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# City of Walterboro

242 Hampton Street

Walterboro, South Carolina 29488

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Walterboro, South Carolina 29488-0008

Walterboro City Council  
Regular Meeting  
July 12, 2011  
City Hall  
6:15 P.M.

## A G E N D A

I. Call to Order:

1. Invocation.
2. Pledge of Allegiance.

II. Swearing-in of Newly Elected Council Members.

III. Public Input on Agenda Items:

IV. Presentation:

1. New Public Safety Officers Introductions.

V. Request for Appearance:

1. Gary W. Pollard - Combining Walterboro Police Department with Colleton County Sheriff's Office (Letter attached).

VI. Old Business:

VII. New Business:

1. Nomination of Mayor Pro-Tem.
2. Ordinance # 2011-10, An Ordinance Providing for the Issuance and Sale of a Tax Increment Refunding Revenue Bond, Series 2011, of the City of Walterboro, South Carolina, and Other Matters Relating Thereto, **First Reading** (Ordinance attached).
3. Ordinance # 2011-11, An Ordinance Providing for the Issuance and Sale of a Waterworks and Sewer System Refunding Revenue Bond, Series 2011, of the City of Walterboro, South Carolina, and Other Matters Relating Thereto, **First Reading** (Ordinance attached).
4. Ordinance # 2011-12, An Ordinance Providing for the Issuance and Sale of a Hospitality Tax Revenue Bond, Series 2011, of the City of Walterboro, South Carolina, and Other Matters Relating Thereto, **First Reading** (Ordinance attached).

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City Council Meeting  
Agenda  
July 14, 2011

5. Consideration of Establishing an Annual City of Walterboro Citizen Award with the Recipient Receiving a Red Rocking Chair, Courtesy of the City.

**VIII. Committee Reports:**

**IX. Executive Session:**

**X. ADJOURNMENT.**

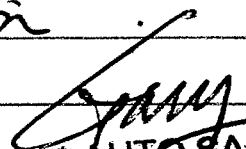
7-1-17

TO: MAYOR & COUNCIL  
FROM: GARY W. POWARD D/B/A GWP AUTO SALES  
SUBJECT: COMBINING WPD & CCSO

I would welcome the opportunity to present my recommendation that would increase Walterboro's police effectiveness. Simply, this would result from eliminating duplicate personnel, costs and equipment and using that money saved to hire additional road officers and detectives.

The procedure of combining small town city agencies with a county agency is a tried and proven action for increasing police strength and effectiveness. The locations of our population centers and the nearness of both agencies would facilitate such a change.

With objectivity and an open mind, I believe we can work toward this effective action to address our excessive crime conditions and reputation.

  
GWP AUTO SALES  
232 So. Jefferson Blvd.  
Walterboro, SC 29488  
772-913-4697

## Memorandum

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TO: CITY COUNCIL OF THE CITY OF WALTERBORO

FROM: JEFFREY V. LORD, CITY OF WALTERBORO  
MARGARET C. POPE, POPE ZEIGLER, LLC

DATE: JULY 7, 2011

RE: POTENTIAL REFUNDINGS

The City Council of the City of Walterboro (the “*City Council*”), the governing body of the City of Walterboro (the “*City*”), enacted on June 28, 2011 ordinance number 2011-09 authorizing the issuance of a not exceeding \$2,000,000 General Obligation Bond, Series 2011 (the “*Bond*”), the proceeds of which will be used to (i) provide funds to currently refund the City’s originally issued \$1,000,000 General Obligation Bond, Series 2003 dated December 30, 2003 (the “*Series 2003 GO Bond*”), including the redemption premium on such bond and (ii) defray the costs associated with (a) the purchase of a ladder fire truck and related equipment, and (b) improvements to the City’s parks and recreational areas.

In preparing for the sale of the Bond, we have been discussing present market conditions with various banking institutions which have expressed an interest in purchasing the Bond. Due to the fact that current interest rates are at historically low levels, we have investigated the possibility of refunding the other outstanding issues of the City in order to effect overall savings in the annual debt service payments.

Presently, the City has the following issues of long-term debt, in addition to the Series 2003 GO Bond that will be refunded with a portion of the proceeds of the Bond, outstanding:

1. \$380,000 Waterworks and Sewer System Improvement Revenue Bond, Series 2001A dated April 26, 2001.
2. \$3,500,000 Waterworks and Sewer System Improvement Revenue Bond, Series 2001B dated June 4, 2001.
3. Series 2003 GO Bond.
4. Lease purchase financing in the amount of \$1,560,000 dated May 1, 2006.

5. \$1,735,000 Tax Increment Revenue Bond, Series 2006 dated May 8, 2006.

A more detailed description of each of these issues may be found on the attached table. Based on the interest rate each of these bears, it is probable that a refunding of each will result in significant interest cost savings. Moreover, the banking institutions with which we have been discussing the purchase of the Bond, have informed us that a more competitive environment will be created by the City's offering all of these at the same time such that a sizeable amount of principal is to be considered. Two of the banks stated that a larger offering (even though there would be four different instruments each having its own security provisions) would be preferable to four separate and smaller offerings and would result in overall lower interest rates.

Due to the circumstances in the market, we believe that it is prudent for the City Council to consider ordinances to effect each of these refundings at its next meeting and move as expeditiously as possible to obtain interest rate bids for each of these. Based on the advice we have received from various banking institutions, the issues should be offered together in order to obtain the best and thus, the lowest cost to the City. In the event any interest rate bid the City receives for any of the refunding issues does not produce sufficient savings to the City, then the proposal of the bank may be rejected and the refunding issue would not be undertaken.

**CITY OF WALTERBORO**

**OUTSTANDING DEBT TO BE REFUNDED**

<u>No.</u>	<u>Type/Purpose</u>	<u>Date of Issuance</u>	<u>Original Principal Amount</u>	<u>Outstanding Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Provisions</u>	<u>Date of Maturity</u>	<u>Purchaser</u>
1	Revenue Bond (Series 2001A) - Bells Hwy Water and Sewer Expansion	April 26, 2001	\$380,000	\$144,902 (after 8/1/2011 payment); quarterly payments of \$8,412	4.0%	Prepayable at any time, in whole or in part, without penalty	May 2016	State Revolving Fund
2	Revenue Bond (Series 2001B) - Sewer Line Rehabilitation	June 4, 2001	\$3,500,000	\$2,194,271 (after 7/1/2011 payment); quarterly payments of \$63,036	4.0%	Prepayable at any time, in whole or in part, without penalty	April 2022	State Revolving Fund
3	General Obligation Bond - 2 Fire Substations, Great Swamp Sanctuary recreational facilities, improvements to city parks, improvements to Waterfall Plaza	December 22, 2003	\$1,000,000	\$606,070.45 (as of December 30, 2010); annual payments of \$90,129.87	4.03%	Not subject to redemption prior to the 5 <sup>th</sup> anniversary; thereafter, until the 10 <sup>th</sup> anniversary, subject to redemption in whole upon 30 days notice at a price of 101% of principal amount to be redeemed;	December 30, 2018	BB&T

<u>No.</u>	<u>Type/Purpose</u>	<u>Date of Issuance</u>	<u>Original Principal Amount</u>	<u>Outstanding Principal Amount</u>	<u>Interest Rate</u>	<u>Redemption Provisions</u>	<u>Date of Maturity</u>	<u>Purchaser</u>
4	Real Property Lease Purchase – VA Nursing Home (paid with hospitality taxes)	May 1, 2006	\$1,560,000	\$1,399,867 (after 8/1/2011 payment); payable in monthly installments of \$11,712.30	4.11%	from the 10 <sup>th</sup> anniversary on, subject to redemption in whole upon 30 days notice at par In whole at any time by paying outstanding principal amount of Base Rent (\$1,135,305.66 as of July 1, 2011), accrued interest on such outstanding principal, plus unpaid Additional Rent, plus \$1.00	May 1, 2021	BB&T
5	TIF Revenue Bond	May 8, 2006	\$1,735,000	\$1,265,703 (after 7/8/11 payment); monthly installments of \$13,123.89 due on the 8 <sup>th</sup> day of each month	4.22%	Prepayable in whole on any payment date at a price of 101% of the principal amount to be redeemed	May 8, 2021	BB&T

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**ORDINANCE # 2011-10**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A TAX INCREMENT REFUNDING REVENUE BOND, SERIES 2011, OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.**

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**BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF  
WALTERBORO, SOUTH CAROLINA, IN A MEETING DULY ASSEMBLED:**

**ARTICLE I  
FINDINGS OF FACT**

Section 1.01 Findings of Fact.

Incident to the adoption of this Ordinance and the issuance of the bond provided for herein, the City Council of the City of Walterboro (the "**City Council**"), the governing body of the City of Walterboro, South Carolina (the "**City**") finds that the facts set forth in this Article exist and the following statements are in all respects true and correct:

1. By Ordinance entitled "AN ORDINANCE TO ESTABLISH A TAX INCREMENT FINANCE DISTRICT FOR THE PURPOSE OF PROVIDING A METHOD OF FINANCING PUBLIC IMPROVEMENTS IN AN AREA TO BE KNOWN AS THE 2006 TOURISM PROJECT DISTRICT," enacted on March 28, 2006 (the "**Redevelopment Plan Ordinance**"), the City Council, pursuant to the Tax Increment Financing Law, now codified as Sections 31-6-10 *et seq.*, Code of Laws of South Carolina, 1976, as amended (the "**Enabling Act**"), established the 2006 Tourism Project District (the "**Redevelopment Project Area**") and established for that area a Redevelopment Plan (the "**Redevelopment Plan**"), all as contemplated by the Enabling Act.

2. In the Redevelopment Plan Ordinance, the City Council determined that rehabilitation, conservation, or redevelopment of the area designated by it as the Redevelopment Project Area is necessary and in the best interest of the public health, safety and welfare of the residents of the City.

3. In order to finance all or a portion of the Redevelopment Project Costs as defined in Section 31-6-30(8) of the Enabling Act, City Council issued its Tax Increment Revenue Bond, Series 2006 (the "**Series 2006 Bond**") on May 8, 2006 for the purposes and pursuant to the provisions of ordinance number 2006-06 of the City entitled "AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A TAX INCREMENT REVENUE BOND, SERIES 2006, OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO," enacted by the City Council on March 28, 2006.

4. The Series 2006 Bond was issued in the principal amount of \$1,735,000 and bears interest on the principal amount outstanding at the rate of 4.22% per annum. It is payable by way of fully amortized monthly installments of principal and interest on the 8th day of each month ending March 8, 2021. The Series 2006 Bond is subject to redemption in whole on any payment date at a penalty of 1% of the outstanding principal of the Series 2006 Bond.

5. Current market conditions indicate that annual debt service savings can be realized by the City by refunding the principal amount due on the Series 2006 Bond, including the payment of the redemption premium due thereon.

6. Based on the foregoing, the City Council has determined to issue a Tax Increment Refunding Revenue Bond, Series 2011, in order to effect the refunding of the Series 2006 Bond and to pay issuance costs related thereto.

[End of Article I]

## ARTICLE II ISSUANCE OF THE BOND

### Section 2.01 Issuance and Sale of the Bond.

Pursuant to the Enabling Act and for the purpose of refunding the Series 2006 Bond, there shall be issued a Tax Increment Refunding Revenue Bond, Series 2011, of the City (the “**Bond**”). The exact dollar amount of the Bond shall be established by the City Manager at the time of original delivery thereof based on the amount deemed necessary at that time to accomplish the purposes provided for herein; provided, however, that the principal amount of the Bond shall not exceed \$1,300,000.

The City Manager shall solicit bids for the purchase of the Bond from not less than two (2) financial institutions and is authorized to award the Bond to the financial institution offering to purchase the Bond on terms determined by him to be most favorable to the City.

### Section 2.02 Interest Rate and Maturity Schedule of Bond.

The Bond shall be payable with respect to installments of principal and interest on such dates as determined by the City Manager, provided the final installment of principal shall be due no later than March 8, 2021. The Bond shall bear interest at a rate determined by the City Manager based on proposals for the purchase of the Bond to be solicited hereunder, calculated on the basis of a 360-day year consisting of twelve months of 30 days each. The Bond shall be dated and authenticated as of the date of delivery thereof. Interest on the Bond will accrue from the most recent date to which interest has been paid or, if no interest has yet been paid, from the date of delivery of the Bond.

### Section 2.03 Form of the Bond.

The Bond will be substantially in the form attached as Exhibit A, issued as a single bond in the denomination of the principal amount of the Bond, with such necessary or appropriate variations, omissions, and insertions as are otherwise permitted by law or by this Ordinance.

### Section 2.04 Medium of Payment of the Bond.

The principal of and interest on the Bond 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. Payment of principal of and interest on the Bond shall be payable by check or draft mailed to the registered holder thereof (the “**Holder**”) by the Issuer, or at the request of the Holder by wire transfer to an account designated by the Holder; provided, however, that the final installment of principal and interest on the Bond shall be payable upon presentation and surrender of such Bond to the City.

Section 2.05 Registration, Transfer & Exchange of the Bond.

The Bond shall at all times be registered as to principal and interest in the name of the Holder on the books of registry to be maintained in the offices of the City and each transfer to be valid shall be made on the books of registry and similarly noted on the Bond.

Section 2.06 Execution of the Bond.

The Bond shall be executed in the name of the City by the manual signature of the Mayor of the City (the "**Mayor**") or, in his absence, the Mayor Pro Tempore of the City, and attested by the manual signature of the City Clerk of the City (the "**Clerk**"), and the official seal of the City shall be impressed thereon.

Section 2.07 Registrar & Transfer Agent of the Bond, Books of Registry.

(a) The Clerk will be the registrar for the Bond and transfer agent for the Bond and will keep proper registry and transfer records, including a book of registry in which the Clerk shall register the name and address of the Holder of the Bond as the same is presented for registration. Upon presentation of the Bond for registration or transfer, the fact of such registration or transfer shall be noted on the Bond. No transfer of the Bond shall be valid unless made at such office of the registrar and noted on such Bond.

(b) No person shall be entitled to any right or benefit provided in the Bond unless the name and address of such person is registered with the Clerk and the fact thereof is endorsed by such Clerk upon the Bond and upon the books of registry. The City may deem and treat the registered owner of the Bond as the absolute owner of the Bond for the purpose of receiving payment of the principal and interest thereof and for all other purposes whatever. No charge shall be made for registration.

(c) The books of registry shall show (i) the date of registration, (ii) the name and address of the person in whose name the Bond is registered, and (iii) the signature of the Clerk. The latest chronological date of registration of such Bond, as the same shall appear in the Books of Registry, shall be conclusive as to the name and address of the Holder for all purposes.

Section 2.08 Tax-Exempt Status of Bonds in South Carolina.

Pursuant to Section 31-6-60 of the Enabling Act, both the principal and interest on the Bond shall be exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer, or certain franchise taxes.

Section 2.09 Federal Tax-Exempt Status.

(A) The City hereby represents and covenants that it will comply with all requirements of the Internal Revenue Code of 1986, as amended and regulations promulgated thereunder (the "**Code**"), and that it will not take any action which will, or fail to take any action (including,

without limitation, filing the required information report with the Internal Revenue Service) which failure will cause interest on the Bond to become includable in the gross income of the Holders thereof for federal income tax purposes. Without limiting the generality of the foregoing, the City represents and covenants that:

(1) All property provided by the net proceeds of the Bond will be owned by the City for federal income tax purposes.

(2) The City does not reasonably expect that the proceeds of the Bond or any property financed or refinanced with the proceeds of the Bond will be used in any manner that would cause the Bond to be a "private activity bond" within the meaning of Section 141 of the Code.

(3) The City hereby covenants that no use of the proceeds of the Bond will be made which, if such use had been reasonably expected on the date of issue of the Bond, would have caused the Bond to be an "arbitrage bond," as defined in the Code, and that it will comply with the requirements of Section 148 of the Code and Regulations with respect to the Bond.

(4) The City is not a party to nor will it enter into any contracts with any entity for the use or management of any property financed or refinanced with the proceeds of the Bond that do not conform to the guidelines set forth in Revenue Procedure 97-13 any successor regulations or pronouncements of the United States Treasury Department.

(5) The City will not sell, lease or otherwise dispose of any property financed or refinanced with the proceeds of the Bond to any person unless it obtains the opinion of nationally recognized bond counsel that such lease, sale or other disposition will not adversely affect the tax exemption of the Bond.

(6) The Bond will not be federally guaranteed within the meaning of Section 149(b) of the Code. The City shall not enter into any leases or sales or service contracts with any federal government agency unless it obtains the opinion of nationally recognized bond counsel that such action will not adversely affect the tax exemption of the Bond.

(B) In addition to the covenants contained in Section 2.09(A) hereof, the City covenants that it will comply with the provisions of Section 148 of the Code and applicable Treasury Regulations promulgated thereunder.

(C) The City Council reasonably expects that it and entities subordinate thereto will not issue additional tax-exempt obligations in the 2011 calendar year which, when added to the Bond, will total more than \$10,000,000. Accordingly, the City Council hereby designates the Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code.

#### Section 2.10 Filing with Central Depository.

Pursuant to Section 11-1-85, Code of Laws of South Carolina, 1976, as amended, the City shall file an independent audit with a central repository and shall file with a central repository event

specific information within thirty days of an event adversely affecting more than five percent of revenue or its tax base.

Section 2.11 Replacement of Missing or Damaged Bond.

In case the Bond shall become mutilated or shall be believed by the City to have been destroyed, stolen, or lost, upon proof of ownership, satisfactory to the City, and upon surrender of such mutilated Bond or upon receipt of evidence satisfactory to the City of such destruction, theft, or loss, and upon receipt also of indemnity satisfactory to the City, and upon payment of all expenses incurred by the City for any investigation relating thereto, and all expenses incurred in connection with the issuance of any new Bond under this Section, the Mayor and the Clerk shall execute and deliver a new bond of the same maturity, and for the same aggregate principal amount, of like tenor and date, bearing the same number, with such notations as shall be deemed appropriate, in exchange and substitution for, and upon the cancellation of, the mutilated Bond, or in lieu of and in substitution for the Bond so lost, stolen or destroyed.

Section 2.12 Security for Payment of Bond; Application of Excess Revenues to Redemption; Priority of Lien; Provision for Additional Debt.

For the punctual payment of the principal and interest of the Bond there is hereby irrevocably pledged, pursuant to Section 31-6-70 of the Enabling Act, the incremental tax revenues generated from the Redevelopment Project Area (the “**Incremental Revenues**”), including any additional parcels that may be included in the Redevelopment Project Area subsequent to the date hereof. All Incremental Revenues shall, immediately upon receipt by the City, be deposited into a tax allocation fund, referred to herein as the “**Principal and Interest Fund**,” held by the City. No Incremental Revenues will be released from said Principal and Interest Fund until the Bond is fully repaid.

In accordance with the provisions of the Enabling Act, those portions of the taxes levied upon of all taxable real property in the Redevelopment Project Area (including any additional parcels that may be included in the Redevelopment Project Area subsequent to the date hereof), and which are allocable to the County and the Colleton County School District shall be distributed to the respective taxing districts in the manner required by law.

In addition, the Bond is further secured by a junior lien pledge of the Gross Revenues of the System that remain after paying the cost of the operation and maintenance thereof. As such, the Bond shall be issued as a “Junior Lien Bond” under Section 6.01 of an Ordinance of the City enacted on December 15, 1998, entitled “An Ordinance Providing For The Issuance And Sale Of Waterworks And Sewer System Revenue Bonds Of The City Of Walterboro, South Carolina, And Other Matters Relating Thereto” (the “**Utility Bond Ordinance**”). The term “**Gross Revenues of the System**,” as used in this Section 2.12, has the same meaning given to such term in Section 2.02 of the Utility Bond Ordinance.

The City shall on August 15 of each year determine the extent, if any, to which Incremental Revenues and other moneys then on deposit in the Principal and Interest Fund will be insufficient to pay the next maturing installment of principal of and interest on the Bond. In the event the City determines that such an insufficiency exists, it shall within five (5) business days deposit into the



Principal and Interest Fund revenues of the System available pursuant to Section 8.07 of the Bond Ordinance in an amount which, aggregated with Incremental Revenues and other moneys on deposit in the Principal and Interest Fund as of August 15, will be sufficient to pay the next maturing installment of principal of and interest on the Bond.

The City hereby covenants for the benefit of the Holder of the Bond that until the Bond is paid in full it will comply with the covenants set forth in Articles V, IX, X and XI of the Utility Bond Ordinance. The City additionally covenants that for so long as the Bond shall be outstanding, that it will fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient to provide for the punctual payment of principal of and interest on Bond as the same shall become due.

For so long as the Bond is outstanding, the City will not issue additional Junior Lien Bonds secured by a pledge of the revenues of the System, which pledge is superior to that securing the Bond, without the written consent of the Holder of the Bond. The City may issue additional Junior Lien Bonds on a parity with or subordinate to the Bond; provided, however, that in the instance of the issuance of Junior Lien Bonds on a parity with the Bond, the City must demonstrate compliance with Section 4.02(7) of the Utility Bond Ordinance as then in effect, treating the Bond and the proposed additional Junior Lien Bonds each as a "Series of Bonds" within the meaning of the Utility Bond Ordinance.

The Bond shall be a special obligation of the City and shall be payable solely as herein provided. Additional debt may be secured by the Gross Revenues of the System, including on a basis senior to the lien given herein, on the terms set forth in the Utility Bond Ordinance. Additional debt may be secured by the Incremental Revenues generated from the Redevelopment Project Area only to the extent that the amount of Incremental Revenues so generated in the twelve-month period preceding the date of issuance of such additional debt is equal to at least 125% of the maximum annual debt service on all debt secured and proposed to be secured by such Incremental Revenues.

It is specifically recognized that additional financial covenants may be in the best interest of the City and the Holder of the Bond. The City Manager is hereby authorized to negotiate such covenants provided that such additional provisions, if any, must be reported to City Council prior to their becoming effective.

#### Section 2.13 Financial Reporting.

Within 120 days of the end of a fiscal year, the City shall supply the Holder with (1) audited financial statements of the City for such fiscal year; and (2) an annual accounting of sums pledged to payment of the Bond. The City shall also supply annually information provided by the Colleton County Assessor's Office and the Colleton County Auditor's Office setting forth assessed values in the Redevelopment Project Area and such other information as the Holder shall reasonably request.

Section 2.14 Discharge of Obligation.

Payment of principal and interest made in respect of the Bond as provided at Section 2.04 herein shall fully discharge the obligation of the City in respect of the Bond to the extent of the payments so made.

Section 2.15 Bond Constitutes Limited Obligation of the City.

As required by the provisions of Section 31-6-40 of the Enabling Act, the full faith, credit, and taxing power of the City are not pledged for the payment of the principal of and interest on the Bond and there shall be on the face of the Bond a statement plainly worded to that effect and stating that the Bond does not constitute an indebtedness of the City within any State constitutional provisions or statutory limitation. No recourse shall be had for the payment of the Bond or interest thereon, or any part thereof, against the several funds of the City, except in the manner and to the extent provided in this Ordinance nor shall the credit or taxing power of the City be deemed to be pledged thereto.

Section 2.16 Custody and Application of Proceeds of the Bond; Moneys on Deposit in the Principal and Interest Fund.

The proceeds derived from the sale of the Bond shall be used to pay the principal of, redemption premium and interest due on the Series 2006 Bond upon the redemption thereof. The City Manager is duly authorized to effect the required notice of redemption of the Series 2006 Bond and the undertaking of any other actions in connection therewith.

All moneys on deposit in the Principal and Interest Fund shall be used to effect the redemption of the Series 2006 Bond.

Section 2.17 Authorization for Preparing and Selling the Bond.

The Clerk is hereby authorized and directed to have the Bond prepared, and the Mayor and Clerk are hereby authorized and directed to execute and attest the Bond in the form and in the manner provided herein.

[End of Article II]

**ARTICLE III  
REDEMPTION**

Section 3.01 Redemption Provisions.

The City Manager, in consultation with Bond Counsel, is authorized to determine redemption provisions with respect to the Bond.

[End of Article III]

**ARTICLE IV  
EVENTS OF DEFAULT**

Section 4.01 Events of Default.

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

(1) Payment of the principal of or interest on the Bond shall not be made when the same shall become due and payable; or

(2) Any proceedings shall be instituted with the consent or acquiescence of the City for the purpose of effecting a composition between the City and its creditors, or for the purpose of adjusting claims of such creditors, pursuant to any Federal or State Statute now or hereafter enacted, or if such order or decree, having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed on appeal within 60 days after entry thereof, or if such proceedings having been instituted without the consent or acquiescence of the City, shall not be withdrawn or any orders entered shall not be vacated, discharged, or stayed on appeal within 60 days after the institution of such proceeding, or the entry of such orders.

[End of Article IV]

## **ARTICLE V REMEDIES**

### Section 5.01 Remedies.

Upon the happening and continuance of any Event of Default, the Holder of the Bond may proceed, subject to the provisions of this Article, to protect and enforce its rights by a suit, action, or special proceedings in equity, or at law, for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted, or for the enforcement of any proper legal or equitable remedy as may be deemed most effectual to protect and enforce the rights aforesaid, insofar as such may be authorized by law. The City agrees to pay on demand all costs and expenses in connection with the enforcement of any such remedies including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for the Holder of the Bond.

### Section 5.02 Termination of Proceedings.

In case any proceeding shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Holder of the Bond, then, and in every such case, the City and the Holder of the Bond shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties shall continue as though no such proceedings had been taken.

### Section 5.03 No Remedy Exclusive.

No remedy herein conferred is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

### Section 5.04 Default Not Impaired by Delay.

No delay or omission to exercise any right or power accruing upon any default occurring and continuing as aforesaid, shall impair any such default or be construed as an acquiescence therein; and every power and remedy given by this Article may be exercised from time to time and as often as may be deemed expedient.

[End of Article V]

**ARTICLE VI  
DEFEASANCE**

Section 6.01 Release of Ordinance.

If the Bond issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of the City under this Ordinance, and all other rights granted thereby, shall cease and terminate. The Bond shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(1) If a financial institution maintaining corporate trust offices and appointed by the City Manager to serve as escrow agent ("*Escrow Agent*") shall hold, at the stated maturity of such Bond in trust and irrevocably appropriated thereto, moneys for the payment thereof; or

(2) If default in the payment of the principal of such Bond or the interest thereon, shall have occurred on the stated maturity of such Bond, and thereafter tender of such payment shall have been made, and the Escrow Agent shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or

(3) If there shall have been irrevocably deposited with the Escrow Agent for the benefit of the Holder either moneys in an amount which shall be sufficient, or direct obligations of the United States of America the principal of and interest on which, when due, will provide moneys which, together with the moneys, if any, deposited at the same time, shall be sufficient to pay, when due, the principal and interest, due and to become due on the Bond on and prior to the maturity date or redemption date thereof. In the event that the City shall elect to redeem the Bond prior to its stated maturity, the City shall proceed in the manner prescribed in Article III hereof.

Section 6.02 Deposit of Moneys.

Any moneys which at any time shall be deposited by or on behalf of the City for the purpose of paying and discharging the Bond shall be and are hereby assigned, transferred, and set over to the Escrow Agent with which such trust for the Holder of such Bond is established, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof.

[End of Article VI]

**ARTICLE VII  
MISCELLANEOUS**

Section 7.01 Execution of Documents.

The Mayor, Clerk and City Manager are hereby authorized, empowered, and directed to execute in the name of the City and under the official seal of the City any and all other documents that may be required as a condition precedent to making the aforesaid loan to the City, and the City is hereby authorized and empowered to accept and receive the proceeds of the Bond.

Section 7.02 Tenor of Obligation.

Every covenant, undertaking, and agreement made on behalf of the City set forth in the Bond and in this Ordinance is made, undertaken, and agreed to for the proper securing of the payment of the principal of and interest on the Bond. Each shall be deemed to partake of the obligation of the contract between the City and the Holder, and shall be enforceable accordingly.

Section 7.03 Benefits of Ordinance Limited to the City and Holder of the Bond.

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

Section 7.04 Ordinance Binding Upon Successors or Assigns of the City.

All the terms, provisions, conditions, covenants, warranties, and agreements contained in this Ordinance shall be binding upon the successors and assigns of the City and shall inure to the benefit of the Holder of the Bond.

Section 7.05 Effect of Saturdays, Sundays and Legal Holidays.

Whenever this Ordinance requires any action to be taken on a Saturday, Sunday, legal holiday or bank holiday in the State of South Carolina, such action shall be taken on the first business day occurring thereafter. Whenever in this Ordinance the time within which any action is required to be taken or within which any right will lapse or expire shall terminate on a Saturday, Sunday, legal holiday or bank holiday, in the State of South Carolina, such time shall continue to run until midnight on the next succeeding business day.

Section 7.06 Law and Place of Enforcement of the Ordinance.

This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in said State.

Section 7.07 Effect of Article and Section Headings.

The heading or titles of the several Articles and Sections hereof shall be solely for the convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Ordinance.

Section 7.08 Saving Provision.

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

Section 7.09 Repealing Clause.

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

Section 7.10 Effective Date.

This Ordinance shall be effective without the necessity of any publication upon the date on which it receives second and final reading.

[End of Article VII]



**DONE, RATIFIED AND ENACTED** this 26th day of July, 2011.

**CITY OF WALTERBORO,  
SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading: July 12, 2011  
Second Reading: July 26, 2011

**EXHIBIT A**

**Form of Bond**

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
TAX INCREMENT REFUNDING REVENUE BOND,  
SERIES 2011, OF THE CITY OF WALTERBORO,  
ISSUED PURSUANT TO SECTIONS 31-6-10 TO 31-6-120,  
INCLUSIVE, CODE OF LAWS OF SOUTH CAROLINA, 1976

THE CITY OF WALTERBORO, SOUTH CAROLINA (the “*City*”) hereby acknowledges itself indebted, and, for value received, promises to pay to \_\_\_\_\_ (the “*Registered Holder*”) the principal sum of \$ \_\_\_\_\_ in the manner and upon the terms set forth herein. The outstanding principal sum of this Series 2011 Bond (this “*Bond*”) shall bear interest at the rate of \_\_\_% per annum payable on \_\_\_\_\_ of each year commencing \_\_\_\_\_, 2012. Principal shall be payable as follows:

<u>Year</u>	<u>Amount Due</u>
-------------	-----------------------

Both the principal and interest on this Bond are payable in any coin or currency of the United States of America, which is, at the time of payment, legal tender for the payment of public and private debts.

This Bond constitutes an issue of \$ \_\_\_\_\_ Tax Increment Refunding Revenue Bond, Series 2011, issued by the City of Walterboro, pursuant to the authorization of the Tax Increment Financing Act codified as Sections 31-6-10 to 31-6-120, Code of Laws of South Carolina, 1976, and an ordinance duly enacted by the City Council of the City of Walterboro on July 26, 2011 (the “*Bond Ordinance*”). For the payment of this Bond, both principal and interest, there are pledged the incremental tax revenues generated from the Redevelopment Project Area (as such term is defined in the Bond Ordinance), including any additional parcels that may be included within the Redevelopment Project Area subsequent to the date hereof. This Bond is further secured by a junior lien pledge of the gross revenues of the City’s waterworks and sewer system that remain after paying the cost of the operation and maintenance thereof. As such, this Bond is issued as a “Junior Lien Bond” under Section 6.01 of an Ordinance of the City enacted on December 15, 1998, entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.”

The full faith, credit, and taxing power of the City are not pledged to the payment of this Bond.

All payments by way of principal and interest shall be paid by check or draft mailed at the times provided herein from the City to the person in whose name this Bond is registered at the

address shown on the registry books of the City, or by wire transfer to an account designated by such registered holder; provided, however, that the final payment of principal and interest shall be made upon surrender of this Bond to the City.

The Bond shall at all times be registered on registry books of the City to be kept by the City, and each transfer to be valid shall be made on the registry books and similarly noted on this Bond.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Bond Ordinance. A certified copy of the Bond Ordinance is on file in the office of the City Clerk.

The Registered Holder may at any time assign and transfer this Bond in the manner above noted.

THIS BOND and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes. Under presently existing statute law as judicially construed on the date of delivery hereof, the interest is excludable from gross income for federal income taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by this Constitution and Laws of the State of South Carolina to exist, to happen, or to be performed precedent to or in the issuance of this Bond, do exist, have happened and have been performed in regular and due time, form and manner.

IN WITNESS WHEREOF, THE CITY OF WALTERBORO, pursuant to the authorization of Sections 31-6-10 to 31-6-120, inclusive, Code of Laws of South Carolina, 1976, and an ordinance duly adopted by the City Council of the City of Walterboro has caused these presents to be signed in its name by its Mayor and attested by the City Clerk and its official seal to be impressed hereon, and this Bond to be dated as of the \_\_\_ day of \_\_\_\_\_, 2011.

(SEAL)

**CITY OF WALTERBORO,  
SOUTH CAROLINA**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

**ACKNOWLEDGEMENT OF REGISTRATION**

I hereby acknowledge registration of this Bond in accordance with Section 2.07 of the Bond Ordinance to the Registered Holder named herein.

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

Date: \_\_\_\_\_, 2011

**ASSIGNMENT**

For value received \_\_\_\_\_ (assignor) hereby sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned bond and hereby irrevocably constitutes and appoints, \_\_\_\_\_, attorney-in-fact, to transfer the same on the books of registration in the office of the \_\_\_\_\_ as Registrar with full power of substitution in the premises.

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

Dated: \_\_\_\_\_

WITNESS: \_\_\_\_\_

**NOTE:** The signature to this assignment must correspond with the name as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever.

**STATE OF SOUTH CAROLINA**

**COUNTY OF COLLETON**

I, the undersigned City Clerk of the City of Walterboro, South Carolina (the “*City*”), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an ordinance (the “*Ordinance*”) which was read at two (2) public meetings of the City Council of the City (the “*City Council*”) on two (2) separate days. An interval of at least six (6) days occurred between each reading. At each meeting a quorum of the membership of the City Council, were present and remained throughout. The original of the Ordinance is duly entered in the permanent records of the City, in my custody as City Clerk.

As required by Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended, a notice of each meeting (including the date, time, and place thereof, as well as an agenda) was posted prominently in the City Hall of the City at least twenty-four hours prior to said meetings. In addition, the local news media and all persons requesting notification of meetings of the City Council were notified of the time, date, and place of such meetings, and were provided with a copy of the agendas therefor at least twenty-four hours in advance of such meetings.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

**IN WITNESS WHEREOF**, I have hereunto set my Hand and the Seal of the City, this \_\_\_\_ day of July, 2011.

(SEAL)

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading: July 12, 2011  
Second Reading: July 26, 2011

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**ORDINANCE # 2011-11**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A WATERWORKS AND SEWER SYSTEM REFUNDING REVENUE BOND, SERIES 2011 OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.**

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SERIES ORDINANCE

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**BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WALTERBORO, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:**

**ARTICLE I**  
**FINDINGS OF FACT**

Section 1.01 Findings.

Incident to the adoption of this ordinance (this “*Series 2011 Ordinance*”), and the issuance of the bonds provided for herein, the City Council of the City of Walterboro (the “*City Council*”), the governing body of the City of Walterboro, South Carolina (the “*City*”), finds that the facts set forth in this Article exist and the following statements are in all respects true and correct:

The City has made general provision for the issuance from time to time of Waterworks and Sewer System Revenue Bonds (the “*Bonds*”) of the City through the enactment of an ordinance entitled, “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO,” dated December 15, 1998 (the “*Bond Ordinance*”).

It is provided in and by the Bond Ordinance that, upon enactment of a “Series Ordinance,” there may be issued one or more Series (as defined in the Bond Ordinance) of Bonds for the purpose of obtaining funds for expansions and improvements to the waterworks and sewer system of the City (the “*System*”), paying and redeeming any outstanding bond anticipation notes of the City issued in anticipation of the issuance of Bonds, refunding Bonds or other indebtedness 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, providing funds for the payment of interest due on such Bonds, funding a Debt Service Reserve Fund (as defined in the Bond Ordinance) or restoring the value of the cash and securities in a Debt Service Reserve Fund to the amount equal to its Reserve Requirement (as defined in the Bond Ordinance), and paying the cost of issuance of a particular series of Bonds, including any credit enhancement therefor.

Pursuant to the provisions of the Bond Ordinance, the City Council previously issued the following Series of Bonds (the “*Outstanding Bonds*”). The Outstanding Bonds were issued under the terms and provisions of the Bond Ordinance and include:

(a) the now outstanding principal installments of the originally issued not exceeding \$380,000 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2001A, of the City of Walterboro, South Carolina dated April 26, 2001 (the “*Series 2001A Bond*”);

(b) the now outstanding principal installments of the originally issued not exceeding \$3,500,000 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2001B, of the City of Walterboro, South Carolina dated June 4, 2001 (the “*Series 2001B Bond*,” and together with the Series 2001A Bond, the “*Series 2001 Bonds*”); and



(c) the now outstanding principal installments of the originally issued not exceeding \$3,116,588 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2009, of the City of Walterboro, South Carolina dated August 14, 2009.

Based upon advice received from the Finance Director of the City and bond counsel for the City and current favorable market conditions, the City Council understands that a savings in interest costs might be realized by the current refunding of the outstanding maturities of the Series 2001 Bonds. The City Council is requesting interest rate bids on a proposed waterworks and sewer system refunding revenue bond (the “*Series 2011 Bond*”), to be issued for the purpose of refunding all of the currently outstanding maturities of the Series 2001 Bonds, such principal amount of the Series 2011 Bond to not exceed \$2,075,000. In accordance with Article VII hereof, the City Manager may determine whether or not the City will issue the Series 2011 Bond, such decision to be made upon review of the responses to the above-described requests and the determination of whether or not issuing the Series 2011 Bond will benefit the City by providing interest cost savings. If the Series 2011 Bond is issued, it will be issued on a parity with the then Outstanding Bonds.

By reason of the foregoing, and having found as required by Section 4.01(B)(14) of the Bond Ordinance that all applicable Reserve Requirements (as defined in the Bond Ordinance) for all outstanding Series of Bonds issued pursuant to the Bond Ordinance have been met, the City has determined to adopt this Series 2011 Ordinance as a “Series Ordinance” in accordance with the terms and provisions of the Bond Ordinance in order to effect the issuance of the Series 2011 Bond, if determined to be issued.

[End of Article I]

**ARTICLE II**  
**DEFINITIONS AND AUTHORITY**

Section 2.01 Definitions.

(a) Except as provided in subsection (b) below, all terms which are defined in Section 2.02 of the Bond Ordinance shall have the same meanings in this Series 2011 Ordinance as such terms are prescribed to have in the Bond Ordinance.

(b) As used in this Series 2011 Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“**2011 Debt Service Fund**” shall mean the fund established to provide for the payment of the principal of and interest on the Series 2011 Bond, such fund to be established if the Series 2011 Bond is issued, all in accordance with the provisions of Section 7.03 of the Bond Ordinance.

“**City Clerk**” shall mean the City Clerk of the City who has also been referred to previously as the Municipal Clerk.

“**City Manager**” shall mean the City Manager of the City.

“**Code**” shall mean the Internal Revenue Code of 1986, as amended.

“**Purchaser**” means the banking institution(s) that purchase the Series 2011 Bond, if issued.

“**Series 2011 Bond**” shall mean the waterworks and sewer system refunding revenue bond of the City authorized by this Series 2011 Ordinance and designated “City of Walterboro, South Carolina Waterworks and Sewer System Refunding Revenue Bond, Series 2011.”

“**Series 2011 Ordinance**” shall mean this series ordinance.

Section 2.02 Authority For This Series 2011 Ordinance.

This Series 2011 Ordinance is adopted pursuant to the provisions of the Bond Ordinance.

[End of Article II]

**ARTICLE III**  
**PERIOD OF USEFULNESS**

Section 3.01 Period of Usefulness.

The period of usefulness of the System is determined, for the purpose of this Series 2011 Ordinance, to be not less than twenty-five years from December 31, 2010.

[End of Article III]

**ARTICLE IV**  
**AUTHORIZATION AND TERMS OF THE SERIES 2011 BOND**

**Section 4.01 Principal Amount; Designation of Series.**

Pursuant to the provisions of the Bond Ordinance, a Bond of the City entitled to the benefits, protection and security of the provisions of the Bond Ordinance is hereby authorized in the principal amount of not exceeding Two Million Seventy-five Thousand Dollars (\$2,075,000). The Bond so authorized shall be designated "City of Walterboro, South Carolina Waterworks and Sewer System Refunding Revenue Bond, Series 2011." Such Bond is hereby authorized, but only will be issued if such determination is made to issue such Bond by the City Manager, as further described in Article VII hereof. The final principal amount of the Bond shall be determined by the City Manager.

**Section 4.02 Purposes.**

The Series 2011 Bond, if issued, is authorized for the purposes of providing funds (a) to currently refund the outstanding maturities of the Series 2001 Bonds, (b) to fund a Debt Service Reserve Fund, if reasonably required, in an amount equal to its Reserve Requirement, as determined by the City Manager, and (c) to pay the costs of issuance thereof.

**Section 4.03 Date; Book-Entry Form; Interest Rate; Redemption.**

The Date of Issue of the Series 2011 Bond, if issued, shall be the date of its original delivery. Notwithstanding the permissive provisions of Section 4.20 of the Bond Ordinance, the Series 2011 Bond, if issued, will not be issued in book-entry form. The Series 2011 Bond, if issued, shall be issued as a single typewritten, fully registered bond in the denomination of the principal amount of the Series 2011 Bond, and shall bear interest at the rates determined in accordance with Section 7.01 hereof (calculated per annum on the basis of a 360-day year of twelve 30-day months). The Series 2011 Bond, if issued, shall be issued as a term bond with sinking fund installments in such years and in such amounts as shall be determined by the City Manager.

The maturity of the Series 2011 Bond shall be determined by the City Manager. The Series 2011 Bond shall be payable in equal annual amortized installments of principal and interest due on the anniversary of the delivery of the Bond for a term of years determined by the City Manager commencing on the first anniversary of the delivery of the Bond.

Interest on the Series 2011 Bond, if issued, shall be payable on such dates as determined by the City Manager. The Record Dates for the payment of interest on the Series 2011 Bond, if issued, shall be determined by the City Manager.

The Series 2011 Bond, if issued, shall be subject to redemption prior to maturity as determined by the City Manager.

**Section 4.04 Authentication Required.**

In accordance with Section 4.05 of the Bond Ordinance, the Series 2011 Bond, if issued, shall be authenticated in accordance with the provisions thereof upon the delivery thereof by the City.

Section 4.05 Establishment of 2011 Debt Service Fund.

If the Series 2011 Bond is determined to be issued, the City Council hereby authorizes the establishment, pursuant to Section 7.03 of the Bond Ordinance, of the 2011 Debt Service Fund for the purposes set forth in said Section 7.03.

Section 4.06 Establishment of 2011 Debt Service Reserve Fund.

If the Series 2011 Bond is determined to be issued, the City Council hereby authorizes the establishment, pursuant to Section 7.04 of the Bond Ordinance, of the 2011 Debt Service Reserve Fund for the purposes set forth in said Section 7.04, if the City Manager determines the establishment of the 2011 Debt Service Reserve Fund is reasonably required. The 2011 Debt Service Reserve Fund will be funded with a sum equal to the Reserve Requirement, as determined by the City Manager.

Section 4.07 Denomination; Numbering.

The Series 2011 Bond, if issued, shall be issued in an amount not exceeding \$2,075,000 and numbered R-1.

Section 4.08 Appointment of Trustee, Registrar and Paying Agent; Maintenance of Offices for Payment, Transfer, and Exchange of the Series 2011 Bond.

(a) Pursuant to Section 15.01 of the Bond Ordinance, The Bank of New York Mellon Trust Company, N.A. (the “*Trustee*”) is hereby appointed to act as Trustee under the Bond Ordinance and this Series 2011 Ordinance. The Trustee shall signify its acceptance of the duties of the Trustee under the Bond Ordinance and this Series 2011 Ordinance upon delivery of the Series 2011 Bond, if issued. Upon acceptance by the Trustee of its duties under the Bond Ordinance and the Series 2011 Ordinance, the Trustee shall covenant to take such action as is necessary to reflect and otherwise preserve the priority of the lien of the Holders of the Series 2011 Bond, if issued, as provided in Section 4.19 of the Bond Ordinance.

(b) As long as the Series 2011 Bond, if issued, remains Outstanding, the City shall maintain a Registrar therefor. The Trustee is hereby appointed to act as Registrar and Paying Agent with respect to the Series 2011 Bond, if issued, under the Bond Ordinance (in such capacities, the “*Registrar*” and the “*Paying Agent*”) and this Series 2011 Ordinance. The Registrar and Paying Agent shall signify its acceptance of the duties of the Registrar and Paying Agent under the Bond Ordinance and this Series 2011 Ordinance upon delivery of the Series 2011 Bond, if issued.

(c) The Series 2011 Bond, if issued, shall be presented for payment and for registration of transfers and exchanges, and notices and demands to or upon the Trustee and the City in respect of the Series 2011 Bond, if issued, may be served, at the corporate trust office of the Registrar.

Section 4.09 Form of Series 2011 Bond.

The Series 2011 Bond is to be in substantially the following form with necessary and appropriate variations, omissions and insertions as permitted or required by the Bond Ordinance or this Series 2011 Ordinance, to wit:

(FORM OF BOND)

UNITED STATES OF AMERICA  
CITY OF WALTERBORO, SOUTH CAROLINA  
WATERWORKS AND SEWER SYSTEM REFUNDING REVENUE BOND,  
SERIES 2011

No. R-1

\$ \_\_\_\_\_

Registered Holder: \_\_\_\_\_

The CITY OF WALTERBORO, SOUTH CAROLINA (the “City”), acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to \_\_\_\_\_, [TWO MILLION SEVENTY-FIVE THOUSAND DOLLARS (\$2,075,000) in the following sinking fund installments on each \_\_\_\_\_ of the years set forth below:

[insert table]

unless this Series 2011 Bond (this “**Bond**”) be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this Bond at the corporate trust office of The Bank of New York Mellon Trust Company, N.A. (the “**Trustee**”) and to pay interest on such Principal Amount at \_\_\_\_\_ percentum (\_\_\_\_%) per annum (calculated on the basis of a 360-day year of twelve (12) 30-day months), until the obligation of the City with respect to the payment of such Principal Amount shall be discharged.

This Bond will bear interest from \_\_\_\_\_, \_\_\_\_\_. Interest on this Bond is payable on \_\_\_\_\_ of each year beginning \_\_\_\_\_, \_\_\_\_\_, and ending \_\_\_\_\_, \_\_\_\_\_. The interest so payable on \_\_\_\_\_ will be paid to \_\_\_\_\_ at the close of business on the \_\_\_\_\_ immediately preceding such \_\_\_\_\_ or \_\_\_\_\_ (the “**Record Date**”).

Interest hereon shall be payable by check or draft mailed at the times provided herein from the office of the Trustee to \_\_\_\_\_ on the Record Date at the address shown on the registration books. The principal of, redemption premium, if any, and interest on this Bond is payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is issued in the form of one (1) typewritten, fully registered bond, issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the “**State**”), including particularly Chapter 21, Title 6, inclusive, Code of Laws of South Carolina, 1976, as amended (the “**Enabling Act**”); an ordinance (the “**Bond Ordinance**”) duly enacted by the City Council of Walterboro (the “**City Council**”), the governing body of the City, on December 15, 1998; and a series ordinance (the “**Series 2011 Ordinance**”) duly enacted by the City Council on July 26, 2011 (the Bond Ordinance and the Series 2011 Ordinance are herein together referred to as the “**Ordinances**”).

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances. Certified copies of the Ordinances are on file in the office of



the Trustee and in the office of the Clerk of Court of Common Pleas and General Sessions for Colleton County, South Carolina.

**BOTH THE PRINCIPAL OF AND INTEREST ON THIS BOND, AS THE SAME SHALL BECOME DUE, ARE PAYABLE SOLELY FROM THE REVENUES DERIVED FROM THE OPERATION OF THE WATERWORKS AND SEWER SYSTEM OF THE CITY (THE "SYSTEM"). THIS BOND SHALL NOT IN ANY EVENT CONSTITUTE A GENERAL INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR STATUTES OF THE STATE. THE CITY IS NOT OBLIGATED TO PAY THIS BOND, OR THE INTEREST HEREON, SAVE AND EXCEPT FROM THE GROSS REVENUES OF THE SYSTEM AS SUCH ARE DEFINED IN THE BOND ORDINANCE.**

The Bond Ordinance authorizes the issuance of additional bonds on a parity with this Bond which, when issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity therewith. To date, the City Council has issued the following Series of Bonds (the "**Outstanding Bonds**"). The Outstanding Bonds were properly issued under the Bond Ordinance and include:

(a) the now outstanding principal installments of the originally issued not exceeding \$380,000 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2001A, of the City of Walterboro, South Carolina dated April 26, 2001 (the "**Series 2001A Bond**");

(b) the now outstanding principal installments of the originally issued not exceeding \$3,500,000 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2001B, of the City of Walterboro, South Carolina dated June 4, 2001 (the "**Series 2001B Bond**," and together with the Series 2001A Bond, the "**Series 2001 Bonds**"); and

(c) the now outstanding principal installments of the originally issued not exceeding \$3,116,588 plus capitalized interest, if any, Waterworks and Sewer System Improvement Revenue Bond, Series 2009, of the City of Walterboro, South Carolina dated August 14, 2009 (the "**Series 2009 Bond**").

This Bond is issued by the City for the purposes of obtaining funds to to effect a current refunding of the Series 2001 Bonds and payment of issuance costs associated therewith.

The City has covenanted to continuously operate and maintain the System and fix and maintain such rates for the services and facilities furnished by the System as shall at all times be sufficient (a) to maintain the 2011 Debt Service Fund and thus provide for the punctual payment of the principal of and interest on this Bond; (b) to maintain the Debt Service Reserve Funds, if any, in the manner prescribed in the Bond Ordinance; (c) to provide 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; (d) 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; (e) 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 Ordinances; (f) to discharge all obligations imposed by the Enabling Act and by the Bond

Ordinance; and (f) to provide for the punctual payment of the principal of and interest on all Junior Lien Bonds that may from time to time be outstanding.

This Bond shall be payable solely from and shall be secured by a pledge of and lien upon the Gross Revenues of the System. Such pledge of and lien upon the Gross Revenues of the System securing this Bond shall be on a parity in all respects with such pledges and liens securing the Series 2009 Bond, which was issued pursuant to the Bond Ordinance, and shall have priority over all other pledges and liens. Pursuant to the provisions of Section 6-21-330 of the Enabling Act, this Bond is additionally secured by a statutory lien on the System.

This Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except estate or other transfer and certain franchise taxes.

This Bond is transferable, as provided in the Bond Ordinance, only upon the registration books of the City kept for that purpose and maintained by the Registrar, by the Purchaser hereof in person or by its duly authorized attorney, upon (a) surrender of this Bond and an assignment with a written instrument of transfer satisfactory to the Registrar, duly executed by the Purchaser hereof or its duly authorized attorney, and (b) payment of the charges, if any, prescribed in the Ordinances. Thereupon a new Bond or Bonds of the same aggregate principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City, the Trustee and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of this Bond, the City or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchanges or transfers.

[INSERT REDEMPTION PROVISIONS]

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such Constitution or statutes.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

**IN WITNESS WHEREOF, THE CITY OF WALTERBORO, SOUTH CAROLINA**, has caused this Bond to be signed by the manual signature of its Mayor, its corporate seal to be affixed hereon, and the same to be attested by the manual signature of its City Clerk.

**CITY OF WALTERBORO, SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

**CERTIFICATE OF AUTHENTICATION**

This Bond is the Bond of the issue described in the within mentioned Ordinances.

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.**, as Registrar

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

Date of Authentication: \_\_\_\_\_, 2011

**ASSIGNMENT**

For value received \_\_\_\_\_ (assignor) hereby sells, assigns and transfers unto \_\_\_\_\_ the within-mentioned bond and hereby irrevocably constitutes and appoints, \_\_\_\_\_, attorney-in-fact, to transfer the same on the books of registration in the office of the \_\_\_\_\_ as Registrar with full power of substitution in the premises.

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

Dated: \_\_\_\_\_

WITNESS: \_\_\_\_\_

**NOTE:** The signature to this assignment must correspond with the name as written on the face of the within bond in every particular, without alteration, enlargement or any change whatsoever.

\* \* \*

[End of Article IV]

**ARTICLE V**  
**EXECUTION OF THE SERIES 2011 BOND; NO RECOURSE**

**Section 5.01 Execution.**

The Series 2011 Bond, if issued, shall be executed by the manual signatures of the Mayor of the City and the City Clerk.

**Section 5.02 No Recourse.**

All covenants, stipulations, promises, agreements and obligations of the City contained in the Bond Ordinance or in this Series 2011 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 2011 Bond, if issued, or for any claim based thereon or on the Bond Ordinance or on this Series 2011 Ordinance, either jointly or severally, against any officer or employee of the City or any person executing the Series 2011 Bond, if issued.

[End of Article V]

**ARTICLE VI**  
**APPLICATION OF SERIES 2011 BOND PROCEEDS; ACTIONS REQUIRED FOR REDEMPTION OF**  
**SERIES 2001 BONDS; USE OF MONEYS IN EXISTING DEBT SERVICE FUNDS AND DEBT SERVICE**  
**RESERVE FUNDS ESTABLISHED WITH RESPECT TO THE SERIES 2001 BONDS**

Section 6.01 Use and Disposition of Series 2011 Bond Proceeds; Authority to Undertake Actions to Redeem Series 2011 Bonds.

Upon the delivery of the Series 2011 Bond, if issued, the proceeds thereof shall be paid to the Trustee in order to pay the principal of and interest on the Series 2001 Bonds upon the redemption thereof. Upon the favorable determination to issue the Series 2011 Bond, the City Manager is duly authorized to effect the required notice of redemption of the Series 2001 Bonds and the undertaking of any other actions in connection therewith. The remaining proceeds shall be used to satisfy the Reserve Requirement, if any, by funding the Debt Service Reserve Fund, if required, and to defray the costs of the issuance of the Series 2011 Bond.

Section 6.02 Use of Moneys in Existing Debt Service Funds and Debt Service Reserve Funds Established with Respect to the Series 2001 Bonds.

All moneys on deposit in each of the debt service funds established for the Series 2001 Bonds shall be used to effect the redemption of the Series 2001 Bonds. All moneys on deposit in each of the debt service reserve funds established for the Series 2001 Bonds shall be used (i) to effect the redemption of the Series 2001 Bonds, or (ii) to provide funds to be allocated in such amount and in such manner for other capital projects of the System; such use of debt service reserve fund moneys shall be determined by the City Manager in accordance with the established policies, rules and regulations of the City and otherwise in accordance with applicable law.

[End of Article VI]

**ARTICLE VII**  
**SALE OF THE SERIES 2011 BOND**

Section 7.01 Sale of the Series 2011 Bond.

The City Manager is hereby authorized to determine if the Series 2011 Bond is to be issued taking into consideration the amount of interest cost savings achieved with the potential refunding of the Series 2001 Bonds. In the event such officer determines that the interest cost savings are sufficient, he is hereby authorized to negotiate the sale of the Series 2011 Bond upon the terms as in his discretion he may determine for the purchase of the Series 2011 Bond.

Section 7.02 Certain Financial Information to be Provided to Purchaser.

(a) Annually, within 150 days following the end of the Fiscal Year, the City shall provide the Purchaser with a balance sheet and income statement with respect to the System prepared in accordance with generally accepted accounting principles on an audited basis by an independent certified public accountant acceptable to the Purchaser, including statements of financial condition, income, cash flows and retained earnings.

(b) For so long as a Purchaser is in possession of the Series 2011 Bond, if issued, the City shall furnish the Purchaser, at such reasonable times as the Purchaser shall request, all other financial information related to or affecting the System as the Holder may reasonably request. Upon reasonable notice, the City shall permit the Purchaser, or its agents and representatives, to inspect during regular business hours the City's books and records relating to or affecting the System and to make extractions therefrom.

[End of Article VII]

**ARTICLE VIII**  
**COMPLIANCE WITH REQUIREMENTS OF THE CODE; BANK QUALIFICATION**

**Section 8.01 Compliance with the Code Generally.**

(a) The City will comply with all requirements of the Code in order to preserve the tax-exempt status of the Series 2011 Bond, if issued, including without limitation, the requirement to file an information report with the Internal Revenue Service and the requirement to comply with the provisions of Section 148(f) of the Code and Section 1.148-3 of the Treasury Regulations pertaining to the rebate of certain investment earnings on the proceeds of the Series 2011 Bond, if issued to the United States Government.

(b) The City further represents and covenants that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Series 2011 Bond, if issued, to become includable in the gross income of the Purchaser thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Series 2011 Bond, if issued. Without limiting the generality of the foregoing, the City represents and covenants that:

(1) All property refinanced by the Series 2011 Bond, if issued, will be owned by the City in accordance with the rules governing the ownership of property for federal income tax purposes.

(2) The City shall not permit any facility refinanced by the Series 2011 Bond, if issued, to be used in any manner that would result in (i) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or (ii) five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(3) The City is not a party to nor will it enter into any contracts with any person for the use or management of any facility refinanced by the Series 2011 Bond, if issued, that do not conform to the guidelines set forth in Revenue Procedure 97-13 of the Internal Revenue Service.

(4) The City will not sell or lease any property refinanced by the Series 2011 Bond, if issued, to any person unless it obtains the opinion of Bond Counsel that such lease or sale will not affect the tax exemption of the Series 2011 Bond, if issued.

(5) The Series 2011 Bond, if issued, will not be federally guaranteed within the meaning of Section 149(b) of the Code. The City shall not enter into any leases or sales or service contracts with any federal government agency unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of the Series 2011 Bond, if issued.



Section 8.02 Designation of the Series 2011 Bond as Bank Qualified.

The City reasonably expects that the aggregate principal amount of the Series 2011 Bond, if issued, together with the original principal amount of all other tax-exempt obligations of the City and any entity subordinate thereto (other than obligations which are private activity bonds not qualified under Section 145 of the Code) issued in calendar year 2011, will, in the aggregate, not exceed \$10,000,000. The City hereby designates the Series 2011 Bond, if issued, as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code.

[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 2011 Ordinance on the part of the City or any fiduciary to be performed should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Series 2011 Ordinance.

Section 9.02 Table of Contents and Section Headings Not Controlling.

The Table of Contents and the Headings of the several Articles and Sections of this Series 2011 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 2011 Ordinance.

Section 9.03 State Law Continuing Disclosure.

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 remain in effect with respect to the Series 2011 Bond, if issued, 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 System's revenue base.

The only remedy for failure by the City to comply with the covenant in this Section 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 Section 11-1-85, without the consent of any Bondholder.

[End of Article IX]

**DONE, RATIFIED AND ADOPTED** this 26<sup>th</sup> day of July, 2011.

**CITY OF WALTERBORO, SOUTH  
CAROLINA**

(SEAL)

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading: July 12, 2011  
Second Reading: July 26, 2011

**STATE OF SOUTH CAROLINA**

**COUNTY OF COLLETON**

I, the undersigned City Clerk of the City of Walterboro, South Carolina (the "*City*"), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an ordinance (the "*Ordinance*") which was read at two (2) public meetings of the City Council of the City (the "*City Council*") on two (2) separate days. An interval of at least six (6) days occurred between each reading. At each meeting a quorum of the membership of the City Council, were present and remained throughout. The original of the Ordinance is duly entered in the permanent records of the City, in my custody as City Clerk.

As required by Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended, a notice of each meeting (including the date, time, and place thereof, as well as an agenda) was posted prominently in the City Hall of the City at least twenty-four hours prior to said meetings. In addition, the local news media and all persons requesting notification of meetings of the City Council were notified of the time, date, and place of such meetings, and were provided with a copy of the agendas therefor at least twenty-four hours in advance of such meetings.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

**IN WITNESS WHEREOF**, I have hereunto set my Hand and the Seal of the City, this \_\_\_\_ day of July, 2011.

(SEAL)

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading:        July 12, 2011  
Second Reading:     July 26, 2011

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**ORDINANCE # 2011-12**

**AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A HOSPITALITY TAX REVENUE BOND, SERIES 2011 OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.**

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**BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF WALTERBORO, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:**

**ARTICLE I  
FINDINGS OF FACT**

Section 1.01 Recitals and Statement of Purpose.

Incident to the adoption of this ordinance (this "**Ordinance**"), and the issuance of the revenue bond provided for herein, the City Council of the City of Walterboro, South Carolina (the "**City Council**"), the governing body of the City of Walterboro, South Carolina (the "**City**"), finds, as a fact, that each of the statements hereinafter set forth is in all respects true and correct.

(A) The City is a municipal corporation of the State of South Carolina (the "**State**"), located in Colleton County, South Carolina (the "**County**") and as such possesses all general powers granted by the Constitution and statutes of the State to municipal corporations.

(B) Pursuant to Article 7, Chapter 1, Title 6 of the Code of Laws of South Carolina, 1976, as amended, the City Council enacted on April 4, 2006 ordinance number 2006-08 of the City entitled, "AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING A LOCAL HOSPITALITY TAX TO APPLY TO ALL ESTABLISHMENTS WHICH SELL PREPARED MEALS AND BEVERAGES LOCATED IN WALTERBORO, SOUTH CAROLINA AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE" (the "**Hospitality Tax Ordinance**").

(C) Pursuant to the Hospitality Tax Ordinance which became effective May 1, 2006 the City imposed a local hospitality tax (the "**Hospitality Tax**") in the amount of one percent (1%) on the gross proceeds of sales of prepared meals and beverages sold in establishments located within the boundaries of the City.

(D) Through the imposition of the Hospitality Tax, the City Council recognized that a vibrant tourism industry fosters and enhances the economic growth and well being of a community and its residents. Tourism has been and continues to be a growing industry within the City and the City continues to initiate efforts to attract tourists to utilize its facilities and attractions.

(E) On April 4, 2006 the City Council adopted an ordinance entitled, "AN ORDINANCE AUTHORIZING THE ENTRY BY THE CITY OF WALTERBORO IN A LEASE PURCHASE FINANCING WITH RESPECT TO THE GREAT SWAMP SANCTUARY, TO PROVIDE FUNDS TO PAY A GRANT TO COLLETON COUNTY TO PREPAY A PORTION OF THE COUNTY'S DEBT INCURRED TO PAY A PORTION OF THE COST OF A VETERANS NURSING HOME IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$1,600,000; AUTHORIZING THE EXECUTION AND DELIVERY OF A BASE LEASE, PROJECT LEASE, AND ASSOCIATED DOCUMENTS IN CONNECTION THEREWITH, AND OTHER MATTERS RELATING THERETO" (the "**Financing Ordinance**"). Pursuant to the provisions of the Financing Ordinance, the City Council determined to develop infrastructure and resources in the City that memorialize and celebrate those who have served our country in the armed forces, including the Veterans Administration



Nursing Home (the “*VA Project*”), a joint project of the County and the State. The City estimated that the VA Project brought thousands of visitors to the City each year from outside the City, the County and the State. The VA Project had originally been financed by a lease purchase obligation incurred by the County on January 31, 2001 in the principal amount of \$3,900,000 (the “*VA Project Financing*”).

(F) In recognition of the benefits that the VA Project did and would provide to the City, the City under the provisions of the Financing Ordinance agreed to make a grant (the “*City Contribution*”) to the County, the proceeds of which would be used to pay a portion of the VA Project Financing.

(G) To obtain the funds for the City Contribution, the City contemporaneously entered into a Base Lease Agreement (the “*Base Lease Agreement*”) with Branch Banking and Trust Company (the “*Bank*”), whereby the City leased certain tracts of land designated by the City as the “Great Swamp Sanctuary” (the “*Sanctuary Tract*”) to the Bank, and entered into a Project Lease Agreement (the “*Project Lease Agreement*”), whereby the Bank leased the Sanctuary Tract improved by the construction of the Great Swamp Discovery Center to the City.

(H) The Base Lease Agreement and the Project Lease Agreement together constitute a lease-purchase obligation of the City (the “*Obligation*”) which resulted in the City’s raising funds in the amount of \$1,560,000. Of this amount, \$1,511,902.66 constituted the City Contribution. The Obligation bears interest at the rate of 4.11% per annum and is paid monthly on the first day of each month through and including the month of May, 2021.

(I) Current market conditions indicate that interest cost savings can be effected by refunding the principal amount due on the Obligation. Presently, the outstanding principal amount of the Obligation is \$1,135,305.66.

(J) In its 2010 legislative session, the General Assembly of the State enacted Act No. 284 of 2010, now codified as Section 6-1-760 of the Code of Laws of South Carolina, 1976, as amended (“*Act No. 284*”) whereby, “any . . . municipality is authorized to issue bonds, utilizing the procedures of Section 4-29-68, Section 6-17-10 and related sections, or Section 6-21-10 and related sections, for the purposes enumerated in Section 6-1-530, to pledge as security for such bonds and to retire such bonds with the proceeds of . . . hospitality taxes imposed under [Chapter 1 of Article 6] . . . and the pledge of such other nontax revenues as may be available for those purposes for capital projects used to attract and support tourists.”<sup>1</sup>

(K) Pursuant to the provisions of Act No. 284, the City Council is authorized to effect the issuance of a Hospitality Tax Revenue Bond for the purposes of prepaying the principal of the Obligation together with the interest due thereon and the costs of issuance thereof.

(L) Based on the foregoing, the City Council has determined to issue a Hospitality Tax Revenue Bond, the proceeds of which will be used for the principal purposes described in paragraph (K) above.

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<sup>1</sup> For the purposes herein and for the purposes of Act No. 284, the purposes delineated in Section 6-1-730 are exactly the same as the purposes delineated in Section 6-1-530.

(M) The City presently has no outstanding indebtedness which is secured by a pledge of the Hospitality Tax.

(N) In order to provide for the issuance of the Hospitality Tax Revenue Bond and provide for the issuance of additional revenue bonds payable from the Hospitality Tax from time to time in order to provide funds to defray the costs of tourism related projects authorized under the provisions of Section 6-1-730 of the Code of Laws of South Carolina, 1976, as amended, the City Council has determined to adopt this Ordinance.

[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 2011 Bond Ordinance, the Bond Ordinance, or the Ordinance. Such terms shall include all Ordinances supplemental thereto or amendatory thereof.

Section 2.02 Defined Terms.

In this 2011 Bond Ordinance, including Article I, unless a different meaning clearly appears from the context, the following terms shall have the following respective meanings:

**“2011 Debt Service Fund”** shall mean the fund designed to provide for the payment of the principal of and interest on the Bond, as the same respectively fall due, and as established by the provisions of Section 8.03 hereof.

**“2011 Debt Service Reserve Fund”** shall mean, if required to be established by the purchaser of the Bond, the fund so designated and established for the Bond, and designed to insure the timely payment of the principal of and interest on the Bond and to provide for the redemption of the Bond prior to its stated maturity, as set forth more fully by the provisions of Section 8.04 hereof.

**“2011 Reserve Requirement”** shall mean, as of any date of calculation, the debt service reserve requirement, if any, established for the Bond.

**“Additional Bonds”** shall mean bonds issued on a parity with the Bond.

**“Additional Projects”** shall mean such capital improvement projects, expenditures or other projects, including land acquisition, as may be approved by the City Council and in compliance with the provisions of Section 6-1-730 of the South Carolina Code.

**“Annual Principal and Interest Requirements”** shall mean, with respect to any particular Fiscal Year, an amount (other than amounts paid from proceeds of the Bond and any Additional Bonds) equal to the sum of (1) all interest payable on the Bond and any Additional Bonds during such Fiscal Year plus (2) any Principal Installment of the Bond and any Additional Bonds during such Fiscal Year.

**“Authorized Investments”** shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Sections 6-5-10 or 6-6-30 of the South Carolina Code or any successor statute, as the same may be further limited pursuant to the provisions of a future ordinance which authorizes the issuance of Additional Bonds.

**“Bond”** shall mean the Hospitality Tax Revenue Bond, Series 2011 of the City of Walterboro, South Carolina.

“**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, selected by the City.

“**Bond Payment Date**” shall mean each date determined in accordance with Section 4.03 hereof, on which interest on the Bond shall be payable or on which both principal and interest shall be payable on the Bond.

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

“**Business Day**” shall mean, 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.

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

“**City Council**” shall mean the City Council of the City.

“**City Manager**” shall mean the City Manager of the City, who serves at the pleasure of the City Council.

“**Clerk**” shall mean the City Clerk. The term shall include 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 Colleton County, South Carolina.

“**Date of Issue**” shall mean the date from which interest shall accrue on the Bond.

“**Defeasance Obligations**”, shall mean non-callable (1) Government Obligations and (2) 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.

“**Enabling Act**” shall mean Act No. 284, Chapter 17 of Title 6 of the South Carolina Code and all other statutory authorizations, authorizing and enabling the City Council to adopt this Ordinance and issue the Bond.

“**Events of Default**” shall mean those events set forth in Section 14.01 of this Ordinance.

“**Fiduciary**” or “**Fiduciaries**” shall mean the Finance Director and any Registrar and any other agent of the City appointed pursuant to the authorizations of this Ordinance.

**“Finance Director”** shall mean the Director of Finance and Administration of the City.

**“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.

**“Hospitality Fund”** shall mean the account or accounts established and maintained by the City in such fashion as to adequately reflect all of the receipts and revenues derived from the imposition of the Hospitality Tax and all interest and other income earned from the investment thereof, as established by the provisions of Section 8.02 hereof.

**“Hospitality Tax”** or **“Hospitality Taxes”** shall mean those amounts imposed and collected pursuant to the Hospitality Tax Ordinance.

**“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.

**“Junior Lien Bonds”** shall mean any revenue bonds or other obligations issued by the City which are secured by a pledge of and lien upon those revenues imposed and collected pursuant to the Hospitality Tax Ordinance; such pledge of and lien upon such revenues imposed and collected pursuant to the Hospitality Tax Ordinance are junior and subordinate in all respects to the pledge of and lien upon made to secure the Bond and any Additional Bonds.

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

**“Paying Agent”** shall mean the Finance Director who shall pay the principal, interest and redemption premium, if any, on the Bond and shall have the duties and responsibilities provided for in this Ordinance.

**“Principal Installment”** shall mean, as of any date of calculation, the outstanding principal amount of the Bond due on a certain future date.

**“Record Date”** shall mean the fifteen (15) days immediately preceding each Bond Payment Date.

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

**“Registrar”** shall mean the Clerk who shall maintain an accurate list of those who from time to time shall be the Holder of the Bond and effect the transfer of the Bond in accordance with the provisions of this Ordinance and having the duties, responsibilities, and rights provided for in this Ordinance. The Registrar shall have the responsibility of authenticating the Bond.

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

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

Section 2.03 Interpretations.

In this Ordinance, unless the context otherwise requires:

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

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

Any Fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this 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 City shall continue to be operated on a Fiscal Year basis, which, until changed, shall commence on the first (1st) day of July of each year and shall end on the thirtieth (30th) day of June of the following year. The City may, by ordinance duly adopted by City Council, change the Fiscal Year at any time from that then existing to a different twelve (12)-month period.

[End of Article III]

**ARTICLE IV  
AUTHORIZATION AND TERMS OF THE BOND**

Section 4.01 Principal Amount of Bond; Designation of Bond.

Pursuant to the provisions of the Enabling Act and this Ordinance, a single Bond of the City entitled to the benefits, protection and security of the provisions of this Ordinance is hereby authorized for the purposes set forth in Section 1.01 hereof. The precise dollar amount of the principal of the Bond shall be established by the City Manager at the time of the original delivery thereof based on the amount deemed necessary at the time to accomplish the purposes provided for herein; provided however, the principal amount of the Bond shall not exceed \$1,435,000. The Bond so authorized shall be designated "Hospitality Tax Revenue Bond, Series 2011 of the City of Walterboro, South Carolina."

Section 4.02 Purposes of Bond.

The Bond is authorized for the principal purposes of:

- (a) paying certain costs and expenses relating to the issuance of the Bond;
- (b) funding the 2011 Debt Service Reserve Fund, if established; and
- (c) providing funds for the purposes described in Paragraph (K) of Section 1.01 hereof.

Section 4.03 Date, Interest Rates, Maturity and Redemption of Bond.

The Date of Issue of the Bond shall be the date of the original delivery thereof or such other date prior to the delivery of the Bond as the City Manager determines. The Bond shall bear interest at a rate to be determined by the City Manager (calculated on a 360-day year of twelve 30 day months) and shall mature in the respective principal amounts as shall be determined by the City Manager at the time of original delivery of the Bond; provided that the Bond shall reach final maturity no later than May 1, 2021. The City Manager may determine if the Bond shall be issued as a taxable or a tax-exempt obligation.

Principal of and interest on the Bond shall be payable in any coin or currency of the United States which at the time of payment is legal tender for the payment of public and private debts. The Bond shall be payable with respect to principal and interest on such date or dates as shall be determined by the City Manager.

The Bond shall be subject to redemption prior to final maturity, if at all, at the times and prices as shall be determined by the City Manager at the time of the original delivery of the Bond.

Section 4.04 Authentication; Payment of the Bond.

The Bond shall be authenticated by the Registrar on such date as the same shall be delivered. The Bond shall bear interest from the Date of Issue, otherwise from the last date to



which interest has been paid and which date is on or prior to the date of authentication of the Bond.

The principal of and interest on the Bond shall be paid by check, draft or wire transfer and in the event of a check or draft mailed from the office of the Paying Agent to the person in whose name the Bond is registered at the close of business on the Record Date, and presentment of the Bond for payment shall not be required, except for the final payment of principal and interest thereon.

Section 4.05 Form of Bond.

The Bond shall initially be issued in the form of a single, typewritten bond.

Section 4.06 Sale of Bond.

The City Manager is hereby authorized to either: (1) solicit bids from financial institutions and upon such terms thereof, he is authorized to award the sale of the Bond to the banking or financial institution that provides the most favorable terms, including the rate of interest the Bond shall bear, for the payment of the Bond; or (2) negotiate the sale of the Bond to a financial institution upon such terms as he may determine.

Section 4.07 Authentication.

The Bond must have endorsed thereon a certificate of authentication duly executed by the Registrar and the Bond shall not be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar.

Section 4.08 2011 Debt Service Fund; 2011 Debt Service Reserve Fund.

(a) The 2011 Debt Service Fund is hereby directed to be established by the Finance Director on the date of original delivery of the Bond for the benefit of the Holder of the Bond.

(b) In the event the purchaser of the Bond requires the establishment of the 2011 Debt Service Reserve Fund, the Finance Director is hereby directed to establish the 2011 Debt Service Reserve Fund. In such event, the 2011 Debt Service Reserve Fund shall be maintained by the Finance Director in accordance with this Ordinance in an amount equal to the 2011 Reserve Requirement which amount shall be established by the City Manager.

Section 4.09 Use of Proceeds of Bond.

The proceeds of the Bond shall be used immediately upon receipt for the purposes set forth in Section 4.02 herein.

Section 4.10 Reliance on Certificates.

The Holder of the Bond shall be entitled to rely upon certificates of the City Manager, the Clerk or the Finance Director made in good faith, pursuant to any provision of this Ordinance.

Section 4.11 Execution of Bond.

(A) The Bond shall be executed in the name of and on behalf of the City by the Mayor, the corporate seal of the City shall be impressed thereon, and the same shall be attested by the Clerk.

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

Section 4.12 Medium of Payment.

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

Section 4.13 Mutilated, Lost, Stolen or Destroyed Bonds.

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

Section 4.14 Transfer and Registry, Persons Treated as Owners.

(A) As long as the Bond is outstanding, the City shall cause books for the registration and for the transfer of the Bond to be kept. Such books shall be kept by the Registrar. The transfer of the Bond may be registered only upon the registration books of the City 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 the Bond, the City shall cause to be issued in the name of the transferee a new Bond evidencing the then outstanding principal amount, but of like Principal Installments and interest rate as the surrendered Bond.

(B) The City, the Registrar or the Paying Agent may deem and treat the person in whose name the Bond shall be registered upon the registration books of the City as the absolute owner of the Bond, whether the 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 the 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 the Bond to the extent of the sum or sums so paid; and none of the City, the Registrar or the Paying Agent shall be affected by any notice to the contrary.

Section 4.15 Optional Redemption; Notice of Redemption.

The Bond may be subject to redemption prior to its stated maturity upon such terms and conditions and at such dates and redemption price or prices or premium or premiums as shall be determined by the City Manager.

If the Bond is called for redemption, the City shall give notice to the Holder in the name of the City, of the redemption of the Bond. Notice of the redemption of the Bond is required to be mailed by the Finance Director by first class mail, postage prepaid, not less than ten nor more than thirty days prior to the redemption date to the registered owner of the Bond to be redeemed, at the address of such owner recorded on the bond register.

Provided sufficient funds for such redemption are on deposit with the Paying Agent, the Bond 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, the Bond shall continue to bear interest until paid at the same rate as it would have borne had it not been called for redemption. The obligation to provide notice shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the redemption price of the Bond to which such notice relates or the interest thereon to the redemption date.

Section 4.16 Security for Payment of Bond; Priority of Lien; Limited and Special Obligation of the City.

The Bond shall be payable solely from and shall be secured by a pledge of and lien upon the Hospitality Taxes. Such pledge and lien securing the Bond shall at all times and in all respects be and remain superior to pledges and liens made and given to secure any other bonds or other obligations payable from the Hospitality Taxes, except those given to secure Additional Bonds as provided herein.

THE BOND SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN THE MEANING OF ANY PROVISION, LIMITATION OR RESTRICTION OF THE CONSTITUTION OR THE LAWS OF THE STATE, OTHER THAN THOSE PROVISIONS AUTHORIZING INDEBTEDNESS PAYABLE SOLELY FROM A REVENUE-PRODUCING PROJECT NOT INVOLVING REVENUES FROM ANY TAX OR LICENSE; AND THE FAITH, CREDIT AND TAXING POWER OF THE CITY ARE EXPRESSLY NOT PLEDGED THEREFOR. THE CITY IS NOT OBLIGATED TO PAY THE BOND OR THE INTEREST THEREON EXCEPT FROM THE HOSPITALITY TAXES.

A statement to the effect of the above shall be stated in the Bond.

Section 4.17 Form of Bond.

The Bond, together with the Certificate of Authentication and Assignment to appear thereon, shall be in substantially the following form with necessary and appropriate variations, omissions and insertions as permitted or required by this Ordinance, to wit:

(FORM OF BOND)

CITY OF WALTERBORO, SOUTH CAROLINA  
HOSPITALITY TAX REVENUE BOND, SERIES 2011

No. 1

\$ \_\_\_\_\_

CITY OF WALTERBORO, SOUTH CAROLINA (the "**City**"), acknowledges itself indebted and for value received hereby promises to pay, solely from the sources and as hereinafter provided, to \_\_\_\_\_, or its registered assigns, the principal amount of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), in the manner provided below, with interest thereon from the date hereof at the rate of \_\_\_\_\_ percent (\_\_\_\_\_% ) per annum. The Bond shall be payable \_\_\_\_\_ with respect to principal and interest on each \_\_\_\_\_ [and] \_\_\_\_\_ (the "**Bond Payment Date(s)**") for a \_\_\_\_ (\_\_\_\_) year term. Principal of and interest on this Bond shall be payable in any coin or currency of the United States, which at the time of payment is legal tender for the payment of public and private debts. The principal and interest so payable will be paid to the person in whose name the Bond is registered at the close of business on the 15<sup>th</sup> day immediately preceding the Bond Payment Date (the "**Record Date**").

The principal of and interest on this Bond shall be paid by check, draft or wire transfer by each Record Date from the office the Director of Finance and Administration of the City (the "**Finance Director**"), to the person in whose name this Bond is registered on the Record Date at the address shown on the registration books, provided that the final payment of principal of and interest on this Bond shall be made upon the presentment of the Bond at the office of the Finance Director.

This Bond is issued pursuant to and in accordance with the Constitution and statutes of the State of South Carolina (the "**State**"), including particularly Act No. 284 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 2010, now codified at S.C. Code Ann. Section 6-1-760 of the Code of Laws of South Carolina 1976, as amended, a Hospitality Tax Ordinance duly enacted by the City Council of the City (the "**City Council**"), the governing body of the City, on April 4, 2006 (the "**Hospitality Tax Ordinance**") and a Bond Ordinance duly enacted by the City Council on July 26, 2011 (the "**Ordinance**"). Certain capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Ordinance. Certified copies of the Ordinance are on file in the office of the Clerk of Court for Colleton County, South Carolina. The Bond is issued for the principal purposes of (a) obtaining funds to pay all remaining amounts due on a lease-purchase obligation of the City dated May 1, 2006, and (b) paying costs of issuance of this Bond.

Both the principal of and interest on this Bond, as the same shall become due, are payable solely from the Hospitality Taxes imposed and collected pursuant to the Hospitality Tax Ordinance (the "**Hospitality Taxes**"). This Bond shall not in any event constitute an indebtedness of the City within the meaning of any provision, limitation or restriction of the Constitution or statutes of the State of South Carolina. The City is not obligated to pay this Bond, or the interest hereon, save and except from Hospitality Taxes. The Ordinance authorizes the issuance of Additional Bonds on a parity with the pledge and a lien given to secure this Bond which, when

issued in accordance with the provisions of the Bond Ordinance, will rank equally and be on a parity therewith (the Bond and all bonds heretofore or hereafter issued on a parity therewith are hereinafter referred to as the "**Bonds**").

The City has covenanted that it shall not at any time, during the term that this Bond is Outstanding, reduce the amounts assessed for the Hospitality Tax to a level not sufficient to permit the City to discharge its obligations hereunder.

For the payment of the principal of and interest on this Bond, there are hereby irrevocably pledged the Hospitality Taxes; and a lien upon the receipts of all Hospitality Taxes has been granted to the Holder of this Bond. The Ordinance provides that, in addition to other remedies, upon a default thereunder, the Holder of the Bond may declare the Bond immediately due and payable.

This Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer and certain franchise taxes.

This Bond is transferable, as provided in the Ordinance, only upon the registration books of the City kept for that purpose and maintained by the Registrar, by the Holder hereof in person or by his duly authorized attorney, upon (a) surrender of this Bond and an assignment with a written instrument of transfer with signature guaranteed by a member firm of STAMP, SEMP or MSP signature guaranty medallion program, duly executed by the Holder hereof or its duly authorized attorney and (b) payment of the charges, if any, prescribed in the Ordinance. Thereupon a new Bond of the then outstanding principal amount, but of like Principal Installments and interest rate, shall be issued to the transferee in exchange therefor as provided in the Bond Ordinance. The City may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of this Bond, the City may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

[INSERT REDEMPTION PROVISIONS]

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such Constitution or statutes.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

**IN WITNESS WHEREOF**, the City has caused this Bond to be executed by the Mayor of the City and attested to by the City Clerk of the City and its corporate seal to be impressed hereon, all as of the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**CITY OF WALTERBORO, SOUTH  
CAROLINA**

(SEAL)

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

Attest:

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

**CERTIFICATE OF AUTHENTICATION**

This is the Bond described in the within mentioned Ordinance of City of Walterboro, South Carolina, dated \_\_\_\_\_, 2011.

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina, as Registrar

Date of Authentication: \_\_\_\_\_, 2011

[FORM OF ASSIGNMENT]

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

\_\_\_\_\_  
(Name and Address of Transferee)  
\_\_\_\_\_  
(Social Security

Number or Other Identifying Information) the within bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
(Authorized Officer)

\_\_\_\_\_  
(Signature(s) must be guaranteed by participant in STAMP, SEMP or MSP signature guaranty medallion program)

\_\_\_\_\_  
Notice: The signature to the assignment a must correspond with the name of the Agent registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

\* \* \*

[End of Article IV]

**ARTICLE V  
ADDITIONAL BONDS**

Section 5.01 Authorization for Additional Bonds.

- (A) From time to time and for the purposes of:
- (1) obtaining funds for any Additional Projects or any purposes pursuant to Section 6-1-730 of the South Carolina Code;
  - (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 Additional Bonds;
  - (3) refunding the Bond or any Additional Bonds that are or were payable in whole or in part from Hospitality Taxes;
  - (4) providing funds for the payment of interest due on Additional Bonds;
  - (5) funding any debt service reserve fund or providing funds to restore the value of the cash and securities in the 2011 Debt Service Reserve Fund, if established, or in a debt service reserve fund established for any Additional Bonds to the amount equal to the reserve requirement established for any Additional Bonds; and
  - (6) paying the costs of issuance of Additional Bonds, including any credit enhancement therefor,

but subject to the terms, limitations, and conditions herein, City Council may authorize the issuance of Additional Bonds by the adoption of an ordinance, and the Additional Bonds may be issued and delivered upon compliance with the provisions of this Article. The Additional Bonds shall be issued in fully registered form, without coupons, and may be book-entry bonds. The Additional Bonds shall, in addition to the title, "City of Walterboro, South Carolina Hospitality Tax Revenue Bond" bear a letter or number series designation as may be necessary to distinguish them and shall designate the year in which they are issued. Additional Bonds may be authorized to be issued in the form of serial bonds or term bonds, with or without mandatory sinking fund payments, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable ordinance.

(B) Each ordinance authorizing Additional Bonds shall include a determination to the effect that the issuance of such Additional 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 ordinance shall specify and determine:

- (1) the Date of Issue of such Additional Bonds;
- (2) the maximum authorized principal amount of such Additional Bonds, and the manner of determining the precise principal amount and the officials authorized to make such determination;



(3) the time for the payment of interest on the Additional Bonds 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 ordinance shall specify a date beyond which the final maturity of such series shall not extend which date shall not be longer than forty (40) years from the Date of Issue;

(4) the specific purposes for which such Additional Bonds are being issued, which shall be to provide funds for the purposes authorized by the Enabling Act and this Ordinance;

(5) the title and designation of the Additional Bonds;

(6) the manner in which the Additional Bonds 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 Additional Bonds;

(8) the form of the Additional Bonds and any portion that are serial bonds and that are term bonds, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such ordinance to be paid for the retirement of any such Additional 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 Additional Bonds for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;

(10) the Registrar for the Additional Bonds and the Paying Agent for such Additional Bonds, and the escrow agent if such Additional Bonds are advance refunding bonds;

(11) the manner of numbering and lettering, and the denomination or denominations, of the Additional Bonds;

(12) whether a debt service reserve fund will be established for such Additional Bonds, and if so required, the amount of the reserve requirement and how the reserve requirement will be met;

(13) the disposition of the proceeds of the sale of the Additional Bonds and the manner of their application;

(14) that a debt service fund be established for such Additional Bonds and maintained in similar fashion as the 2011 Debt Service Fund, and that a construction fund be established if the proceeds of the Additional Bonds are intended to be used for any Additional Projects, 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 Additional Bonds; and

(15) all other provisions deemed advisable by Bond Counsel in order that the Additional Bonds shall be issued on a parity with the Bond.

Section 5.02 Conditions to Issuance of Additional Bonds.

All Additional Bonds shall be issued in compliance with the following provisions of this Section 5.02:

(A) There shall exist, on the occasion of the issuance of the Additional Bonds, no default in the payment of the principal of or interest on the Bonds, any Additional Bonds, or any Junior Lien Bonds then outstanding;

(B) Unless on the date of delivery of such Additional Bonds there shall be on deposit in each debt service reserve fund, including the 2011 Debt Service Reserve Fund, if established, 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:

(1) the ordinance authorizing the Additional Bonds shall provide or have provided for successive monthly payments beginning in the first month following the date of the issuance of the Additional Bonds in substantially equal monthly amounts (the "*Monthly Payments*") so that by the end of twelve months from the date of issuance of such Additional Bonds there shall be in the applicable debt service reserve fund an amount equal to the applicable reserve requirement with respect to such Additional Bonds; and

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

(C) Except in the case of Additional Bonds issued for the purpose of refunding the Bond or any Additional Bonds, and that meet the test prescribed in Section 5.02(D) hereof:

Additional Bonds may be issued if the Hospitality Taxes collected during the Fiscal Year immediately preceding the Fiscal Year in which such Additional Bonds are issued or incurred, as certified by the Finance Director, are not less than 125% of the Annual Principal and Interest Requirements on the Bond, all Additional Bonds then outstanding and the Additional Bonds then proposed to be outstanding; provided, however, nothing in this Section 5.02(C) shall prohibit the City from making a pledge of the Hospitality Taxes which is subordinate and inferior to the pledges and liens permitted hereby to secure the Bond and any Additional Bonds.

(D) In lieu of compliance with Section 5.02(C) hereof, in the case of Additional Bonds issued for the purpose of refunding the Bond or Additional Bonds, the Annual Principal and Interest Requirements of the refunding Additional Bonds shall not exceed the Annual Principal and Interest Requirements of the refunded Bond or Additional Bonds for any Fiscal Year.

[End of Article V]

**ARTICLE VI  
RATES AND CHARGES**

Section 6.01 Rate Covenant.

(A) In order to insure that the City shall, at all times required hereby, have sufficient moneys available to pay the debt service payments required hereunder, the City covenants and agrees that it shall not at any time, during the term that the Bond is Outstanding, reduce the amounts assessed for the Hospitality Tax to a level not sufficient to permit the City to discharge its obligations hereunder.

(B) The City covenants to enforce the collection of the Hospitality Taxes and do all things legally authorized by the terms of the Hospitality Tax Ordinance and the South Carolina Code to ensure the proper collection thereof.

[End of Article VI]

**ARTICLE VII  
JUNIOR LIEN BONDS**

Section 7.01 Right to Issue Junior Lien Bonds.

The City may, at any time, and without limitation and free of all conditions, issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the Hospitality Taxes, provided that the pledge of and lien upon the Hospitality Taxes 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 and liens upon the Hospitality Taxes made or authorized for the Bond and any Additional Bonds.

[End of Article VII]

**ARTICLE VIII  
ESTABLISHMENT OF FUNDS**

Section 8.01 Requirement for Special Funds.

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

Section 8.02 The Hospitality Fund.

(A) There shall be established and maintained a fund or account designated as the Hospitality Fund to be held in trust by the City. This account shall be so maintained as to accurately reflect all revenues derived from the collection of the Hospitality Taxes.

(B) Except as otherwise specifically directed or permitted herein, all Hospitality Taxes shall be deposited in accordance with and in the manner prescribed by Article IX hereof into this fund. Money in the Hospitality Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article IX hereof. So long as the City establishes, from an accounting standpoint, proper records of receipts and disbursements for the Hospitality Fund, the Hospitality Fund may be used for the purposes of paying any operation and maintenance expenses of any Additional Projects, subject to the prior applications of the amounts in the Hospitality Fund for the purposes set forth in Sections 8.03 and 8.04 hereof and similar sections provided in an ordinance authorizing the issuance of Additional Bonds.

Section 8.03 The 2011 Debt Service Fund.

(A) There shall be established and maintained a 2011 Debt Service Fund for the Bond. The 2011 Debt Service Fund is intended to provide for the ratable payment of the principal of, redemption premium, if any, and interest on the Bond. Payments into this Fund shall be made in the manner prescribed by the Bond Ordinance, including the applicable provisions of Article IX, and, except as herein provided, all money in the 2011 Debt Service Fund shall be used solely to pay the principal of, redemption premium, if any, and interest on the Bond, and for no other purpose.

(B) The 2011 Debt Service Fund shall be kept in the complete custody and control of the Finance Director and withdrawals from the 2011 Debt Service Fund shall be made only by the Finance Director or any Fiduciary who shall transmit to the Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bond.

(C) Money in the 2011 Debt Service Fund shall be invested and reinvested by the Finance Director or his designee 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 the 2011 Debt Service Fund, but shall be credited against payments that would otherwise be made to the 2011 Debt Service Fund pursuant to the provisions of Section 9.02 hereof.

Section 8.04 The 2011 Debt Service Reserve Fund.

(A) A 2011 Debt Service Reserve Fund for the Bond may be established. If established, the 2011 Debt Service Reserve Fund shall be only for the benefit of the Holder of the Bond. The 2011 Debt Service Reserve Fund, if any, is intended to insure the timely payment of the principal of and interest on the Bond, and to provide for the redemption of such Bond prior to its stated maturity. The 2011 Debt Service Reserve Fund shall be maintained in an amount equal to the 2011 Reserve Requirement which shall be established by the City Manager at the closing of the Bond. Money in the 2011 Debt Service Reserve Fund shall be used for the following purposes, and for no other:

(1) to prevent a default in the payment of the principal of or interest on the Bond, by reason of the fact that money in the 2011 Debt Service Fund is insufficient for such purposes;

(2) to pay the principal of, interest on, and redemption premium for the Bond in the event that the Bond be redeemed as a whole; or

(3) to effect partial redemption of the Bond; provided that subsequent to said partial redemption, the market value of the cash and securities in the 2011 Debt Service Reserve Fund shall be not less than the 2011 Reserve Requirement.

(B) The 2011 Debt Service Reserve Fund, if established, shall be kept in the complete custody and control of the Finance Director. Withdrawals therefrom shall be made only by the Finance Director who shall transmit to the Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bond.

(C) Money in the 2011 Debt Service Reserve Fund shall be invested and reinvested by the Finance Director 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 2011 Debt Service Reserve Fund. If as of any date of calculation, the value of the securities and money in the 2011 Debt Service Reserve Fund shall exceed the 2011 Reserve Requirement, such excess shall either be used to effect partial redemption of the Bond, if permitted, or shall be removed from the 2011 Debt Service Reserve Fund and transferred into the 2011 Debt Service Fund, as directed by the Finance Director or the City Manager.

[End of Article VIII]

**ARTICLE IX  
DISPOSITION OF REVENUES**

Section 9.01 Deposits to General Revenue Fund; Dispositions Therefrom.

All Hospitality Taxes shall from time to time be promptly deposited in an account which will reflect the fact that they are a part of the Hospitality Fund. Payments from the Hospitality Fund shall be made in the order of priority established by the sequence of the remaining Sections of this Article.

Section 9.02 Payments for the Bond.

Provision shall be made for the payment of principal of, premium, if any, and interest on the Bond. To that end:

(A) By the Record Date, there shall be deposited into the 2011 Debt Service Fund the aggregate amount of interest to become due on the Bond on the next ensuing interest payment date.

(B) By the Record Date, there shall be deposited into the 2011 Debt Service Fund the Principal Installment of the Bond next becoming due and payable, so that on each principal maturity date, the amount of principal to be paid shall be on hand.

(C) If, on the occasion when the deposits required by paragraphs (A) and (B) of this Section, are to be made, the sum total of the deposits required thereby plus any excess monies accruing to such account will be greater than the sum required to effect the payment of the next succeeding installment of either principal or interest, or both on the Bond, the amount required to be deposited under paragraphs (A) and (B) shall be correspondingly reduced.

Section 9.03 Deposits for the 2011 Debt Service Reserve Fund - Valuation.

If a 2011 Debt Service Reserve Fund is established, deposits shall next be made in the amounts required by this Section 9.03 into the 2011 Debt Service Reserve Fund. The market value of the cash and securities in the 2011 Debt Service Reserve Fund shall be calculated as of each Bond Payment Date (such calculation to be made within forty-five days after such Bond Payment Date) in order to determine if the 2011 Debt Service Reserve Fund contains the 2011 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. Unless the 2011 Debt Service Reserve Fund then contains in cash and securities an amount at least equal to the 2011 Reserve Requirement, there shall be paid into the 2011 Debt Service Reserve Fund on the last Business Day of each of the twenty-four months following a determination of a deficiency in such 2011 Debt Service Reserve Fund one twenty-fourth (1/24) of the amount necessary to re-establish in such 2011 Debt Service Reserve Fund the 2011 Reserve Requirement; provided, however, nothing herein shall preclude the City from fully re-establishing such 2011 Reserve Requirement in a more timely fashion than as so prescribed.



Section 9.04 Payments for Junior Lien Bonds.

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

Section 9.05 Use of Surplus Money.

All money remaining after making the payments required by Sections 9.02 to 9.04 herein, shall be disposed of for any lawful purpose in such manner as the City Council shall from time to time determine.

[End of Article IX]

**ARTICLE X**  
**AGREEMENT TO FURNISH INFORMATION**

Section 10.01 Keeping Records.

The City recognizes that those who may from time to time hereafter be Bondholders will, throughout the life of the Bond, require full information with respect to the Hospitality Fund, the fiscal affairs of the City, and all matters incident to each. To that end the City 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 Hospitality Fund, 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 monthly collections of all Hospitality Taxes;
- (B) all expenditures made from the several funds established by this Ordinance; and
- (C) any delinquencies associated with the collection of such Hospitality Taxes.

Section 10.02 Audit Required.

The City further covenants and agrees that so long as the Bond is Outstanding, it will, not later than 180 days after the close of each Fiscal Year, cause to be made and completed an audit of the records, books, and accounts pertaining to the City, made in accordance with generally accepted accounting practices; and that it will furnish a copy of such audit to the Holder of the Bond upon such a request.

[End of Article X]

**ARTICLE XI  
MODIFICATION OF ORDINANCE**

Section 11.01 Modification Without Bondholder Approval.

(A) Provided always that the security of the Bond shall not be lessened, or in any manner impaired, the City Council may, for anyone or more of the following purposes at any time, or from time to time, 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 Additional Bonds in accordance with Article IV of this Ordinance;

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

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

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

(B) It is further provided that, except for the issuance of Additional Bonds as permitted by this 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.

Section 11.02 Modification With Bondholder Approval.

The rights and duties of the City and the Bondholder and the terms and provisions of this Ordinance may be modified or altered in any respect by an ordinance adopted by City Council with the consent of the Holder of the Bond.

[End of Article XI]

**ARTICLE XII  
EVENTS OF DEFAULT**

Section 12.01 Events of Default.

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

(1) payment of the principal of the Bond is not made when the same shall become due and payable, either at maturity or by proceedings for redemption;

(2) payment of any installment of interest on the Bond is not be made when the same becomes due and payable;

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

(4) the City fails to perform under any other of the covenants, conditions, agreements or provisions contained in the Bond or in this Ordinance, and such default continues for thirty days after written notice, specifying such default and requiring the same to be remedied, has been given to the City by the Bondholder; provided that in the case of default specified in this paragraph (4), if the default be such that it cannot be corrected within the said thirty-day period, it shall not constitute an event of default if corrective action is instituted by the City within said thirty-day period and diligently pursued until the default is corrected; and

(5) such other events of default as may be specified in a supplemental ordinance.

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

[End of Article XII]

## **ARTICLE XIII REMEDIES**

### Section 13.01 Acceleration; Annulment of Acceleration.

(A) Upon the occurrence of an Event of Default, the Holder of the Bond may, by notice in writing to the City Council, declare the Bond immediately due and payable; and the Bond shall become and be immediately due and payable, anything in the Bond or in the Bond Ordinance to the contrary notwithstanding. In the event of any such declaration, there shall be due and payable on the Bond an amount equal to the total principal amount of the Bond, plus all interest accrued thereon and which will accrue thereon to the date of payment.

(B) Whenever any Event of Default referred to in Sections 12.01(A)(4) or (5) of this Ordinance shall have happened and be continuing, the Holder of the Bond may, without any further demand or notice, take whatever action at law or in equity which may appear necessary to (1) require the City to perform and carry out its covenants and agreements with the Holder of the Bond; (2) enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bond; or (3) bring suit upon the Bond.

### Section 13.02 Application of Revenues and Other Moneys After Default.

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

(1) Forthwith, all moneys and securities then held by the City which is credited to any fund under this Ordinance; and

(2) As promptly as practicable after receipt thereof, all Hospitality Taxes.

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

(1) to the payment of the interest and principal (and redemption premium, if any) then due on the Bond; and

(2) to the payment of the amounts required by Section 9.03, if a 2011 Debt Service Reserve Fund is established.

### Section 13.03 Remedies Not Exclusive.

No remedy by the terms of the Bond Ordinance conferred upon or reserved to the Bondholder 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 the Bond Ordinance or existing at law or in equity or by statute (including the Enabling Act) on or after the date hereof.

Section 13.04 Termination of Proceedings.

In case any proceeding taken by the 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 Bondholder, the City and the Bondholder shall be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the Bondholder shall continue as if no such proceeding had been taken.

Section 13.05 Waiver and Non-waiver of Event of Default.

(A) No delay or omission of the Holder of the Bond 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 Holder of the Bond may be exercised from time to time and as often as may be deemed expedient.

(B) The Bondholder 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 Ordinance, or before the completion of the enforcement of any other remedy under this Ordinance.

[End of Article XIII]

ARTICLE XIV  
DEFEASANCE

Section 14.01 Defeasance Generally.

Subject to the provisions of any supplemental ordinance, if the Bond issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of the City 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 supplemental ordinance, the Bond shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

(A) The Finance Director or an independent Fiduciary shall hold, at the stated maturity of the Bond, in trust and irrevocably appropriated thereto, sufficient money for the payment thereof;

(B) If default in the payment of the principal of such Bond or the interest thereon shall have occurred on a stated Bond Payment Date, and thereafter tender of such payment shall have been made, and the Finance Director or an independent Fiduciary shall then hold in trust and irrevocably appropriated thereto, sufficient money for the payment thereof to the date of the tender of such payment; or

(C) If the City shall have deposited with an independent Fiduciary 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 City has irrevocably elected to redeem the Bond, on and prior to the redemption date of, such Bond.

Section 14.02 Money to be Held in Trust - When Returnable to City.

Any money which at any time shall be deposited with a Fiduciary, by or on behalf of the City, for the purpose of paying and discharging the Bond or the interest thereon, shall be and is hereby assigned, transferred and set over in trust for the respective Holder of the Bond, 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 Holder of said Bond shall no longer be entitled to enforce payment of their obligations, then, in such event, such monies shall no longer be considered as held in trust and shall be returned to the City.

[End of Article XIV]

**ARTICLE XV**  
**COMPLIANCE WITH REQUIREMENTS OF THE CODE AND DESIGNATION OF**  
**BOND AS A QUALIFIED TAX EXEMPT OBLIGATION**

Section 15.01 General Covenant.

The City hereby represents and covenants that it will comply with all requirements of the Code, and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report with the Internal Revenue Service) which failure will, cause interest on the Bond to become includable in the gross income of the Holders thereof for federal income tax purposes.

The City Manager is hereby authorized and directed to execute, at or prior to delivery of the Bond, a certificate or certificates specifying actions taken or to be taken by the City, and the reasonable expectations of such officials, with respect to the Bond and the proceeds thereof.

Section 15.02 Qualified Tax-Exempt Obligation.

The City reasonably expects that the aggregate principal amount of the Bond, if issued, together with the original principal amount of all other tax-exempt obligations of the City and any entity subordinate thereto (other than obligations which are private activity bonds not qualified under Section 145 of the Code) issued in calendar year 2011, will, in the aggregate, not exceed \$10,000,000. The City hereby designates the Bond as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code.

[End of Article XV]



**ARTICLE XVI  
MISCELLANEOUS**

Section 16.01 Purpose of Covenants in Bond Ordinance.

Every covenant, undertaking and agreement made on behalf of the City, as set forth in this Ordinance is made, undertaken and agreed to, for the proper securing of the payment of the principal of and interest on the Bond. Each shall be deemed to partake of the obligation of the contract between the City and the Bondholder and shall be enforceable accordingly. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owner of the Bond, 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 City shall be for the sole and exclusive benefit of the City and the registered owners of the Bond.

Section 16.02 Severability.

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

Section 16.03 Repealing Clause.

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

Section 16.04 Other Documents.

The City Council authorizes the City Manager to execute and sign all other documents necessary to effect the purchase of the Bond.

Section 16.05 Direction to Index Bond Ordinance.

This Ordinance shall be forthwith codified in the Code of City Ordinances as required by law or by the rules and regulations of the City, and the same shall be indexed under the general heading "AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF A HOSPITALITY TAX REVENUE BOND, SERIES 2011 OF THE CITY OF WALTERBORO, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO."

[End of Article XVI]

**DONE, RATIFIED AND ENACTED** this 26th day of July, 2011.

**CITY OF WALTERBORO, SOUTH  
CAROLINA**

(SEAL)

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading:        July 12, 2011  
Second Reading:     July 26, 2011

**STATE OF SOUTH CAROLINA**

**COUNTY OF COLLETON**

I, the undersigned City Clerk of the City of Walterboro, South Carolina (the “*City*”), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an ordinance (the “*Ordinance*”) which was read at two (2) public meetings of the City Council of the City (the “*City Council*”) on two (2) separate days. An interval of at least six (6) days occurred between each reading. At each meeting a quorum of the membership of the City Council, were present and remained throughout. The original of the Ordinance is duly entered in the permanent records of the City, in my custody as City Clerk.

As required by Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended, a notice of each meeting (including the date, time, and place thereof, as well as an agenda) was posted prominently in the City Hall of the City at least twenty-four hours prior to said meetings. In addition, the local news media and all persons requesting notification of meetings of the City Council were notified of the time, date, and place of such meetings, and were provided with a copy of the agendas therefor at least twenty-four hours in advance of such meetings.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

**IN WITNESS WHEREOF**, I have hereunto set my Hand and the Seal of the City, this \_\_\_\_ day of July, 2011.

(SEAL)

\_\_\_\_\_  
City Clerk  
City of Walterboro, South Carolina

First Reading: July 12, 2011  
Second Reading: July 26, 2011