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**GENERAL BOND ORDINANCE**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF GREENVILLE COUNTY, SOUTH CAROLINA HOSPITALITY TAX REVENUE BONDS, AND OTHER MATTERS PERTAINING THERETO; PRESCRIBING THE FORM OF BONDS ISSUED HEREUNDER; PLEDGING LOCAL HOSPITALITY TAXES TO THE PAYMENT OF THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE BONDS; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING.**

**September 7, 2021**

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**BE IT ORDAINED BY THE COUNTY COUNCIL OF GREENVILLE COUNTY, SOUTH CAROLINA, AS FOLLOWS:**

**ARTICLE I**

**FINDINGS AND DETERMINATIONS**

**Section 1.01 Findings and Determinations.** As an incident to the enactment of this ordinance (the “*Ordinance*”) and the issuance of the Bonds (as defined below) provided for herein, the County Council of Greenville County (the “*Council*”), the governing body of Greenville County, South Carolina (the “*County*”), finds that the facts set forth in this **Article I** exist, and the following statements are in all respects true and correct:

(a) The County, pursuant to Title 6, Chapter 1, Article 7 as enumerated under Section 6-1-530 of the Code of Laws of South Carolina, 1976, as amended, imposed a local hospitality tax (the “*Hospitality Tax*”) by Ordinance No. 4079 enacted on December 12, 2006, as amended.

(b) Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended (the “*Constitution*”), provides that a political subdivision may incur indebtedness payable solely from a revenue-producing project which source does not involve revenues from any tax or license. Pursuant to Section 6-1-760 utilizing the procedures of Title 6, Chapter 17 of the Code of Laws of South Carolina, 1976, as amended (collectively, the “*Enabling Act*”), the County may issue revenue bonds (i) to defray the cost of tourist-related projects as enumerated in Title 6, Chapter 1, Article 7, which are consistent with the purposes enumerated in Section 6-1-530 of the Code of Laws of South Carolina, 1976, as amended, secured by a pledge of the Pledged Fee Revenues (as defined below) and (ii) to refund obligations issued for such purposes.

(c) On July 8, 2014, the County through the Greenville County Tourism Public Facilities Corporation issued its \$24,815,000 Refunding Certificates of Participation, Series 2014 (the “*Series 2014 Certificates*”) with Raymond James & Associates, Inc., as underwriter, for the purpose of advance refunding and defeasing certain outstanding Greenville County Tourism Public Facilities Corporation Certificates of Participation, Series 2008.

(d) On November 9, 2016, the County through the Greenville County Tourism Public Facilities Corporation issued its \$8,635,000 Refunding Certificates of Participation, Series 2016 (the “*Series 2016 Certificates*”) with Raymond James & Associates, Inc., as underwriter, for the purpose of advance refunding and defeasing certain outstanding Greenville County Tourism Public Facilities Corporation Certificates of Participation, Series 2010.

(e) The County now desires to issue a Series of Bonds to advance refund the outstanding principal amounts of the Series 2014 Certificates and the Series 2016 Certificates and to issue a Series of Bonds to defray the costs of the acquisition, construction, renovation, installation and equipping of certain tourism-related projects as described in the First Supplemented Ordinance enacted by the Council on the date hereof (the “*First Supplemental Ordinance*”).

(f) It is now in the best interest of the County for the Council to provide for the issuance and sale of Bonds of the County pursuant to the aforesaid provisions of the Constitution and laws of the State of South Carolina (the “*State*”).

[End of Article I]

## ARTICLE II

### DEFINITIONS AND INTERPRETATIONS

**Section 2.01 Defined Terms.** The terms defined in this **Section 2.01** (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Ordinance shall have the respective meanings specified in this **Section 2.01**.

**“Accreted Value”** shall mean, except as otherwise provided by a Supplemental Ordinance, with respect to any Capital Appreciation Bond an amount equal to the principal amount of the Capital Appreciation Bond (determined on the basis of the original principal amount per \$5,000 at maturity thereof) plus the amount, assuming semiannual compounding of earnings, which would be produced on the investment of the principal amount, beginning at the dated date of the Capital Appreciation Bond and ending at the maturity date thereof, at a yield which, if produced until maturity, will produce \$5,000 at maturity. The Accreted Value of any Capital Appreciation Bond shall mean, as of any Valuation Date, the amount set forth for that date in the Supplemental Ordinance authorizing Capital Appreciation Bonds, and as of any date other than a Valuation Date, the sum of (a) the Accreted Value on the preceding Valuation Date and (b) the product of (1) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from the preceding Valuation Date to the next succeeding Valuation Date, and (2) the difference between the Accreted Values for such preceding and succeeding Valuation Dates.

**“Accountant”** shall mean any independent certified public accountant or firm of accountants selected by the County and who or which is experienced in the auditing of governmental entities.

**“Authorized Representative”** shall mean the Chairman of County Council, the County Administrator or Deputy County Administrator and any other Person or Persons designated to act on behalf of the County by written certificate of the County Administrator furnished to the Trustee and containing the specimen signatures of such officers.

**“Balloon Indebtedness”** shall mean indebtedness in the form of Bonds 25% or more of the principal payments of which are due in a single year, which portion of the principal is not required by the instrument authorizing the issuance of such indebtedness to be amortized by redemption prior to such maturity date.

**“Bond”** or **“Bonds”** shall mean all bonds and other obligations of the County issued pursuant to and under the authority of **Sections 3.02, 3.03** and **3.04** hereof but excluding Junior Bonds and bond anticipation notes not secured by Pledged Fee Revenues, and Outstanding from time to time.

**“Bond Counsel”** shall mean any attorney or firm of attorneys of nationally recognized standing in the matters pertaining to the federal tax exemption of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

**“Bond Holders,” “Bondholders,” “Holders,”** or the term **“Registered Holders,”** or any similar term, shall mean the registered owner of any Outstanding Bond or Bonds.

**“Bond Redemption Account”** shall mean the account by that name established in the Debt Service Fund.

**“Books of Registry”** shall mean the registration books maintained by the Trustee as bond registrar in accordance with **Section 4.04** hereof.

**“Capital Appreciation Bonds”** shall mean any Bonds as to which interest is payable only at the maturity, prior redemption or acceleration of the Bonds. For the purposes of (i) receiving payment of the redemption price of a Capital Appreciation Bond that is redeemed prior to maturity, (ii) receiving payment of a Capital Appreciation Bond if the principal of all Bonds of a Series is declared immediately due and payable following an Event of Default as provided in **Section 10.02** hereof, or (iii) computing the principal amount of Bonds held by the Holder of a Capital Appreciation Bond in giving any notice, consent, request, or demand pursuant to the Ordinance, or for any purpose whatsoever including, without limitation, for transfer and exchange, the principal amount of a Capital Appreciation Bond shall be deemed to be its Accreted Value on the date set for redemption, or the date of declaration, or the date of computation of the principal amount or on the date of transfer or exchange, as the case may be, or in any other case, on the analogous date as of which the principal amount is intended to be calculated.

**“Capital Lease”** shall mean any lease of property which, in accordance with generally accepted accounting principles, has been or should be capitalized on the lessee’s balance sheet or for which the amount of the asset and liability thereunder as if so capitalized should be disclosed in a note to the balance sheet.

**“Clerk to Council”** means the Clerk to Council or the Deputy Clerk to Council, Assistant Clerk to Council, Interim Clerk to Council or Acting Clerk to Council, as the case may be.

**“Code”** shall mean the Internal Revenue Code of 1986, as amended, any successor provision of law, and regulations promulgated thereunder.

**“Completion Date”** shall mean the date of completion of construction of any Project as that date shall be certified in writing to the Trustee.

**“Construction Fund”** shall mean any fund established with and maintained with the Trustee and funded with certain of the proceeds of the sale of any Series of Bonds and intended to defray Project Costs in connection therewith and the Costs of Issuance in connection with that Series of Bonds, all as established in a Supplemental Ordinance authorizing the issuance of any Series of Bonds.

**“Costs of Issuance”** shall mean all items of expense, directly or indirectly payable or reimbursable by or to the County and related to the authorization, sale, and issuance of Bonds; including, but not limited to, printing costs; costs of preparation and reproduction of documents; filing and recording fees; initial fees and charges of any Trustee or Custodian; legal fees and charges; fees and disbursements of financial advisors, consultants and professionals; costs of credit ratings; fees and charges for preparation, execution, transportation, and safekeeping of Bonds; costs and expenses of refunding of Bonds; premiums or other charges for insurance or other credit enhancement for the payment of Bonds; financing charges; accrued interest with respect to the initial investment of proceeds of Bonds; and any other cost, charge or fee in connection with the original issuance of Bonds.

**“Council”** means the County Council of Greenville County, South Carolina, the governing body of the County or any successor governing body of the County.

**“County”** shall mean Greenville County, South Carolina.

**“County Administrator”** shall mean the County Administrator of the County or the Acting County Administrator or Interim County Administrator, as the case may be, or his or her designee.

**“Custodian”** shall mean any bank, trust company, national banking association, or national association selected by the County as a depository of moneys or securities pursuant to this Ordinance.

**“Debt Service Fund”** shall mean the fund established by the provisions of **Section 6.01(b)** hereof designed to provide for the payment of the principal of, premium, if any, and interest on the Bonds (excluding Junior Bonds), as they respectively fall due.

**“Debt Service Reserve Fund”** shall mean the fund established by the provisions of **Section 6.01(c)** hereof intended to meet any possible deficiencies in the Debt Service Fund and to be maintained in the amounts, if any, and in separate accounts if established with respect to a Series of Bonds as set forth in the Supplemental Ordinance providing for the issuance of that Series of Bonds. A separate account within the Debt Service Reserve Fund shall be established for each Series of Bonds for which there is a Debt Service Reserve Fund Requirement.

**“Debt Service Reserve Fund Requirement”** shall mean that amount, if any, with respect to each Series of Bonds as set forth in the Supplemental Ordinance providing for the issuance of that Series of Bonds. This amount may be satisfied by the delivery of a surety bond in accordance with **Section 6.04** hereof.

**“Default”** or **“Event of Default”** shall mean any of those defaults specified in and defined by **Article X** hereof.

**“Enabling Act”** shall mean Section 6-1-760 utilizing the procedures of Title 6, Chapter 17 of the Code of Laws of South Carolina 1976, as amended, and as such may be further amended from time to time.

**“Fiscal Year”** shall mean the period of twelve (12) calendar months, beginning on the first day of July of each year and ending with the 30th day of June of the following year, until changed to a different twelve-month period by ordinance of the Council.

**“Interest Account”** shall mean the account by that name established in the Debt Service Fund.

**“Investment Obligations”** shall mean (i) obligations issued or guaranteed by the United States of America or its agencies, or to the payment of which the full faith and credit of the United States of America is pledged; (ii) general obligations of the State or its political units; (iii) interest bearing deposits in savings and loan associations to the extent that they are insured by an agency of the federal government; (iv) certificates of deposit issued by a bank or trust company (including the Trustee), where the certificates of deposit are collaterally secured by securities of the type described in (i) and (ii) above held by a third party as escrow agent or custodian, of a market value not less than the amount of the certificates of deposit so secured, including interest; provided, however, that collateral shall not be required to the extent the certificates of deposit are insured by an agency of the federal government; (v) repurchase agreements when collateralized by securities of the type described in (i), (ii), (iii), or (iv) above; (vi) no load open-end or closed-end management type investment companies or investment trusts registered under the Investment Company Act of 1940, as amended, where the investment is made by a bank or trust company or savings and loan association or other financial institution when acting as trustee or agent for a bond or other debt issue of that local government unit, political subdivision, or county treasurer if the particular portfolio of the investment company or investment trust in which the investment is made (a) is limited to obligations described in items (i), (ii), or (v) above, and (b) has among its objectives the attempt to maintain a constant net asset value of one dollar a share and to that end, values its assets by the amortized cost method; (vii) the South Carolina Pooled Investment Fund established



pursuant to the provisions of Chapter 6, Title 6, of the Code of Laws of South Carolina, 1976, as amended; or (viii) any other investments now or hereafter permitted under Section 6-5-10 of the Code of Laws of South Carolina, 1976, as amended.

**“Junior Bond Debt Service”** shall mean such fund authorized by **Section 6.01** hereof to be established in a Supplemental Ordinance with respect to Junior Bonds.

**“Junior Bonds”** shall mean bonds secured by a pledge of Pledged Fee Revenues junior and subordinate in all respects to the pledge securing the Bonds authorized by **Sections 3.02, 3.03** and **3.04** hereof.

**“Ordinance”** shall mean this General Bond Ordinance as from time to time amended or supplemented by one or more Supplemental Ordinances.

**“Outstanding Bonds”** or **“Outstanding”** shall mean all Bonds which have been duly authenticated and delivered by the Trustee hereunder except:

(a) Bonds theretofore cancelled by the Trustee or theretofore delivered by the Trustee for cancellation;

(b) Bonds (or portions thereof) deemed to have been redeemed within the meaning of **Sections 5.03** and **5.05** hereof;

(c) Bonds in lieu of which others have been authenticated, unless proof satisfactory to the Trustee is presented to the Trustee that the Bonds are held by *bona fide* purchasers as that term is defined in Article 8 of the South Carolina Uniform Commercial Code, as amended, in which case the Bond or Bonds so replaced and the Bond or Bonds authenticated and delivered therefor shall both be deemed Outstanding; and

(d) Bonds (or portions thereof) deemed to have been paid within the meaning of **Section 9.01** hereof.

**“Person”** shall mean natural persons, firms, associations, corporations, and public bodies.

**“Pledged Fee Revenue Fund”** shall mean the fund of that name created by **Section 6.01** hereof.

**“Pledged Fee Revenues”** shall mean the Hospitality Taxes collected by the County as well as any penalties or late fees related thereto collected by the County.

**“Principal Account”** shall mean the account by that name established within the Debt Service Fund.

**“Principal and Interest Requirements”** with respect to any Bonds shall mean the amount required to pay principal of (whether at maturity or pursuant to mandatory redemption requirements applicable thereto), redemption premium, if any, and interest (exclusive of funded interest) on the Bonds during the period of time for which Principal and Interest Requirements are being calculated; provided (i) with respect to Balloon Indebtedness, the amount of the principal which would be payable in such period shall be computed as if such principal were amortized from the date of incurrence thereof over a period of 20 years (or, if the term thereof is less than 20 years, over a period equal to such term) on a level debt service basis at an interest rate equal to the rate borne by such Balloon Indebtedness on the date calculated, except that if the date of calculation is within 12 months of the actual maturity of such Balloon

Indebtedness, the full amount of principal payable at maturity shall be included in such calculation; (ii) the interest on Variable Rate Indebtedness shall be calculated at one hundred percent (100%) of the average rate borne by the Variable Rate Indebtedness during the preceding twelve (12) months, or if the Variable Rate Indebtedness is yet to be incurred, at one hundred percent (100%) of the average rate such Variable Rate Indebtedness would have borne during the preceding twelve (12) months based on the applicable index or other method of determining the interest rate under the terms of the Supplemental Ordinance providing for the incurrence of the Variable Rate Indebtedness; (iii) interest as used in this definition shall include interest on Capital Appreciation Bonds accruing, but not payable, during the period of time for which Principal and Interest Requirements are being calculated; and (iv) there shall be excluded from such calculation of interest due on any Bonds the amount of any interest rate subsidy receivable by the County from the United States Treasury or other governmental unit pursuant to Section 54AA, 1400U-2 or 6431 of the Code or any successor or similar interest rate subsidy program established under the Code.

**“Project”** or **“Projects”** shall mean, as applicable, a tourist-related project or projects allowed under Title 6, Chapter 1, Article 7 as enumerated under Section 6-1-530 of the Code of Laws of South Carolina, 1976, as amended.

**“Project Costs”** shall mean costs incurred in connection with a Project, the repayment to the County of any funds expended in the acquisition or construction of any Project, and shall include, without limiting the costs permitted under the Enabling Act and Title 6, Chapter 1, Article 7 as enumerated under Section 6-1-530 of the Code of Laws of South Carolina, 1976, as amended, the following items to the extent they relate to a Project: (i) all direct costs of such Project described in the plans and specifications for such Project; (ii) all costs of planning, designing, acquiring, constructing, financing and placing such Project in operation; (iii) the cost of any lands or interests therein and all of the properties deemed necessary or convenient for the maintenance and operation of such Project; (iv) all engineering, legal and financial costs and expenses; (v) all expenses for estimates of costs and of revenues; (vi) costs of obtaining governmental and regulatory permits, licenses and approvals; (vii) all fees of special advisors and consultants associated with one or more aspects of such Project; (viii) all amounts required to be paid by this Ordinance or any Supplemental Ordinance authorizing the issuance of Bonds into the Debt Service Fund or Debt Service Reserve Fund upon the issuance of any Series of Bonds; (ix) the payment of all principal, premium, if any, and interest, when due, of any Bonds of any Series or other evidences of indebtedness issued to finance a portion of the cost of such Project, whether at the maturity thereof or at the due date of interest or upon redemption thereof; (x) interest on Bonds of any Series prior to and during construction of such Project for which such Bonds were issued, and for such additional periods as the County may reasonably determine to be necessary for the placing of such Project in operation.

**“Purchaser”** shall mean, with respect to any Series of Bonds, the initial purchaser of that Series of Bonds.

**“Record Date”** shall mean, with respect to any Series of Bonds, (i) the fifteenth (15th) day (whether or not a business day) of the calendar month immediately preceding an interest payment date in the event that the interest payment date is the first day of a month, (ii) the last day (whether or not a business day) of the calendar month immediately preceding each interest payment date in the event that the interest payment date is the fifteenth (15th) day of a month, or (iii) any other day as may be provided in the Supplemental Ordinance authorizing the issuance of that Series; provided, however, that in the case of a default in the payment of interest due on a Series of Bonds, the Trustee shall establish a special record date for payment of the defaulted interest, notice thereof to be mailed by first-class mail, postage prepaid, by the Trustee to the Holder of that Series of Bonds not less than ten (10) days prior to the special record date.

**“Serial Bonds”** shall mean Bonds which are not Term Bonds.

**“Series”** or **“Series of Bonds”** or **“Bonds of a Series”** shall mean all Bonds designated as being of the same series, issued and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this Ordinance.

**“State”** means the State of South Carolina.

**“Supplemental Ordinance”** shall mean any ordinance enacted by the Council providing for the issuance of Bonds and any ordinance enacted by the Council pursuant to and in compliance with the provisions of **Article XI** hereof amending or supplementing the provisions of the Ordinance.

**“Term Bond”** or **“Term Bonds”** shall mean any Bond designated by the Supplemental Ordinance providing for its issuance as being subject to retirement or redemption from moneys credited to the Bond Redemption Account in the Debt Service Fund or the Junior Bond Debt Service Fund as mandatory redemption requirements.

**“Trust Estate”** shall mean the Pledged Fee Revenues and funds which have been pledged and assigned as security for payment of the Bonds and such funds which may be subsequently pledged, including the initial deposit of proceeds, future deposits, and investment earnings on all such monies, but shall include any deposits in a Debt Service Reserve Fund only in favor of the Holders of the Bonds of such Series to which such Debt Service Reserve Fund has been pledged as security for such Series of Bonds.

**“Trustee”** shall mean any bank, trust company, national banking association, or national association selected by the County and any successor Trustee appointed in accordance with **Section 7.01** hereof, and any co-trustee appointed pursuant to **Section 7.13** hereof.

**“Valuation Date,”** with respect to any Capital Appreciation Bonds, shall have the meaning ascribed to the term in the Supplemental Ordinance authorizing the issuance of the Capital Appreciation Bonds.

**“Variable Rate Indebtedness”** shall mean indebtedness in the form of Bonds that bears interest at a variable, adjustable or floating rate or indebtedness in the form of Bonds, the interest on which is not established at the time of incurrence at a fixed or constant rate until its maturity.

**Section 2.02    General Rules of Interpretation.**

(a) Articles, sections, and paragraphs mentioned by number are the respective articles, sections, and paragraphs of this Ordinance so numbered.

(b) Except as otherwise expressly provided or unless the context otherwise requires, words importing persons include firms, associations, and corporations, and the masculine includes the feminine and the neuter.

(c) Words importing the redemption or redeeming or calling for redemption of a Bond do not include or connote the payment of the Bond at its stated maturity or the purchase of the Bond.

(d) Words importing the singular number include the plural number and *vice versa*.

[End of Article II]

## ARTICLE III

### AUTHORIZATION AND ISSUANCE OF BONDS

**Section 3.01** **Authorization of Bonds.** There is hereby authorized to be issued Bonds of the County to be known as “*Hospitality Tax Revenue Bonds,*” or as otherwise designated in the Supplemental Ordinance authorizing any Series of Bonds, which Bonds may be issued pursuant to the Ordinance and in accordance with the terms, conditions, and limitations set forth herein, in Series, in the amounts, and from time to time as the Council may from time to time deem to be necessary or advisable for any corporate purpose of the County for which Bonds may be issued under the Ordinance and the Enabling Act.

**Section 3.02** **General Provisions for Issuance of Bonds.**

(a) The Bonds shall be issued in Series by means of Supplemental Ordinances enacted by the Council in accordance with the provisions of this **Article III**. Each Supplemental Ordinance shall designate the Bonds provided for thereby by an appropriate Series designation and by any further particular designations, if any, as the Council deems appropriate; and shall, unless or except as is otherwise set forth herein, also specify (i) the authorized principal amount of the Series of Bonds; (ii) the purpose or purposes for which the Bonds of the Series are being issued, which shall be one or more of the purposes set forth in **Sections 3.03** and **3.04** hereof; (iii) if the Bonds of the Series are being issued for a purpose specified in **Section 3.03** hereof, the Project for which the Bonds are being issued; (iv) if the Bonds of the Series are being issued for a purpose specified in **Section 3.03** hereof, an estimate of the Project Costs to be financed by the Series of Bonds; (v) the date or dates of the Bonds of the Series or the manner to determine such dates; (vi) the maturity date or dates of the Bonds of the Series and the mandatory redemption amounts and due dates, if any, for the Term Bonds of the Series or the manner to determine such issues; (vii) the interest rate or rates of the Bonds of the Series, or the manner of determining the rate or rates, the initial interest payment date therefor, and the subsequent interest payment dates or the manner to determine such dates; (viii) the denominations of and manner of numbering and lettering, the Bonds of the Series; (ix) the redemption premium or premiums, if any, or the redemption price or prices to be paid upon the redemption of the Bonds of the Series, the period or periods, if any, during which premiums or prices shall be payable, and the terms and conditions, if any, of redemption or the manner to determine such issues; (x) the place or places of payment of the Bonds of the Series and interest thereon, and the paying agents therefor; (xi) the provisions for the sale or other disposition of the Bonds of the Series and the use, application, and investment, if any, of the proceeds of the sale or other disposition, which use, application and investment shall not be inconsistent with the provisions hereof; (xii) whether there will be a Debt Service Reserve Fund Requirement for such Series; (xiii) any other provisions which may be required to be included therein by other provisions of the Ordinance; and (xiv) any other necessary or desirable provisions not inconsistent with the provisions of the Ordinance.

(b) Bonds of a Series may be executed and delivered to the Trustee by the County and authenticated and delivered by the Trustee to the County or upon its order upon compliance with **Section 3.03, 3.04,** or with respect to Junior Bonds, **Section 3.05** hereof.

**Section 3.03** **Conditions for the Issuance of Bonds.**

(a) At any time and from time to time, one or more Series of Bonds (exclusive of all Series of Bonds issued hereunder pursuant to the First Supplemental Ordinance or Bonds issued pursuant to the provisions of **Section 3.04** hereof) may be issued for any purposes as may be permitted by the Enabling Act upon compliance with the provisions of **Section 3.02** hereof and this **Section 3.03** (except where

specifically provided otherwise in this **Section 3.03**) in any principal amounts as may be determined by the Council.

(i) There shall be filed with the Trustee a certificate of the County Administrator stating (A) either (1) that no Default exists in the payment of the principal of, premium, if any, or interest on any Bonds or Junior Bonds, and all mandatory redemption requirements, if any, required to have been made or satisfied shall have been made or satisfied, or (2) that the application of the proceeds of the sale of the Series of Bonds to be issued as required by the Supplemental Ordinance authorizing their issuance will cure the Default or permit the making or satisfaction of the redemption requirements; and (B) either (1) that to the knowledge of the County Administrator, the County is not in Default in the performance of any other of its covenants and agreements contained in the Ordinance, or (2) setting forth the circumstances of each Default known to him.

(b) If a certificate filed pursuant to **Section 3.03(a)(i)** should disclose a Default or Defaults hereunder, which have not been cured, there shall be filed with the Trustee an opinion of Bond Counsel that, in the case of any Default disclosed in a certificate filed pursuant to **Section 3.03(a)(i)**, no Default deprives the Bondholders of the security afforded by the Ordinance in any material respect.

(c) For the issuance of Bonds (other than all Series of Bonds authorized by the First Supplemental Ordinance and Junior Bonds) issued hereunder to finance the Costs of the Project there shall be delivered to the Trustee a certificate of an Authorized Representative, which is not required to be based upon an audit of the County, to the effect that Pledged Fee Revenues deposited into the Pledged Fee Revenue Fund for any consecutive twelve-month period out of the last eighteen-month consecutive period immediately preceding the issuance date of the proposed Bonds (the "**Test Period**") are not less than 150% of the maximum annual Principal and Interest Requirements for all Series of Bonds then Outstanding and the additional Bonds then proposed to be issued (with adjustments, if any, for any Bonds that will be discharged upon the issuance of such additional Bonds). If new establishments have become subject to the Hospitality Tax during the Test Period, the annualized revenues may be included as if they were collected during the Test Period.

(d) The Bonds may be issued to secure funds to defray Project Costs or to refund any Bonds, Junior Bonds, or any notes, bonds, or other obligations issued to finance or to aid in financing Projects.

(e) There shall be on deposit in the Debt Service Reserve Fund, if such is required by any Supplemental Ordinance, cash and securities (including any insurance policy, surety bond or letter of credit permitted by Supplemental Ordinance) as provided in **Section 6.04** hereof (inclusive of any proceeds of Bonds to be deposited in the Debt Service Reserve Fund), having an aggregate value not less than the Debt Service Reserve Fund Requirement, if any, with respect to each Series of Bonds to be then Outstanding and the Bonds then proposed to be issued.

**Section 3.04 Issuance of Refunding Bonds.** Upon compliance with the provisions of paragraphs (a), (b), (c) and (e) of **Section 3.03** hereof, the County by means of a Supplemental Ordinance enacted in compliance with the Enabling Act and any other statutory provisions authorizing the issuance of revenue refunding bonds, including advance refunding bonds, may issue hereunder refunding Bonds for the purpose of refunding (including by purchase) Bonds or any other notes, bonds or other obligations issued to finance or to aid in financing of Projects, including amounts to pay principal, redemption premium, and interest to the date of the redemption (or purchase) of the refunded Bonds or any other notes, bonds or other obligations issued to finance or to aid in financing of Projects, and the Costs of Issuance of the refunding Bonds and to fund any necessary reserves or other accounts. In addition, the County by means of a Supplemental Ordinance may issue refunding Bonds for the purpose of refunding

Bonds or any other notes, bonds or other obligations issued to finance or to aid in financing of Projects, without satisfying the conditions for the issuance of Bonds as contained in **Section 3.03(c)** hereof to the extent that the aggregate Principal and Interest Requirements with respect to the refunding Bonds is less than the aggregate Principal and Interest Requirements with respect to the Bonds to be refunded or any other notes, bonds or other obligations issued to finance or to aid in financing of Projects to be refunded.

**Section 3.05** **Issuance of Junior Bonds** The County may at any time issue Junior Bonds in any amount as it may from time to time determine, payable from the Pledged Fee Revenues; provided that (a) such Junior Bonds are issued to secure funds to defray Project Costs, including obligations issued in the form of Capital Leases, or to refund Bonds, Junior Bonds, or any notes, bonds, or other obligations issued to finance or to aid in financing Projects; (b) the pledge of Pledged Fee Revenues securing Junior Bonds shall at all times be subordinate and inferior to the pledge of Pledged Fee Revenues securing the Bonds such that Junior Bonds shall be payable from Pledged Fee Revenues held in the Pledged Fee Revenue Fund after provision has been made for all payments (including all outstanding principal, interest and any redemption premium payable) required to be made hereunder with respect to the Bonds, and (c) there shall be delivered to the Trustee a certificate of an Authorized Representative to the effect that Pledged Fee Revenues for the Test Period are not less than 100% of the greatest sum for any Fiscal Year obtained by adding the Principal and Interest Requirements for each Fiscal Year for all Series of Bonds plus the principal and interest requirements for the Junior Bonds proposed to be issued. If new establishments have become subject to the Hospitality Tax during the Test Period, the annualized revenues may be included as if they were collected during the Test Period.

[End of Article III]

## ARTICLE IV

### THE BONDS

#### **Section 4.01 Execution.**

(a) Unless or except as is otherwise set forth in the Supplemental Ordinance providing for the issuance of a Series of Bonds, the Bonds shall be executed on behalf of the County by the Chairman of County Council and the County Administrator by their manual or facsimile signatures and attested by the Clerk to Council by his or her manual or facsimile signature.

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

**Section 4.02 Authentication.** Upon compliance with the provisions of **Sections 4.03, 4.04, or 4.05** hereof, as applicable, and upon the written order of the County, the Trustee shall authenticate Bonds authorized to be issued hereunder. Except as otherwise set forth in a Supplemental Ordinance, only those Bonds as shall have endorsed thereon a certificate of authentication duly executed manually by the Trustee shall be entitled to any right or benefit under this Ordinance, and no Bond shall be valid or obligatory for any purpose unless and until the certificate of authentication shall have been duly executed by the Trustee. The executed certificate of the Trustee upon any Bond shall be conclusive evidence that the Bond has been authenticated and delivered. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same person sign the certificate of authentication on all of the Bonds issued hereunder or on all of the Bonds of a particular Series.

**Section 4.03 Mutilated, Lost, Stolen, or Destroyed Bonds.** In the event any Bond is mutilated, lost, stolen, or destroyed, the County may execute and the Trustee may authenticate a new Bond having the same date, maturity, and denomination as that mutilated, lost, stolen, or destroyed Bond; provided that, in the case of any mutilated Bond, it shall first be surrendered to the County and in the case of any lost, stolen, or destroyed Bond, there shall be first furnished to the County and the Trustee evidence of the loss, theft, or destruction satisfactory to the County and the Trustee, together with indemnity satisfactory to them; provided that, in the case of a Holder which is a bank or insurance company, the agreement of the bank or insurance company to indemnify shall be sufficient. In the event any Bond shall have matured, instead of issuing a duplicate Bond, the County may pay it without surrender thereof. The County and the Trustee may charge the Holder of the Bond with their reasonable fees and expenses in this connection.

#### **Section 4.04 Registration and Transfer of Bonds; Persons Treated as Owners.**

(a) Each Bond shall be fully registered and transferable only upon the Books of Registry of the County which shall be kept for that purpose at the corporate trust office of the Trustee by the Registered Holder thereof or by his attorney, duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Trustee, duly executed by the Registered Holder or his duly authorized attorney, signature guaranteed. Upon the transfer of any Bond, the County shall issue, subject to the provisions of **Section 4.07** hereof, in the name of the transferee, a new Bond or Bonds of the same Series and of the same aggregate principal amount as the unpaid principal amount of the surrendered Bond.

(b) Any Bondholder requesting any transfer shall pay any tax or other governmental charge required to be paid with respect thereto. As to any Bond, the person in whose name it shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of, premium, if any, and interest on any Bond shall be made only to or upon the order of the Holder thereof, or his duly authorized attorney, and neither the County nor the Trustee shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All the payments made in this manner shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums paid.

**Section 4.05 Form of Bonds; Denominations; Medium of Payment.** Unless or except as is otherwise provided in the Supplemental Ordinance authorizing their issuance, the Bonds: (a) shall be in fully registered form without coupons; (b) shall be issued in denominations of \$5,000, or any integral multiple thereof (or, in the case of Capital Appreciation Bonds, in denominations representing \$5,000 Accreted Value at maturity or integral multiple thereof); provided that, upon partial redemption of a Bond requiring surrender thereof and the issuance of a new Bond, the new Bond may be in the denomination of the unredeemed balance; and (c) shall be payable with respect to principal, interest, and premium, if any, 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. The County may provide in any Supplemental Ordinance for a book-entry system for such Series of Bonds.

**Section 4.06 Numbers, Date, and Payment Provisions.**

(a) The Bonds shall be numbered and designated in any manner as the County, with the concurrence of the Trustee shall determine. Each Bond of a Series shall bear interest from the interest payment date immediately preceding the date of its authentication, unless authentication shall be upon an interest payment date, in which case, it shall bear interest from its authentication, or unless authentication shall precede the first interest payment date for the Bond, in which case it shall bear interest from the date of its delivery, or as otherwise provided in the Supplemental Ordinance authorizing their issuance; provided, however, that if the date of authentication of any Bond of any Series is after a Record Date and before the corresponding interest payment date therefor, it shall bear interest from the next succeeding interest payment date; notwithstanding the foregoing, if at the time of authentication of any Bond any interest on the Bond is in default, it shall bear interest from the date to which interest on it has been paid or if no interest has been paid, the Bond shall bear interest from the date of delivery thereof or as otherwise provided in the Supplemental Ordinance authorizing the issuance of the Bond.

(b) The principal of and redemption premium, if any, on the Bonds and Accreted Value on any Capital Appreciation Bonds shall be payable when due in lawful money of the United States of America upon presentation and surrender of the Bonds at the office of the Trustee described in the Supplemental Ordinance authorizing the issuance of the Bonds. Except as otherwise set forth in a Supplemental Ordinance, payment of interest on Bonds other than Capital Appreciation Bonds shall be made by check or draft drawn upon the Trustee and mailed to the Registered Holder at his address as it appears upon the Books of Registry; provided that payment to any Bondholder owning \$1,000,000 or more of Bonds may be made by wire transfer to an account in the continental United States of America upon the written request and instructions provided by such Bondholder to the Trustee no later than the preceding Record Date. The Trustee shall maintain a record of the amount and date of any payment of principal or interest on the Bonds (whether at the maturity date or the redemption date prior to the maturity or upon the maturity thereof by declaration or otherwise).

**Section 4.07 Exchange of Bonds.** Bonds, upon surrender thereof at the office of the Trustee described in the Supplemental Ordinance authorizing the issuance of that Series of Bonds, with a written instrument of transfer satisfactory to the Trustee, duly executed by the Bondholder or his duly authorized



attorney, signatures guaranteed, may, at the option of the Bondholder thereof, and upon payment by the Bondholder of any charges which the Trustee may make as provided in **Section 4.08**, be exchanged for a principal amount of Bonds of any other authorized denomination equal to the unpaid principal amount of surrendered Bonds.

**Section 4.08** **Regulations with Respect to Exchanges and Transfer.** In all cases in which the privilege of exchanging or transferring Bonds is exercised, the County shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of the Ordinance. All Bonds surrendered in any exchanges or transfers shall forthwith be cancelled by the Trustee. There shall be no charge to the Bondholder for the exchange or transfer of Bonds except that the Trustee may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to the exchange or transfer. Neither the County nor the Trustee shall be required (a) to exchange or transfer Bonds (i) from the Record Date to the next succeeding interest payment date or (ii) for a period of fifteen (15) days following any selection of Bonds to be redeemed or thereafter until after the first publication or mailing of any notice of redemption, or (b) to transfer any Bonds called for redemption.

**Section 4.09** **Temporary Bonds.** Any Series of Bonds may be initially issued in temporary form, exchangeable for definitive Bonds to be delivered as soon as practicable and subject to the agreement of the County and the Purchaser. The temporary Bonds may be printed or typewritten, shall be of any denominations and may be numbered in any manner as may be determined by the County, and may contain reference to any of the provisions of the Ordinance as may be appropriate. Every temporary Bond shall be executed by the County upon the same conditions and in substantially the same manner as the definitive Bonds. If the County issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds shall be surrendered for cancellation at the office of the Trustee, and the Trustee shall deliver and exchange for the temporary Bonds an equal, aggregate principal amount of definitive Bonds having the same aggregate principal amount and in authorized denominations of the same Series, maturity or maturities, and interest rate or rates. Until exchanged, the temporary Bonds shall be entitled to the same benefits under the Ordinance as definitive Bonds under the Ordinance.

**Section 4.10** **Co-Registrars.** In the Supplemental Ordinance authorizing the issuance of any Series of Bonds, the County may appoint a co-registrar in addition to the Trustee. The co-registrar shall be authorized to perform the duties and responsibilities of the Trustee set forth in **Sections 4.02 4.03, 4.04, and 4.07** hereof with respect to the authentication, registration and exchange of Bonds of that Series, the same as if the Trustee pursuant to those Sections. Any co-registrar shall be required to furnish to the Trustee the names and addresses of the transferors and transferees of any Bonds registered, transferred, or exchanged by it, and the numbers and other identifying symbols of any Bonds cancelled or exchanged by it, and shall comply with all reasonable instructions with respect to the performance of its duties and responsibilities that the Trustee shall give to it.

[End of Article IV]

## ARTICLE V

### REDEMPTION OF BONDS BEFORE MATURITY

**Section 5.01** **Redemption of Bonds.** The Bonds of a Series shall be subject to redemption prior to their stated maturities upon the terms and conditions and at the dates and redemption price or prices or premium or premiums as shall be set forth or provided for in the Supplemental Ordinance pursuant to which that Series is issued, and upon the further terms and condition as are hereinafter set forth.

**Section 5.02** **Selection of Bonds for Redemption.** In the event of the redemption at any time of only part of the Bonds of a Series, the Bonds to be redeemed shall be redeemed in the order as is set forth or provided for in the Supplemental Ordinance providing for the issuance of that Series. Unless otherwise provided by Supplemental Ordinance, if less than all of the Bonds having the same maturity of any Series shall be called for prior redemption, the particular Bonds or portions of Bonds to be redeemed shall be selected as provided in the Supplemental Ordinance; provided, however, that the portion of any Bond of a denomination (or, in the case of Capital Appreciation Bonds, Accreted Value at maturity) of more than \$5,000 to be redeemed shall be in the principal amount of \$5,000 or an integral multiple thereof, and that, in selecting portions of Bonds for redemption, the Trustee shall treat each Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount or Accreted Value at maturity of the Bond by \$5,000.

**Section 5.03** **Notice of Redemption.** Unless or except as is otherwise provided in the Supplemental Ordinance authorizing the issuance of the Bonds, the provisions of this **Section 5.03** apply to each Series of Bonds. In the event any of the Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the County, of the redemption of the Bonds to be redeemed, the redemption date, the principal amount of each Bond to be redeemed (if less than all), the redemption price, the place or places where amounts due upon redemption will be payable, and the numbers of the Bonds to be redeemed. The notice shall be given by mailing a copy of the redemption notice by first-class mail, postage prepaid, at least thirty (30) days, but not more than sixty (60) days, prior to the date fixed for redemption to the Holder of each Bond or portion thereof to be redeemed at the address shown on the Books of Registry. Failure to duly give notice by mailing, or any defect in the notice, to the Holder of any Bond designated for redemption shall not affect the validity of any proceedings for the redemption of any other Bonds. All Bonds or portions thereof called for redemption will cease to bear interest on the specified redemption date, provided funds for their redemption are on deposit with the Trustee on or before such redemption date; and the Bonds shall not be deemed to be Outstanding under the provisions of the Ordinance. If on the date fixed for redemption there is not on deposit with the Trustee funds for redemption, the Trustee shall send a notice to all Holders in the same manner as the notice of redemption canceling such notice of redemption.

If at the time of mailing of the notice of redemption there shall not have been deposited with the Trustee moneys sufficient to redeem all of the Bonds called for redemption, which moneys are or will be available for redemption of Bonds, such notice will state that it is conditional upon the deposit of the redemption moneys with the Trustee 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.

**Section 5.04** **Partial Redemption of Bond.** In the event that only part of the principal sum of a Bond shall be called for redemption or prepaid, payment of the amount to be redeemed or prepaid shall be made only upon surrender of the Bond to the Trustee. Upon surrender of the Bond, the County shall execute and the Trustee shall authenticate and deliver to the Holder thereof, at the office of the Trustee, or send to the Holder by registered mail at his request, risk, and expense, a new fully executed Bond or

Bonds, of authorized principal sums equal in aggregate principal amount to, and of the same Series, maturity, and interest rate as, the unredeemed portion of the Bond surrendered.

**Section 5.05** **Effect of Redemption.** If a Bond is subject by its terms to prior redemption and has been duly called for redemption and notice of the redemption thereof has been duly given as hereinbefore provided and if moneys for the payment of the Bond (or of the principal amount thereof to be redeemed) at the then applicable redemption price or together with the then applicable premium, if any, and the interest to accrue to the redemption date on the Bond (or the principal amount thereof to be redeemed) are held on or before the date fixed for redemption for the purpose of payment by the Trustee or other paying agent for the Series of Bonds of which that Bond is one, then on the redemption date designated in the notice, the Bond (or the principal amount thereof to be redeemed) called for redemption shall become due and payable and interest on the Bond (or the principal amount thereof to be redeemed) called for redemption shall cease to accrue.

**Section 5.06** **Cancellation.** All Bonds which have been redeemed shall be cancelled and either maintained or destroyed by the Trustee and shall not be reissued. A counterpart of the certificate of destruction evidencing the destruction shall be furnished by the Trustee to the County upon the request of the County.

**Section 5.07** **Purchase of Bonds.** The Trustee shall, if and to the extent practicable, endeavor to purchase Bonds or portions of Bonds at the written direction of the County at the time, in the manner, and at the price as may be specified by the County but in no event greater than the call price first to become available or then prevailing. The Trustee may so purchase Bonds with any moneys then held by the Trustee and available for the redemption or purchase of Bonds; provided, that any limitations or restrictions on redemption or purchases contained in the Ordinance shall be complied with. The expenses of purchase shall be deemed an expense of the Trustee under **Section 7.03** hereof. The Trustee shall incur no liability for any purchase made in accordance with this **Section 5.07** or for its inability to effect purchase thereof.

[End of Article V]

## ARTICLE VI

### ESTABLISHMENT OF FUNDS; PAYMENTS THEREFROM; INVESTMENT OF MONEYS; SECURITY FOR THE BONDS

**Section 6.01 Listing of Funds and Accounts.** The following are the funds and accounts established by the Ordinance:

- (a) Pledged Fee Revenue Fund;
- (b) Debt Service Fund, including an Interest Account, Principal Account, and Bond Redemption Account;
- (c) Debt Service Reserve Fund; and
- (d) Construction Fund for each Series to the extent the Series of Bonds is issued for Project Costs.

One or more accounts may be established within any of the above funds as are reasonably necessary. It is intended by the Ordinance that the funds referred to in this **Article VI** (other than the Construction Fund) shall remain in existence for so long a time as any sum remains due and payable by way of principal of and interest on the Bonds, and that deposits and withdrawals therefrom be made in the manner herein prescribed and in the order of priority hereinafter set forth in this **Article VI**. The initial implementation of this **Article VI** may, at the option of the County, be postponed until the occasion of the initial issuance of Bonds pursuant to the Ordinance. Upon the issuance of any Junior Bonds, the Trustee shall then establish pursuant to the Supplemental Ordinance a Junior Bond Debt Service Fund. Any debt service due on Junior Bonds shall be paid after all deposits with respect to Bonds (exclusive of Junior Bonds) have been made into the funds described in (a) through (d) above.

#### **Section 6.02 Pledged Fee Revenue Fund; Pledge of Trust Estate.**

(a) There is hereby established a Pledged Fee Revenue Fund to be maintained by the County or a Custodian appointed by the County pursuant to **Section 7.14** hereof and into which shall be deposited all Pledged Fee Revenues, if any, as received by the County. Moneys in the Pledged Fee Revenue Fund shall be withdrawn, and allocation and use therefrom shall be made at the direction of the County but only in the manner specified in this **Article VI** and in the order of priority according to items (b) and (c) of **Section 6.01** hereof. Upon satisfaction on a Fiscal Year basis of all requirements for payments into the Debt Service Fund, the Debt Service Reserve Fund or the Junior Bond Debt Service Fund, all moneys remaining in the Pledged Fee Revenue Fund shall be used by the County for any lawful purpose.

(b) The Bonds shall be payable solely from the Trust Estate which includes Pledged Fee Revenues in the manner provided herein, and the Pledged Fee Revenues herein made applicable thereto are hereby irrevocably pledged to the payment of the Bonds, and to the payments into the various funds herein provided for, to the extent and in the manner provided for by the Ordinance. The Bonds (excluding Junior Bonds), including payment of the principal thereof, redemption premium, if any, and interest thereon, shall be equally and ratably secured hereunder by the Trust Estate without priority by reason of Series, number, date of enactment of Supplemental Ordinance providing for the issuance thereof, the purposes or Projects for which the Bonds are issued, the date, date of sale, execution, issuance or delivery of the Bonds, or otherwise, and without regard to which section hereof the Bonds are issued under, except as hereinafter otherwise expressly provided. The pledge securing the Bonds shall constitute a prior and paramount lien and charge on the Trust Estate, subject only to the provisions of the Ordinance

restricting or permitting the application thereof for the purposes and on the terms and conditions set forth in the Ordinance. The Pledged Fee Revenues and the other moneys and securities hereby pledged as part of the Trust Estate shall immediately be subject to such lien and the pledge without any physical delivery thereafter or further act, and such lien and the pledge shall be valid and binding against all parties having claims of any kind, in tort, contract, or otherwise, against the County, whether or not the parties have notice thereof.

(c) The covenants and agreements herein set forth to be performed by the County shall be for the equal and proportionate benefit, security, and protection of all Holders of the Bonds without preference, priority, or distinction as to payment or security or otherwise (except as to maturity) of any of the Bonds or any of the others for any reason or cause whatsoever, except as expressly provided herein or in the Bonds, and, except as aforesaid and with respect to Junior Bonds, all Bonds shall rank *pari passu* and shall be secured equally and ratably hereunder without discrimination or preference whatsoever.

**Section 6.03 Debt Service Fund.**

(a) There is hereby established a Debt Service Fund to be maintained in trust by the Trustee, and within the Debt Service Fund there is hereby established a separate Interest Account, Principal Account, and Bond Redemption Account. This fund is intended to provide for the payment of the principal of, premium, if any, and interest on the Bonds (exclusive of Junior Bonds) as they respectively fall due. Payments into this fund shall be made in the manner prescribed by the Ordinance and all moneys in the Debt Service Fund shall be used solely to pay the principal of, redemption premium, if any, and interest on the Bonds, and for no other purpose; and withdrawals therefrom shall be made only to effect payment of the principal of, redemption premium, if any, and interest on the Bonds. Earnings on investments of the Debt Service Fund shall become a part of the Debt Service Fund or at the written direction of an Authorized Representative and with an approving opinion of Bond Counsel be used for any lawful purpose related to the Project; provided, however, that by Supplemental Ordinance the County may provide that earnings on moneys in the Debt Service Fund representing capitalized interest on any Series of Bonds may, during the construction period of any Project financed by that Series of Bonds, be transferred to the Construction Fund established for that Series of Bonds.

(b) Each month there shall be transferred by the County from the Pledged Fee Revenue Fund to the Trustee for deposit into the Debt Service Fund sufficient moneys so as to comply with the following provisions for the payment of the Principal and Interest Requirements on the Bonds then Outstanding:

(i) On or before the fifteenth day of each month (provided, that payments with respect to interest on Bonds of a Series need not begin until the month following the month in which the Series is issued and delivered) into the Interest Account of the Debt Service Fund, that amount which, together with equal, successive, monthly deposits in the same amount, will, together with any other funds on deposit from whatever source in the Interest Account of the Debt Service Fund which will be applied to the next interest payment, provide sufficient funds to pay the aggregate amount of interest to become due on the Bonds on the next interest payment date. If any Bonds are issued with provision that the interest rate thereon is subject to adjustment from time to time, the County shall provide in the Supplemental Ordinance pursuant to which the Bonds are issued for any further and additional or alternate credits to the Interest Account as are necessary to provide for the payment of interest thereon when due, taking into account any other funds as will be available for that payment. In making the transfers required by this paragraph, any amounts credited to the Interest Account representing accrued interest received on the sale of Bonds, interest accruing during the month in which the credit is made from capitalized proceeds

of Bonds, and any other transfers and credits otherwise made or required to be made to the Interest Account shall be taken into consideration and allowed for.

(ii) On or before the fifteenth day of the month which precedes the first principal payment date on any Serial Bond by twelve (12) months, or if the first installment of principal of Serial Bonds of that Series shall become due in less than twelve (12) months from the date on which the Series is issued and delivered to the Purchaser thereof, then on or before the fifteenth day of the month immediately succeeding the month in which the Bonds of that Series are issued and delivered, and in any event prior to the date upon which the installment of principal falls due, and on or before the fifteenth day of each succeeding month thereafter, into the Principal Account of the Debt Service Fund, that amount which, together with equal, successive, monthly deposits in the same amount, will, together with any other funds on deposit from whatever source in the Principal Account of the Debt Service Fund which will be applied to the payment of principal next to become due, provide sufficient funds to pay the aggregate amount of the principal of Serial Bonds to become due on the next principal payment date.

(iii) On or before the fifteenth day of the twelfth (12th) month prior to the date upon which a mandatory redemption of Term Bonds of a Series falls due, or if the first mandatory redemption requirement on Term Bonds of that Series shall fall due in less than twelve (12) months from the date on which that Series is issued and delivered to the Purchaser thereof, then on or before the fifteenth day of the month immediately succeeding the month in which the Bonds of that Series are issued and delivered, and in any event prior to the date upon which any mandatory redemption requirement falls due, and on or before the fifteenth day of each succeeding month thereafter, an amount such that, if the same amount were credited to the Bond Redemption Account on the fifteenth day of each month thereafter and prior to the next date upon which a mandatory redemption requirement falls due on the Term Bonds of that Series, the aggregate of the amount so credited to the Bond Redemption Account for the purpose of redeeming the Term Bonds of that Series would on the latter date be equal to the amount (excluding accrued interest) required to redeem the principal amount of those Term Bonds required by the sinking fund installment then falling due on the Term Bonds of that Series. At any time before Bonds of a Series subject to redemption from amounts deposited pursuant to this paragraph have been selected for redemption, or after the redemption date thereof, the County may, in lieu of making all or any portion of a payment with respect to that Series of Bonds required by this paragraph, deliver to the Trustee for cancellation Bonds of that Series subject to redemption from amounts so paid, in which event the payments required by this paragraph shall be reduced by the applicable redemption price of the Bonds delivered for cancellation. The Trustee shall apply the moneys credited to the Bond Redemption Account as mandatory redemption requirements to the retirement of the Term Bonds of each Series by redemption in accordance with the Supplemental Ordinance providing for the issuance of that Series of Bonds, without further authorization or direction, on each mandatory redemption date with respect to the Term Bonds of that Series or, if directed in writing by an Authorized Representative, semiannually on both the redemption date and the date six (6) months prior to the redemption date, so that the aggregate amount applied will equal the amounts required to be credited to the Bond Redemption Account as mandatory redemption requirements for the Term Bonds of that Series on the mandatory redemption date by the Supplemental Ordinance providing for the issuance thereof; provided, however, that if the last mandatory redemption requirement for the Term Bonds becomes due on the stated maturity date thereof, the amount of the mandatory redemption requirement may be applied to the payment thereof at maturity. The Trustee shall, if so directed in writing by the County, apply the moneys credited to the Bond Redemption Account as mandatory redemption requirements for the retirement of the Term Bonds of a Series to the purchase of the Bonds at a purchase price (including accrued interest and any brokerage or other

charge) not to exceed the redemption price then applicable upon the redemption of those Bonds from mandatory redemption requirements, plus accrued interest, in which event the principal amount of the Bonds required to be redeemed on the next ensuing mandatory redemption date shall be reduced by the principal amount of the Bonds purchased; provided, however, that no Bonds of the Series shall be purchased during the interval between the date on which notice of redemption of the Bonds from mandatory redemption requirements is given and the mandatory redemption date set forth in the notice, unless the Bonds so purchased are Bonds called for redemption in the notice or are purchased from moneys other than those credited to the Bond Redemption Account with respect to the mandatory redemption requirements.

In the event that moneys in the Bond Redemption Account, other than moneys credited thereto as mandatory redemption requirements, are to be applied to the retirement of one or more Series of Bonds, the County may direct the Trustee in writing within thirty (30) days of the deposit of the moneys to apply the moneys to the purchase of Bonds of that Series and may direct from which of the Series of Bonds purchases may be made and may elect that all purchases shall be made from only one Series or from more than one Series. The price payable on any purchase shall not exceed the highest redemption price applicable at the time or any time thereafter with respect to the Series of Bonds. Any moneys not applied to the purchase of Bonds shall be applied to the redemption of Bonds of any Series then subject to redemption from those moneys. In the event that the moneys may be applied to the redemption of more than one Series of Bonds, the moneys shall be applied by the Trustee to the redemption of Bonds of each Series in proportion to which the principal amount of Bonds of each Series then Outstanding and subject to redemption from the moneys bears to the total principal amount of Bonds of all Series then Outstanding and subject to redemption from the moneys. The purchase or redemption of Term Bonds pursuant to this paragraph shall be credited against the mandatory redemption requirement of the Term Bonds in any order of the mandatory redemption dates as determined by the County in writing. The Trustee shall keep and retain accurate records of application of each deposit of funds under this paragraph. Neither the County nor the Trustee shall be required to redeem Bonds pursuant to this paragraph if the moneys available for redemption are less than \$50,000. The Trustee, in the name and on behalf of the County, shall give notice of all redemptions in accordance with the provisions of **Article V** hereof. Any purchase of Bonds pursuant to this paragraph may be made with or without tenders of Bonds at public or private sale; provided, however, the County shall direct the Trustee in writing of any method to be followed in purchasing Bonds. Except as provided below with respect to payments on the Bonds to be made from a Debt Service Reserve Fund, the accrued interest to be paid on the purchase or redemption of Bonds shall be paid from the Interest Account. All Bonds purchased or redeemed pursuant to this paragraph shall be cancelled and not reissued.

(iv) If, on any occasion when the payments required by paragraphs (i), (ii), and (iii), *supra*, are to be made, the sum total of the payments required by paragraphs (i), (ii), and (iii), *supra*, plus previous monthly payments and the remaining payments to be made prior to the next succeeding interest or principal and interest payment date, will not provide, together with any other funds in the Debt Service Fund to be applied to the payment of principal and interest, sufficient funds to meet the payment of the next succeeding installment of either principal (whether due at stated maturity or by mandatory redemption) or interest, or both, as the case may be, there shall be added to the payments to be made pursuant to paragraphs (i), (ii), and (iii), *supra*, with respect to any Series of Bonds, from the Pledged Fee Revenue Fund and the account, if any, in the Debt Service Reserve Fund established with respect to that Series of Bonds, in that order, a sum equal to the deficiency; the effect of this subparagraph (iv) being to ensure that moneys in the Debt Service Fund and the Pledged Fee Revenue Fund be applied equally and ratably to the payment of Bonds, without priority between Series, but that the moneys, if any, in

the Debt Service Reserve Fund account established with respect to any Series of Bonds be applied solely to the payment of debt service on the Bonds of that Series.

(c) If at any time the amounts held by the Trustee in the funds established under this **Article VI** are sufficient to pay principal of, premium, if any, and interest on the Bonds then Outstanding to maturity or prior redemption, together with any amounts due the Trustee, the Trustee shall notify the County, and thereafter the Trustee shall apply the amounts in the funds to the payment of the principal of, premium, if any, and interest on the Bonds and any amounts due the Trustee and shall be required to pay over any excess moneys to the County.

**Section 6.04 Debt Service Reserve Fund.**

(a) There is hereby established a Debt Service Reserve Fund to be maintained in trust by the Trustee. The Supplemental Ordinance providing for the issuance of each Series of Bonds may provide for the establishment of a separate account, if any, within the Debt Service Reserve Fund with respect to the applicable Series of Bonds, and, if so established, shall specify the applicable Debt Service Reserve Fund Requirement with respect to that Series of Bonds. The Debt Service Reserve Fund account established with respect to any Series of Bonds is intended to ensure the timely payment of the principal of and interest on the Bonds of that Series and to provide for the redemption of Bonds of that Series at or prior to their stated maturities. Moneys in the Debt Service Reserve Fund account established with respect to any Series of Bonds shall be used for the following purposes, and the Trustee is authorized to use such moneys for the following purposes, and for no other:

(i) To prevent a Default in the payment of the principal of or interest on the Bonds of that Series, by reason of the fact that moneys in the Debt Service Fund are insufficient for those purposes.

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

(iii) To effect partial redemption of the Bonds of that Series, provided that the redemption be undertaken in accordance with the provisions of the Ordinance permitting a partial redemption of Bonds and the balance remaining in the Debt Service Reserve Fund account following the partial redemption shall not be less than the Debt Service Reserve Fund Requirement, if any, with respect to the Bonds of that Series Outstanding following the partial redemption.

(iv) To effect the retirement of Bonds of that Series through purchase under the conditions herein prescribed.

(v) To pay the final installments of principal and interest of the Bonds of that Series provided that the balance remaining in the Debt Service Reserve Fund account following such payment shall not be less than the Debt Service Reserve Fund Requirement with respect to the Bonds of that Series Outstanding following such payment.

(b) Whenever the market value of the cash and securities in the Debt Service Reserve Fund account established with respect to any Series of Bonds as determined by the Trustee in accordance with **Section 6.13** hereof shall exceed the Debt Service Reserve Fund Requirement, if any, with respect to that Series of Bonds, the excess may be used at the written direction of an Authorized Representative (i) to repurchase and retire Bonds of that Series at prices not exceeding the call price first to become available



or then prevailing; (ii) subject to the provisions of paragraph (h) of this **Section 6.04**, transferred to the Debt Service Fund to be applied to the payment of debt service on that Series of Bonds; or (iii) with an approving opinion of Bond Counsel, transferred to the County and applied for any lawful purpose. Purchases of Bonds shall be effected by the County through the Trustee. Whenever Bonds shall have been purchased pursuant to this authorization, it shall be the duty of the Trustee to cancel and destroy those Bonds and to deliver certificates evidencing that act to the County.

(c) Other than as provided in paragraphs (b), (e), (g) and (h) of this **Section 6.04**, withdrawals from the Debt Service Reserve Fund shall be made only to make available to the Trustee the moneys which it requires to effect payment of principal and interest and premium, if any, on the Bonds in accordance with this **Section 6.04**. Withdrawals shall be made not less than one (1) day nor more than five (5) days prior to the occasion when installments of principal and interest and premium, if any, become due or the applicable redemption or Bond purchase date, as applicable.

(d) Whenever the value of cash and securities (or the equivalent security permitted by Supplemental Ordinance) in the Debt Service Reserve Fund account established with respect to any Series of Bonds as determined by the Trustee in accordance with **Section 6.13** hereof shall be less than the Debt Service Reserve Fund Requirement, if any, with respect to that Series of Bonds due to decline in market value or a withdrawal pursuant to **Section 6.04(a)(i)**, there shall be deposited, from the Pledged Fee Revenue Fund after the payments required under **Section 6.03** have been made into the Debt Service Fund on or before the fifteenth day of each month into the Debt Service Reserve Fund account in an amount which, together with equal, successive, monthly deposits in the same amount, will provide cash and securities in the Debt Service Reserve Fund account of a value not less than the Debt Service Reserve Fund Requirement with respect to that Series within twelve (12) months next succeeding the determination.

(e) In lieu of the deposit of moneys into the Debt Service Reserve Fund account established with respect to any Series of Bonds to meet the Debt Service Reserve Fund Requirement with respect to that Series, the County may cause to be credited a surety bond or an insurance policy payable to, or a letter of credit in favor of, the Trustee for the benefit of the Holders of the Bonds meeting the standard set forth in the Supplemental Ordinance authorizing that Series of Bonds. The amount of moneys required to be deposited to the Debt Service Reserve Fund account shall be reduced by the amount of the surety bond, insurance policy, or letter of credit. The surety bond, insurance policy, or letter of credit shall be payable (upon the giving of notice as required thereunder) on any interest payment date on which moneys will be required to be withdrawn from the Debt Service Reserve Fund account and applied to the payment of the principal of or interest on any Bonds of that Series but only to the extent that withdrawals cannot be made by amounts then credited to the Debt Service Reserve Fund account.

(f) If the issuer of a surety bond, insurance policy, or letter of credit on deposit in the Debt Service Reserve Fund shall fail to meet the standard set forth with respect thereto in the Supplemental Ordinance, the County shall use reasonable efforts to replace the surety bond, insurance policy, or letter of credit with one issued by an issuer having a rating as described, but shall not be obligated to pay, or commit to pay, increased fees, expenses, or interest in connection with the replacement or to deposit Pledged Fee Revenues in the Debt Service Reserve Fund in lieu of replacing the surety bond, insurance policy, or letter of credit with another.

(g) If the County obtains a surety bond, insurance policy, or letter of credit after the deposit of moneys to the Debt Service Reserve Fund account established with respect to any Series of Bonds, excess moneys shall be transferred to the Construction Fund established for that Series of Bonds, or if one does not exist, to the Debt Service Fund and applied to pay debt service on that Series of Bonds; provided that, if, in an opinion of Bond Counsel addressed to the Trustee, the excess moneys do not constitute

“proceeds” within the meaning of Section 148(d) of the Code, they shall be transferred to the County for use by the County for any lawful purposes.

(h) Earnings on investment of moneys held in the Debt Service Reserve Fund account established with respect to any Series of Bonds, shall be credited to and become a part of such Debt Service Reserve Fund account but whenever the value of the cash and securities in the Debt Service Reserve Fund account exceeds the Debt Service Reserve Fund Requirement with respect to that Series of Bonds, the excess shall be transferred to the Debt Service Fund or at the written direction of an Authorized Representative and with an approving opinion of Bond Counsel addressed to the Trustee be used for any lawful purpose related to the Project; provided, however, that by Supplemental Ordinance authorizing the issuance of any Series of Bonds the County may provide that any excess may, during the construction period of any Project financed by that Series of Bonds, be transferred to the Construction Fund established for that Series of Bonds.

**Section 6.05 Establishment of Construction Fund.** There shall be created and established with the County or, at the County’s option, the Trustee a Construction Fund with respect to each Series of Bonds (other than for Bonds issued to refund any obligations of the County) in the Supplemental Ordinance providing for their issuance, the moneys in which shall be used to defray the Costs of the Project and Costs of Issuance with respect to the Projects financed.

**Section 6.06 Deposits into Construction Fund.** On the occasion of the delivery of any Series of Bonds, other than refunding Bonds, such proceeds, as specified in a Supplemental Ordinance, shall be paid into the Construction Fund established for that Series as set forth in a Supplemental Ordinance authorizing that Series.

**Section 6.07 Withdrawals from Construction Fund.** Withdrawals from the Construction Fund shall not be made except as provided in the Supplemental Ordinance establishing the Construction Fund.

**Section 6.08 Transfer of Surplus Construction Fund Moneys.** All funds remaining in any Construction Fund established under a Supplemental Ordinance upon completion of the Projects intended to be financed thereby shall be transferred to the Interest Account, Principal Account or Bond Redemption Account of the Debt Service Fund as directed in writing by an Authorized Representative and shall be used only to pay the principal of, premium, if any, and interest on the Bonds or Junior Bonds of the Series issued under the terms of the Supplemental Ordinance or to acquire Outstanding Bonds or Junior Bonds of that Series at a price (exclusive of accrued interest) not exceeding the face amount thereof, or other lawful purpose.

**Section 6.09 Investment of Funds.**

(a) Any moneys held as part of any fund or account created under the Ordinance shall, at the written direction of and as specified by an Authorized Representative, be invested and reinvested by the Trustee or the Custodian of the fund, as the case may be, in Investment Obligations to the extent practicable. Any investments shall be held by or under the control of the Trustee or the Custodian of the fund, as the case may be, and shall be deemed at all times a part of those funds and the interest accruing thereon and any profit realized from investments shall be credited to the fund, and any loss resulting from investments shall be charged to the fund. The Trustee or the Custodian of the fund, as the case may be, is directed to sell and reduce to cash funds a sufficient amount of investments whenever the cash balance in the fund is insufficient to make any necessary transfers or withdrawals from the fund.

(b) No Investment Obligation in any fund or account may mature beyond the latest maturity date of any Bonds Outstanding at the time the Investment Obligation is deposited.

(c) An Authorized Representative may at any time give to the Trustee or the Custodian of the fund, as the case may be, written directions respecting the investment of any moneys required to be invested hereunder subject however to the provisions of this **Section 6.09** and the Trustee or the Custodian of the fund, as the case may be, shall then invest the money under this **Section 6.09** as so directed by an Authorized Representative. The Trustee or the Custodian of the fund, as the case may be, may request in writing direction or authorization of an Authorized Representative with respect to the proposed investment of money under the provisions of the Ordinance. Upon receipt of any request accompanied by a memorandum setting forth details of any proposed investment, an Authorized Representative will either approve the proposed investment or will give written directions to the Trustee or the Custodian of the fund, as the case may be, respecting the investment of the money and in the case of the directions, the Trustee or the Custodian of the fund, as the case may be, shall then, subject to the provisions of this **Section 6.09**, invest the money in accordance with the directions.

(d) An Authorized Representative may enter into or direct the Trustee or the Custodian, as the case may be, to enter into financial product agreements with respect to the Construction Fund, the Debt Service Fund, the Junior Bond Debt Service Fund and the Debt Service Reserve Fund provided the proceeds thereof are used for Project Costs; and provided, the rights, obligations and protections of the Trustee or the Custodian, as the case may be, contained in such financial product agreements must be in form and content acceptable to the Trustee or the Custodian, as the case may be, in their sole discretion, and the Trustee or the Custodian, as the case may be, may charge reasonable additional fees in connection therewith.

(e) The Trustee shall not be liable for any loss resulting from the making or disposition of any investment pursuant to the provisions of this **Section 6.09**, and any such losses shall be charged to the fund and account with respect to which such investment is made. The Trustee may conclusively rely upon the County's written instructions as to both the suitability and legality of all investments directed hereunder, their qualification as Investment Obligations and as to their compliance with the provisions of this **Section 6.09**. Ratings of investments shall be determined at the time of purchase of such investments and without regard to ratings subcategories. The Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments, including at the time of reinvestment of earnings thereon. In the absence of written investment instructions from the County, the Trustee shall not be responsible or liable for keeping the money held by it hereunder fully invested. Confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. In the absence of written investment directions from the County, the Trustee shall hold all such funds uninvested in cash, without liability for interest.

**Section 6.10 Trustee's and Custodian's Own Bond Department.** Subject to **Section 6.09(a)**, the Trustee and any Custodian may make any and all investments permitted under **Section 6.09** through their respective bond departments.

**Section 6.11 Trustee's and Custodian's Right to Rely.** The Trustee and any Custodian may conclusively rely upon any investment directions given by an Authorized Representative within the limitations set forth hereinabove received pursuant to this **Article VI** and shall not be liable or responsible for (a) any diminution in the value of any investments made pursuant to this **Article VI** or for any loss arising from any sale or other disposition thereof, (b) any violation of any statute or of any policy or rules or regulations of or applicable to the County or of the Internal Revenue Service with respect to "arbitrage bonds," or (c) any requirement to rebate excess earnings earned on any funds established hereunder as provided under the Code.

**Section 6.12 Pooled Investment of Moneys Held in Funds.** The moneys in the funds established under the Ordinance may be pooled with each other for investment purposes.

**Section 6.13 Valuation.**

(a) For the purpose of determining the amount on deposit in any fund or account, Investment Obligations in which money in the fund or account is invested shall be valued at the market value of the obligations.

(b) The Trustee shall value the Investment Obligations in the funds and accounts held by the Trustee established under the Ordinance as of each June 30, within 45 days of that date. The County shall value the Investment Obligations in all other funds and accounts established under the Ordinance as of each June 30, within 45 days of that date. In addition, the Investment Obligations held by the Trustee shall be valued by the Trustee at any time requested by the County on reasonable notice to the Trustee; provided, however, that the Trustee shall not be required to value the Investment Obligations more than once in any calendar quarter.

(c) Notwithstanding the above provisions of this **Section 6.13**, Investment Obligations on deposit in the Debt Service Reserve Fund shall be valued on the beginning of each calendar quarter at the market value thereof.

(d) For purposes of any valuation hereunder, the value of any surety bond, insurance policy, or letter of credit credited to the Debt Service Reserve Fund shall be the amount available to the Trustee or other beneficiary under the instrument as of the time of the calculation.

**Section 6.14 Tax Covenant.** No investment shall be made by the County of any of the funds set forth above which would cause any Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code; provided, however, that this **Section 6.14** shall not prohibit the issuance of Bonds which are subject to federal income taxation upon their original issuance.

[End of Article VI]

## ARTICLE VII

### TRUSTEE AND CUSTODIANS

#### **Section 7.01** **Appointment of Trustee.**

Upon the appointment of a Trustee, the Trustee shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Ordinance by executing and delivering to the County a written instrument of acceptance upon which the Trust Estate shall be vested in the Trustee.

The Trustee, including any successor Trustee shall, at the time of appointment, be a bank or trust company which is a member of the Federal Reserve System with a capital stock, surplus and undivided profits aggregating in excess of Five Hundred Million Dollars (\$500,000,000).

**Section 7.02** **Duties and Obligations of the Trustee.** Prior to the occurrence of any Event of Default and after the curing of all such Events of Default that may have occurred, the Trustee shall perform such duties and only such duties of the Trustee as are specifically set forth in this Ordinance and no implied covenants or obligations shall be read into this Ordinance against the Trustee. Upon the occurrence and continuance of an Event of Default of which the Trustee is deemed to have knowledge, the Trustee shall use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs. The duties and obligations of the Trustee are further subject to the following 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, receivers, or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay reasonable compensation to all attorneys, agents, receivers, and employees as may be reasonably employed in connection with the trusts hereof. The Trustee shall not be responsible for any misconduct or negligence of any agent or attorney appointed with due care by the Trustee. The Trustee may act upon the opinion or advice of any attorney (who may be the attorney or attorneys for the County) except that with respect to matters involving the exemption from federal income taxes of the interest on the Bonds, such attorneys shall be Bond Counsel. The Trustee shall not be responsible for any loss or damage resulting from any action or non-action in good faith in reliance upon the opinion or advice.

(b) The Trustee shall not be responsible for any recital herein or in the Bonds (except in respect to the authentication certificate of the Trustee endorsed on the Bonds), or for the validity of the enactment by the Council of the Ordinance or of any supplements thereto or instruments of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions, or agreements on the part of the County, except as herein expressly set forth; but the Trustee may require of the County full information and advice as to the performance of the covenants, conditions, and agreements aforesaid and as to the condition of the property conveyed hereby. The Trustee makes no representations as to the technical or financial feasibility of the Project, the compliance of the Project with the Enabling Act, or the tax-exempt status of the Bonds. The Trustee is not accountable for the use or application by the County of any of the Bonds or the proceeds of the Bonds, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Ordinance.

(c) The Trustee may become the owner of Bonds, secured hereby with the same rights which it would have were it not Trustee. The Trustee may also engage in or be interested in any financial or other transaction with the County.

(d) The Trustee shall be protected in acting under the Ordinance upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to the Ordinance upon the request or authority or consent of any person who at the time of making the request or giving the authority or consent is the Holder of any Bond, shall be conclusive and binding upon all future Holders of the same Bond and of Bonds issued in exchange therefor or in place thereof, regardless of whether or not any notation of making the request or giving the authority or consent is made on the Bond.

(e) As to the existence or non-existence of any act or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed on behalf of the County by an Authorized Representative as sufficient evidence of the facts therein contained and prior to the occurrence of a Default of which the Trustee has been notified as provided in subsection (g) of this **Section 7.02**, or of which by that subsection it is deemed to have notice, may also accept a similar certificate to the effect that any particular dealing, transaction, or action is necessary or expedient, but may, at its discretion, obtain any further evidence deemed necessary or advisable, but shall in no case be bound to obtain it. The Trustee may accept a certificate of the Clerk to Council to the effect that an Ordinance in the form therein set forth has been enacted by the Council as conclusive evidence that the Ordinance has been duly enacted and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in the Ordinance shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful default.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any Default hereunder except failure by the County to cause to be made any of the payments to the Trustee required to be made by **Article VI** hereof, unless the Trustee shall be specifically notified in writing of the Default by the County, or by the Holders of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then Outstanding and all notices or other instruments required by the Ordinance to be delivered to the Trustee, must, in order to be effective, be delivered at the principal corporate trust office of the Trustee or at any other address as set forth in a Supplemental Ordinance, and in the absence of notice delivered, the Trustee may conclusively assume there is no Default except as aforesaid.

(h) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants, and representatives, shall have the right fully to inspect any and all Projects, including all books, papers, and records of the County pertaining to the Bonds, and to make copies and take any memoranda from and in regard thereto as may be desired.

(i) The Trustee shall not be required to give any bond or surety in respect to the execution of the trusts and powers or otherwise in respect of the premises.

(j) Before taking any action hereunder, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful default by reason of any action so taken.

(k) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law or by the Ordinance. The Trustee shall be under no liability for interest on any moneys received hereunder except as may be agreed upon.

(l) The Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Bondholders under any provision of this Ordinance relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred upon the Trustee under this Ordinance.

(m) Whenever in the administration of this Ordinance the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence thereof is specifically prescribed) may, in the absence of bad faith on its part, rely upon a certificate of an Authorized Representative.

(n) The Trustee is not required to make any inquiry or investigation into the facts or matters stated in any ordinance, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document.

(o) In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of holders of Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, pursuant to the provisions of this Ordinance, the Trustee, in its sole discretion, may determine what action, if any, shall be taken and shall have no liability with respect to any such action taken in the absence of bad faith.

(p) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Ordinance shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Ordinance and final payment of the Bonds.

(q) Except for information provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(r) No provision of the Ordinance shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(s) Whether or not expressly so provided, every provision of this Ordinance relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this **Section 7.02**.

(t) The Trustee shall not be responsible for and makes not representation as to the legality, effectiveness or sufficiency of any security document or for the creation, perfection, priority or protection of any lien securing the Bonds. The Trustee shall not be responsible for filing any financing or continuation statement or recording any documents or instruments in any public office at any time or otherwise for perfecting or maintaining the perfection of any lien or security interest in the trust estate it being understood that the County shall be obligated to make such filings, if any, on behalf of the trustee.

**Section 7.03 Fees, Charges, and Expenses of Trustee.** The Trustee shall be entitled to payment or reimbursement for reasonable fees for its services rendered hereunder, and all advances, counsel fees, and other expenses reasonably and necessarily made or incurred by the Trustee in connection with its services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor, and to reimbursement for reasonable and necessary extraordinary expenses in connection therewith; provided, that if extraordinary services or extraordinary expenses are occasioned by the willful neglect or default of the Trustee, it shall not be entitled to compensation or reimbursement therefor.

In the event the Trustee incurs expenses or renders services in any proceedings under the Bankruptcy Code relating to the County, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the Bankruptcy Code.

As security for the performance of the obligations of the County under this **Section 7.03**, the Trustee shall have a lien, which it may exercise through a right of set off, prior to the Bonds upon all property or funds held or collected by the Trustee pursuant to this Ordinance for the payment of principal of, redemption premium, if any, and interest on the Bonds. The obligations of the County to make the payments described in this **Section 7.03** shall survive discharge of this Ordinance and payment in full of the Bonds. The Trustee's rights under this Ordinance shall survive its resignation or removal.

**Section 7.04 Notice to Bondholders if Default Occurs.** If a Default occurs of which the Trustee is by **Section 7.02(g)** hereof required to take notice or if notice of Default be given as in **Section 7.02(g)** provided, then the Trustee shall give such notice to the County and the Trustee may give written notice thereof by first-class mail to the last known Holders of all Bonds then Outstanding shown on the Books of Registry.

**Section 7.05 Intervention by Trustee.** In any judicial proceeding to which the County is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Bondholders, the Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the Holders of at least twenty-five percent (25%) in aggregate principal amount of all Bonds then Outstanding. The rights and obligations of the Trustee under this **Section 7.05** are subject to the approval of a court of competent jurisdiction.

**Section 7.06 Merger or Consolidation of Trustee.** Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any conversion, sale, merger, consolidation, or transfer to which it is a party, *ipso facto*, subject to the approval of the County, shall be and become successor Trustee hereunder and vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed, or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

**Section 7.07 Resignation by the Trustee.** The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving sixty (60) days written notice to the County, and by first-class mail to each Holder of Bonds then Outstanding shown on the Books of Registry, and the resignation shall take effect upon the appointment of a successor Trustee or successor temporary Trustee by the Bondholders or by the County. The notice to the County may be served personally or sent by registered or certified mail.



**Section 7.08** **Removal of the Trustee.** The Trustee may be removed at any time after thirty (30) days' notice either (a) by an instrument or concurrent instruments in writing delivered to the Trustee and to the County and signed by the Holders of a majority in aggregate principal amount of all Bonds then Outstanding, or (b) unless a Default has occurred and is continuing, by written direction of an Authorized Representative of the County delivered to the Trustee.

**Section 7.09** **Appointment of Successor Trustee by the County or the Bondholders.** In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed (a) by the County so long as the Bonds are not in Default, or (b) by the Holders of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing signed by the Holders, or by their attorneys in fact, duly authorized. If the Trustee resigns and a successor has not signified its acceptance within sixty days, the resigning Trustee may apply to a court of competent jurisdiction for a successor to be named. Every Trustee appointed pursuant to the provisions of this **Section 7.09** must meet all the requirements of **Section 7.01** hereof.

**Section 7.10** **Concerning Any Successor Trustee.**

(a) Upon acceptance of appointment by the successor Trustee as provided in this **Section 7.10**, the County shall give notice of the succession of the Trustee to the trusts hereunder by first-class mail to the Holders at the addresses shown on the Books of Registry. Each Trustee appointed hereunder shall signify its acceptance of the duties and obligations imposed upon it by the Ordinance as Trustee by executing and delivering to the County a written acceptance of its duties and obligations.

(b) Every successor Trustee appointed hereunder shall execute, acknowledge, and deliver to its predecessor and also to the County an instrument in writing accepting appointment hereunder, and thereupon the successor, without any further act, deed, or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties, and obligations of its predecessor; but the predecessor shall, nevertheless, on the written request of the County, or of its successor, and upon payment of all amounts due the predecessor pursuant to **Section 7.03** hereof, execute and deliver an instrument transferring to the successor Trustee all the estates, properties, rights, powers, and trusts of the predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the County be required by any successor Trustee for more fully and certainly vesting in the successor the estate, rights, powers, and duties hereby vested or intended to be vested in the predecessor, any instruments in writing, shall, on request, be executed, acknowledged, and delivered by the County. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this **Article VII**, shall be filed or recorded by the successor Trustee in each recording office where the Ordinance shall have been filed or recorded.

**Section 7.11** **Trustee Protected in Relying upon Ordinances, Etc.** The ordinances, resolutions, opinions, certificates, and other instruments provided for in the Ordinance may be accepted by the Trustee as conclusive evidence of the acts and conclusions stated therein and shall be full warrant, protection, and authority to the Trustee for the release of property, the withdrawal of cash, and the taking or refusing to take any other action hereunder.

**Section 7.12** **Successor Trustee as Trustee of Funds, Paying Agent, and Bond Registrar.** In the event of a change in the office of Trustee, the predecessor Trustee which has resigned or has been removed shall cease to be trustee of the fund of which it is trustee, and paying agent for principal of and

interest and premium, if any, on the Bonds and bond registrar, and the successor Trustee shall become such trustee, paying agent, and registrar, as the case may be.

**Section 7.13 Trust Estate May Be Vested in Separate or Co-Trustee.**

(a) It is the purpose of the Ordinance that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in those jurisdictions. It is recognized that in case of litigation under the Ordinance, and, in particular, in case of the enforcement of either on Default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights, or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional institution which warrants all of the requirements of **Section 7.01** hereof as a co-trustee. The following provisions of this **Section 7.13** are adopted to these ends.

(b) In the event that the Trustee appoints an additional institution as a co-trustee (and the Trustee is hereby expressly granted that power), each and every remedy, power, right, claim, demand, cause of action, immunity, and estate expressed or intended by the Ordinance to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in the co-trustee but only to the extent necessary to enable the co-trustee to exercise the powers, rights, and remedies, and every covenant and obligation necessary to the exercise thereof by the co-trustee shall run to and be enforceable by either of them.

(c) Should any instrument in writing from the County be required by the co-trustee appointed by the Trustee for more fully and certainly vesting in and confirming to it the properties, rights, powers, trusts, duties, and obligations, any instruments in writing shall, on request, be executed, acknowledged, and delivered by the County. In case any co-trustee, or a successor to any, shall dissolve, become incapable of acting, resign, or be removed, all the estates, properties, rights, powers, trusts, duties, and obligations of the co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment as herein set forth of a new trustee or successor to the co-trustee.

**Section 7.14 Appointment of Custodians.** The Council may appoint a bank, trust company, national banking association, or national association as Custodian, if any, of the Pledged Fee Revenue Fund, and the Custodian shall signify its acceptance of the powers, duties, and obligations conferred and imposed upon it by the Ordinance by executing and delivering to the County a written acceptance thereof.

**Section 7.15 Duties and Obligations of Custodians.** The recitals of fact made in the Ordinance and in the Bonds shall be taken as statements of the County, and no Custodian shall be deemed to have made any representation as to their correctness, nor shall any Custodian be deemed to have made any representation whatsoever as to the validity or sufficiency of the Ordinance or of the Bonds issued hereunder, nor shall any Custodian be under any responsibility or duty with respect to the issuance of the Bonds or the application of the proceeds thereof, except to the extent provided for herein, nor shall any Custodian be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in response to the Ordinance, or the Bonds issued hereunder, or to advance any of its own moneys, unless properly indemnified to its satisfaction, nor shall any Custodian be liable in connection with the performance of its duties hereunder, except for its own negligence or willful default.

**Section 7.16 Custodians Protected in Relying Upon Ordinances, Etc.** All Custodians shall at all times be protected in acting upon any action, ordinance, 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 7.17 Resignation of Custodians.** Any Custodian may at any time resign and be discharged of its duties and obligations hereunder by giving to the County written notice of such resignation, specifying a date (not less than ninety (90) days after the notice) when the resignation shall take effect, and by written notice thereof to the Trustee. The resignation shall take effect upon the date specified in the notice unless previously a successor shall have been appointed, as hereinafter provided, in which event, the resignation shall take effect immediately upon the appointment and qualification of the successor.

**Section 7.18 Removal of Custodians.** Any Custodian may be removed at any time by the County or by the Holders of not less than fifty percent (50%) of the principal amount of the Bonds at that time Outstanding. In the event any Custodian is removed pursuant to the provisions of this **Section 7.18**, notice thereof shall be given by the County to the Trustee.

**Section 7.19 Appointment of Successor Custodians.**

(a) In case any Custodian 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 the County. The successor shall, in all instances, be a bank, trust company, national banking association, or a national association, and shall have a combined capital and surplus of not less than \$100,000,000.

(b) Immediately following the appointment, the County shall give written notice of the appointment to the Trustee.

(c) If, in a proper case, no appointment of a successor Custodian shall be promptly made pursuant to paragraph (a) above, any Bondholder may make application to any court of competent jurisdiction for the appointment of a successor and the court may thereupon, after any notice as the court may prescribe, appoint a successor.

**Section 7.20 Concerning Any Successor Custodians.** Any successor Custodian appointed as provided hereunder shall execute and deliver to its predecessor, the Trustee and the County, a written acceptance of appointment and, thereupon, the 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 the same effect as if originally named as Custodian, and its predecessor shall be obligated to pay over, transfer, assign, and deliver all moneys, securities, or other property held by it to its successor, and, on the written request of the County, the Trustee, or the successor, shall execute, acknowledge, and deliver all instruments of conveyance and further assurance and do all other things as may be reasonably required for the vesting and confirming in the successor all the right, title, and interest of the predecessor in and to any property held by it.

**Section 7.21 Merger of Custodians.** Any bank or trust company into which any Custodian 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 any Custodian may sell or transfer all or substantially all of its business, if the County approves, shall become the successor without the execution or filing of any paper or the performance of any other act.

[End of Article VII]

## ARTICLE VIII

### COVENANTS

#### **Section 8.01** **Condition of County's Obligation; Payment of Principal and Interest.**

(a) Each and every covenant herein made, including all covenants made in the various sections of this **Article VIII**, is predicated upon the condition that any obligation for the payment of money incurred by the County shall not create a pecuniary liability of the County or a charge upon its general credit, but shall be payable solely from the Pledged Fee Revenues which are required to be set apart and transferred to the Debt Service Fund and the Debt Service Reserve Fund, which Pledged Fee Revenues are hereby specifically pledged to the payment thereof in the manner and to the extent in the Ordinance specified and nothing in the Bonds or in the Ordinance shall be considered as pledging any other funds or assets of the County other than the Trust Estate.

(b) The Bonds, together with interest thereon, shall be limited obligations of the County payable solely from the Trust Estate which includes the Pledged Fee Revenues required to be set apart and transferred to the Pledged Fee Revenue Fund for deposit to the Debt Service Fund and the Debt Service Reserve Fund, if any, and shall be a valid claim of the respective Holders thereof only against the Trust Estate to the extent provided in paragraph (a) of this **Section 8.01**. The Trust Estate is hereby pledged and assigned for the equal and ratable payment of the Bonds and shall be used for no other purposes than to pay the principal of, premium, if any, and interest on the Bonds, except as may be otherwise expressly authorized in the Ordinance. The Bonds do not now and shall never constitute an indebtedness of the County within the meaning of any State constitutional provision or statutory limitation (other than Article X, Section 14, Paragraph 10 of the Constitution authorizing obligations of political subdivisions payable solely from special sources not involving revenue from any tax or license), and shall never constitute nor give rise to a pecuniary liability of the County or a charge against the general credit or taxing powers of the County, the State or any of its agencies or political subdivisions. No recourse shall be had for the payment of the Bonds, or interest thereon, or any part thereof, against the several funds of the County, except from the Trust Estate in the manner and to the extent provided in the Ordinance. The Bonds, and interest thereon, shall not be a charge, lien, or encumbrance, legal or equitable, upon any property of the County or upon any income, receipts, or revenues of the County other than the Trust Estate that has been pledged to the payment thereof.

**Section 8.02** **Performance of Covenants; Authority of the County.** The County covenants that it will faithfully perform at all times all covenants, undertakings, stipulations and provisions contained in the Enabling Act, in the Ordinance, in the Bonds executed, authenticated, and delivered hereunder, and in all proceedings pertaining thereto. The County covenants that it is duly authorized under the Constitution and laws of the State to issue the Bonds authorized hereby, to enact the Ordinance, and to pledge the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the enactment of the Ordinance has been duly and effectively taken; and that the Bonds in the hands of the Holders thereof are and will be valid and enforceable obligations of the County according to the import thereof.

**Section 8.03** **Instruments of Further Assurance.** The County covenants that it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all Ordinances supplemental hereto and all further acts, instruments, and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, pledging, assigning, and confirming unto the Trustee all and singular the Trust Estate pledged hereby to the payment of the principal of and interest and premium, if any, on the Bonds.

**Section 8.04 Inspection of Pledged Fee Revenues and Projects.** The County covenants and agrees that all books and documents in its possession relating to the Trust Estate and Projects shall at all times be open to inspection during normal business hours by any accountants or other agents as the Trustee may from time to time designate.

**Section 8.05 Fiscal Year.** Until changed to a different twelve-month period by the Council or by law, the County shall be operated on the basis of a Fiscal Year, which commences on the first day of July of each year and ends on the 30th day of June of the following year.

**Section 8.06 Annual Audited Financial Statements and Certificates.** The County shall provide the Trustee within two hundred ten (210) days after the close of the Fiscal Year a copy of its audited financial statements during the Fiscal Year. The audited financial statements shall be accompanied by a certificate of an Authorized Representative stating that the County is not in Default hereunder or describing the nature of any Default.

The County shall provide on an annual basis with the audited financial statements required above a certificate as to an Authorized Representative of the County. The Trustee may rely conclusively on any opinions and certificates delivered pursuant to this **Section 8.06** and shall have no duty to examine such financial statements and shall not be deemed to have knowledge of any Default that may be reflected thereby.

[End of Article VIII]

## ARTICLE IX

### DEFEASANCE OF BONDS

#### **Section 9.01** **Defeasance of Bonds.**

(a) If all of the Bonds issued pursuant to the Ordinance shall have been paid and discharged, then the obligations of the County under the Ordinance, the pledge of the Trust Estate made hereby, and all other rights granted hereby shall cease and determine. Bonds shall be deemed to have been paid and discharged within the meaning of this **Article IX** under each of the following circumstances:

(i) If the Trustee shall hold, at the stated maturities of the Bonds, in trust and irrevocably appropriated thereto, moneys for the full payment thereof; or

(ii) If Default in the payment of the principal of the Bonds or the interest thereon shall have occurred, and thereafter tender of payment shall have been made, and the Trustee shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of the payment; or

(iii) If the County shall elect to redeem Bonds prior to their stated maturities, and shall have irrevocably bound and obligated itself to give notice of redemption thereof in the manner provided by **Section 5.03** hereof, and shall have deposited with an escrow agent, in an irrevocable trust, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America or other Investment Obligations, which, are not subject to redemption by the issuer thereof prior to the date of redemption of the Bonds to be defeased, the principal of and interest on which, when due, as determined in a verification report provided by an independent nationally recognized certified public accountant affirming the amount of the deposit with the escrow agent, will provide moneys, which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal, interest, and redemption premium or premiums, if any, due and to become due on and prior to the redemption date or dates, as the case may be; or

(iv) If there shall have been deposited with an escrow agent, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America, the principal of and interest on which, when due, as determined in a verification report provided by an independent nationally recognized certified public accountant affirming the amount of the deposit with the escrow agent, will provide moneys which, together with the moneys, if any, deposited with the Trustee at the same time, shall be sufficient to pay, when due, the principal and interest due and to become due on the Bonds on the maturity thereof.

(b) In addition to the above requirements of paragraphs (i), (ii), (iii), or (iv) of subsection (a), in order for this Ordinance to be discharged, all other fees, expenses, and charges of the Trustee shall have been paid in full at that time.

**Section 9.02** **Deposit of Moneys.** Any moneys which at any time shall be deposited with the Trustee or escrow agent by or on behalf of the County for the purpose of paying and discharging any Bonds shall be and are hereby assigned, transferred, and set over to the Trustee or the escrow agent in trust for the respective Holders of the Bonds, and the moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the Holders of the Bonds shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Trustee or escrow agent to deposit the funds in the Pledged Fee Revenue Fund.

**Section 9.03 Election to Redeem Bonds.** The County covenants and agrees that any moneys which it shall deposit with the Trustee or escrow agent shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this **Article IX**, and whenever it shall have elected to redeem Bonds, it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee to cause notice of redemption to be given in its name and on its behalf.

[End of Article IX]

## ARTICLE X

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

**Section 10.01 Events of Default.** If any of the following events occurs, it is hereby defined as and declared to be and to constitute an “*Event of Default*” or “*Default*”:

- (a) Failure to pay when due any interest on any Bond; or
- (b) Failure to pay when due the principal of any Bond (or premium, if any), whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon any mandatory redemption date; or
- (c) Subject to the provisions of **Section 10.10** hereof, failure in the performance or observance of any other of the covenants, agreements, or conditions on the part of the County in the Ordinance or in the Bonds contained; or
- (d) If a court having jurisdiction over the premises shall enter a decree or order for relief in respect of the County in an involuntary case under any applicable bankruptcy, insolvency, reorganization, or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of the County or for any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the decree or order shall remain unstayed and in effect for a period of ninety (90) consecutive days; or
- (e) If the County shall commence a voluntary case under any applicable bankruptcy, insolvency, reorganization, or other similar law now or hereafter in effect, shall consent to the entry of an order for relief in an involuntary case under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator, or similar official of the County or for any substantial part of its property, or shall make any general assignment for the benefit of creditors, shall admit in writing its inability to pay its debts that become due, or shall take any action in furtherance of any of the foregoing.

**Section 10.02 Acceleration.** Except as otherwise provided with respect to any Series of Bonds in the Supplemental Ordinance authorizing their issuance, upon the occurrence of an Event of Default, 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 then Outstanding shall, by notice in writing delivered to the County, declare the principal of all Bonds then Outstanding and the interest accrued thereon immediately due and payable, and the principal and interest shall thereupon become and be immediately due and payable.

#### **Section 10.03 Additional Remedies.**

- (a) Upon the happening and continuance of any Event of Default, the Trustee may, and upon the written request to the Trustee of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding, shall take one or more of the following actions as it may deem advisable:
  - (i) By mandamus or other suit, action, or proceedings at law or in equity, enforce the rights of the Bondholders against the County, and any of its officers, agents, and employees, and require and compel the County, or any officer, agent, or employee to perform and carry out its or his duties and obligations under the Enabling Act and the Ordinance and its or his covenants or agreements with the Bondholders;



(ii) By action or suit in equity, require the County and the Council to account as if they were the trustee of an express trust;

(iii) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; and

(iv) Bring suit upon the Bonds.

(b) Upon the occurrence of an Event of Default, the Trustee shall have the power to proceed with any right or remedy granted by the Constitution and laws of the State, as it may deem best, including any suit, action, or special proceeding in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any proper legal or equitable remedy as the Trustee shall deem most effectual to protect the rights aforesaid, insofar as such may be authorized by law. The rights herein specified are to be cumulative to all other available rights, remedies, or powers and shall not exclude any such rights, remedies, or powers.

**Section 10.04 Rights of Bondholders.**

(a) If an Event of Default shall have occurred, and if requested to do so by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding, and if indemnified as provided in **Section 7.02(j)** hereof, the Trustee shall be obliged to exercise one or more of the rights and powers conferred by this **Article X** as the Trustee, being advised by counsel, shall deem most expedient in the interest of the Bondholders.

(b) No remedy by the terms of the Ordinance conferred upon or reserved to the Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity or by statute.

(c) No delay or omission in exercising any right or power accruing upon any Default or Event of Default shall impair any right or power or shall be construed to be a waiver of any Default or Event of Default or acquiescence therein and every right and power may be exercised from time to time and as often as may be deemed expedient.

(d) No waiver of any Default or Event of Default hereunder, whether by the Trustee or by the Bondholders, shall extend to or shall affect any subsequent Default or Event of Default or shall impair any rights or remedies consequent thereon.

**Section 10.05 Application of Moneys.**

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this **Article X** shall, after payment of the costs and expenses of the proceedings resulting in the collection of the moneys and of the expenses, liabilities, and advances incurred or made by the Trustee, be deposited in the Debt Service Fund and all moneys in the Debt Service Fund shall be applied as follows:

*First* – To the payment of the persons entitled thereto of all installments of interest then due on the Bonds exclusive of Junior Bonds, in the order of the maturity of the installments of interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due

on that installment, to the persons entitled thereto, without any discrimination or privilege; and

*Second* – To the payment of the persons entitled thereto of the unpaid principal of and premium, if any, on any of the Bonds exclusive of Junior Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of the Ordinance), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full principal of and premium, if any, on the Bonds due on any particular date, then to the payment ratably, according to the amount of the principal and premium, if any, due on such date, to the persons entitled thereto without any discrimination or privilege; and

*Third* – To the payment to the persons entitled thereto of interest at the rate of interest borne by the Bonds on all past due installments of principal and interest from their respective due dates and, if the amount available shall not be sufficient to pay in full the whole amount of interest so due, then to the payment ratably, according to the amount of interest then due, to the persons entitled thereto without any discrimination or privilege and without any distinction between interest on past due interest and interest on past due principal.

After payment of all amounts provided above, any amounts in the Junior Bond Debt Service Fund shall be applied in the same order as above but only to the Holders of Junior Bonds.

(b) Whenever moneys are to be applied pursuant to the provisions of this **Section 10.05**, the moneys shall be applied at the times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application in the future. Whenever the Trustee shall apply funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which application is to be made and upon that date interest on the amounts of principal to be paid on that date shall cease to accrue. The Trustee shall give notice as it may deem appropriate of the deposit with it of any moneys and of the fixing of any date, and shall not be required to make payment to the Holder of any Bond until it shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

(c) Whenever all principal of, premium, if any, and interest on all Bonds have been paid under the provisions of this **Section 10.05** and all expenses and charges of the Trustee shall have been paid, any balance remaining in the Debt Service Fund shall be paid to the County.

**Section 10.06 Remedies Vested in Trustee.** All rights of action (including the right to file proof of claims) under the 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 and any suit or proceeding 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, and any recovery of judgment shall be for the equal benefit of the Holders of the Bonds then Outstanding.

**Section 10.07 Rights and Remedies of Bondholders.** No Bondholder shall have the right to institute any suit, action, or proceeding in equity or at law for the enforcement of this Ordinance or for the execution of any trust hereof or for the appointment of a receiver or for any other remedy hereunder, unless all of the following conditions have first been satisfied: (i) a Default has occurred of which the Trustee has been notified as provided in **Section 7.02(g)** hereof, or of which by that subsection it is deemed to have notice, (ii) the Default or Event of Default shall occur and the Holders of at least fifty-one percent (51%) in aggregate principal amount of Bonds then Outstanding shall have made written request

to the Trustee and shall have offered reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute action, suit, or proceeding in its own name, (iii) the Trustee has been offered indemnity as provided in **Section 7.02(j)** hereof, and (iv) the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit, or proceeding in its, his, or their own name or names; and the notification, request, and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of the Ordinance, and to any action or cause of action for the enforcement of this Ordinance, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to affect, disturb, or prejudice the lien of the Ordinance by its, his, or their action or to enforce any right hereunder, except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided and for the equal benefit of the Holders of all Bonds then Outstanding. Nothing in the Ordinance contained shall, however, affect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on any Bond at and after the maturity thereof, or the obligation of the County to pay, but only from the Trust Estate, the principal of, premium, if any, and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time, place, from the source, and in the manner provided in the Bonds.

**Section 10.08 Termination of Proceedings.** In case the Trustee shall have proceeded to enforce any right under the Ordinance by the appointment of a receiver, by entry, or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then the County and the Trustee shall be restored to their former positions and rights hereunder, and all rights and remedies and powers of the Trustee shall continue as if no proceedings had been taken.

**Section 10.09 Waivers of Events of Default.** The Trustee may and shall waive any Event of Default hereunder and its consequences upon the written request of the Holders of a majority in aggregate principal amount of all Bonds then Outstanding; provided, however, that there shall not be waived any Default in the payment of (i) the principal of or premium, if any, on any Bond, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or (ii) any interest when due on any Bond, unless prior to the waiver, all arrears of interest, with interest at the rate of interest borne by the Bonds on overdue installments of interest, and all arrears of payments of principal then due (whether at the stated maturity thereof or upon proceedings for redemption) with interest as aforesaid on the arrears, and all expenses of the Trustee in connection with the Default shall have been paid or provided for, and in case of any waiver, or in case any proceeding taken by the Trustee on account of any Default shall have been discontinued or abandoned or determined adversely, then the County, the Trustee, and the Bondholders shall be restored to their former positions and rights hereunder respectively, but no waiver shall extend to any subsequent or other Default, or impair any right consequent thereon.

**Section 10.10 Notice of Defaults; Opportunity of the County to Cure Defaults.** No event under **Section 10.01(c)** hereof shall constitute an Event of Default until actual notice of the Default by registered or certified mail shall be given by the Trustee or by the Holders of not less than fifty-one percent (51%) of the aggregate principal amount of Bonds then Outstanding to the County, and the County shall have had thirty (30) days after receipt of the notice to correct the Default or cause it to be corrected, and shall not have corrected it or caused it to be corrected within the applicable period; provided, however, if the Default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the County as the case may be, within the applicable period, is diligently pursued, and the Default is corrected within ninety (90) days after the notice hereinabove specified has been received.

**Section 10.11 Bond Insurer Acts in Lieu of Holders.** If a bond insurer insures a particular Series of Bonds, then such bond insurer will act in lieu of the bondholders of such Series of Bonds for all purposes hereunder, so long as the bond insurance policy insuring such Series of Bonds is in full force and effect and such bond insurer is not in payment default thereunder.

[End of Article X]

## ARTICLE XI

### AMENDING AND SUPPLEMENTING OF ORDINANCE

#### **Section 11.01 Amending and Supplementing of Ordinance Without Consent of Holders of Bonds.**

(a) The Council, from time to time and at any time and without the consent or concurrence of any Holder of any Bond, may enact an ordinance amendatory hereof or supplemental thereto (i) for the purpose of providing for the issuance of Bonds or Junior Bonds pursuant to the provisions of **Article III** hereof, or (ii) if the provisions of the Supplemental Ordinance shall not materially adversely affect the rights of the Holders of the Bonds then Outstanding, for any one or more of the following purposes:

(1) To make any changes or corrections in the Ordinance as to which the County and the Trustee shall have been advised by counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provision or omission or mistake or manifest error contained in the Ordinance, or to insert in the Ordinance provisions clarifying matters or questions arising under the Ordinance as are necessary or desirable;

(2) To add additional covenants and agreements of the County for the purpose of further securing the payment of the Bonds;

(3) To surrender any right, power, or privilege reserved to or conferred upon the County by the terms of the Ordinance;

(4) To confirm as further assurance any lien, pledge, or charge or the subjection of the Trust Estate to any lien, pledge, or charge, created or to be created by the provisions of the Ordinance;

(5) To grant or confer upon the Bondholders any additional right, remedies, powers, authority, or security that lawfully may be granted to or conferred upon them, or to grant to or confer upon the Trustee for the benefit of the Holders of the Bonds any additional rights, duties, remedies, powers, authority, or security;

(6) To modify any of the provisions of the Ordinance in any other respects provided that the modification shall not be effective until after the Bonds Outstanding at the time the Supplemental Ordinance is enacted shall cease to be Outstanding, or until the Holders thereof consent thereto pursuant to **Section 11.02** hereof, and any Bonds issued subsequent to any modification shall contain a specific reference to the modifications contained in the Supplemental Ordinance; and

(7) To make such additions, deletions or modifications as may be necessary to assure compliance with Section 148(f) of the Code relating to required rebate to the United States of America or otherwise as may be necessary to assure exemption from federal income taxation of interest on the Bonds.

(b) Except for Supplemental Ordinances providing for the issuance of Bonds or Junior Bonds pursuant hereto, the County shall not enact any Supplemental Ordinance authorized by the foregoing provisions of this **Section 11.01** unless in the opinion of counsel addressed to the Trustee and the County (which opinion may be combined with the opinion required by **Section 11.04** hereof) the enactment of the Supplemental Ordinance is permitted by the foregoing provisions of this **Section 11.01** and the provisions

of the Supplemental Ordinance do not adversely affect the rights of the Holders of the Bonds then Outstanding and will not affect any Bonds then Outstanding, the interest on which is not subject to federal or State income taxation.

**Section 11.02 Amending and Supplementing of Ordinance With Consent of Holders of Bonds.**

(a) With the consent of the Holders of not less than a majority in principal amount of the Bonds then Outstanding, the Council from time to time and at any time may enact an Ordinance amendatory hereof or supplemental hereto for the purpose of adding any provisions to, or changing in any manner or eliminating any of the provisions of, the Ordinance, or modifying or amending the rights and obligations of the County under the Ordinance, or modifying or amending in any manner the rights of the Holders of the Bonds then Outstanding; provided, however, that, without the specific consent of the Holder of each Bond which would be affected thereby, no Supplemental Ordinance amending or supplementing the provisions hereof or thereof shall: (i) change the fixed maturity date of any Bond or the dates for the payment of interest thereon or the terms of the redemption thereof, or reduce the principal amount of any Bond or the rate of interest thereon or the redemption price (or the redemption premium) payable upon the redemption or prepayment thereof; (ii) reduce the aforesaid percentage of Bonds, the Holders of which are required to consent to any Supplemental Ordinance amending or supplementing the provisions of the Ordinance; (iii) give to any Bond or Bonds any preference over any other Bond or Bonds secured hereby other than authorized Series with respect to Junior Bonds; (iv) authorize the creation of any pledge of the Trust Estate, prior, superior, or equal to the pledge of and lien and charge thereon created herein for the payment of the Bonds; or (v) deprive any Holder of the Bonds of the lien on the Trust Estate afforded by the Ordinance. Nothing in this paragraph contained, however, shall be construed as making necessary the approval of the Holders of the Bonds of the enactment of any Supplemental Ordinance authorized by the provisions of **Section 11.01** hereof.

(b) It shall not be necessary that the consents of the Holders of the Bonds approve the particular form of wording of the proposed amendment or supplement or of the Supplemental Ordinance effecting the amending or supplementing hereof pursuant to this **Section 11.02**. The County shall mail a notice at least once, not more than thirty (30) days after the effective date of any amendment or supplement, of the amendment or supplement, postage prepaid, to each Holder of Bonds then Outstanding at the address appearing upon the Books of Registry and to the Trustee, but failure to mail copies of the notice to any of the Holders shall not affect the validity of the Supplemental Ordinance effecting the amendments or supplements or the consents thereto. Nothing in this paragraph contained, however, shall be construed as requiring the giving of notice of any amendment or supplement of the Ordinance authorized by **Section 11.01** hereof. No action or proceeding to set aside or invalidate any Supplemental Ordinance or any of the proceedings for its enactment shall be instituted or maintained unless the action or proceeding is commenced within sixty (60) days after the mailing of the notice required by this paragraph.

(c) The County shall not enact any Supplemental Ordinance authorized by the foregoing provisions of this **Section 11.02** unless in the opinion of counsel addressed to the Trustee, if any, and the County (which opinion may be combined with the opinion required by **Section 11.04** hereof) the enactment of the Supplemental Ordinance is permitted by the foregoing provisions of this **Section 11.02** and the provisions of the Supplemental Ordinance do not adversely affect the rights of the Holders of the Bonds then Outstanding and will not affect the Bonds then Outstanding, the interest on which is not subject to federal or State income taxation.

**Section 11.03 Notation Upon Bonds; New Bonds Issued Upon Amendments.** Bonds delivered after the effective date of any action taken as provided in this **Article XI** may bear a notation as

to the action, by endorsement or otherwise and in form approved by the County. In that case, upon demand of the Holder of any Bond Outstanding after the effective date and upon the presentation of the Bond for that purpose at the office of the Trustee, a suitable notation shall be made on the Bond. If the County shall determine, new Bonds, modified as in the opinion of the County upon the advice of counsel to conform to the amendments or supplements made pursuant to this **Article XI**, shall be prepared, executed, and delivered, and upon demand of the Holder of any Bond then Outstanding shall be exchanged without cost to the Holder for Bonds then Outstanding, upon surrender of the Outstanding Bonds.

**Section 11.04 Effectiveness of Supplemental Ordinance.** Upon the enactment (pursuant to this **Article XI** and applicable law) by the Council of any Supplemental Ordinance amending or supplementing the provisions of the Ordinance and the delivery to the Trustee of an opinion of Bond Counsel that the Supplemental Ordinance is in due form and has been duly enacted in accordance with the provisions hereof and applicable law and that the provisions thereof are valid and binding upon the County, or upon any later date as may be specified in the Supplemental Ordinance, (a) the Ordinance and the Bonds shall be modified and amended in accordance with the Supplemental Ordinance, (b) the respective rights, limitations of rights, obligations, duties, and immunities under the Ordinance of the County, the Trustee, and the Holders of the Bonds shall thereafter be determined, exercised, and enforced under the Ordinance subject in all respects to the modifications and amendments, and (c) all of the terms and conditions of any Supplemental Ordinance shall be a part of the terms and conditions of the Bonds and of the Ordinance for all purposes.

**Section 11.05 Supplemental Ordinance Affecting Trustees or Custodians.** No Supplemental Ordinance changing, amending, or modifying any of the rights, duties, and obligations of any Trustee or Custodian appointed by or pursuant to the provisions of the Ordinance may be enacted by the Council or be consented to by the Holders of the Bonds without written consent of the Trustee or Custodian affected thereby.

[End of Article XI]

## ARTICLE XII

### MISCELLANEOUS

**Section 12.01 Benefits of Ordinance Limited to the County, the Trustee, and Holders of the Bonds.** With the exception of rights or benefits herein expressly conferred, nothing expressed or mentioned in or to be implied from the Ordinance or the Bonds is intended or should be construed to confer upon or give to any person other than the County, the Trustee, and the Holders of the Bonds, any legal or equitable right, remedy, or claim under or by reason of or in respect to the Ordinance or any covenant, condition, stipulation, promise, agreement, or provision herein contained. The Ordinance and all of the covenants, conditions, stipulations, promises, agreements, and provisions hereof are intended to be and shall be for and inure to the sole and exclusive benefit of the County, the Trustee, and the Holders from time to time of the Bonds as herein and therein provided.

**Section 12.02 Ordinance Binding Upon Successors or Assigns of the County.** All the terms, provisions, conditions, covenants, warranties, and agreements contained in the Ordinance shall be binding upon the successors and assigns of the County and shall inure to the benefit of the Trustee, its successors or substitutes in trust and assigns, and the Holders of the Bonds.

**Section 12.03 No Personal Liability.** No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the County contained in the Ordinance or the Bonds, against any member of the Council, any officer or employee, in his or her individual capacity, past, present, or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Ordinance and the Bonds are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer, or employee, past, present, or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements entered into between the County and the Trustee or the Bondholder or to be implied therefrom as being supplemental hereto or thereto; and that all personal liability of that character against every member, officer, and employee is, by the enactment of the Ordinance and the execution of the Bonds, and as a condition of, and as a part of the consideration for, the enactment of the Ordinance and the execution of the Bonds, expressly waived and released. The immunity of members, officers, and employees of the County under the provisions contained in this **Section 12.03** shall survive the completion of any Project and the termination of any Ordinance.

**Section 12.04 Effect of Saturdays, Sundays and Legal Holidays.** Whenever the Ordinance requires any action to be taken on a Saturday, Sunday, or legal holiday or bank holiday in the State or in any state where the corporate trust office of the Trustee is located, the action shall be taken on the first business day occurring thereafter. Whenever in the Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, or legal holiday or bank holiday in the State or in any state where the corporate trust office of the Trustee is located, the time shall continue to run until midnight on the next succeeding business day.

**Section 12.05 Notice; Electronic Signatures.**

(a) The County may send notices by electronic mail. The County agrees that the Trustee cannot determine the identity of the actual sender of such instructions and that the Trustee shall conclusively presume that instructions that purport to have been sent by an Authorized Representative have been sent by such Authorized Representative. The County shall be responsible for ensuring that only Authorized Representatives transmit such instructions to the Trustee, and the County and the Authorized Representative are responsible to safeguard the use and confidentiality of applicable user and



authorization codes, passwords and authentication keys provided by the Trustee. 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 instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The County agrees (i) to assume all risks arising out of the use of electronic mail to submit instructions and direction to the Trustee, including without limitation the risk of the Trustee acting on unauthorized 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 instructions to the Trustee and that there may be more secure methods of transmitting instructions than the method(s) selected by the County; (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) that it will notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

(b) All notices, approvals, consents, requests and any communications hereunder must be in writing (provided that any communication sent to Trustee hereunder must be in the form of a document that is signed manually or by way of a digital signature provider as specified in writing to Trustee by the Authorized Representative), in English. The County agrees to assume all risks arising out of the use of using digital signatures and electronic methods to submit communications to Trustee, including without limitation the risk of Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

**Section 12.05 Partial Invalidity.**

(a) If any one or more of the covenants or agreements or portions thereof provided in the Ordinance on the part of the County, the Trustee, the Custodian or any paying agent to be performed should be determined by a court of competent jurisdiction to be contrary to law, then the covenant or covenants, or the agreement or agreements, or the portions thereof, shall be deemed severable from the remaining covenants and agreements or portions thereof provided in the Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of the Ordinance or of the Bonds, but the Holders of the Bonds shall retain all the rights and benefits accorded to them hereunder and under any applicable provisions of law.

(b) If any provisions of the Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, those circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

**Section 12.06 Law and Place of Enforcement of the Ordinance.** The Ordinance shall be construed and interpreted in accordance with the laws of the State and all suits and actions arising out of the Ordinance shall be instituted in a court of competent jurisdiction in the State.

**Section 12.07 Effect of Article and Section Headings and Table of Contents.** The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation, or effect of the Ordinance.

**Section 12.08 Repeal of Inconsistent Ordinances and Resolutions.** All ordinances and resolutions of the County, and any part of any ordinance or resolution inconsistent with the Ordinance are hereby repealed to the extent of the inconsistency.

**Section 12.09 Effectiveness of this Ordinance.** This Ordinance shall become effective upon its enactment provided, however, that it shall not be necessary for the County to establish the funds and accounts created in **Article VI** hereof prior to the issuance of any Bonds.

[End of Article XII]

Done in meeting duly assembled this 7<sup>th</sup> day of September, 2021.

**GREENVILLE COUNTY, SOUTH CAROLINA**

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Chairman, County Council

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County Administrator

Attest:

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Clerk to Council

First reading: July 20, 2021  
Second reading: August 17, 2021  
Third reading: September 7, 2021

