.

"***Escrow Deposit Agreement***" shall have the meaning given such term in Section 5.03 hereof.

"***Governmental Unit***" means a state or local governmental unit within the meaning of Section 141(b) of the Code.

"***Nongovernmental Person***" means any Person other than a Governmental Unit.

"***Refunded Bond***" means the $6,000,000 General Obligation Bond, Series 2018, of the City dated December 10, 2018.

"***Series 2020 Bonds***" shall mean the one or more Series of Bonds authorized and designated by Section 4.01 of this 2020 Series Ordinance.

"***Trustee***" shall mean U.S. Bank National Association, its successors and assigns.

Section 2.02 Authority for this 2020 Series Ordinance.

This 2020 Series Ordinance is enacted pursuant to the provisions of the Bond Ordinance.

[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 2020 Series Ordinance.

[End of Article III]

ARTICLE IV

AUTHORIZATION AND TERMS OF THE SERIES 2020 BONDS

Section 4.01 Principal Amount; Designation of Series 2020 Bonds.

(A) 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 Eight Million Dollars ($8,000,000); such Series of Bonds so authorized shall be designated as the "City of Beaufort, South Carolina Improvement and Refunding Limited Obligation Bond[s] (Stormwater System Pledge), Series 2020" (the "***Series 2020 Bonds***") and shall bear a numeric or alphanumeric 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. The Series 2020 Bonds may be sold as a single Series or from time to time as multiple Series bearing any such designation as appropriate. References herein to the Series 2020 Bonds shall include all Series of Bonds authorized by this 2020 Series Ordinance. As authorized by Section 9.01(G) hereof, any Series of the Series 2020 Bonds may be issued as taxable obligations, and in such event it shall bear an appropriate designation so as to distinguish its tax status.

(B) Should the Series 2020 Bonds not be issued in calendar year 2020, the designation for the Series 2020 Bonds and all other references to "2020" recited herein shall be changed to appropriately reflect the year of such actual issuance. References herein to the Series 2020 Bonds shall include all Series of Bonds.

Section 4.02 Purposes of the Series 2020 Bonds.

The Series 2020 Bonds are authorized for the principal purposes of:

(A) Defraying all or a portion of the cost of the 2020 Project, including the recoupment of costs previously paid or incurred in connection with the 2020 Project;

(B) Effecting a refunding of all or a portion of the Refunded Bond;

(C) Funding the 2020 Debt Service Reserve Fund, if any, in an amount equal to the 2020 Reserve Requirement in a manner permitted by the Bond Ordinance; and

(D) Paying certain costs and expenses relating to the issuance of the Series 2020 Bonds.

Section 4.03 Date of Issue; Interest Rates; Maturity; Redemption.

(A) The Date of Issue of each Series of Series 2020 Bonds shall be the date of delivery thereof, or such other date as designated by the Authorized Officer. Series 2020 Bonds shall mature in such principal amounts and shall bear interest at such rates as may be determined

by an Authorized Officer provided that the final maturity of the Series 2020 Bonds shall not extend beyond 30 years from the Date of Issue of the initial Series of Series 2020 Bonds issued hereunder. Series 2020 Bonds shall mature as Serial or 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 such Series 2020 Bonds.

(B) Interest on any Series of Series 2020 Bonds shall be payable on such Interest Payment Dates as are determined by the Authorized Officer. The Record Dates for the payment of interest on Series 2020 Bonds shall be the 15th day of the month prior to each Bond Payment Date.

(C) Series 2020 Bonds may be subject to redemption prior to maturity, upon such terms and conditions, and at such Redemption Prices, as may be established by an Authorized Officer prior to or simultaneously with the issuance of the applicable Series of Series 2020 Bonds.

Section 4.04 Authentication; Payment of Series 2020 Bonds.

(A) The Series 2020 Bonds shall be authenticated on such date as they shall, in each case, be delivered. Each of the Series 2020 Bonds 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 2020 Bonds' authentication.

(B) The interest on the Series 2020 Bonds shall be paid by check or draft mailed from the office of the Trustee to the person in whose name each of the Series 2020 Bonds is registered at the close of business on the Record Date; provided, however, that any Holder of such Series 2020 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.

(C) Presentment of the Series 2020 Bonds for payment shall not be required, except for the final payment of the principal and interest thereon or upon such other condition or indicia of satisfaction as may be mutually agreed-upon by the City and the Holder of such Series 2020 Bonds.

Section 4.05 Denomination of the Series 2020 Bond.

Series 2020 Bonds shall be issued in denomination of $5,000 or any multiple thereof. Each Series 2020 Bond shall be numbered by the Trustee in such a fashion as to reflect the fact that it is one of the Series 2020 Bonds, and to identify the owner thereof on the books kept by the Registrar. The initial maturity of the Series 2020 Bonds shall be numbered R-1, and thereafter sequentially "R-" numbered for identification.

Section 4.06 Establishment of 2020 Debt Service Fund Account.

In accordance with Section 7.03 of the Bond Ordinance, the 2020 Debt Service Fund Account is hereby directed to be established by the Trustee within the Debt Service Fund on the date of original delivery of the Series 2020 Bonds for the benefit of the Holders of the Series 2020 Bonds. In the event that more than one Series of Series 2020 Bonds is issued pursuant to the terms of this 2020 Series Ordinance, a Debt Service Fund Account (and any applicable subaccounts permitted under the Bond Ordinance) shall be established for each such Series.

Section 4.07 2020 Debt Service Reserve Fund.

In accordance with Section 7.04 of the Bond Ordinance and the terms of this 2020 Series Ordinance, if an Authorized Officer determines that the 2020 Debt Service Reserve Fund is necessary and desirable, he shall direct the Trustee to establish such 2020 Debt Service Reserve Fund. If established, the 2020 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 2020 Reserve Requirement, as may be determined in accordance with Article V hereof. The 2020 Debt Service Reserve Fund, if established, may be funded by cash or another method permitted by Section 7.04(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.

U.S. Bank National Association is hereby appointed as Trustee, Paying Agent, and Registrar under the Bond Ordinance and this 2020 Series Ordinance. The Trustee shall signify its acceptance of the duties of Trustee, Paying Agent and Registrar upon delivery of the Series 2020 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 2020 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 2020 Series Ordinance.

The Series 2020 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 2020 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 2020 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 2020 Bond.

Series 2020 Bonds, together with the certificate of authentication, certificate of assignment and/or statement of insurance, if any, are to be in substantially the form attached hereto as Exhibit A with such necessary and appropriate variations, omissions and insertions as permitted or required upon advice of Bond Counsel and as determined by an Authorized Officer, or as otherwise authorized by the Bond Ordinance or this 2020 Series Ordinance. The execution of the Series 2020 Bonds shall constitute conclusive evidence of the approval of any changes to the form of any Series 2020 Bond.

[End of Article IV]

ARTICLE V

CERTAIN DELEGATIONS AND AUTHORIZATIONS

Section 5.01 Certain Delegations.

The City Council hereby expressly delegates to an Authorized Officer the authority, with respect to the Series 2020 Bonds, to determine, in connection with any Series of Series 2020 Bonds issued hereunder:

(A) whether to issue the Series 2020 Bonds as a single Series or from time to time in several Series;

(B) the manner of sale of such Series 2020 Bonds in accordance with Article VIII hereof;

(C) whether to create and distribute preliminary and final Official Statements in connection with the issuance of such Series 2020 Bonds;

(D) the award of such Series 2020 Bonds in accordance with Article VIII hereof;

(E) the final form of such Series 2020 Bonds, whether to modify the Series designation in accordance with Section 4.01 hereof, and the exact principal amount of such Series 2020 Bonds, not to exceed $8,000,000 in the aggregate together with any other Series of Series 2020 Bonds;

(F) whether and the extent to which such Series of Series 2020 Bonds shall be issued as Term Bonds or Serial Bonds;

(G) the Date of Issue, Bond Payment Dates, rate or rates of interest obtained using the sale procedures of Article VIII hereof, maturity schedule, and the final maturity of each Series of Series 2020 Bonds, not to exceed 30 years from the Date of Issue of the initial Series of Series 2020 Bonds issued hereunder;

(H) whether such Series 2020 Bonds shall be subject to optional or mandatory redemption prior to maturity, and if so, the Redemption Prices applicable thereto;

(I) whether such Series 2020 Bonds shall be issued in book-entry form as permitted by Section 4.21 of the Bond Ordinance;

(J) whether to use bond insurance, and if so, to make appropriate arrangements therefor;

(K) whether to establish a 2020 Reserve Requirement for such Series 2020 Bonds and to establish a 2020 Debt Service Reserve Fund in accordance with Section 4.07 hereof;

(L) whether such Series 2020 Bonds will be designated as "qualified tax-exempt obligations" pursuant to the Code;

(M) whether such Series 2020 Bond (or any Series thereof) shall be issued on a taxable basis; and

(N) such other matters regarding the Series 2020 Bonds as are necessary or appropriate.

Section 5.02 Authorization to Redeem the Refunded Bond.

The City Council does hereby determine that the Refunded Bond to be refunded by the Series 2020 Bonds may be irrevocably called for redemption on such date as determined by the Authorized Officer. The Authorized Officer is hereby authorized to (i) determine, upon the advice of the Financial Advisor (as defined herein), how the Refunded Bond shall be redeemed (under Section 5.01 above), (ii) determine and select which maturities of the Refunded Bond are to be refunded with a portion of the proceeds of the Series 2020 Bonds, and (iii) acting alone or through the Trustee, provide for the notice of defeasance and notice of redemption, respectively and as applicable, in such manner, forms and times as required by the proceedings authorizing the issuance of the Refunded Bond and the Enabling Act.

Section 5.03 Authorization to Execute Escrow Deposit Agreement.

An Authorized Officer is authorized to execute and deliver an escrow deposit agreement in such form as he may deem expedient and necessary in order to establish an escrow deposit account and effect the refunding of the Refunded Bond (the "***Escrow Deposit Agreement***"). An Authorized Officer, in consultation with Bond Counsel, is hereby authorized to determine the type of investments that shall be made in such escrow deposit agreement and to select the escrow agent in accordance with the proceedings authorizing the Refunded Bond. The Authorized Officer is further hereby authorized to (i) determine the type of investments that shall be made in the Escrow Deposit Agreement, (ii) select an escrow agent (which may be the Trustee), (iii) give or direct the giving of any notice filings that may be required, (iv) take such action to properly redeem or defease or provide for the redemption or defeasance of the Refunded Bond, and (v) determine whether or not to use one or more Escrow Deposit Agreements for the Refunded Bond.

[End of Article V]

ARTICLE VI

EXECUTION; NO RECOURSE

Section 6.01 Execution of the Series 2020 Bonds.

The Series 2020 Bonds shall be executed and attested by the Mayor and the Clerk, respectively, in accordance with the applicable provisions of the Bond Ordinance; however, in the absence of the Mayor or the Clerk for any reason, an Authorized Officer shall be authorized to either execute the Series 2020 Bonds or attest to the execution of the Series 2020 Bonds on behalf of the absent party; however, in no event shall the same Authorized Officer be permitted to both execute and attest to the Series 2020 Bonds. If acting on behalf of an absent person, such Authorized Officer shall be authorized to execute, sign, certify or attest any documentation otherwise required of the Mayor or Clerk respecting the issuance and delivery of the Series 2020 Bonds.

Facsimiles or electronic signatures by the Mayor, the Clerk or any Authorized Officer are expressly authorized and permitted with respect to the Series 2020 Bonds and all closing documents and certificates associated therewith.

Section 6.02 No Recourse on the Series 2020 Bonds.

All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this 2020 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 2020 Bonds or for any claim based thereon or on the Bond Ordinance or on this 2020 Series Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Series 2020 Bonds.

[End of Article VI]

ARTICLE VII

APPLICATION OF BOND PROCEEDS

Section 7.01 Use and Disposition of Bond Proceeds.

Upon the delivery of the Series 2020 Bonds and receipt of the proceeds thereof, net of underwriter's discount or premium, such funds shall be disposed of as follows:

(A) if an Authorized Officer determines to fund the 2020 Debt Service Reserve Fund, the sum or instrument equal to the 2020 Reserve Requirement, whether in cash or otherwise, shall be deposited into the 2020 Debt Service Reserve Fund;

(B) the sum necessary to redeem the Refunded Bond shall be distributed by the purchaser, either (i) directly to the holder of the Refunded Bond, or (ii) to the Trustee, for ultimate distribution to the holder of the Refunded Bond. Any payoff directly to the holder of the Refunded Bond shall be made in accordance with the terms and conditions of closing memoranda dated as of the date of closing of the Series 2020 Bonds. Any payoff provided to the Trustee shall be made in accordance with the terms and conditions of closing memoranda and/or the Escrow Deposit Agreement; and

(C) all remaining funds shall be deposited in the 2020 Project Fund and used to defray the costs of the 2020 Project and the costs of issuance of the Series 2020 Bonds. Amounts representing the costs of issuance of the Series 2020 Bonds shall be kept in an account within the 2020 Project Fund.

Section 7.02 Establishment of 2020 Project Fund and 2020 COI Account.

There is hereby established, in accordance with Section 4.01 and 7.08 of the Bond Ordinance, the "2020 Project Fund," and the "2020 COI Account" within the 2020 Project Fund. There shall be paid into the 2020 Project Fund the sums prescribed by Section 7.01(C) hereof. The 2020 Project Fund shall be held and controlled by the City. Withdrawals for the payment of costs of issuance from the 2020 COI Account shall be made upon written order of the City by any Authorized Officer.

Subject to Section 15.13 of the Bond Ordinance, moneys in the 2020 Project Fund shall be invested and reinvested in Authorized Investments. Upon written notification from the City by any Authorized Officer that the payment of all costs of issuance for the Series 2020 Bonds have been paid, the remaining sums in the 2020 COI Account shall be transferred to the Trustee and applied to the 2020 Debt Service Fund Account. If there are any funds remaining in the 2020 Project Fund upon completion of the 2020 Project, such balance shall be transferred to the Trustee and applied 2020 Debt Service Fund Account. All moneys transferred into the 2020 Debt Service Fund Account from the 2020 COI Account or the 2020 Project Fund shall be deposited into the fee subaccount therein and used to pay principal of and interest on the Series 2020 Bonds as the same come due.

[End of Article VII]

ARTICLE VIII

SALE OF BONDS

Section 8.01 Sale of Bonds.

The Series 2020 Bonds may be sold on a competitive basis as set forth at Section 8.02 hereof, or on a negotiated basis as set forth at Section 8.03 hereof, as determined by an Authorized Officer.

Section 8.02 Competitive Sale.

The Series 2020 Bonds may be sold at a date and time certain after public notice thereof. Bids may be received at such time and date and in such manner as determined by an Authorized Officer. Unless all bids are rejected, the award of the Series 2020 Bonds may be made by an Authorized Officer to the bidder offering the most advantageous terms to the City, with the basis of such award and the date and time certain for opening bids to be set forth in a request for proposals used in connection with the sale of the Series 2020 Bonds (the "***RFP***").

Any Series of Series 2020 Bonds sold on a competitive sale basis may be sold pursuant to either of the following methods as determined by an Authorized Officer:

(A) *Competitive Direct Placement*. Any Series 2020 Bonds may be sold to an institution or institutions as a single instrument as a means of making a commercial loan (a "***Direct Placement Purchaser***"). The City Council authorizes an Authorized Officer to distribute the RFP to prospective purchasers of Series 2020 Bonds and award such Series 2020 Bonds to a Direct Placement Purchaser on the basis of the terms and conditions contained therein. Such Series 2020 Bonds shall be issued as a single Bond (or separate single Bonds if the Series 2020 Bonds are sold in multiple Series), without CUSIP identification (unless otherwise agreed by the Direct Placement Purchaser and an Authorized Officer on behalf of the City), shall not be issued in book-entry-only form, and no official statement shall be prepared in connection with the sale of such Series 2020 Bonds. The Direct Placement Purchaser of any such Series 2020 Bonds shall execute an investor letter to the City acknowledging its purchase of such Bonds as a means of making a commercial loan.

(B) *Competitive Public Offering*. Any Series 2020 Bonds may be sold in the public capital markets to an underwriter for the purpose of reselling such Series 2020 Bonds. In such case, the City Council hereby authorizes an Authorized Officer to prepare, or cause to be prepared, a preliminary official statement and distribute the preliminary official statement and the RFP (or official notice of sale) to prospective purchasers of Series 2020 Bonds. The City Council authorizes an Authorized Officer to designate the preliminary official statement as "final" for purposes of Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended ("***Rule***

15c2-12"). The Authorized Officer is further authorized to see to the completion of the final form of the official statement upon the sale of such Series 2020 Bonds so that it may be provided to the underwriter of such Series 2020 Bonds.

Section 8.03 Negotiated Sale.

Any Series 2020 Bonds sold on a negotiated basis may be sold pursuant to either of the following methods as determined by an Authorized Officer.

(A) *Negotiated Direct Placement*. Any Series 2020 Bonds may be sold to a Direct Placement Purchaser as a means of making a commercial loan pursuant to negotiation, with or without providing for distribution of an RFP. In such case, the City Council authorizes an Authorized Officer to solicit, or cause to be solicited, financing proposals from prospective purchasers of Series 2020 Bonds and award the Series 2020 Bonds after negotiation with prospective purchasers. Such Series 2020 Bonds shall be issued as a single Series (or separate single Bonds if the Series 2020 Bonds are sold in multiple Series), without CUSIP identification (unless otherwise agreed by the Direct Placement Purchaser and an Authorized Officer on behalf of the City). The Direct Placement Purchaser of such Series 2020 Bonds shall execute an investor letter to the City acknowledging its purchase of the Series 2020 Bonds as a means of making a commercial loan.

(B) *Negotiated Public Offering*. Any Series 2020 Bonds may be sold to an underwriter pursuant to the terms of a bond purchase agreement for resale in the public capital markets. The underwriter shall be selected by the Authorized Officer upon the advice of the Financial Advisor and the bond purchase agreement shall be executed by an Authorized Officer upon advice of Bond Counsel and the Financial Advisor. The execution of the bond purchase agreement by such Authorized Officer shall constitute conclusive evidence of his or her approval thereof. In such case, the City Council hereby authorizes an Authorized Officer to prepare, or cause to be prepared, a preliminary official statement and authorize the distribution of the preliminary official statement by the underwriter. The City Council authorizes an Authorized Officer to designate the preliminary official statement as "final" for purposes of Rule 15c2-12. Such Authorized Officer is further authorized to see to the completion of the final form of the official statement upon the sale of such Series 2020 Bonds so that it may be provided to the underwriter. To the extent the underwriter has been selected and the preliminary official statement is has been distributed and deemed final by an Authorized Officer prior to the enactment of this 2020 Series Ordinance, all such actions by the Authorized Officer are ratified, confirmed and approved.

Section 8.04 Certain Financial Information to be Provided to Purchaser.

As requested by a Direct Placement Purchaser of the Series 2020 Bonds, the City may furnish or arrange to provide all other financial information related to or affecting the System as the Direct Placement Purchaser may reasonably request or require. Upon reasonable notice, the City shall permit any Holder of the Series 2020 Bonds, or its agents and representatives, to inspect during regular business hours the City's books and records relating to or affecting the System and to make extractions therefrom.

[End of Article VIII]

ARTICLE IX

TAX AND SECURITIES LAW COVENANTS

Section 9.01 Tax Covenants.

(A) *General Tax Covenant.* The City will comply with all requirements of the Code in order to preserve the tax-exempt status of the Series 2020 Bonds, including without limitation, (i) the requirement to file Form 8038-G, *Information Return for Tax-Exempt Government Obligations*, with the Internal Revenue Service, and (ii) the requirement to rebate certain arbitrage earnings to the United States Government pursuant to Section 148(f) of the Code. In this connection, the City covenants to execute any and all agreements or other documentation as it may be advised by Bond Counsel will enable it to comply with this Section 9.01, including its certification on reasonable grounds that the Series 2020 Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Code.

(B) *Tax Representations*. The City hereby represents and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest on the Series 2020 Bonds to become includable in the gross income of the Holders thereof for federal income tax purposes pursuant to the provisions of the Code and the United States Treasury Regulations (the "***Regulations***"). Without limiting the generality of the foregoing, the City represents and covenants that:

(1) All property financed or refinanced with the proceeds of the Series 2020 Bonds will be owned by the City or another political subdivision of the State so long as the Series 2020 Bonds are Outstanding in accordance with the rules governing the ownership of property for federal income tax purposes.

(2) The City shall not use, and will not permit any party to use, the proceeds of the Series 2020 Bonds, or any bonds refunded thereby, in any manner that would result in (i) 10% or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any Nongovernmental Person, (ii) 5% or more of such proceeds being considered as having been used directly or indirectly in any trade or business of any Nongovernmental Person that is either "unrelated" or "disproportionate" to the governmental use of the financed facility by the City or by any other Governmental Unit (as the terms "unrelated" and "disproportionate" are defined for purposes of Section 141(b)(3) of the Code) or (iii) 5% or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any Nongovernmental Person.

(3) The City is not a party to, and will not enter into or permit any other party to enter into, any contract with any person involving the management of any facility financed or refinanced with the proceeds of the Series 2020 Bonds or by notes paid by the Series 2020 Bonds that does not conform to the guidelines set forth in Revenue Procedure 2017-13, or a successor revenue procedure, Code provision or Regulations.

(4) The City will not sell, or permit any other party to sell, any property financed or refinanced with the Series 2020 Bonds to any person unless it obtains an opinion of nationally recognized bond counsel that such sale will not affect the tax-exempt status of the Series 2020 Bonds.

(5) The Series 2020 Bonds will not be "federally guaranteed" within the meaning of Section 149(b) of the Code. The City shall not enter into, or permit any other party to enter into, any leases or sales or service contract with any federal government agency with respect to any facility financed or refinanced with the proceeds of the Series 2020 Bonds and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax-exempt status of the Series 2020 Bonds.

(C) *Arbitrage Bonds, Rebate*. The City covenants that no use of the proceeds of the sale of the Series 2020 Bonds shall be made which, if such use had been reasonably expected on the date of issue of such Bonds would have caused the Series 2020 Bonds to be "arbitrage bonds" as defined in the Code, and to that end the City shall:

(1) comply with the applicable regulations of the Treasury Department previously promulgated under Section 103 of the Internal Revenue Code of 1954, as amended, and any regulations promulgated under the Code, so long as the Series 2020 Bonds are Outstanding;

(2) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code and Regulations relating to required rebate of certain amounts to the United States Government;

(3) make such reports of such information at the time and places required by the Code and Regulations; and

(4) take such other action as may be required to assure that the tax-exempt status of the Series 2020 Bonds will not be impaired.

(D) *Tax Certificate*. An Authorized Officer is hereby authorized and directed to execute, at or prior to delivery of any Series of 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 such Series of Bonds, the proceeds thereof, or the City.

(E) *Bank Qualified*. Series 2020 Bonds may be designated by an Authorized Officer pursuant to Article V hereof as "qualified tax-exempt obligations" in accordance with Section 265(b)(3)(B) of the Code.

(F) *Reimbursement Declaration*. The City hereby declares its intention to reimburse itself for a portion of the costs of the 2020 Project with the proceeds of Series 2020 Bonds. To that end, the City Council determines and declares as follows:

(1) no funds from any sources other than the Series 2020 Bonds are or are reasonably expected to be, reserved, allocated on a long-term basis or otherwise set aside by the City pursuant to the budget or financial policies of the City for the financing of the portion of the costs of acquisition, construction, and equipping of the 2020 Project to be funded with the Series 2020 Bonds;

(2) the City reasonably expects that all or a portion of the expenditures incurred for the 2020 Project and the issuance of the Series 2020 Bonds will be paid prior to the issuance of the Series 2020 Bonds;

(3) the City intends and reasonably expects to reimburse itself for all such expenditures paid by it with respect to the 2020 Project prior to the issuance of the Series 2020 Bonds from the proceeds of the Series 2020 Bonds, and such intention is consistent with the budgetary and financial circumstances of the City;

(4) all of the costs to be paid or reimbursed from the proceeds of the Series 2020 Bonds will be for costs incurred in connection with the issuance of the Series 2020 Bonds, or will, at the time of payment thereof, be properly chargeable to the capital account of the 2020 Project (or would be so chargeable with a proper election) under general federal income tax principles; and

(5) this 2020 Series Ordinance shall constitute a declaration of official intent under United States Department of the Treasury Regulation Section 1.150-2.

(G) *Taxable Bonds*. Prior to the issuance of a Series of Bonds, an Authorized Officer may, in consultation with Bond Counsel, designate a Series of Bonds as taxable under the Code. The election to issue a Series of Taxable Bonds shall be clearly indicated by including the phrase "Taxable Series," or words to that effect, in the series designation of such Taxable Bonds. The above provisions of this Section 9.01 shall not be applicable to any Series of Taxable Bonds.

Section 9.02 Securities Law Covenants.

(A) The City hereby covenants and agrees that it will comply with and carry out all of the provisions of any continuing disclosure certificate or agreement, executed by an Authorized Officer and dated the date of delivery of the Series 2020 Bonds, which will meet the requirements, as applicable, of Section 11-1-85 of the South Carolina Code, which may require, among other things, that the City file with a central repository when requested:

(1) a copy of its annual independent audit within 30 days of its receipt and acceptance, and

(2) event-specific information, within 30 days of an event adversely affecting more than five percent of its revenues or five percent of its tax base.

The only remedy for failure by the City to comply with the covenants in this Section 9.02 shall be an action for specific performance of this covenant. The City specifically reserves the right to

amend this covenant to reflect any change in Section 11-1-85 of the South Carolina Code, without the consent of any Bondholder.

(B) The City hereby covenants and agrees that it will comply with and carry out all of the provisions of any continuing disclosure certificate, executed by an Authorized Officer and dated the date of delivery of the Series 2020 Bonds, which will meet the requirements, as applicable, of Rule 15c2-12 (the "***Continuing Disclosure Undertaking***"). Notwithstanding any other provision of this 2020 Series Ordinance, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an event of default hereunder; however, any Bondholder may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this Section. The execution of the Continuing Disclosure Undertaking shall constitute conclusive evidence of the approval by the person executing the same of any and all modifications and amendments thereto. Additionally, an Authorized Officer is authorized to contract with a dissemination agent for certain dissemination services associated with the execution and delivery of the Continuing Disclosure Undertaking.

(C) In the event any Series 2020 Bonds are not sold as securities, but rather sold to a Direct Placement Purchaser as a commercial loan, no Continuing Disclosure Undertaking shall be required as to such Series 2020 Bonds, but the City may covenant to provide information to the Direct Placement Purchaser as may be mutually agreed.

[End of Article IX]

ARTICLE X

MISCELLANEOUS

Section 10.01 Severability.

If any one or more of the covenants or agreements provided in this 2020 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 2020 Series Ordinance.

Section 10.02 Further Action.

The City Council authorizes the Authorized Officers to execute and sign all other documents, certificates, and agreements necessary or convenient to effect the purchase and sale of the Series 2020 Bonds.

Section 10.03 Professional Services.

The City Council hereby authorizes, approves or ratifies, as applicable, the engagement of Stephens Inc. to act as Financial Advisor (the "***Financial Advisor***"), Robert W. Baird Incorporated to serve as underwriter and Pope Flynn, LLC to act as Bond Counsel and Disclosure Counsel (if applicable) in connection with the issuance of the Series 2020 Bonds and authorizes (or ratifies, as applicable) an Authorized Officer to engage the services of such other professionals and institutions of a type and in a manner customary in connection with the issuance of municipal bonds, including, but not limited to, contractual arrangements with other professionals, rating agencies, verification agents, financial and trust institutions, printers and the suppliers of other goods and services in connection with the sale, execution and delivery of the Series 2020 Bonds, as is necessary and desirable.

Section 10.04 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the headings of the several articles and sections of this 2020 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 2020 Series Ordinance.

Section 10.05 Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of Series 2020 Bonds by those who shall purchase and hold the same from time to time, the provisions of this 2020 Series Ordinance shall be deemed to be and shall constitute a contract between the City and the Holder from time to time of the Series 2020 Bonds, and such provisions are covenants and agreements with such Holder which the City hereby determines to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants and agreements herein set

forth to be performed on behalf of the City shall be for the benefit, protection and security of the Holder of the Series 2020 Bonds.

Section 10.06 Ratification of Prior Action.

All prior actions of Authorized Officers in furtherance of the purposes of this 2020 Series Ordinance (including, but not limited to, any negotiated sale of Series 2020 Bonds or any solicitation of bids under the provisions of Article VIII hereof) are hereby approved, ratified and confirmed.

[End of Article X]

DONE IN MEETING DULY ASSEMBLED, this 18th day of August 2020.

CITY OF BEAUFORT, SOUTH CAROLINA

_____
BILLY KEYSERLING, MAYOR

(SEAL)

Attest:

_____
IVETTE BURGESS, CITY CLERK

1st Reading: August 11, 2020
2nd Reading & Enactment: August 18, 2020

Reviewed by: _____
WILLIAM B. HARVEY, III, CITY ATTORNEY

EXHIBIT A

(FORM OF BOND)

[WITH THE CONSENT OF THE PURCHASER, AND NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED IN THE 2020 SERIES ORDINANCE, THIS SERIES 2020 BOND MAY BE SOLD OR TRANSFERRED ONLY TO PURCHASERS WHO EXECUTE AN INVESTMENT LETTER DELIVERED TO THE CITY, IN FORM SATISFACTORY TO THE CITY, CONTAINING CERTAIN REPRESENTATIONS, WARRANTIES AND COVENANTS AS TO THE SUITABILITY OF SUCH PURCHASERS TO PURCHASE AND HOLD THIS SERIES 2020 BOND. SUCH RESTRICTION SHALL BE COMPLIED WITH BY EACH TRANSFEREE OF THIS SERIES 2020 BOND.]

CITY OF BEAUFORT
STATE OF SOUTH CAROLINA
IMPROVEMENT AND REFUNDING
LIMITED OBLIGATION BONDS (STORMWATER SYSTEM PLEDGE)
SERIES 2020

No. R-1 $_____

THE CITY OF BEAUFORT, SOUTH CAROLINA (the "***City***"), acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to _____, or registered assigns (the "***Purchaser***"), as purchaser of this Improvement and Refunding Limited Obligation Bond (Stormwater System), Series 2020 (this "***Series 2020 Bond***"), the principal amount of _____ DOLLARS AND 00/100 ($_____), at the designated corporate trust offices of U.S. Bank National Association (the "***Trustee***") in the manner provided below. This Series 2020 Bond shall be dated and bear interest from _____, the date of delivery hereof, and at the rate of _____ per centum (____%) per annum (computed on the basis of a 360-day year consisting of twelve 30-day months). Interest on this Series 2020 Bond is initially payable on _____, and thereafter on each _____ 1 and _____ 1 of each year (each a "***Bond Payment Date***") until _____, the final maturity date hereof ("***Final Maturity***") in accordance with the schedule set forth at Exhibit A and which is incorporated herein by reference. The payments of principal, interest, or both, payable on a Bond Payment Date shall be payable to the person in whose name this Series 2020 Bond is registered at the close of business on the _____ 15 or ____ 15 immediately preceding such Bond Payment Date (each a "***Record Date***"). [The City and the Purchaser have mutually agreed to waive all requirements for presentation and surrender of this Series 2020 Bond in connection with the payment thereof. Upon the final payment of this Series 2020 Bond, the Purchaser will execute and a deliver a certificate to the City and the Trustee certifying that (i) such payment represents the final payment due on this Series 2020 Bond and (ii) the City owes no further obligation to the Purchaser respecting this Series 2020 Bond.] This Series 2020 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.

Both the principal of and interest on this Series 2020 Bond are payable by check or draft from the principal office of the Trustee to the person in whose name this Series 2020 Bond is registered on the Record Date at the address shown on the registration books. The principal of, redemption premium, if any, and interest on this Series 2020 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 2020 Bond is subject to redemption at the option of the City prior to maturity, in part or in whole, at any time, at [100]% of the then outstanding principal amount of this Series 2020 Bond, plus accrued interest to the redemption date.]

If this Series 2020 Bond is called for redemption, the Trustee will give notice to the Holder of this Series 2020 Bond in the name of the City, of the redemption of such Series 2020 Bonds, or portions thereof. Notice and redemption conditions shall otherwise comply with Section 4.13 of the Bond Ordinance.

This Series 2020 Bond is issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the "***State***") including particularly Chapter 21, Title 6, Code of Laws of South Carolina 1976, as amended (the "***South Carolina Code***"), and by an ordinance entitled, "AN AMENDED AND RESTATED MASTER BOND ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF BONDS (STORMWATER SYSTEM PLEDGE) OF THE CITY OF BEAUFORT, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO," enacted by the City Council of the City of Beaufort (the "***City Council***"), the governing body of the City, on August 18, 2020 (the "***Bond Ordinance***"), and a series ordinance entitled, "AN AMENDED AND RESTATED SERIES ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF IMPROVEMENT AND REFUNDING LIMITED OBLIGATION BONDS (STORMWATER SYSTEM PLEDGE), TO BE DESIGNATED SERIES 2020, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING EIGHT MILLION DOLLARS ($8,000,000), OF THE CITY OF BEAUFORT, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO" (the "***2020 Series Ordinance***") duly enacted by the City Council on August 18, 2020 (the Bond Ordinance and the 2020 Series Ordinance are hereinafter together referred to as the "***Ordinances***").

The Series 2020 Bonds are issued for the principal purposes of obtaining funds to (a) defray the costs of the 2020 Project (as defined in the 2020 Series Ordinance), (b) effect a current refunding of the Refunded Bond, [(c) fund the 2020 Debt Service Reserve Fund,] and (d) pay the costs and expenses related to the issuance of the Series 2020 Bonds.

For the payment of the principal of and interest on this Series 2020 Bond issued pursuant to the Bond Ordinance, there are hereby irrevocably pledged the Gross Revenues. As permitted by the Enabling Act, the payment of the principal of and interest on this Series 2020 Bond shall be additionally secured by a statutory lien upon the System. Such pledge securing this Series 2020 Bond 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 2020 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 2020 BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM THE GROSS REVENUES.

The Bond Ordinance authorizes the issuance of additional bonds on a parity with the Series 2020 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 this Series 2020 Bond 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 maintain the Debt Service Fund and Debt Service Fund Accounts and thus provide for the punctual payment of the principal of and interest on all Bonds, (b) to maintain the Debt Service Reserve Funds, if any, in the manner prescribed in the applicable Series Ordinance, (c) 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 7.04(D) of the Bond Ordinance, (d) 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, (e) to provide for the payment of Operation and Maintenance Expenses, and (f) 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 2020 Bonds 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 2020 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 2020 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 2020 Bond of the then outstanding principal amount, then current

maturity schedule 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 2020 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 2020 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.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances. Certified copies of the Ordinances are on file in the office of the Trustee and in the offices of the Clerk of Court for Beaufort County, South Carolina.

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 2020 Bond, exist, have been performed and have happened, that the amount of this Series 2020 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 BEAUFORT, SOUTH CAROLINA, has caused this Series 2020 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 BEAUFORT, SOUTH CAROLINA

(SEAL)

By: _____
Mayor

Attest:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION

This Series 2020 Bond is the Series 2020 Bond described in the within mentioned Ordinances.

U.S. BANK NATIONAL ASSOCIATION, as Registrar

By: _____
Authorized Officer

Date: _____, 2020

FORM OF ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

_____

_____

(please print or type name and address of Transferee 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.

_____ _____

Signature (Authorized Officer)

Dated:

[(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 2020 Bond to _____, or its successor, as paying agent for the Series 2020 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.]

Exhibit A

Debt Service Schedule for the Bonds

CITY OF BEAUFORT

DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO:	CITY COUNCIL	**DATE:**	8/7/2020
FROM:	Kathy Todd, Finance Director		
AGENDA ITEM TITLE:	2020 Master Bond Amended and Restated Ordinance - 1st Reading		
MEETING DATE:	8/11/2020		
DEPARTMENT:	Finance		

BACKGROUND INFORMATION:

PLACED ON AGENDA FOR: *Action*

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	8/7/2020

AN AMENDED AND RESTATED MASTER BOND ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF BONDS (STORMWATER SYSTEM PLEDGE) OF THE CITY OF BEAUFORT, SOUTH CAROLINA; AND OTHER MATTERS RELATING THERETO.

MASTER BOND ORDINANCE

Enacted August 18, 2020

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BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEAUFORT, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, THAT:

ARTICLE I

FINDINGS AND DETERMINATIONS

Section 1.01 Findings and Determinations.

Incident to the enactment of this amended and restated bond ordinance (this "***Bond Ordinance***"), the City Council of the City of Beaufort (the "***City Council***"), the governing body of the City of Beaufort, 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:

(A) The City is a municipal corporation and a political subdivision of the State of South Carolina (the "***State***"), located in Beaufort 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 both within and without the corporate limits of the City.

(B) Pursuant to State law (specifically including the "Stormwater Management and Sediment Reduction Act" which is currently codified at S.C. Code Sections 48-14-10 et seq.), an ordinance dated June 23, 2020, as ratified and confirmed on August 18, 2020, and the IGA (as defined herein), the City owns, operates, maintains and manages a system of sediment control, stormwater, drainage and surface water management facilities and components, the combination of which provides for the collection, management, and disposal of sediment control, stormwater, drainage and surface water within the City (the "***System***").

(C) The System operates as an administrative division within the City's public works department and is financially administered as special revenue fund.

(D) The System constitutes a "drainage system" or other "system" as such term is defined in Sections 6-21-40 and 6-21-50 of the Enabling Act (as defined herein).

(E) 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.

(F) The revenues of the System are not presently pledged or hypothecated to secure the payment of any revenue bonds or other obligations of the City.

(G) Upon the enactment hereof, the provisions of this Bond Ordinance shall be in full force and effect and this Bond Ordinance shall amend, restate and replace the City's prior Master Bond Ordinance dated July 14, 2020 in its entirety.

[End of Article I]

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:

"***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.

"***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.

"***Annual Budget***" shall mean, for a Fiscal Year, the budget or amended budget of the City adopted with respect to such Fiscal Year, to include necessary appropriation for the System as provided in or required by 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 or on deposit with 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.

"***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 Pooled 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 Assistant City Manager, the Finance Director, 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 Bond Ordinance.

"***Bond Payment Date***" shall mean an Interest Payment Date, a Principal Payment Date or both an Interest Payment Date and a Principal Payment Date.

"***Bond Year***" shall mean the period commencing on July 2 in a year and ending on July 1 in the subsequent year.

"***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 a Series Ordinance, 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 Beaufort, South Carolina.

"***City Council***" means the City Council of the City of Beaufort, the governing body of the City.

"***City Manager***" shall mean the City Manager of the City or in the absence of the City Manager, the Assistant City Manager or the interim City Manager.

"***Clerk***" shall mean the City Clerk. The term shall include the acting City 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 City 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.

"***Contingent Fund***" shall mean the fund herein so designated and designed to provide for contingencies and for improvements, betterments and extensions of the System, as established by the provisions of Section 7.07 hereof.

"***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***" shall mean, with respect to each Series of Bonds and with respect to any particular Fiscal Year, the aggregate of the amounts to be paid or set aside (or estimated to be required to be paid or set aside) in the Debt Service Fund in such Fiscal Year for the payment of the Principal Installments, redemption premium, if any, and interest (to the extent not paid or expected to be paid from proceeds of such Bonds or earnings thereon) on such Series of Bonds.

"***Debt Service Fund***" shall mean the fund of that name established pursuant to Section 7.03 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. The Debt Service Fund constitutes the "bond and interest redemption fund" as described in the Enabling Act.

"***Debt Service Fund 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 Fund 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.

"***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 7.04 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; and (iii) non-callable, U.S. Treasury Securities – State and Local Government Series Securities.

"***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 Fund***" shall mean the fund herein so designated and designed to provide 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.

"***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 (i) as to the initial Series of Bonds issued hereunder, Chapter 21 of Title 6, and (ii) as for any subsequent issuance, any of Chapter 21 of Title 6, Chapter 17 of Title 6, or Chapter 21 of Title 11 of the South Carolina Code, or any combination thereof, and all other statutory authorizations as may be available from time to time authorizing and enabling the City to enact this Bond Ordinance and issue Bonds hereunder, all as may be amended from time to time.

"***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 incremental to that of the then existing System acquired by the City in physical assets not owned by it.

"***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.

"***Finance Director***" shall mean the Finance Director 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.

"***Fiscal Year***" shall mean the period of 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.

"***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 Stormwater Utility User Fees;

(b) all other receipts and revenues (other than Stormwater Utility User Fees) derived from the operation of the System;

(c) 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;

(d) 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 Project Fund created with the proceeds of borrowing by the City;

(e) 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 one-time revenues (to the extent not otherwise permitted), government grants, developer contributions, and aids-to-construction; and

(f) 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.

"***IGA***" means that certain "Amended and Restated Stormwater Management and Utility Intergovernmental Agreement Between Beaufort County, South Carolina and the City of Beaufort, South Carolina" dated June 23, 2020, the provisions of which amended and restated "A Stormwater Management and Utility Intergovernmental Agreement between Beaufort County, South Carolina and the City of Beaufort, South Carolina" dated September 21, 2001, as amended on January 26, 2004, and November 11, 2016.

"***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 Date***" shall mean, for a particular Series of Bonds, each January 1 and July 1 on which interest shall be due, or such other date as may be established in accordance with the Series Ordinance authorizing such 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 or sums borrowed in a Series of Bonds for the purpose of paying all or a portion of the interest due on a Series of Bonds on specific Bond Payment Dates, as applicable.

"***Junior Lien Bonds***" shall mean any revenue bonds, long-term contracts, 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.

"***Office of State Treasurer***" shall mean the Office of State Treasurer of the State.

"***Operation and Maintenance Expenses***" shall mean, for the period in question and acting according to Accounting Principles, all expenses of administration and operation and such expenses for maintenance as may be necessary to preserve the System and the Facilities in good repair and working order. No expense paid from a source other than Gross Revenues shall be treated as an Operation and Maintenance Expense.

"***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.

"***Other Available Moneys Account***" shall mean the account of that name established within the Operation and Maintenance Fund pursuant to Section 7.05 hereof.

"***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.

"***Principal Payment Date***" shall mean, for a particular Series of Bonds, each July 1 on which a Principal Installment shall be due, or such other date as may be established in accordance with the Series Ordinance authorizing such Bonds.

"***Project Fund***" shall mean any fund created by and designated as such in a Series Ordinance, in accordance with Section 7.08 hereof.

"***Record Date***" shall mean the l5th 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, and accrued interest 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 or multiple Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, enacted 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.

"***State***" shall mean the State of South Carolina.

"***Stormwater Fund***" shall mean the special revenue fund of the City as established and maintained for the operation of the System (except as provided by Section 7.02(C)).

"***Stormwater Utility User Fee***" shall mean the service fee imposed for the purpose of funding costs related to programs, service, and facilities of the System pursuant to, and subject to the terms and conditions of, the IGA.

"***System***" shall have the meaning given in Section 1.01 hereof, 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.

"***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.

"***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) Unless otherwise specified herein, all accounting terms used herein without definition shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared, in accordance with Accounting Principles. In the event of changes to Accounting Principles which become effective after the date of enactment of this Bond Ordinance, the City may in good faith effect appropriate amendments to this Bond Ordinance so as to perpetuate the meaning and effect of Accounting Principles as in effect on the date of enactment of this Bond Ordinance.

(E) 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.

(F) 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 be operated on a Fiscal Year basis, which shall commence on the 1st day of July of each year and shall end on the 30th day of June of the following year.

[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 the acquiring, purchasing, constructing, improving, enlarging, and repairing of the System and improvements and additions thereto, including the recoupment or reimbursement 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 7.04(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 Beaufort, South Carolina, Stormwater System Revenue Bonds", or alternatively, "City of Beaufort, South Carolina, Limited Obligation Bonds (Stormwater System Pledge)" 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, in each Series Ordinance the City Council shall specify and determine, including, as applicable, necessary delegations to an Authorized Officer or other person:

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

(2) The Date of Issue of such Series of Bonds or the manner or method for determining the same;

(3) The maximum authorized principal amount of such Series of Bonds, and the manner or method of determining the precise principal amount and the officials authorized to make such determination;

(4) Bond Payment Dates, the Record Dates, and the date or dates of maturity and the amounts thereof for the Bonds authorized thereby, or the manner of determining such dates and amounts and the officials authorized to make such determinations, and further 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 such Series of Bonds;

(7) The manner in which such Series of Bonds 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 or manner or method of making such determination;

(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 or method of making such designations and determinations;

(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 or method of determining such dates and prices;

(11) The Trustee, the Paying Agent, the Registrar and escrow agent (as applicable) 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 or the manner or method of determining such matters;

(14) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.21 hereof or the manner or method of determining the same;

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

(16) The Reserve Requirement, if any, for the Series of Bonds authorized thereby, or method for determining the same;

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

(18) That a Debt Service Fund Account (within the Debt Service Fund) shall be established and a Debt Service Reserve Fund may be established for the Series of Bonds, and that a Project 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 Project Fund or applicable Debt Service Fund Account, as set forth in a Series Ordinance, if interest for any period is to be paid from proceeds of such Series of Bonds;

(19) An estimate of the cost of any purchasing, constructing, improving, enlarging, or repairing of the System, or any combination thereof, to be funded with the proceeds of the Bonds of such Series; and

(20) 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 determined in the manner approved by the Series Ordinance.

(2) Bonds shall bear interest at the rate or rates and be payable on the occasions, prescribed or determined in the manner 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 within 10 years from the date of issuance of such Series of Bonds, or such shorter period of time as set forth in the Series Ordinance, 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 initial Series of Bonds issued under this Bond Ordinance or in the event no Bonds are Outstanding, Gross Revenues, as calculated by an Authorized Officer, during the most recent Fiscal Year for which audited financial statements of the System are completed shall not be less than 100% of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds, with such calculation to be made by the Authorized Officer upon the basis of the audited financial statements of the System for the most recent Fiscal Year that such audited financial statements are available; provided that for purposes of this Section 4.02(6), such Gross Revenues may be adjusted to reflect any rate increases in Stormwater User Utility Fees 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.

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 Authorized Officer 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. The Authorized Officer making the calculations described in this Section 4.02(6) may, but is not required to, rely on a report or calculation of the Auditors or Independent Consultants.

Whenever this Section 4.02(6) requires a calculation based on the most recent Fiscal Year for which audited financial statements are available, the City may, in its discretion, provide for a special audit and 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) Without complying with 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 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;

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

(c) as certified by an Independent Consultant, an overall net present value savings results from the issuance of the refunding Bonds.

(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; and

(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.

(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 7.04(D) hereof shall have been paid.

(10) Any Series Ordinance authorizing a Series of Bonds may prescribe, in addition to the requirements set forth in Sections 4.02(6) and 4.02(7) hereof, further requirements that must be met for the issuance of Bonds on a parity with all Series of Bonds then Outstanding.

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 or reports of the Auditors, an Authorized Officer, an Independent Consultant and 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 and also a Series Ordinance may specify the manner of executing the bond by electronic signature.

(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 or affidavit as to 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, in which case such Registrar shall promptly notify the Trustee in writing of any registration or transfer of the 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 it 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.

Holders of at least $1,000,000 principal amount of a Series of Bonds may, by written notice containing wiring instructions filed with the Trustee at least 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; provided that Bonds issued in the form of contractual obligations may be transferred as provided in such contracts.

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 written 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 30 but no more than 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 numbers (if any), 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 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, or its successor, as may be amended or modified), and any Securities Depository (if such Bonds are registered in the name of a Securities Depository or the nominee of such 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 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 30 days but no more than sixty (60) days prior to the actual redemption date; and

(5) CUSIP number identification, if any, 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, or delivery of the Bond for payment on the redemption date.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument or not registered in the name of a Securities

Depository or the nominee of such Securities Depository or providing for Bonds in bearer form may provide alternative methods for delivery of notice of redemption, and the Trustee shall be entitled to conclusively rely on such Series Ordinance as being consistent with the provisions of this Bond Ordinance.

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 7.04(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.

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

Subject to the following priority provisions of this Section 4.19, the Bonds, together with the interest thereon, shall be payable solely from and secured equally and ratably by a pledge of the Gross Revenues. The principal of the Bonds, together with the interest and redemption premium, if any, thereon shall be payable from and secured, subject to the foregoing, by a pledge of the funds deposited, from time to time, in the funds and accounts created hereunder, including the Debt Service Fund; provided, however, that amounts on deposit in each Debt Service Fund Account, and any subaccount therein, and in each Debt Service Reserve Fund shall be held solely for the benefit of the Series of Bonds for which such accounts, subaccounts, or funds were established. Nothing in this Bond Ordinance shall prohibit the City from making a pledge of and lien on the Gross Revenues which is subordinate and inferior to the pledge and lien made by this Bond Ordinance to secure bonds, notes or other evidences of indebtedness hereafter issued by the City.

Pursuant to the provisions of Section 6-21-330 of the Enabling Act and as additional security for the payment of Bonds, a statutory lien on the System is granted. Such lien shall extend to the entirety of the System as currently constituted and as expanded from time to time unless otherwise provided in the Series Ordinance authorizing a Series of Bonds for a specific improvement to or expansion of the System. Any holder of any of such Bonds may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce such statutory lien and may, by suit, action, mandamus or other proceedings, enforce and compel performance of all duties of the officials of the City, including the fixing of sufficient rates, the collection of Gross Revenues, the proper segregation of the Gross Revenues of the System and the proper application thereof. But such statutory lien shall not be construed to give any such Bondholder authority to compel the sale of the System or any part thereof.

Section 4.20 Limited Obligation

The Bonds shall (a) be payable solely from the Gross Revenues, (b) not be secured by, or in any way entitled to, a pledge of the full faith, credit, or taxing power of the City, (c) not be an indebtedness of the City within the meaning of any state constitutional provision or statutory limitation but are payable solely from a revenue-producing project or special source which source does not involve revenues from any tax or license, and (d) not be a pecuniary liability of the City's or a charge against the City's general credit or taxing power. The City is not obligated to pay any of the Bonds or the interest thereon except from the Gross Revenues.

Section 4.21 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 Finance Director and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.22 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 in writing (provided to the City and the Trustee) 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; provided that if such Series of Bonds is insured by an Insurer, then any such waiver shall require the prior written approval of such Insurer.

Section 4.23 Bonds Not in the Form of an Instrument.

In the event that the City issues any Series of Bonds which are contractual obligations not in the form of an instrument, the provisions regarding redemption or prepayment of such Bonds, notices to Bondholders and transfers of such Bonds contained herein may be altered or supplemented by the provisions of the Series Ordinance pursuant to which such Bonds are issued or the contract pursuant to which such obligations are created.

[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 at levels sufficient for Gross Revenues:

(1) To provide for the punctual payment of the Principal Installments of and interest on all Bonds that may from time to time hereafter be Outstanding, and to that end, to maintain the Debt Service Fund and the Debt Service Fund Accounts established thereunder and thus provide for the punctual payment of the principal of and interest on the Bonds;

(2) To maintain the Debt Service Reserve Funds in the manner prescribed herein and in any applicable Series Ordinance;

(3) 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 7.04(D) hereof;

(4) 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;

(5) To provide for the payment of the Operation and Maintenance Expenses; and

(6) 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 Gross Revenues in the current Fiscal Year equal to at least the sum of 120% 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.

C. Consistent with the provisions of the Enabling Act, if the Gross Revenues in any Fiscal Year shall be insufficient to pay Debt Service on all Series of Bonds then Outstanding, to the extent an Event of Default under Article XIII herein is not then in effect, an additional amount sufficient to pay the Debt Service on such Bonds shall be set aside out of the Gross Revenues of the next succeeding Fiscal Year and applied to the payment of the Debt Service on all such unpaid Series of Bonds.

D. To the extent any legally available sources, which are not otherwise considered Gross Revenues, are made available by the City in its Annual Budget, such amount shall be timely transferred to the Other Available Moneys Account.

[End of Article V]

ARTICLE VI

JUNIOR LIEN BONDS

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

(A) 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 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.

(B) 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 (l) 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 Outstanding Bonds or any outstanding Junior Lien Bonds, (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 8.02 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 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, which may or may not be limited to the property, plant or equipment acquired or improved by such capital lease or other lease financing arrangement.

[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 System shall be established and maintained, and deposits shall be made therein in the manner herein required.

Section 7.02 The Stormwater Fund.

(A) There shall be established and maintained a special revenue fund of the City designated as the "Stormwater Fund" held and administered by the City.

(B) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited or credited in accordance with and in the manner prescribed by Article VIII hereof into this fund. Money in the Stormwater 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 from the Stormwater Fund, the Stormwater Fund may be used for the purposes of the Operation and Maintenance Fund, the Depreciation Fund, the Contingent Fund, each Project Fund and any other fund or account authorized or created hereunder, subject to the prior applications of the amounts in the Stormwater Fund for the purposes set forth in Sections 7.03 and 7.04 hereof.

(C) Upon a determination by City Council, acting by Ordinance, that no Bondholders shall be materially affected or any security for any Outstanding Bonds being diminished in any way, the Stormwater Fund associated therewith may be transitioned from a special revenue fund and established as a standalone enterprise fund of the City under Accounting Principles.

Section 7.03 The Debt Service Fund.

(A) There shall be established and maintained a Debt Service Fund held by the Trustee. 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 numeric or alphanumeric Series designation as may be necessary to distinguish each Debt Service Fund Account from all others.

(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 each Debt Service

Fund Account 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. After such one-year period, funds retained in the Debt Service Fund Account for more than one year shall be remitted to the Office of the State Treasurer as unclaimed property. Further, subject to the written consent of the City, payment on a Series of Bonds may be made without presentation and surrender of the physical Bond; in such event, the Trustee assumes no liability to any person and no obligation shall be imposed on the Trustee to seek the return of such Series of Bonds from the Holder thereof.

(C) Moneys in the Debt Service Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Officer 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 8.02 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) There may be established in the applicable Debt Service Fund Accounts from time to time a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series. Any such account shall be created by the Series Ordinance relating to the issuance of such Series of Bonds. Any earnings from the investment of funds in the capitalized interest account not required to pay interest on the Bonds of any Series during the period for which interest on the Bonds of such Series is capitalized shall be deposited in the Project Fund created by the Series Ordinance relating to such Bonds or, if such Project Fund has been terminated or no such fund was created, such earnings shall be retained in the appropriate Debt Service Fund Account.

(F) The Trustee shall maintain two separate sub-accounts within each Debt Service Fund Account into which (i) amounts transferred from the Stormwater Fund (including any Interest Payment Subsidies), and (ii) amounts transferred from the Other Available Moneys Account of the Operation and Maintenance Fund, respectively, shall be deposited.

(G) Within each Debt Service Fund Account, the Trustee, is authorized to create other sub-accounts, as the City may direct or as the Trustee determines necessary for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.04 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 the applicable 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 Redemption Price of the Bonds of that Series in the event that all Outstanding Bonds of such Series be redeemed as a whole; or

(3) To effect partial redemption of the applicable Series of Bonds; 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 7.04(A)(1-3) above and as permitted by the Code and Section 4.22 hereof, if the Debt Service Reserve Fund was funded with cash generated by the System, then, upon the written consent of the Holders of all Bonds of such Series 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) Except as provided in (B)(2) below, 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 Office of State Treasurer and invested 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 7.04(C) hereof.

(C) Except as provided in Section 7.04(B)(2) herein, money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Officer 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 that 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, at the written direction of the City, 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, or (ii) transferred to the Stormwater 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 applicable Reserve Requirement by causing to be so credited to such Debt Service Reserve Fund 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 7.05 The Operation and Maintenance Fund.

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

(B) Within the Operation and Maintenance Fund there shall be established an Other Available Moneys Account.

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

Section 7.06 The Depreciation Fund.

(A) There shall be established and maintained a Depreciation 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.

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

(1) For the purpose of restoring depreciated or obsolete items of the System;

(2) To prevent defaults of Bonds and Junior Lien Bonds; and

(3) 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 Contingent Fund.

(A) There shall be established and maintained a 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 contingencies and for improvements, betterments and extensions of the System.

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

(1) 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;

(2) To defray the cost of unforeseen contingencies and extraordinary repairs to the System;

(3) To prevent defaults of Bonds and Junior Lien Bonds; and

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

(C) Withdrawals from this fund shall be made by or on order of an Authorized Officer.

Section 7.08 Establishment of Project Funds.

With respect to each Series of Bonds issued for the purposes set forth at Section 4.01(A)(1) hereof, there shall be established a Project Fund pursuant to the respective Series Ordinance. The moneys in the respective Project Fund shall be used to defray the costs of and to pay any costs incurred or to be incurred with respect to the project so financed and costs of issuance incurred in connection therewith. The City may, but shall not be required to establish a capitalized interest account and a cost of issuance account in any Project Fund so created. On the occasion of the delivery of any such Series of Bonds, the proceeds therefrom shall be paid into the Project Fund established for such Series as set forth in the Series Ordinance authorizing their issue. Withdrawals from a Project Fund and the accounts, if any, therein shall not be made except as provided in the Series Ordinance establishing such Project Fund.

Section 7.09 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 Stormwater Fund (i) except as otherwise provided in Sections 7.03 and 7.04 hereof, and (ii) unless the City Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation Fund and Contingent Fund shall remain therein.

Notwithstanding anything contained herein to the contrary and as limited solely to the funds held and invested by the Trustee, the Trustee shall have no obligation to enter into any repurchase agreement, investment agreement or any similar agreements with respect to the investment of any monies held under this Bond Ordinance unless (i) such agreement is in form and content acceptable to the Trustee in its sole discretion, (ii) any liability of the Trustee under such agreement is limited to loss occasioned by the negligence or willful misconduct of the Trustee, and (iii) the City shall pay to the Trustee an additional fee established by the Trustee in accordance with its customary practices.

[End of Article VII]

ARTICLE VIII

DISPOSITION OF REVENUES

Section 8.01 Deposits.

So long as any Bonds are Outstanding, funds on deposit in the Stormwater Fund shall be applied at the times, in the amounts and for the purposes provided or permitted by this Bond Ordinance. Gross Revenues shall be deposited upon receipt from time to time by the City to the Stormwater Fund.

There shall be deposited to the Other Available Moneys Account of the Operation and Maintenance Fund such legally available moneys which the City Council in its sole discretion determines to apply for such purpose.

Section 8.02 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) From the Stormwater Fund, to the extent Gross Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective interest sub-account, if any) an amount not less than 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. On or before the fifteenth day of the calendar month prior to an Interest Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the Stormwater Fund the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the installment of interest coming due on the applicable Series of Bonds on such Interest Payment Date, and then, to the extent necessary to pay such installment, from the Other Available Moneys Account of the Operation and Maintenance Fund (which amounts shall be designated in writing by the City to the Trustee and thereafter be credited to the respective sub-accounts therein), so that on each Interest Payment Date the amount of interest 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 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 or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(2) From the Stormwater Fund, to the extent Gross Revenues are available, there shall be deposited into the Debt Service Fund and thereafter transferred into the respective Debt Service Fund Account (and thereafter to the respective principal sub-account, if any) an amount not less than 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 Payment Date the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that on or before the fifteenth day of the calendar month prior to a Principal Payment Date, there shall be transferred to each Debt Service Fund Account in the following order of priority: first, from the Stormwater Fund the amount necessary, after taking into account the current balance in the applicable Debt Service Fund Account, to pay the Principal Installment on the applicable Series of Bonds coming due on such Principal Payment Date, and then, to the extent necessary to pay such Principal Installment, from the Other Available Moneys Account of the Operation and Maintenance Fund (which amounts shall be designated in writing by the City to the Trustee and thereafter be credited to the respective sub-accounts therein), so that on each Principal Payment 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 or otherwise, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

Section 8.03 Deposits for the Debt Service Reserve Funds—Valuation.

Deposits shall next be made from the Stormwater Fund in the amounts required by this Section 8.03 or Section 4.02(5) into the respective Debt Service Reserve Funds. Except as provided in Section 7.04(B)(2), the Trustee shall calculate the value of the cash and securities in each Debt Service Reserve Fund 45 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 otherwise contains cash and securities (or a surety bond, insurance policy, or letter of credit as herein described) in 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 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 8.03 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 8.04 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 7.04(D) hereof.

Section 8.05 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 8.06 Deposits to the Operation and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund, from the Stormwater Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing month.

Section 8.07 Deposits for the Depreciation Fund and Contingent Fund.

A. There shall be deposited into the Depreciation 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.

B. There shall be deposited into the 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 Bond Year Determination.

In any Bond Year, at such time as deposits to the Stormwater Fund equal the amounts required to be paid pursuant to Sections 8.02 through 8.07 hereof for the then current Bond Year, and, provided that each Debt Service Fund Account within the Debt Service Fund in the aggregate has on deposit therein an amount equal to all Debt Service due on the Bonds for the then current Bond Year, then any excess amount on deposit in or thereafter deposited to the Stormwater Fund in such Bond Year may be released from the Stormwater Fund and, subject to Accounting Principles, applied for any lawful purpose in such manner as the City Council shall from time to time determine.

In any Bond Year, to the extent the moneys in the Stormwater Fund are insufficient to fund the deposits required pursuant to this Article VIII, then, in its discretion, the City Council, in adopting its Annual Budget (including an supplement thereto), may appropriate funds from any legally available source for deposit to the Other Available Moneys Account of the Operation and Maintenance Fund. To the extent the application of monies from the Other Available Moneys Account for Debt Service is limited by the provisions of the Enabling Act, an amount equal to the amount to be appropriated from Other Available Moneys Account shall be applied from any balance in the Operation and Maintenance Fund and used for the purposes in Sections 8.02(1) and (2) above.

[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 Gross Revenues of the System and the source from whence derived;

(B) All Operation and Maintenance Expenses;

(C) All amounts appropriated to the Other Available Moneys Account;

(D) 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.

Within seven months after the end of each Fiscal Year, the City shall provide to the Trustee annual certification evidencing compliance with Section 9.01(D) and inclusion of such schedule in the City's audited financial statements shall be sufficient for purposes of compliance herewith.

Section 9.02 Audit Required.

The City further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than seven months 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, the Gross Revenues; 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. Any audits made available to the City shall not otherwise be restricted as to their subsequent dissemination to any party.

Pursuant to the Enabling Act, the City will make available, upon request, for inspection during regular business hours an unaudited balance sheet and income statement and other information required thereby within six months of the close of the Fiscal Year.

[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 Fund or 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;

(C) That it will do all things necessary to maintain and enforce the provisions of the IGA and the levy and collection of Stormwater Utility User Fees thereunder; however, nothing shall prohibit the amendment, revision, adjustment or cancellation of the IGA so long as the City maintains the ability to levy and collect Stormwater Utility User Fees in an amount necessary to fund the Debt Service associated with all Series of Bonds then Outstanding;

(D) 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 of the State and the South Carolina Code;

(E) 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 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 Stormwater Fund;

(F) 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;

(G) 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;

(H) 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;

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

(J) In adopting the Annual Budget, the City shall determine whether it expects to have sufficient Gross Revenues to make, in such Fiscal Year, the payments and transfers agreed to pursuant to Sections 8.02 through 8.07 of this Bond Ordinance. If the City does not expect to have sufficient Gross Revenues for such purpose, City Council shall consider a budgetary appropriation from legally available funds in an amount that together with funds on deposit in the Stormwater Fund, each Debt Service Fund Account and any Debt Service Reserve Fund will be sufficient to provide for the interest and Principal Installments on the Bonds in such Fiscal Year. Any such lawfully appropriated funds shall be deposited to the Other Available Moneys Account of the Operation and Maintenance Fund not later than the beginning of each Fiscal Year for which any legally available funds have been appropriated. In considering such budgetary appropriation, the City Council may in its sole discretion determine not to make the budgetary appropriation (a "***Determination of Nonappropriation***") described above and such Determination of Nonappropriation shall not constitute an Event of Default under this Bond Ordinance, nor shall the City have any obligation to enact such appropriation; and

(K) Wherever in this Bond Ordinance there is a statement to the effect that the City may apply such other legally available moneys as the City Council shall in its discretion determine to apply for a purpose, or words of similar import, such application shall be made by City Council applying its legislative discretion in determining whether to apply such moneys. Any payment from other available moneys described in this Bond Ordinance shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness of the City, nor shall anything contained in this Bond Ordinance constitute or give rise to a general obligation or pledge of the general tax revenues, taxing power or full faith or credit of the City Council. Any such budgetary appropriation shall be subject in all respects to the discretion of City Council, and any failure to make such an appropriation, notwithstanding any provision of this Bond Ordinance to the contrary, shall not constitute a default or Event of Default under this Bond Ordinance.

[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, amending or 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; and

(5) 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. Further, regarding amendments under Section 12.01(A)(2), (3) or (4), there shall be filed with the Trustee an opinion of bond counsel stating that such amendatory or supplemental ordinance has been duly and lawfully enacted by the City in accordance with this Bond Ordinance and is valid and binding upon the City. At the written direction of the City, 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 51% or more in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding and the prior written consent of the Insurer, 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 hereof; 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, (2) there has been filed with the Trustee an opinion of bond counsel stating that such amendatory or supplemental ordinance has been duly and lawfully enacted by the City in accordance with this Bond Ordinance and is valid and binding upon the City, and (3) proof of consent to such modification by the Holders (depending on the type of modification) of (A) 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 4.21, 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 by the City and a copy of any amendment to this Bond Ordinance or to any Series Ordinance within 15 days of its execution or enactment; notice electronically filed on the Municipal Securities Rulemaking Board's EMMA system shall be deemed sufficient upon such filing 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) The City shall not comply with the rate covenant in Section 5.01(B) herein for a period of two consecutive Fiscal Years;

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

(5) 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;

(6) 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 (5), 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;

(7) 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 7.04(D) hereof; and

(8) 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 (3), (4) and (5) 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 hereof 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 pursuant to Sections 13.01(A)(1) or (2), the Trustee may, and shall, upon the written request of the Holders of not less than 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 shall 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 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 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

Project 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 Project Fund that are in dispute between the City and any contractor; provided, however, any monies in a Debt Service Fund Account or Debt Service Reserve Fund shall be applied only toward a Series of Bonds for which such Debt Service Fund Account or 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 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;

(3) To the payment of the amounts required by Section 8.03, ratably, according to the amounts due thereon to the persons entitled thereto;

(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 necessary Operation and Maintenance Expenses;

(7) To the payment of the amounts required by Section 8.07(A), ratably, according to the amounts due thereon to the persons entitled thereto; and

(8) To the payment of the amounts required by Section 8.07(B), 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 or any Insurer 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 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 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 (and in reliance on the opinion of legal counsel as necessary) 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 30 days after:

(1) The receipt of notice of an Event of Default as provided in Sections 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 enacted 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 and each Debt Service Fund Account (and any subaccounts thereof) established thereunder;

(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 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, Certificates, and other Documents.

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 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 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 51% 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 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 or other documentation acceptable to the City indicating the disposition of such Bonds.

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 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, including continuing 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 or diminution in value from such investments executed pursuant to a written direction of the City. 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 shall disseminate a copy of the financial statements to such requester.

(L) Notwithstanding anything to the contrary herein, to the extent that the Trustee is not otherwise acting in the capacity as dissemination agent, the Trustee shall not have any liability to any party in connection with any failure to timely file any notice with the Municipal Securities Rulemaking Board (via its EMMA system).

(M) 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, 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 Gross 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 (after properly establishing an escrow account therefor), 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, empower and direct 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 Gross 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, has committed a default under the Municipal Bond Insurance Policy, or is subject to bankruptcy or receivership proceedings.

(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 Gross 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 and any Series 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 7.04(D) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third-party beneficiary hereunder. Nothing in this Bond Ordinance or any Series 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 or a related Series 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.

Section 17.06 Repealing Clause.

All ordinances or 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.

The provisions of this Bond Ordinance shall become effective as of enactment.

[End of Article XVII]

DONE IN MEETING DULY ASSEMBLED, this 18th day of August 2020.

CITY OF BEAUFORT, SOUTH CAROLINA

_____
BILLY KEYSERLING, MAYOR

(SEAL)

Attest:

_____
IVETTE BURGESS, CITY CLERK

1st Reading: August 11, 2020
2nd Reading & Enactment: August 18, 2020

Reviewed by: _____
WILLIAM B. HARVEY, III, CITY ATTORNEY

CITY OF BEAUFORT

DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO:	CITY COUNCIL	**DATE:**	8/7/2020
FROM:	Kahty Todd, Finance		
AGENDA ITEM TITLE:	Ordinance Ratifying and Confirming Stormwater Utility and IGA - 1st Reading		
MEETING DATE:	8/11/2020		
DEPARTMENT:	Finance		

BACKGROUND INFORMATION:

PLACED ON AGENDA FOR:

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
Ordinance	Backup Material	8/7/2020

AN ORDINANCE RATIFYING AND CONFIRMING THE PROVISIONS OF AN ORDINANCE DATED JUNE 23, 2020 RELATED TO THE CREATION AND ESTABLISHMENT OF THE CITY'S STORMWATER UTILITY AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NEW STORMWATER MANAGEMENT AND UTILITY INTERGOVERNMENTAL AGREEMENT; AND OTHER MATTERS RELATING THERETO.

The City Council of the City of Beaufort (the "***Council***"), the governing body of the City of Beaufort, South Carolina (the "***City***"), has made the following findings of fact:

WHEREAS, the City is a municipal corporation of the State of South Carolina located in Beaufort County, South Carolina (the "***County***") and as such possesses all general powers granted by the Constitution and statutes of the State to such public entities;

WHEREAS, the Council did previously enact an ordinance entitled, "AN ORDINANCE RATIFYING CREATION AND ESTABLISHMENT OF THE CITY'S STORMWATER SYSTEM; AUTHORIZING THE EXECUTION AND DELIVERY OF A NEW STORMWATER MANAGEMENT AND UTILITY INTERGOVERNMENTAL AGREEMENT; AND OTHER MATTERS RELATING THERETO" dated June 23, 2020 (the "***Stormwater Ordinance***");

WHEREAS, the provisions of the Stormwater Ordinance (i) confirmed, ratified and approved the creation of the City's stormwater and drainage system as a "Stormwater Management Division" within the City's public works department (the "***System***") and established certain operating parameters therefor, and (ii) authorized and approved the execution and delivery of Amended and Restated Stormwater Management and Utility Intergovernmental Agreement between the City and County dated June 23, 2020 (the "***IGA***"); and

WHEREAS, subsequent to the enactment of the Stormwater Ordinance, the City has determined to ratify and confirm the provisions of the Stormwater Ordinance, including the ratification and confirmation of the System and the IGA by the terms of this Ordinance.

Section 1 Recitals

Each finding or statement of fact set forth in the recitals hereto has been carefully examined and has been found to be in all respects true and correct.

Section 2 Ratification, Confirmation and Approval

The Council hereby confirms, ratifies and approves:

(A) the provisions of the Stormwater Ordinance in its entirety;

(B) the creation of the System and further authorizes the System to carry out the purposes, functions, and responsibilities set forth in the Stormwater Ordinance as all such powers

are authorized by the Constitution and the laws of the State of South Carolina;

(C) the prior execution and delivery of the IGA dated June 23, 2020 by the City Manager of the City; and

(D) All actions previously undertaken by the City Manager and staff of the City regarding the System and the IGA, including any actions or approvals prior to the enactment of this Ordinance are approved and ratified in their entirety.

Section 3 Effect

This Ordinance shall be enacted upon second reading by the Council.

DONE IN MEETING DULY ASSEMBLED, this 18th day of August 2020.

CITY OF BEAUFORT, SOUTH CAROLINA

_____
BILLY KEYSERLING, MAYOR

(SEAL)

Attest:

_____
IVETTE BURGESS, CITY CLERK

1st Reading: August 11, 2020
2nd Reading & Enactment: August 18, 2020

Reviewed by: _____
WILLIAM B. HARVEY, III, CITY ATTORNEY