



# REQUEST FOR COUNCIL ACTION

## City of Greenville, South Carolina

Agenda Item No.

15b

**TO:** Honorable Mayor and Members of City Council  
**FROM:** John F. McDonough, City Manager

Ordinance/First Reading  Ordinance/Second & Final Reading  Resolution/First & Final Reading  Information Only

**AGENDA DATE REQUESTED:** October 25, 2021

**ORDINANCE/RESOLUTION CAPTION:**

ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS SYSTEM REFUNDING AND/OR IMPROVEMENT REVENUE BONDS OF THE CITY OF GREENVILLE IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$175,555,000 AND OTHER MATTERS RELATING THERETO

**SUMMARY BACKGROUND:**

This ordinance authorizes the issuance of \$175,555,000 in bonds by the Greenville Water System. There is no financial impact on the City.

**IMPACT IF DENIED:**

The bonds will not issue.

**FINANCIAL IMPACT:**

None

**REQUIRED SIGNATURES**

Department Director

DocuSigned by:  
*Matt Eford*  
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City Attorney

DocuSigned by:  
*[Signature]*  
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DocuSigned by:

OMB Director

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City Manager

*John McDonough*  
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**ORDINANCE NO. 2021-\_\_**

**PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS SYSTEM REFUNDING AND/OR IMPROVEMENT REVENUE BONDS OF THE CITY OF GREENVILLE IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$175,555,000 AND OTHER MATTERS RELATING THERETO.**

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**SERIES ORDINANCE**  
**Enacted November 8, 2021**

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**BE IT ORDAINED BY CITY OF GREENVILLE, SOUTH CAROLINA, IN MEETING ASSEMBLED AND BY THE AUTHORITY THEREOF:**

**ARTICLE I**

**FINDINGS OF FACT**

**Section 1.01 Findings**

As an incident to the enactment of this ordinance, and the issuance of the bonds provided for herein, the City Council of City of Greenville (the "**City Council**"), the governing body of the City of Greenville, South Carolina (the "**City**"), finds that the facts set forth in this **Article I** exist and the following statements are in all respects true and correct.

(a) The City Council has made general provision for the issuance of waterworks system revenue bonds (the "**Bonds**") of the City, through the means of Ordinance No. 97-8 enacted on February 10, 1997 (the "**Bond Ordinance**").

(b) It is provided in and by the Bond Ordinance that, upon enactment of a Series Ordinance there may be issued one or more Series of Bonds for the purpose of obtaining funds for the expansion and improvement of the waterworks system of the City (the "**System**"); providing funds for the payment of the issuance and sale of Bonds; providing for the payment and redemption of any outstanding bond anticipation notes of the City issued in anticipation of the issuance of Bonds; refunding Bonds or other obligations issued to provide land or facilities that are or are to become a part of the System or that are or were payable in whole or in part from revenues of the System; providing funds for the payment due of interest on such Bonds; funding a debt service reserve fund established for the benefit of the Holders of a particular Series of Bonds or restoring such funds to their required funding level; and paying the cost of issuance of Bonds, including the cost of any credit enhancement therefor.

(c) Pursuant to a Series Ordinance enacted by the City Council on June 28, 2010, and a Series Resolution adopted by the Commissioners of Public Works of the City (the "**Commissioners**") on July 7, 2010, the City issued its \$40,485,000 Waterworks System Refunding Revenue Bonds, Series 2010, dated July 27, 2010 (the "**Series 2010 Bonds**"), which are outstanding in the principal amount of \$7,215,000.

(d) Pursuant to a Series Ordinance enacted by the City Council on November 28, 2011 (the "**2011 Series Ordinance**"), and a Series Resolution adopted by the Commissioners on April 2, 2012, the City issued its \$15,500,000 Waterworks System Refunding Revenue Bonds, Series 2012, dated April 17, 2012 (the "**Series 2012 Bonds**"), which are outstanding in the principal amount of \$6,740,000.

(e) Pursuant to the 2011 Series Ordinance and a Series Resolution adopted by the Commissioners on October 7, 2014, the City issued its \$36,365,000 Waterworks System Refunding Revenue Bond, Series 2014, dated November 5, 2014 (the "**Series 2014 Bond**"), which is outstanding in the principal amount of \$3,735,000.

(f) Pursuant to the 2011 Series Ordinance and a Series Resolution adopted by the Commissioners on December 2, 2014, the City issued its \$5,500,000 Waterworks System Revenue Bond, Series 2015, dated January 9, 2015 (the "**Series 2015 Bond**"), which is outstanding in the principal amount of \$835,000.

(g) To the extent any of the Series 2010 Bonds, the Series 2012 Bonds, the Series 2014 Bond or the Series 2015 Bond have a Reserve Requirement, the applicable Debt Service Reserve Fund has the amount required to be on deposit therein.

(h) The City has not been notified of the occurrence of any Event of Default under the Bond Ordinance, nor is it aware of any such occurrence.

(i) The Commissioners have determined to undertake certain capital improvements described in a capital improvement plan adopted by the Commissioners, as may be amended from time to time, and have further determined to finance a portion of the costs of such capital improvements, including but not limited to, (i) installation and replacement of water mains, (ii) expansion and renovation to the System's water treatment, storage, transmission and distribution systems and (iii) acquisition, construction and expansion of water sources (collectively, the "**Project**").

(j) The Commissioners have determined that a savings may be achieved through the refunding (the "**Refunding**") of certain outstanding debt of the System and have advised City Council that refunding bonds should be issued to provide the necessary funds to effect the payment of principal of and interest on certain of the maturities of the outstanding (i) Series 2010 Bonds and (ii) Series 2012 Bonds (collectively, the "**Refunded Bonds**").

(k) It has been determined that it is necessary to issue one or more Series of Bonds for the purposes of financing all or a portion of the costs of the Project and the Refunding through the issuance of Bonds not exceeding \$175,555,000 secured by revenues of the System in order to provide funds for the payment of the costs of the Project and the Refunding, for payment of certain costs related to the financing and to provide necessary reserves, if any, and the Commissioners have recommended such action to City Council.

(l) By reason of the foregoing, the City has determined to enact this ordinance as a Series Ordinance in accordance with the terms and provisions of the Bond Ordinance.

[End of Article I]

**ARTICLE II****DEFINITIONS AND AUTHORITY****Section 2.01    Definitions**

Except as otherwise provided in this **Section 2.01** below, all terms which are defined in Section 1.01 of the Bond Ordinance shall have the same meanings in this Series Ordinance as such terms are prescribed to have in the Bond Ordinance.

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

***“Business Day”*** shall mean any day other than (a) a Saturday or Sunday, (b) a day on which commercial banks in New York, New York, or the city or cities in which the corporate trust office of the Trustee is authorized or required by law to close, (c) a day on which the New York Stock Exchange is closed, or (d) a day on which the payment system of the Federal Reserve Bank is not operational.

***“Continuing Disclosure Agreement”*** shall mean one or more Continuing Disclosure Agreements of the Commissioners, as amended from time to time in accordance with the provisions thereof, providing for the delivery and dissemination of certain information with respect to the City, the System and the applicable Series of Bonds issued pursuant to this Series Ordinance.

***“Escrow Deposit Agreement”*** shall mean one or more Escrow Deposit Agreements between the City and U.S. Bank National Association, as Escrow Agent, dated as of such date as the Commissioners shall determine, as amended from time to time.

***“Project”*** shall mean certain capital improvements described in a capital improvement plan adopted by the Commissioners, as may be amended from time to time.

***“Purchase Contract”*** shall mean one or more Purchase Contracts by and among the City, the Commissioners and one or more Underwriters providing for the sale and purchase of one or more Series of Bonds issued pursuant to this Series Ordinance.

***“Series of Bonds”*** shall mean any Series of Bonds of the City of the Series authorized by this Series Ordinance and designated “City of Greenville, South Carolina, Waterworks System [Refunding and[/or] Improvement] Revenue Bonds,” with a Series designation to signify the year such series is issued.

***“Series Construction Fund”*** shall mean the Fund so designated and created pursuant to **Section 6.02** hereof.

***“Series Debt Service Reserve Fund”*** shall mean the Fund, if any, so designated and established pursuant to **Section 6.01** hereof.

***“Series Reserve Requirement”*** shall mean, as of any date of calculation, the sum set forth in the Series Resolution as contemplated at **Section 5.01(b)(xiii)** and **Section 6.01** hereof.

***“Series Ordinance”*** shall mean this Ordinance.

***“Series Resolution”*** shall mean the resolution or resolutions to be adopted by the Commissioners of Public Works.

*“Underwriter”* or *“Underwriters”* shall mean the underwriter or underwriters selected by the Commissioners under terms and conditions approved by the Commissioners.

**Section 2.02 Authority for Series Ordinance**

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

[End of Article II]



**ARTICLE III****AUTHORIZATION AND TERMS OF THE SERIES OF BONDS****Section 3.01 Determination of the Useful Life of the System**

The period of usefulness of the System is hereby determined to be not less than 40 years.

**Section 3.02 Principal Amount; Designation of Series**

Pursuant to the provisions of the Bond Ordinance, one or more Series of Bonds of the City entitled to the benefits, protection and security of the provisions of the Bond Ordinance is hereby authorized in the aggregate principal amount of not exceeding \$175,555,000. Such amount may be issued in one or more Series of Bonds as determined by the Commissioners and set forth in the Series Resolutions. Each Series of Bonds may be issued as federally tax-exempt Bonds or as federally taxable Bonds as determined by the Commissioners. The Series or several Series of Bonds authorized by this Series Ordinance shall be issued no later than December 31, 2026. The Series of Bonds so authorized shall be designated "City of Greenville, South Carolina, Waterworks System [Refunding and/or] Improvement] Revenue Bonds" and shall bear a Series designation to signify the year such series is issued. The Series of Bonds shall be in substantially the form set forth in the applicable Series Resolution. The Series of Bonds shall be issued on a parity with the Series 2010 Bonds, the Series 2012 Bonds, the Series 2014 Bond, the Series 2015 Bond and any Additional Bonds issued on a parity therewith.

**Section 3.03 Purposes**

The Series of Bonds are authorized for the purpose of providing funds (i) to pay a portion of the costs associated with the Project; (ii) to provide the necessary funds to effect the Refunding; (iii) to satisfy the Series Reserve Requirement, if any; and (iv) to pay certain costs and expenses relating to the issuance of the Series of Bonds.

**Section 3.04 Date; Interest Rate; Maturity; Redemption and Sale**

The Date of Issue of the various Series of Bonds shall be as set forth or provided for in the Series Resolution. The maturity schedule setting forth the date of the maturities of the Series of Bonds (which maturities shall not exceed 40 years) and amounts payable on such dates, the rates of interest borne by the Series of Bonds including the methodology for determining the rate of interest and the amounts of Bonds which shall be term Bonds and serial Bonds shall be on such terms and conditions as shall be established by the Commissioners in the Series Resolution. The Series of Bonds shall be subject to optional and/or mandatory redemption at such times and on such terms and conditions as shall be established by the Commissioners in the Series Resolution. Each Series of Bonds shall either be sold publicly to Underwriters or privately placed with financial institutions or State or federal lending agencies or institutions selected by the Commissioners under terms and conditions approved by the Commissioners.

**Section 3.05 Authentication; Payment of Interest**

(a) Each of the Series of Bonds shall be authenticated on such date as it shall be delivered. Each Series of Bonds shall bear interest from the Bond Payment Date, as established in the applicable Series Resolution, immediately preceding the authentication date thereof, unless the authentication date thereof is a Bond Payment Date, in which event, each such Series of Bonds shall bear interest from the earlier of such authentication date, or the date to which interest has been paid. In the event authentication shall precede



the first payment of interest on each of the Series of Bonds, interest shall be payable from the date selected by the Commissioners for the initial dating of the Bonds of such Series.

(b) The interest on all Series of Bonds shall be paid by check or draft mailed from the office of the Trustee to the persons in whose name the Series of Bonds are registered at the close of business on the Record Date, provided that, any Holder of \$1,000,000 or more in aggregate principal amount of Series of Bonds shall be entitled, by written request to the Trustee received no later than the Record Date, to direct any payments of interest due with respect to such Bonds be made to such Holder by wire transfer to an account within the continental United States. Such request shall provide the Trustee with specific direction as to manner of making such payment.

(c) The principal on all Series of Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

**Section 3.06 Denomination; Numbering**

The Series of Bonds shall be issued in such denominations as the Commissioners shall determine not exceeding the principal amount of the Series of Bonds maturing in such year. The Series of Bonds shall be numbered in such a fashion as to maintain accurate records thereof. The Series of Bonds may be delivered in book-entry form as determined by the Commissioners.

**Section 3.07 Maintenance of Offices for Payment, Transfer and Exchange of Bonds; Registrar**

As long as any Series of Bonds remains Outstanding, the Commissioners shall maintain a Paying Agent and a Registrar therefor. Unless otherwise directed in writing by the Commissioners to the Trustee, the Trustee shall act as Registrar and Paying Agent. The Commissioners shall be responsible for all fees and expenses of the Trustee, Registrar and Paying Agent.

[End of Article III]

**ARTICLE IV**

**EXECUTION; NO RECOURSE**

**Section 4.01 Execution of the Series of Bonds**

The Series of Bonds shall be executed on behalf of the City by the Chairman of the Commissioners (or in his or her absence for any reason, the Vice Chairman of the Commissioners) and the Secretary of the Commissioners (or in his or her absence for any reason, the acting Secretary of the Commissioners) and authenticated in accordance with the applicable provisions of the Bond Ordinance.

**Section 4.02 No Recourse on the Series of Bonds**

All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this Series Ordinance shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not those of any officer or employee of the City in his or her individual capacity, and no recourse shall be had for the payment of the principal or redemption price of or interest on the Series of Bonds or for any claim based thereon or on the Bond Ordinance or in this Series Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Bonds.

[End of Article IV]

**ARTICLE V****AUTHORIZATION TO COMMISSIONERS****Section 5.01 Authorization**

(a) The Commissioners are hereby authorized and empowered to adopt one or more Series Resolutions relating to the Series of Bonds.

(b) The Series Resolutions shall express the approval of the Commissioners to the issuance of the various Series of Bonds to be issued pursuant to the Bond Ordinance and this Series Ordinance and their agreement to abide by all of the terms, provisions and agreements set forth in the Bond Ordinance and herein. In addition, the Series Resolutions shall specify and determine or provide for:

- (i) The precise principal amount of the Series of Bonds;
- (ii) The specific purpose for which the proceeds of such Series of Bonds will be used;
- (iii) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;
- (iv) The form or forms for the Bonds of such Series;
- (v) The date or dates of maturity and the amounts thereof and the issue date of the Bonds of such Series;
- (vi) The interest rate or rates, or the manner of determining such rate or rates, of the Bonds of such Series;
- (vii) The time for the payment of interest on the Bonds of such Series and the Record Date;
- (viii) 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;
- (ix) The Registrar for such Bonds if other than the Trustee;
- (x) The portion of such Series that are serial Bonds and that are term Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Resolution to be paid for the retirement of any such Bonds;
- (xi) Any other applicable redemption requirement for the Bonds of such Series and the method of satisfying the same;
- (xii) The manner in which Bonds of such Series are to be sold and provisions for the sale thereof;
- (xiii) Whether there shall be established a Debt Service Reserve Fund to secure the payment of such Series of Bonds and, if so, the specific Series Reserve Requirement therefor and the manner of funding thereof;

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

(xv) Any other provisions deemed advisable by the Commissioners not in conflict with or in substitution for the provisions of the Bond Ordinance and this Series Ordinance relating to the Bonds of such Series.

[End of Article V]

**ARTICLE VI****SERIES DEBT SERVICE RESERVE FUND; SERIES CONSTRUCTION FUND; APPLICATION OF BOND PROCEEDS; TAX COVENANTS; CONTINUING DISCLOSURE****Section 6.01 The Series Debt Service Reserve Fund**

(a) The Commissioners, in the Series Resolution, may determine if a Series Debt Service Reserve Fund should be established for the Series of Bonds and, if established, shall be designated, as appropriate, the “City of Greenville, South Carolina, Waterworks System [Refunding and/or] Improvement] Revenue Bonds Debt Service Reserve Fund,” shall bear an appropriate series designation and shall, subject to the other provisions of this Series Ordinance, be maintained in an amount equal to the Series Reserve Requirement, as determined by the Commissioners, for so long as the Series of Bonds shall be Outstanding. If a Series Debt Service Reserve Fund is established for a Series of Bonds, the following provisions shall apply. Such Fund is intended to insure the timely payment of the principal of and interest on the Series of Bonds then issued, and to provide for the redemption of such Bonds prior to their stated maturities. Except as provided in **Section 6.01(c)** below, money in the Series Debt Service Reserve Fund shall be used for the following purposes, and for no other:

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

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

(iii) To effect partial redemption of the Series of Bonds then issued; provided that subsequent to said partial redemption, the value of the Series Debt Service Reserve Fund shall be not less than the Series Reserve Requirement; or

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

(b) The Series Debt Service Reserve Funds shall be kept in the complete custody and control of the Trustee and withdrawals from the Series Debt Service Reserve Fund shall be made only by such Trustee who shall transmit to a Bondholder of such Series, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Series of Bonds then issued.

(c) Money in the particular Series Debt Service Reserve Funds shall be invested and reinvested by the Trustee at the written direction of the Commissioners in Authorized Investments. Subject to the remaining provisions of this paragraph (C), the earnings from such investments shall be added to and become a part of the particular Series Debt Service Reserve Funds. The value of the particular Series Debt Service Reserve Fund shall be established (i) as of July 31 of each year, and (ii) on the date of any withdrawal therefrom pursuant to **Section 6.01(b)** hereof. Securities shall be valued at market value as of the date of such valuation; provided, however, those securities which mature in one year or less may be valued at face value; any insurance policy, surety bond or letter of credit shall be valued at the face value or stated amount thereof less the amount of any payments thereunder or draws thereon which have not been reimbursed and reinstated. Whenever, and as of any date of calculation, the value of the Series Debt Service Reserve Fund shall exceed the Series Reserve Requirement, any excess, to the extent represented by cash

and/or securities, shall either be used to effect redemption of Series of Bonds pursuant to **Section 3.04** hereof, or shall be removed from the Series Debt Service Reserve Fund and transferred to the Commissioners for deposit into the Depreciation and Contingent Fund, as directed in writing by the Commissioners.

(d) Notwithstanding anything in this Series Ordinance to the contrary, the Commissioners, in lieu of the deposit of moneys into the Series Debt Service Reserve Fund, may satisfy the Series Reserve Requirement by causing to be so credited an irrevocable and unconditional surety bond or insurance policy payable to the Trustee or the Paying Agent for the benefit of the Holders of the Series of Bonds or an irrevocable and unconditional letter of credit in an amount which, together with other moneys on deposit in the Series Debt Service Reserve Fund, is equal to the Series Reserve Requirement on such terms as determined by the Commissioners in the applicable Series Resolution.

(e) In the event the Series Debt Service Reserve Fund has been funded with a surety bond, insurance policy or a letter of credit and either has been drawn upon, moneys available to repay such surety bond, insurance policy or letter of credit provider shall first be used to reinstate the surety bond, insurance policy or the letter of credit to its original amount. Any interest or fees due to the surety bond, insurance policy or letter of credit provider, other than for reinstatement, shall be subordinate to any amounts payable upon the Series of Bonds after reinstatement of the Series Debt Service Reserve Fund. Such payments shall be made pursuant to Section 8.04 of the Bond Ordinance.

(f) In the event the Series Debt Service Reserve Fund is funded with a surety bond, insurance policy or letter of credit, any revenues available for debt service on the Series of Bonds shall be paid on a *pro rata* basis to the Holders of the Outstanding Series of Bonds.

(g) On or prior to the last business day of each month in each year, beginning with the first full calendar month following the date on which (i) the valuation required by **Section 6.01(c)** herein, of the Series Debt Service Reserve Fund results in a determination that the value of the Series Debt Service Reserve Fund is less than the Series Reserve Requirement, or (ii) amounts have been withdrawn from the Series Debt Service Reserve Fund, including any drawing made under a surety bond, policy of insurance or a letter of credit, the Commissioners shall, pursuant to Section 8.04 of the Bond Ordinance, deposit in the Reserve Fund an amount equal to one-thirty-sixth (1/36th) of the amount of the deficiency in the Series Debt Service Reserve Fund determined as set forth in clause (i) above and the amount then withdrawn from the Series Debt Service Reserve Fund, (it being understood that any such one-thirty-sixth (1/36th) payment shall be made in such amount for 36 consecutive months unless the amount in the Series Debt Service Reserve Fund shall have been made equal to the Series Reserve Requirement prior to such thirty-sixth (36th) consecutive month); and provided further, that no payments shall be required to be made into the Series Debt Service Reserve Fund whenever and as long as the amount deposited therein shall be equal to the Series Reserve Requirement.

#### **Section 6.02    The Series Construction Fund**

There is hereby created a fund to be known as the “Series Construction Fund”. There shall be paid into the Series Construction Fund the sums prescribed by **Section 6.03(c)** hereof. The Series Construction Fund shall be held, maintained and controlled by the Commissioners.

Moneys in the Series Construction Fund shall be invested and reinvested in Authorized Investments. All earnings on the applicable Series Construction Fund shall be added to and become a part of that Series Construction Fund. Withdrawal from a Series Construction Fund shall be made upon the written order of any Authorized Officer of the Commissioners. Following completion of the Project, any amounts on deposit in the applicable Series Construction Fund shall be deposited in the Debt Service Fund.



**Section 6.03 Use and Disposition of Bond Proceeds**

Upon the delivery of any Series of Bonds, the proceeds thereof shall be disposed of, as determined and directed in a certificate of an Authorized Officer of the Commissioners, as follows:

- (a) Any sum received by way of accrued interest shall be deposited in the Debt Service Fund;
- (b) That sum, if any, prescribed by the Series Resolution to further be deposited in the Debt Service Fund shall be so deposited;
- (c) That sum, if any, required for the Series Reserve Requirement or Surety Bond shall be deposited in the Debt Service Reserve Fund and shall be invested and disposed of as prescribed by Section 7.07 of the Bond Ordinance;
- (d) That sum, if any, required to refinance any Outstanding Bonds shall be deposited as set forth in the applicable Series Resolution; and
- (e) The balance shall be deposited in the Series Construction Fund and used to defray the cost of the Project, including costs of issuance.

**Section 6.04 Tax Covenants**

In regard to any Series of Bonds issued hereunder the interest on which is excludable from gross income for federal income tax purposes pursuant to the Code, the City hereby covenants and agrees that it shall direct the Commissioners to:

- (a) Establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code, relating to required rebates of certain amounts to the United States;
- (b) Make such reports of such information at the times and places required by the Code; and
- (c) Take such other action as may be required in order that the Series of Bonds and the use of the proceeds thereof and the System comply with the provisions of the Code; and not make any use, and it shall not direct the Trustee and each fiduciary to make any use, of the proceeds of the Series of Bonds which, if such use had been reasonably expected on the date of the issuance of the Series of Bonds would cause such 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.

**Section 6.05 Continuing Disclosure**

The City hereby covenants and agrees that it will direct the Commissioners to comply with and carry out all of the provisions of any continuing disclosure agreement as may be in effect from time to time with respect to one or more Series of Bonds in order to maintain compliance with Rule 15c2-12 of the U.S. Securities and Exchange Commission. The Commissioners shall comply with and carry out the provisions of the Continuing Disclosure Agreement. Notwithstanding any other provision of this Series Ordinance, failure of any party to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default. Any Series Bondholder may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the Commissioners to comply with its obligations under the Continuing Disclosure Agreement.



In accordance with Section 11-1-85, Code of Laws of South Carolina, 1976, as amended, the City hereby covenants to, as long as the provisions of said Section 11-1-85 remain in effect with respect to the Series of Bonds authorized hereunder, file with a central repository for availability in the secondary bond market when requested: (1) an annual independent audit, within thirty (30) days of the City's receipt of such audit; and (2) event specific information, within thirty (30) days of an event adversely affecting more than five percent of the City's revenue or tax base. The only remedy for failure by the City to comply with the covenant in this **Section 6.05** shall be an action for specific performance of the covenant. The City specifically reserves the right to amend or delete the covenant to reflect any change in (or repeal of) Section 11-1-85, without the consent of any Bondholder.

**Section 6.06**    **Duties and Responsibilities of the Commissioners**

So long as the Commissioners fulfill the covenants and agreements set forth in this Series Ordinance, such covenants and agreements made by the City herein shall be administered, exercised and undertaken by the Commissioners. The Commissioners are authorized to make such representation and take such action as may be required in connection with the collateral securing the Series of Bonds then issued.

[End of Article VI]

**ARTICLE VII****PURCHASE CONTRACT; ESCROW DEPOSIT AGREEMENT; OTHER INSTRUMENTS****Section 7.01 Authorization of Purchase Contract and Escrow Deposit Agreement**

The execution and delivery of one or more Purchase Contracts and one or more Escrow Deposit Agreements on behalf of the City, are hereby authorized and directed. Such documents shall be executed on behalf of the City by the Chairman of the Commissioners or the Vice Chairman of the Commissioners, acting jointly or individually.

**Section 7.02 Approval of Preliminary Official Statement; Authorization of Official Statement**

City Council hereby approves the use of one or more Preliminary Official Statements in connection with the public offering of any Series of Bonds by the Underwriters as determined by the Commissioners. City Council hereby authorizes the preparation and distribution of an Official Statement with respect to each publicly offered Series of Bonds as determined by the Commissioners. Preliminary Official Statements and final Official Statements shall be approved on behalf of the City by the Chairman or Vice Chairman of the Commissioners.

**Section 7.03 Information Reports**

The Chairman and Vice Chairman of the Commissioners, acting jointly or individually, are each hereby authorized to execute, deliver and file one or more continuing disclosure agreements in compliance with SEC Rule 15c2-12(b)(5) on behalf of the City as well as such information reports with respect to the Series of Bonds, on Form 8038-G or such other form as may be prescribed by the United States Department of Treasury, as shall be required or desirable in order to comply with Section 149(e) of the Code, as applicable.

**Section 7.04 Other Instruments and Actions**

In order to secure the Series of Bonds and in order to effect the issuance and delivery of the Series of Bonds and to give full effect to the intent and meaning of this Series Ordinance and the agreements and actions herein authorized, the Mayor, the City Manager, the City Clerk, the Chairman of the Commissioners and the Vice Chairman of the Commissioners, acting jointly or individually, are each hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as shall be deemed necessary or desirable for the issuance of any Series of Bonds hereunder.

[End of Article VII]

**ARTICLE VIII****STATE REVOLVING FUND LOANS****Section 8.01 State Revolving Fund Loan Provisions**

To the extent any Series of Bonds is issued in the form of a loan from the State Drinking Water Revolving Loan Fund or similar loan program (collectively, the “*SRF Loan*”) by application to the South Carolina Water Quality Revolving Fund Authority or similar agency (collectively, the “*State Authority*”) to provide financing for one or more of the Projects, the following additional provisions will also apply:

(a) The SRF Loan would be secured pursuant to a loan agreement (the “*Loan Agreement*”) between the City and the State Authority and a promissory note executed and delivered by the City registered in the name of the State Authority (the “*Note*”). Pursuant to the Loan Agreement the City will agree to use the SRF Loan proceeds only to pay the actual eligible costs of the Project being financed with the SRF Loan, and the City will agree to pay from Revenues of the System to the State Authority such amounts as shall be required to provide for the payment of all amounts due with respect to the repayment of the SRF Loan. To secure its obligations, the City will grant to the State Authority a pledge of the Gross Revenues of the System remaining after paying Operation and Maintenance Expenses. The pledge herein made shall be on a parity with the pledge of such portion of the Gross Revenues of the System given by the City to secure the Bonds issued or to be issued under the Bond Ordinance.

(b) Upon any failure of the City to make any payments to the State Authority pursuant to the Loan Agreement or the Note, the State Authority shall require the State Treasurer to pay to the State Authority, subject to the provisions of the Act, such amount from State appropriations to which the Commissioners may be or become entitled as may be necessary to provide for the payment of all amounts due with respect to the Note.

(c) The City is enacting this Series Ordinance in order to:

- (i) authorize the execution and delivery on behalf of the City of the Loan Agreement and the Note;
- (ii) evidence the approval of the Project and the SRF Loan by the City;
- (iii) authorize the execution and delivery of a debt service fund agreement and a debt service reserve fund agreement, as applicable;
- (iv) authorize the execution and delivery by, and on behalf of, the City of such other agreements and certificates and the taking of such other action by the City and its officers as shall be necessary or desirable in connection with the financing of the Project in order to carry out the intent of this Series Ordinance.

(d) The City delegates to the Commissioners, as will be evidenced in the Commissioner’s Series Resolutions, to accept the SRF Loan from the State Authority upon such terms as acceptable to the Commissioners including borrowing such sums necessary to capitalize interest, if any, pursuant to, and in accordance with, the provisions of the Loan Agreement.

(e) The Loan Agreement and the Note, the forms of which will be attached to the applicable Series Resolution of the Commissioners, with such changes as the executing officers shall approve (their execution to be conclusive evidence of such approval) are hereby approved and the execution and delivery

of the Loan Agreement and the Note, on behalf of the City are hereby authorized and directed. The Loan Agreement and the Note shall be executed on behalf of the City by the Chairman or the Vice Chairman of the Commissioners, acting jointly or individually, and attested by the Secretary of the Commissioners. The Note shall be dated the date of delivery thereof, shall be issued in the form of a single, fully registered typewritten bond, shall be issued in the denomination not exceeding the principal amount authorized herein and in the Series Resolution (plus sums necessary to capitalize interest, if any) and shall be identified by certificate number R-1.

(f) A debt service fund agreement, the form of which will be attached to the applicable Series Resolution of the Commissioners, with such changes as the executing officers shall approve (their execution to be conclusive evidence of such approval), is hereby approved, and the execution and delivery of the same on behalf of the City by the Chairman or the Vice Chairman of the Commissioners, acting jointly or individually, and the Secretary of the Commissioners are hereby approved.

(g) A debt service reserve fund agreement, if any, the form of which will be attached to the applicable Series Resolution of the Commissioners, with such changes as the executing officers shall approve (their execution to be conclusive evidence of such approval), is hereby approved, and the execution and delivery of the same on behalf of the City by the Chairman or the Vice Chairman of the Commissioners, acting jointly or individually, and the Secretary of the Commissioners are hereby approved.

[End of Article VIII]

**ARTICLE IX**  
**MISCELLANEOUS**

**Section 9.01 Severability**

If any one or more of the covenants or agreements provided in this Series Ordinance on the part of the City, the Commissioners or the Trustee to be performed should be contrary to applicable law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Series Ordinance.

**Section 9.02 Table of Contents and Sections Headings Note Controlling**

The Table of Contents and the Headings of the several Articles and Sections of this Series Ordinance have been prepared for convenience of reference only and shall not control, affect the meaning of, or be taken as an interpretation of any provision of this Series Ordinance.

[End of Article IX]

DONE, RATIFIED AND PASSED THIS THE 8 DAY OF NOVEMBER, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

REVIEWED:

\_\_\_\_\_  
CITY MANAGER

First Reading:           October 25, 2021  
Second Reading:       November 8, 2021

