
AN ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF ROAD FEE REVENUE BONDS OF GREENVILLE COUNTY, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.

BOND ORDINANCE
Enacted May 2, 2023

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BE IT ORDAINED BY THE COUNTY COUNCIL OF GREENVILLE COUNTY, SOUTH CAROLINA IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Recitals and Statement of Purpose.

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 (“*County 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 is a body politic and corporate and a political subdivision organized under the laws of the State of South Carolina (the “*State*”) and as such, possesses all general powers granted by the Constitution of the State of South Carolina, 1895, as amended (the “*Constitution*”), and laws of the State to political subdivisions, including the power to own and operate its roads.

(B) On June 29, 1993, the County enacted an ordinance, as subsequently amended, establishing and implementing a road maintenance fee (the “*Road Maintenance Fees*”) to provide funds for the operation, maintenance and improvement of the road system in the County (the “*System*”).

(C) The System is operated on a July 1 through June 30 fiscal year basis.

(D) Article X, Section 14 of 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 Title 6, Chapter 21, Code of Laws of South Carolina, 1976, as amended (the “*Enabling Act*”), the County may issue revenue bonds to defray the cost of making additions and improvements to the System.

(E) There are currently no outstanding obligations of the County secured by any revenues of the System.

(F) The County Council is therefore enacting this Ordinance to authorize the issuance of Bonds payable from revenues of the System, from time to time, and to provide a mechanism for the ordering of pledges and liens created to secure such Bonds.

[End of Article I]

ARTICLE II

DEFINITIONS; CONSTRUCTION AND INTERPRETATIONS

Section 2.01 Definition of Ordinance.

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

Section 2.02 Defined Terms.

In this Bond Ordinance, including **Article I**, unless a different meaning clearly appears from the context, the following terms shall have the following respective meanings:

“Accountant” shall mean an independent firm of certified public accountants of suitable standing who audit the books, records, and accounts of the System.

“Accreted Value” shall mean the amounts set forth in and the amounts computed pursuant to a formula set forth in a Series Ordinance, or determined in the manner provided in a Series Ordinance, authorizing the issuance of Bonds in the form of Capital Appreciation Bonds, the Accreted Value of which will be determined in, or in the manner provided by, such Series Ordinance.

“Annual Budget” shall mean the budget or amended budget of the County for the System.

“Annual Principal and Interest Requirement” shall mean, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding, an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (1) all interest payable on such Series of Bonds during such Fiscal Year plus (2) any Principal Installment of such Series of Bonds during such Fiscal Year. For purposes of computing Annual Principal and Interest Requirement, the rate of interest used to determine (1) above shall be a rate per annum equal to (a) with respect to any Series of Bonds which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds, and (b) with respect to any Series of Variable Rate Bonds, the following methods shall determine the interest rate to be used:

(i) in the case of determining the Reserve Requirement for the Series of Bonds containing such Variable Rate Bonds, the interest rate shall be equal to the lesser of (x) the 30-year Revenue Bond Index published by The Bond Buyer (or its successor index) no more than two (2) weeks prior to, but in no event after, the sale of the Series of Bonds to which the Reserve Requirement in question applies, or (y) the maximum interest rate allowable on such Variable Rate Bonds;

(ii) in the case of determining the Annual Principal and Interest Requirement for purposes of **Sections 4.02(6)** and **4.02(7)** of this Bond Ordinance, the interest rate shall be equal to the lesser of (x) the thirty (30)-year Revenue Bond Index published by The Bond Buyer (or its successor index) no more than two (2) weeks prior to, but in no event after, the sale of the proposed Series of Bonds to be issued, or (y) the maximum interest rate allowable on such Variable Rate Bonds; and

(iii) in the case of determining the Annual Principal and Interest Requirement for purposes of applying the rate covenant contained in **Section 5.01(B)** of this Bond Ordinance, the interest rate shall be equal to the lesser of (x) the average rate at which interest accrued on such Variable Rate Bonds for the preceding twelve (12) month period, or (y) the maximum interest rate allowable on such Variable Rate Bonds. For purposes of this subsection (iii), the average rate

of interest shall be the result of dividing the total interest paid during such twelve (12) month period by the average principal amount outstanding calculated on a 360-day year, twelve 30-day months basis during such twelve (12) month period;

provided, however, that if the thirty (30)-year Revenue Bond Index referred to in (i) and (ii) above is no longer published, any reasonably equivalent nationally recognized index published for the periods in question may be selected by the County Administrator for use in its stead.

“Authorized Investments” shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Chapters 5 and 6 of Title 6 of the South Carolina Code, or any successor statute, as the same may be further limited pursuant to the provisions of a Series Ordinance.

“Authorized Representative” means the Chairman or the Vice-Chairman of County Council, County Administrator, the Deputy County Administrator or the Finance Director and any other officer or employee of the County Council designated from time to time as an Authorized Representative by a certificate signed on behalf of the County by the County Administrator, and when used with reference to any act or document also means any other person designated by a certificate signed on behalf of the County by the County Administrator to perform such act or sign such document.

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

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

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

“Bonds” unless otherwise specifically provided, shall mean the Bonds payable from the revenues of the System and issued in accordance with the provisions of the Bond Ordinance, excluding Junior Lien Bonds.

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

“Capital Appreciation Bonds” shall mean Bonds that bear interest payable at maturity, upon redemption prior to maturity or prior to maturity at the date set forth in, or in the manner provided in, the Series Ordinance authorizing the issuance of such Bonds in the amounts determined by reference to the Accreted Value of such Capital Appreciation Bonds in accordance with the provisions of the Series Ordinance authorizing the issuance of such Capital Appreciation Bonds.

“Clerk” shall mean the Clerk to County Council of Greenville County. The term shall include the Interim Clerk, the Acting Clerk or the Assistant Clerk whenever, by reason of absence, illness or other reason, the person who is the Clerk is unable to act.

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

“County” shall mean Greenville County, South Carolina. References to actions required of or permitted by the County shall mean actions taken by or under the authority of the County Council.

“County Administrator” shall mean the County Administrator or the Interim County Administrator or Acting County Administrator, as the case may be.

“County Council” shall mean the County Council of Greenville County, South Carolina.

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

“Debt Service Fund” shall mean, with respect to any Series of Bonds, the fund herein so designated and designed to provide for the payment of the principal of and interest on all Bonds Outstanding of such Series and issued pursuant to the Bond Ordinance, as the same respectively fall due.

“Debt Service Reserve Fund” shall mean, if established with respect to any Series of Bonds, the fund so designated and established for such Series of Bonds by the authorizing Series Ordinance, and designed to insure the timely payment of the principal of and interest on all Bonds Outstanding of that Series and to provide for the redemption of such Bonds prior to their stated maturity.

“Defeasance Obligations,” unless otherwise provided in a Series Ordinance for a particular Series of Bonds, shall mean non-callable (i) Government Obligations and (ii) evidences of ownership of a proportionate interest in specified Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian.

“Depreciation and Contingent Fund” shall mean the fund designed to provide for contingencies, for the replacement of depreciated or obsolete parts of the System and for improvements, betterments and extensions of the System.

“Enabling Act” shall mean Chapter 21 of Title 6, South Carolina Code, and all other statutory authorizations, authorizing and enabling the County to adopt the Bond Ordinance.

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

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

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

“Government Obligations” shall mean:

(i) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; and

(ii) obligations, specifically including interest payment strips, including without limitation REFCORP interest strips, the payment of the principal (if any), the premium (if any) and the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America.

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

(i) all receipts and revenues derived for the operation, maintenance and improvement of the System, including without limitation, Road Maintenance Fees and any other charges and fees established by the County applicable to the System,

(ii) all proceeds from the sale or other disposition of any property owned directly or beneficially by the County in connection with the System,

(iii) all interest and other income received directly or indirectly by the County from the investment of moneys or accounts relating to the System, and

(iv) all other unencumbered or unrestricted money to which the County in connection with the System, may become entitled from any source whatsoever.

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

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

“Junior Lien Bonds” shall mean any revenue bonds or other obligations issued by the County which are secured by pledges of the revenues and liens on the System which are junior and subordinate in all respects to the pledges and liens made to secure Bonds.

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

“Operation and Maintenance Fund” shall mean the fund designed to provide for the payment of all expenses incurred in connection with the administration and operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, the fees and charges of the Trustee and the Registrar or any Paying Agent, the costs of audits required hereunder, and the premiums for all insurance and fidelity bonds required by the Bond Ordinance, in accordance, as nearly as may be practicable, with the Annual Budget then in effect, as such Fund is established by the provisions of **Section 7.05** hereof.

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

- (A) Bonds cancelled at or prior to such date;
- (B) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (C) Bonds deemed to have been paid as provided in **Article XV** hereof; and
- (D) for purposes of any consent or other action to be taken by the holders of a specified percentage of Bonds, Bonds held by, or for the account of the County, or by any person controlling, controlled by, or under common control with the County.

“Paying Agent” shall mean any bank, trust company or national banking association which is designated by the County to pay the principal, interest and redemption premium, if any, with regard to the Bonds to the Bondholders.

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

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

“Registrar” shall mean the Clerk or any bank or trust company which is authorized by the County Council to maintain an accurate list of those who from time to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds in accordance with the provisions of the Bond Ordinance and having the duties, responsibilities, and rights provided for in the Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to the Bond Ordinance.

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

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

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

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

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

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

“South Carolina Code” shall mean the Code of Laws of South Carolina, 1976, as amended.

“State” shall mean the State of South Carolina.

“System” shall mean the road system in the County and related infrastructure as the same is now, or may be, constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter.

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

“Trustee” shall mean a financial institution serving pursuant to the provisions of this Bond Ordinance and the applicable Series Ordinance and which shall have such other duties, privileges and functions as are set forth herein. Such term shall include any successor and any corporation or association resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor Trustee at the time serving as successor Trustee hereunder. Each Series Ordinance shall designate the Trustee which shall establish the applicable Debt Service Fund and Debt Service Reserve Fund, if any.

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

Section 2.03 Interpretations.

In the Bond Ordinance, unless the context otherwise requires:

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

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

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

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

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

[End of Article II]

ARTICLE III

FISCAL YEAR

Section 3.01 Establishment and Modification of Fiscal Year.

The System shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on July 1 of each year and shall end on June 30 of the following year.

[End of Article III]

ARTICLE IV

THE BONDS

Section 4.01 Authorization for Bonds in Series.

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

(1) Obtaining funds for (i) the expansion, improvement, repair and replacement including the acquisition of equipment for the use of the System and (ii) the reimbursement of funds previously expended for such purposes;

(2) Providing funds for the payment of any bond anticipation note or notes that may have been issued in anticipation of the issuance and sale of Bonds;

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

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

(5) Funding a Debt Service Reserve Fund or restoring the value of the cash and securities in a Debt Service Reserve Fund to the amount equal to its Reserve Requirement; and

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

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

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

(1) The Date of Issue of such Series of Bonds or the manner of the determination thereof;

(2) The maximum authorized principal amount of such Series of Bonds, and the officials authorized to make such determination;

(3) The time for the payment of interest on the Bonds in such Series and the Record Dates, and the date or dates of maturity and the amounts thereof, or the manner of determining such dates and amounts and the officials authorized to make such determinations, provided that the Series Ordinance shall specify a date beyond which the final maturity of such Series shall not

extend which date shall not be longer than forty-five (45) years from the date of such Series of Bonds as provided by the Enabling Act;

(4) The specific purposes for which such Series of Bonds is being issued, which shall be to provide funds for the purposes authorized by the Enabling Act and the Bond Ordinance;

(5) The title and designation of the Bonds of such Series;

(6) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;

(7) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series;

(8) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the manner of making such designations and the officials authorized to make such designations;

(9) The redemption price or redemption prices and the redemption date or redemption dates and other terms of redemption (if any) applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;

(10) The Trustee, the Registrar, Paying Agent if any, and custodian, if any, for such Bonds, and the escrow agent if such Bonds are advance refunding Bonds;

(11) The form or forms of the Bonds of such Series;

(12) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;

(13) Whether the Bonds of such Series shall be issued in book-entry form pursuant to **Section 4.18** hereof;

(14) Whether such Series of Bonds will be subject to a Reserve Requirement and if subject to one, that a Debt Service Reserve Fund be established for the Series of Bonds and that such Reserve Requirement has been or will be met;

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

(16) That a Debt Service Fund be established for the Series of Bonds, and that a construction fund be established if the proceeds of the Bonds of any Series are intended to be used for the expansion or improvement of the System, and that a capitalized interest account be established within any such construction fund if interest for any period is to be paid from proceeds of such Series of Bonds; and

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

Section 4.02 Conditions to Issuance of Bonds of a Series.

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

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

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

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

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

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

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

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

(c) each Debt Service Reserve Fund is funded in an amount equal to the applicable Reserve Requirement with respect to each Series of Bonds, other than Bonds issued pursuant to Series Ordinances described in (a) above.

(6) Except in the case of the initial series of Bonds issued hereunder and Bonds issued for the purpose of refunding any Bonds and which meet the test prescribed in **Section 4.02(7)** hereof:

The County must obtain a certificate of an Accountant addressed to the County and the Trustee that Gross Revenues of the System for the last Fiscal Year for which audited financial statements are available shall have been equal to at least one hundred twenty-five percent (125%) of the maximum annual debt service on all 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). For purposes of calculating Gross Revenues under this **Section 4.02(6)**, actual revenues shall be adjusted upward or downward so as to be stated on the basis of the rate schedule that has been adopted and will be effective during the Fiscal Year which includes the date of issuance of such additional Bonds.

(7) In lieu of compliance with **Section 4.02(6)** hereof, in the case of Bonds issued for the purpose of refunding any Bonds, the Annual Principal and Interest Requirements of the refunding Bonds shall not exceed the Annual Principal and Interest Requirements of the Bonds to be refunded for any Fiscal Year until a time subsequent to the last maturity of Bonds not refunded and which remain Outstanding following the issuance of the refunding Bonds.

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

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

(b) The liquidity provider for such Bonds shall be rated in one of the highest two short-term rating categories by either Moody's Investors Service or Standard & Poor's Rating Services; and

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

Section 4.03 Reliance on Certificates.

Each of the County and any purchaser of any Bonds shall be entitled to rely upon certificates of Accountants and certificates of any Insurance Consultant made in good faith, pursuant to any provision of this Bond Ordinance.

Section 4.04 Execution of Bonds.

(A) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the County by the manual or facsimile signature of the Chairman of County Council (or in the unavailability of the Chairman, the Vice-Chairman of County Council) and the County Administrator and attested by the Clerk. Such officers may employ facsimiles of their signatures.

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

Section 4.05 Authentication.

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

Section 4.06 Medium of Payment.

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

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the County may execute and the Registrar may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed Bond, there shall

be first furnished to the County and to the Registrar evidence of such loss, theft or destruction satisfactory to the County and the Registrar together with indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, the County may pay the same. The County may charge the Holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 4.08 Transfer and Registry; Persons Treated as Owners.

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

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

Section 4.09 Date and Payment Provisions.

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

Section 4.10 Interchangeability of Bonds.

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

Section 4.11 Regulations with Respect to Exchanges and Transfer.

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

Date for such Series or to register, transfer or exchange any Bonds called for redemption after the mailing of any notice of redemption of such Bond.

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

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

Section 4.13 Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the County shall give notice to the Holders of any Bonds to be redeemed of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by first class mail, postage prepaid, not less than thirty (30) days nor more than sixty (60) days prior to the redemption date to each registered owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

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

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

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

(4) the obligation of the County to give the notice required by this **Section 4.13** shall not be conditioned upon the prior payment to the Trustee of money or the delivery to the Trustee of Authorized Investments sufficient to pay the redemption price of the Bonds to which such notice relates or the interest thereon to the redemption date.

Any Series Ordinance providing for the issuance of Bonds consisting of contractual obligations not in the form of an instrument or providing for Bonds in bearer form may provide alternative methods for delivery of notice of redemption. In the event there is a single Holder for a Series of Bonds, notice may be given in any manner agreeable to such Holder.

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

Section 4.14 Cancellation of Bonds Which have been Redeemed.

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

Section 4.15 Selection of Bonds to be Redeemed.

In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the County; provided, however, that the portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the County shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum denomination; provided further that, if less than all of the beneficial interests in a Bond of a single maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the County shall execute and the Registrar shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination.

Section 4.16 Bonds Issued as Taxable Obligations.

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

Section 4.17 Security for Payments of the Bonds; Priority of Lien.

The Bonds shall be payable solely from and shall be secured by a pledge of the Gross Revenues. Such pledge securing the Bonds shall at all times and in all respects be and remain superior to pledges made and given to secure any other Bonds or other obligations payable from the revenues of the System and which are issued hereafter. In order to further secure the payment of the principal and interest due on the Bonds, a statutory lien upon the System, as authorized by the Enabling Act, is hereby provided. The Bonds shall not constitute an indebtedness of the County within the meaning of any provision, limitation or restriction of the Constitution or the laws of the State, other than those provisions authorizing indebtedness payable solely from a revenue-producing project not involving revenues from any tax or license; and the faith, credit and taxing power of the County are expressly not pledged therefor. The County is not obligated to pay any of the Bonds or the interest thereon except from the revenues of the System as provided in this Ordinance.

Section 4.18 Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in

fully registered form registrable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in form satisfactory to the County Administrator and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.19 Waiver of Certain Provisions.

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

Section 4.20 Purchases of Bonds Outstanding.

Purchases of Bonds Outstanding may be made by the County at any time with money available to it from any source. Upon any such purchase the County shall deliver such Bonds to the Registrar for cancellation.

[End of Article IV]

ARTICLE V

RATES AND CHARGES

Section 5.01 Rate Covenant.

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

(1) To maintain the Debt Service Funds and thus provide for the punctual payment of the principal of and interest on the respective Series of Bonds;

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

(3) To provide, along with other legally available funds, for the payment of the expenses of administration and operation and such expenses for maintenance of the System as may be necessary to preserve the same in good repair and working order;

(4) To build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order;

(5) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under the applicable Series Ordinance with respect to a Series of Bonds;

(6) To discharge all obligations imposed by the Enabling Act and by the Bond Ordinance and the Series Ordinances; and

(7) To provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time hereafter be Outstanding;

(B) The County Council covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System, along with other legally available funds, that, together with other income, are reasonably expected to yield annual Gross Revenues in the current Fiscal Year equal to at least the sum of (i) one hundred twenty-five percent (125%) of the Annual Principal and Interest Requirement for all Series of Bonds Outstanding in such Fiscal Year, plus (ii) one hundred percent (100%) of any required payment into a Debt Service Reserve Fund due in such Fiscal Year, plus (iii) one hundred percent (100%) of the principal and interest on Junior Lien Bonds due in such Fiscal Year, plus (iv) one hundred percent (100%) of the required annual operation and maintenance expenses of the System; and, promptly upon any material change in the circumstances that were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, shall review the rates and charges for its services and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, the County Council shall adopt an Annual Budget including amended rate schedules for such Fiscal Year that shall set forth in reasonable detail the estimated

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

[End of Article V]

ARTICLE VI

JUNIOR LIEN BONDS AND CAPITAL LEASE FINANCINGS

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

Notwithstanding that Bonds may be Outstanding, the County may, at any time, and without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of revenues and any lien upon the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledges of revenues and liens upon the System made or authorized for the Bonds.

By proceedings authorizing the issuance of Junior Lien Bonds, the County may provide for the accession of such Junior Lien Bonds to the status of Bonds provided all of the conditions set forth in subparagraphs (1) through (7) are met. Any such subsequent proceedings adopted by the County Council providing for such accession shall make the findings provided in subparagraphs (1) through (4) and state whether and to what extent a Debt Service Reserve Fund shall be established as set forth in subparagraph (5).

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

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

(3) There shall be deposited in the Debt Service Fund for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of **Section 8.02** hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

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

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

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

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

Section 6.02 Capital Lease Financings.

The County shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on the property, plant, and equipment comprising a part of the System.

Section 6.03 Right to Issue Special Facilities Bonds.

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

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

(b) The revenues derived from Special Facilities need not be deposited in the General Revenue Fund, and may be pledged to secure Special Facilities Bonds; but no debt service or other costs or expense related to any Special Facilities may be paid from System revenues deposited in the General Revenue Fund except pursuant to **Section 8.07** hereof.

For purposes of this **Section 6.03**, the term “*Special Facilities*” shall include all or a portion of the road system in the County and rights to all or a portion of the use of, or the capacity available from, any such facilities.

[End of Article VI]

ARTICLE VII

ESTABLISHMENT OF FUNDS

Section 7.01 Requirement for Special Funds.

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

Section 7.02 The General Revenue Fund.

(A) There shall be established and maintained a fund or account designated as the General Revenue Fund. This Fund is currently existing and known as the Road Maintenance Fee Fund. This account shall be so maintained as to accurately reflect the Gross Revenues of the System.

(B) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited in accordance with and in the manner prescribed by **Article VIII** hereof into this fund. Money in the General Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in **Article VIII** hereof. So long as the County establishes, from an accounting standpoint, proper records of receipts and disbursements for the General Revenue Fund, the General Revenue Fund may be used for the purposes of the Operation and Maintenance Fund, subject to the order of priority specified in **Article VIII** hereof.

Section 7.03 The Debt Service Funds.

(A) There shall be established and maintained a Debt Service Fund for each Series of Bonds Outstanding. The Debt Service Funds are intended to provide for the ratable payment of the principal of, redemption premium, if any, and interest on Bonds of the respective Series as the same respectively fall due. Payments into these Funds shall be made in the manner prescribed by the Bond Ordinance, including the applicable provisions of **Article VIII**, and, except as herein provided, all money in each Debt Service Fund shall be used solely to pay the principal of and interest on the Bonds of the respective Series, and for no other purpose.

(B) Each Debt Service Fund shall be held in trust by a Trustee and to that end shall be kept in its complete custody and control and withdrawals from each Debt Service Fund shall be made only by such Trustee who shall transmit to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds of that respective Series.

(C) Money in each Debt Service Fund shall be invested and reinvested at the written direction of an Authorized Representative in Authorized Investments, maturing not later than the date on which such money is required to pay the interest and/or the principal and interest next maturing. All earnings from such investments shall be added to and become a part of such Debt Service Fund, but shall be credited against payments that would otherwise be made to that Debt Service Fund pursuant to the provisions of **Section 8.02** hereof.

Section 7.04 The Debt Service Reserve Funds.

(A) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of

the principal of, and premium, if any, and interest on, that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement established by the Series Ordinance for such Series of Bonds. Money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

- (1) To prevent a default in the payment of the principal of or interest on that Series of Bonds, by reason of the fact that money in its Debt Service Fund is insufficient for such purposes;
- (2) To pay the principal of, interest on, and redemption premium of Bonds of that Series in the event that all Outstanding Bonds of that Series be redeemed as a whole; or
- (3) To effect partial redemption of Bonds of that Series; provided that subsequent to said partial redemption, the market value of the cash and securities in the Debt Service Reserve Fund shall be not less than the Reserve Requirement.

The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of the Bond Ordinance shall, in references to “the Debt Service Reserve Fund,” “the Reserve Requirement,” the “Debt Service Fund(s)” and “the Bonds,” be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, and in each case to the respective Reserve Requirement and Debt Service Fund for the respective Series of Bonds, and to Bonds only of that respective Series and not to any other Bonds.

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

(C) Money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Representative in Authorized Investments. Subject to the remaining provisions of this paragraph (C), the earnings from such investments shall be added to and become a part of such Debt Service Reserve Fund. If as of any date of calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall either be used to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service Reserve Fund and transferred into the Debt Service Fund with respect to the Bonds of that Series, as directed by an Authorized Representative in writing.

(D) Notwithstanding anything in this Bond Ordinance to the contrary, the County, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may satisfy the applicable Reserve Requirement by causing to be credited to such Fund an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy payable to the Trustee or the Paying Agent for the benefit of the Holders of the Bonds of the applicable Series in an amount which together with other moneys on deposit in such Debt Service Reserve Fund is equal to such Reserve Requirement. The details of such surety bond, line of credit, letter of credit or insurance policy shall be provided in the applicable Series Ordinance.

Section 7.05 The Operation and Maintenance Fund.

(A) There shall be established and maintained an Operation and Maintenance Fund. This fund is intended to provide for the payment of all expenses incurred in connection with the administration and operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, the fees and charges of

the Trustee or custodian of any fund, the costs of audits required hereunder, and the premiums for all insurance and fidelity bonds required hereby.

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

Section 7.06 The Depreciation and Contingent Fund.

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

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

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

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

Section 7.07 The Capitalized Interest Account.

There may be established a capitalized interest account to provide for the payment of interest on the Bonds of a particular Series. Any such account shall be created by the Series Ordinance relating to the issuance of the Bonds of such Series. The Series Ordinance shall provide for the disposition of any earnings from the investment of the funds in any such capitalized interest account.

Section 7.08 Investments of Fund.

Whenever, in the opinion of the County Administrator, it becomes desirable to invest money in any of the funds established by this **Article VII** (other than the Debt Service Reserve Funds, the Debt Service Funds and any capitalized interest account for which provisions are made above) an Authorized Representative may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the General Revenue Fund (i) except as provided in **Sections 7.03, 7.04 and 7.07** hereof and (ii) unless the County Administrator shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein. The Trustee shall have no liability for losses resulting from the investment of money in any Authorized Investments.

[End of Article VII]

ARTICLE VIII

DISPOSITION OF REVENUES

Section 8.01 Deposits to General Revenue Fund; Dispositions Therefrom.

The Gross Revenues of the System except that money the disposition of which is controlled by other provisions of the Bond Ordinance are declared to be a part of the General Revenue Fund and shall from time to time be promptly deposited in a bank or depository in an account which will reflect the fact that they are a part of the General Revenue Fund. The dispositions from the General Revenue Fund required by the remaining Sections of this **Article VIII** shall be made on or before the first Business Day of each month following the delivery of the first Series of Bonds issued pursuant to the Bond Ordinance. Payments from the General Revenue Fund shall be made in the order of priority established by the sequence of the remaining Sections of this **Article VIII**.

Section 8.02 Payments for the Bonds.

Provision shall be made for the payment of principal of, premium, if any, and interest on the Bonds without priority of any one over any other. To that end:

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

(2) There shall be deposited into each Debt Service Fund the monthly fraction of the Principal Installment of the respective Series of Bonds next becoming due and payable (or the monthly amount due, if principal is payable monthly), so that on each principal maturity date, the amount of principal to be paid shall have been accumulated and be on hand; provided, however, that if provision has been made for the payment of all or part of the next installment of principal to become due on the respective Series of Bonds, pursuant to any other provision of the Bond Ordinance, or any Series Ordinance, or by reason of investment earnings, then, in such event, the deposits required by this paragraph may be omitted, or reduced accordingly.

(3) If, on the occasion when the deposits required by paragraphs (1) and (2) of this **Section 8.02**, are to be made, the sum total of the deposits required thereby plus previous monthly deposits and the remaining deposits to be made prior to the next succeeding principal and interest payment dates, will be less than the sum required to effect the payment of the next succeeding installment of either principal or interest, or both on the respective Series of Bonds, as the case may be, a sum equal to such deficiency shall be added to the deposits so to be made.

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

Deposits shall next be made in the amounts required by this **Section 8.03** into the respective Debt Service Reserve Funds. The market value of the cash and securities in each Debt Service Reserve Fund shall be calculated as of each Bond Payment Date (such calculation to be made within forty-five (45) days after such Bond Payment Date) in order to determine if the Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to the Bond Ordinance and the respective Series Ordinances.

Unless a Debt Service Reserve Fund is being funded pursuant to Section **4.02(5)(a)** of the Bond Ordinance or then contains in cash and securities an amount at least equal to its Reserve Requirement, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the twelve (12) months following a determination of a deficiency in such Debt Service Reserve Fund one-twelfth (1/12) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the County from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. The value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) except for Authorized Investments described in (2) or (3) below, the bid price published by a nationally recognized pricing service selected by the Trustee in its sole discretion; provided, however, if the maturity of such security predates the next Bond Payment Date, then such security shall be valued at its maturity value plus interest to be paid on such date;

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

(3) as to any investment not valued by the nationally recognized pricing selected by the Trustee or not specified in (2) above: the value thereof established by prior agreement between the County and the Trustee provided, however, if the maturity of such security predates the next Bond Payment Date, then such security shall be valued at its maturity value plus interest to be paid on such date.

Section 8.04 Deposits for Operations and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund the amount necessary for the ensuing month for the payment of all expenses expected to be incurred in connection with the administration and operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, the fees and charges of the Trustee, custodian, if any, and the Registrar or any Paying Agent, the costs of audits required hereunder, and the premiums for all insurance and fidelity bonds required by the Bond Ordinance. Such payments shall be made by or on the order of an Authorized Representative in accordance, as nearly as may be practicable, with the Annual Budget then in effect.

Section 8.05 Deposits for the Depreciation and Contingent Fund.

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

Section 8.06 Payments for Junior Lien Bonds.

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

Section 8.07 Use of Surplus Money.

All money remaining after making the payments required by **Sections 8.02 to 8.06**, shall be disposed of for any lawful purpose in such manner as the County shall from time to time determine.

[End of Article VIII]

ARTICLE IX

AGREEMENT TO FURNISH INFORMATION WITH RESPECT TO SYSTEM

Section 9.01 Keeping Records.

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

- (A) The Gross Revenues of the System and the source from whence derived;
- (B) All expenses incurred in the operation of the System suitably identified as to purpose;
- (C) All expenditures made from the several funds established by the Bond Ordinance and Series Ordinances authorizing the issuance of the Bonds; and
- (D) The rate schedules that may from time to time be in force.

Section 9.02 Audit Required.

The County further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than one hundred eighty (180) days after the close of each Fiscal Year, cause to be made and completed by the Accountants, an audit of the records, books and accounts pertaining to the System, made in accordance with generally accepted accounting practices. The cost of such audit shall be treated as a part of the cost of operating and maintaining the System.

[End of Article IX]

ARTICLE X
INSURANCE

Section 10.01 Insurance.

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

(1) [Reserved]

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

(3) That all premiums on all bonds or insurance policies shall be deemed a part of the cost of operating and maintaining the System;

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

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

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

(C) All costs and expenses of providing the insurance required by this **Section 10.01** shall be payable solely from the Gross Revenues of the System.

[End of Article X]

ARTICLE XI

ADDITIONAL COVENANTS

Section 11.01 Additional Covenants to Secure Bonds.

The County further covenants and agrees:

(A) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except as herein disclosed and provided for;

(B) That the Road Maintenance Fee will be charged to all payors of such Fees without exception;

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

(D) That it will not make any use of the proceeds of any Series of Bonds other than Bonds issued pursuant to **Section 4.16** hereof which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series, would have caused such Bonds or any other Bonds to be "*arbitrage bonds*" within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

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

(F) That it will not pledge, mortgage or otherwise encumber the System or any part thereof, or any revenues therefrom, except in the manner herein authorized, and it will not sell, lease or dispose of any portion of the System, necessary or useful (as determined by the County Council) in the operation of the System, until all Bonds shall be paid in full, or unless and until provision shall have been made for the payment of all Bonds and the interest thereon in full, and that it will maintain in good condition and operate the System. If pursuant to this paragraph anything belonging to the System which is not deemed by the County Council to be necessary or useful therefor shall be sold or disposed of, the proceeds of such sale or disposition shall be deposited at the direction of the County Council in either of the Depreciation and Contingent Fund or in the General Revenue Fund.

[End of Article XI]

ARTICLE XII

MODIFICATION OF ORDINANCE

Section 12.01 Modification Without Bondholder Approval.

(A) Provided always that the security of the Bonds shall not be lessened, or in any manner impaired, the County Council may for any one or more of the following purposes at any time, or from time to time, without the consent of any bondholder, adopt an ordinance, supplementing the Bond Ordinance, which ordinance shall be fully effective in accordance with its terms:

- (1) To provide for the issuance of a Series of Bonds in accordance with **Article IV** hereof;
- (2) To add to the covenants and agreements of the County in the Bond Ordinance, other covenants and agreements thereafter to be observed;
- (3) To surrender any right, power or privilege reserved to or conferred upon the County by the Bond Ordinance; and
- (4) To cure, correct and remove any ambiguity or inconsistent provisions contained in the Bond Ordinance.

(B) It is further provided that, except for a Series Ordinance as permitted by subsection (A), such supplemental ordinance shall not become effective until a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for the County.

(C) In addition, no modification or alteration shall, without the consent of the Trustee, affect the rights of the Trustee hereunder.

Section 12.02 Modification with Bondholder Approval.

The rights and duties of the County and the Bondholders and the terms and provisions of this Bond Ordinance may be modified or altered in any respect by an Ordinance enacted by the County with the consent of the Holders of a majority in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding with the written consent of the Insurer, if any, with respect to each such Series of Bonds and of any provider of a surety bond or similar debt service reserve fund funding instrument, such consent to be evidenced by an instrument or instruments executed by such Holders and duly acknowledged or proved in the manner of a deed capable of being recorded, but no such modification or alteration shall:

- (A) Extend the maturity of any payment of principal or interest due upon any Bond;
- (B) Effect a reduction in the amount which the County is required to pay by way of principal, interest or redemption premium on any Bonds;
- (C) Effect a change as to the type of currency in which the County is obligated to effect payment of the principal, interest and redemption premiums of any Bond;
- (D) Permit the creation of a pledge of or lien upon the revenues of the System prior to or equal to the Bonds, except as permitted under the provisions of this Bond Ordinance;
- (E) Permit preference or priority of any Bonds to others;

(F) Alter or modify the provisions of **Section 4.02** or of **Articles V, VII, and VIII** hereof unless the County and the Trustee receive an opinion of Bond Counsel to the effect that such alteration or modification will not be adverse to the Holders of any Outstanding Bonds; or

(G) Reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Ordinance, without the consent of the Holders of all Bonds affected by such change or modification.

Section 12.03 Procedure for Procuring Bondholder Approval.

The County and the Trustee may rely upon the registry books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made in the manner hereinabove provided for shall not become effective until (1) there has been filed with the Clerk of Court for the County and with the Trustee a copy of such amendatory Ordinance hereinabove provided for, duly certified, (2) there has been filed with the Trustee an opinion of Bond Counsel stating that such amendatory Ordinance has been duly and lawfully enacted by the County in accordance with the provisions of this Bond Ordinance and is valid and binding upon the County and (3) proof of consent to such modification by the Holders of a majority in principal amount of the Bonds of each Series then Outstanding shall be filed with the Trustee.

[End of Article XII]

ARTICLE XIII

EVENTS OF DEFAULT; CONSEQUENCES OF DEFAULT AND REMEDIES

Section 13.01 Events of Default.

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

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

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

(3) Failure to make any payments into the Debt Service Reserve Fund as required under **Sections 8.03** hereof;

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

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

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

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

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

(B) The foregoing provisions of paragraph (7) of the preceding subsection (A) are subject to the following limitations: If by reason of force majeure the County is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the County contained in any of **Section 4.02** or **Articles V, VI, VII** and **VIII** as to which this paragraph shall have no application), the County shall not be deemed in default during the continuance of such inability. The term “*force majeure*”

as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other similar cause or event not reasonably within the control of the County, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the County, and the County shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the County unfavorable to the County.

Section 13.02 Acceleration; Annulment of Acceleration.

(A) Upon the occurrence of an Event of Default, the Trustee may, and upon the written request of the Holders of at least a majority in aggregate principal amount of Bonds Outstanding shall, by notice in writing to the County, declare all Bonds Outstanding immediately due and payable; and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

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

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

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

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

(4) Every Event of Default known to the Trustee (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee. No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

Section 13.03 Additional Remedies and Enforcement of Remedies.

(A) Upon the occurrence and continuance of any Event of Default, the Trustee may, and upon the written request of the Holders of at least a majority in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

(1) Requiring the County to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;

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

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

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

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

(B) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of at least a majority in aggregate principal amount of the Bonds then Outstanding, shall, upon being indemnified to its satisfaction therefor, institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

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

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

Section 13.04 Application of Revenues and Other Moneys After Default.

(A) The County covenants that if an Event of Default shall happen and shall not have been remedied or waived, the County, upon demand of the Trustee, shall:

(1) Pay or caused to be paid over to the Trustee, forthwith, all moneys and securities then held by the County which are credited to any fund under this Bond Ordinance and

(2) Pay or caused to be paid over to the Trustee, as promptly as practicable after receipt thereof, all Gross Revenues.

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

(1) To the payment of the reasonable and proper charges of the Trustee;

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

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

(i) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments,

and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;

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

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

(3) For the purposes and to the respective funds set forth in **Article VIII** hereof; and

(4) To the payment of necessary Operation and Maintenance Expenses.

Section 13.05 Remedies Not Exclusive.

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

Section 13.06 Remedies Vested in Trustee.

All rights of action (including the right to file proof of claims) under this Bond Ordinance or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto. Any such suit or proceedings instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Holders of the Bonds. Subject to the provisions of **Section 13.04** hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 13.07 Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity to the Trustee) and, in the sole judgment of the

Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this **Section 13.07** shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by Bondholders. If an Insurer insures a Series of Bonds, then such Insurer will act in lieu of the Bondholders of such Series of Bonds hereunder.

Section 13.08 Individual Bondholder Action Restricted.

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

(1) An Event of Default has occurred of which the Trustee has knowledge in accordance with **Section 14.05(L)** hereof; and:

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

(3) Such Bondholders shall have offered the Trustee reasonable indemnity; and

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

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

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

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

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

Section 13.09 Termination of Proceedings.

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

Section 13.10 Waiver and Non-waiver of Event of Default.

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

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

(C) Notwithstanding anything contained in this Bond Ordinance to the contrary, the Trustee, upon the written request of the Holders of at least a majority of the aggregate principal amount of Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except under the circumstances set forth in **Section 13.02(B)** hereof or **Section 13.10(B)**, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all Bonds at the time Outstanding.

(D) In case of any waiver by the Trustee of an Event of Default hereunder, the County, the Trustee and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this **Section 13.10**.

Section 13.11 Notice of Defaults.

(A) Within thirty (30) days after the Trustee has knowledge of the occurrence of an Event of Default in accordance with **Section 14.05(L)** hereof, the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(B) The Trustee shall immediately notify the County of any Event of Default known to the Trustee in accordance with **Section 14.05(L)** hereof.

[End of Article XIII]

ARTICLE XIV

TRUSTEE AND ITS FUNCTIONS; SUBSTITUTE REGISTRAR

Section 14.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the County Council shall appoint the Trustee. Such appointment shall be made by means of the Series Ordinance adopted by the County Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder. The right of the Bondholders to appoint a successor Trustee hereunder is limited to the circumstances contemplated by **Section 14.10** hereof.

Section 14.02 Functions of Trustee.

The Trustee shall have the following additional functions:

(A) To authenticate the Bonds of all Series that may be issued, except to the extent that a Series Ordinance provides that a Bond of such Series need not be authenticated if another Registrar is provided for therein and the Bond of such Series is not in book-entry format;

(B) To act as custodian of the various Debt Service Funds;

(C) To act as custodian of the various Debt Service Reserve Funds;

(D) To act as Paying Agent for the Bonds;

(E) Unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds;

(F) To make reports to the County on a monthly or such other basis as may be requested by the County, but not less often than semi-annually:

(1) Establishing balances on hand;

(2) Listing investments made for any fund handled by the Trustee;

(3) Establishing the market value of the various Debt Service Reserve Funds and to maintain adequate records, as to the amounts available to be drawn at any given time under any credit enhancement or funding substitute and as to the amounts paid and owing to the provider of any such credit enhancement or funding substitute, and the Trustee shall verify all such records with any such provider; and

(4) Listing all securities, if any, pursuant to **Section 14.13** hereof.

Section 14.03 Duty of Trustee with Respect to Deficits in the Debt Service Funds.

It shall be the further duty of the Trustee to give written notice to the County three (3) Business Days prior to each Bond Payment Date if there is any deficiency in any of the Debt Service Funds which would result in a need for further moneys to meet the payment of interest and/or principal falling due on

the next ensuing Bond Payment Date, and the extent, if any, to which resort must be had to the applicable Debt Service Reserve Fund to meet such deficiency.

Section 14.04 Acceptance by Trustee Required.

Prior to the delivery of any Bonds, (i) the County shall deliver to the Trustee appointed pursuant to **Section 14.01** hereof copies of this Bond Ordinance, and copies of the Series Ordinance and (ii) the said Trustee shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the County a written acceptance thereof.

Section 14.05 Liability as to Recitals in Bond Ordinance and Bonds; Duties, Rights and Responsibilities of Trustee.

(A) The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as statements of the County, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be deemed to have made any representation as to the value, condition, or sufficiency of any assets pledged or assigned as security for the Bonds, the right, title, or interest of the County therein, the technical feasibility of the System, the compliance of the County with the Enabling Act, or the tax-exempt status of any of the Bonds. Nor shall the Trustee be under responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

(B) Prior to the occurrence of an Event of Default of which the Trustee has or is deemed to have notice hereunder, and after the curing of any Event of Default which may have occurred:

(1) The Trustee shall undertake to perform such duties and only such duties as are specifically set forth in this Bond Ordinance or any Series Ordinance, as applicable, and no implied covenants or obligations shall be read into this Bond Ordinance or any Series Ordinance, as applicable, against the Trustee; and

(2) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Bond Ordinance or any Series Ordinance, as applicable, but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee is under a duty to examine same to determine whether or not they conform to the requirements of this Bond Ordinance or any Series Ordinance, as applicable.

(C) In case an Event of Default of which the Trustee has or is deemed to have notice hereunder has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance or any Series Ordinance, as applicable, and use the same degree of care and skill in their exercise, as a prudent person would exercise or use in the conduct of such person's own affairs.

(D) No provision of this Bond Ordinance or any Series Ordinance, as applicable, shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this subsection shall not be construed to limit the effect of subsection (B) of this **Section 14.05**;

(2) the Trustee is not liable for any error of judgment made in good faith by an authorized agent or officer of the Trustee, unless it is proven that the Trustee was negligent in ascertaining the pertinent facts;

(3) 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 Bond Ordinance or any Series Ordinance, as applicable, 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 Bond Ordinance or any Series Ordinance, as applicable; and

(4) no provision of this Bond Ordinance or any Series Ordinance, as applicable, 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.

(E) The Trustee may rely and is protected in acting or refraining from acting upon any ordinance, resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(F) Any request, direction, order or demand of the County under this Bond Ordinance or any Series Ordinance, as applicable, shall be sufficiently evidenced by a written certificate of the County (unless other evidence thereof is specifically prescribed).

(G) Whenever in the administration of this Bond Ordinance or any Series Ordinance, as applicable, 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 written certificate of the County.

(H) The Trustee may consult with legal counsel and the written advice of such legal counsel or an opinion of legal counsel shall be full and complete authorization and protection for any action taken, suffered or omitted by it in good faith and in accordance with such advice or opinion.

(I) The Trustee is under no obligation to exercise any of the rights or powers vested in it by this Bond Ordinance or any Series Ordinance, as applicable, at the request or direction of any of the Bondholders unless such Holders have offered to the Trustee security or indemnity satisfactory to the Trustee as to its terms, coverage, duration, amount and otherwise with respect to the costs, expenses and liabilities which may be incurred by it in compliance with such request or direction, and the provision of such indemnity shall be mandatory for any remedy taken upon direction of the Holders of twenty-five percent (25%) in aggregate principal amount of the Bonds.

(J) 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, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the System, in person or by agent or attorney.

(K) The Trustee may execute any of its trusts or powers or perform any duties under this Bond Ordinance or any Series Ordinance, as applicable, either directly or by or through agents or attorneys, and may in all cases pay, subject to reimbursement by the County, such reasonable compensation as it deems proper to all such agents and attorneys reasonably employed or retained by it, and the Trustee shall not be responsible for any misconduct or gross negligence of any agent or attorney appointed with due care by it.

(L) The Trustee is not required to take notice or deemed to have notice of any default or Event of Default hereunder, except Events of Default under **Sections 13.01(A)(1)** and **13.01(A)(2)** hereof, unless an authorized agent of the Trustee has actual knowledge thereof or has received notice in writing of such default or Event of Default from the County or from the Holders of at least twenty-five percent (25%) in aggregate principal amount of the Outstanding Bonds, and in the absence of any such notice, the Trustee may conclusively assume that no such default or Event of Default exists.

(M) The Trustee is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Bond Ordinance or any Series Ordinance, as applicable.

(N) 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 then Outstanding, pursuant to the provisions of this Bond Ordinance or any Series Ordinance, as applicable, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

(O) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Bond Ordinance or any Series Ordinance, as applicable, 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 Bond Ordinance or any Series Ordinance, as applicable, and final payment of the Bonds.

(P) The permissive right of the Trustee to take the actions permitted by this Bond Ordinance or any Series Ordinance, as applicable, shall not be construed as an obligation or duty to do so.

(Q) 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) The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any action which any Bondholder may be entitled to take with like effect as if it were not Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the County and may act as depository, trustee or agent for any committee of Bondholders secured hereby or other obligations of the County as freely as if it were not Trustee. The provisions of this subsection shall extend to affiliates of the Trustee.

(S) Whether or not expressly so provided, every provision of this Bond Ordinance or any Series Ordinance, as applicable, relating to the conduct or affecting the liability of or affording protection to the Trustee is subject to the provisions of this **Section 14.05**.

(T) The County hereby covenants and agrees:

(1) to pay to the Trustee compensation for all services rendered by it hereunder and under the other agreements relating to the Bonds to which the Trustee is a party in accordance with terms agreed to from time to time, and, subsequent to default, in accordance with the Trustee's then-current fee schedule for default administration (the entirety of which compensation shall not be limited by any provision of law regarding compensation of a trustee of an express trust); and

(2) to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Bond Ordinance, as supplemented, any other agreement relating to the Bonds to which it is a party or in complying with any request by the County or any rating service with respect to the Bonds, including the reasonable compensation, expenses and disbursements of its agents and counsel, except any such expense, disbursement or advance attributable to the Trustee's gross negligence or bad faith.

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

As security for the performance of the obligations of the County under this **Section 14.05**, the Trustee shall have a lien prior to the lien securing the Bonds, which it may exercise through a right of setoff, upon all property or funds held or collected by the Trustee pursuant to this Bond Ordinance, as supplemented. The obligations of the County to make the payments described in this **Section 14.05** shall survive discharge of this Bond Ordinance, as supplemented, the resignation or removal of the Trustee and payment in full of the Bonds.

Section 14.06 Trustee May Rely on Notices, etc.

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

Section 14.07 Trustee Permitted to Resign.

The Trustee may at any time resign and be discharged of its duties and obligations hereunder by giving to the County and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of such successor.

Section 14.08 Removal of Trustee.

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

(B) Provided that an Event of Default shall not have occurred and be continuing, the Trustee may be removed at any time by the County.

(C) The Trustee may be removed at any time by the County or, if a Series Ordinance so provides, upon the request of an Insurer insuring the Series of Bonds thereby authorized.

(D) Any such removal shall take effect immediately upon but not before the appointment and qualification of such successor.

Section 14.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(A) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged a 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 resolution by the County Council duly adopted. Such successor shall in all instances be a bank or trust company duly chartered pursuant to the laws of the United States or of the State, and shall have a combined capital and surplus of not less than \$500,000,000.

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

Section 14.10 When Bondholder May Seek Successor Trustee.

If, in a proper case, no appointment of a successor Trustee shall be made promptly pursuant to **Section 14.09**, any Bondholder may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 14.11 Acceptance by Successor Trustee.

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

Section 14.12 Effect of Trustee Merging.

Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated, or any bank or trust company resulting from any merger or consolidation to which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the County shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken of above, then the County may at any time within thirty (30) days after such action name a new Trustee (with the qualifications prescribed by **Section 14.09** hereof) in lieu of the Trustee then acting.

Section 14.13 Trustee of Secure Funds and Securities Held in Trust.

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

Section 14.14 Disposition of Paid Bonds.

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

Section 14.15 Appointment of Substitute Registrar.

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

Section 14.16 Trustee Not to Consider Municipal Insurance Policy.

Notwithstanding any other provision of this Ordinance, in determining whether the rights of the Bondholders will be adversely affected by any action taken pursuant to the terms and provisions of this Ordinance, the Trustee shall consider the effect on the Bondholders as if there were no Municipal Bond Insurance Policy.

Section 14.17 Electronic Communication.

The Trustee shall have the right to accept and act upon instructions or directions, including funds transfer instructions, pursuant to this Bond Ordinance sent by Electronic Means. As used in this Section, "Electronic Means" means unsecured e-mail as a portable document format ("*pdf*") or other replicating image attached to an email, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder); provided, however, that the County shall provide to the Trustee an incumbency certificate listing designated Authorized Representative to provide such instructions, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the County elects to give the Trustee instructions via Electronic Means and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. 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 listed on the incumbency certificate provided to the Trustee 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 Representatives 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 such Electronic Means to submit instructions and direction to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions and the risk or 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.

[End of Article XIV]

ARTICLE XV

DEFEASANCE

Section 15.01 Defeasance Generally.

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to the Bond Ordinance shall have been paid and discharged, then the obligations of the County under the Bond Ordinance, the pledge of revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this **Article XV** under each of the following circumstances:

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

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

(C) If the County shall have deposited with the Trustee, or, at the direction of the County, any other bank or trust company in an irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity of, or, if the County has irrevocably elected to redeem Bonds, on and prior to the redemption date of, such Bonds.

Section 15.02 Money to be Held in Trust – When Returnable to County.

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

Section 15.03 Deposits with Trustee Subject to Conditions of Article XV.

The County covenants and agrees that any money which it shall deposit with the Trustee shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this **Article XV**, and that whenever it shall have elected to redeem Bonds it will irrevocably bind and obligate itself to give notice of redemption thereof, and will further authorize and empower the Trustee to cause the publication of such notice of redemption in its name and on its behalf.

Section 15.04 No Defeasance of Series of Bonds Paid by Insurer.

In the event that the principal and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the County until the Insurer has been reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the Gross Revenues and all covenants, agreements

and other obligations of the County to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

[End of Article XV]

ARTICLE XVI

MISCELLANEOUS

Section 16.01 Miscellaneous Insurer Rights.

(A) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Bonds insured by that Insurer, for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies. No rights granted to an Insurer by this Bond Ordinance shall be effective at any time that such Insurer is in breach of its obligations under the Municipal Bond Insurance Policy or is subject to bankruptcy or receivership proceedings.

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

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

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

Section 16.02 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the County, as set forth in the Bond Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bonds. Each shall be deemed to partake of the obligation of the contract between the County and the Bondholders and shall be enforceable accordingly. Nothing in the Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the County and the registered Holders of the Bonds, any right, remedy or claim under or by reason of the Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Bond Ordinance contained by and on behalf of the County shall be for the sole and exclusive benefit of the County and the registered Holders of the Bonds.

Section 16.03 Effect of Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

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

Section 16.04 Severability.

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

Section 16.05 Repealing Clause.

All ordinances or resolutions, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistencies.

[End of Article XVI]

[SIGNATURES ON NEXT PAGE]

This Ordinance shall be effective on the date of final reading approval by Council.

DONE AND ENACTED this 2nd day of May, 2023.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman of County Council

County Administrator

Attest:

Clerk to County Council

First Reading: April 4, 2023
Second Reading: April 18, 2023
Third Reading: May 2, 2023

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

CERTIFICATE OF ORDINANCE

I, the undersigned, Clerk to the Greenville County Council, **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance which was given three readings on three separate days, with an interval of not less than seven days between the second and third readings. The original of this Ordinance is duly entered in the permanent records of minutes of meetings of the County Council, in my custody as such Clerk.

That each of said meetings was duly called, and all members of the County Council were notified of the same; that a quorum of the membership remained throughout the proceedings incident to the adoption of this Ordinance.

IN WITNESS WHEREOF, I have hereunto set my Hand this 2nd day of May, 2023.

Clerk to County Council
Greenville County, South Carolina

First reading: April 4, 2023
Second reading: April 18, 2023
Third reading: May 2, 2023