

ORDINANCE 4307

AN ORDINANCE PROVIDING FOR THE RESTRUCTURING OF THE WATERWORKS AND SEWER SYSTEM BY ADDING THE WATER PARK ENTERPRISE; AUTHORIZING THE ISSUANCE AND SALE OF COMBINED SYSTEM REVENUE BONDS OF THE CITY OF HARTSVILLE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.

MASTER BOND ORDINANCE

DATED: OCTOBER 10, 2017

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and is for convenience of reference only.)

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BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HARTSVILLE, SOUTH CAROLINA IN A MEETING DULY ASSEMBLED, AS FOLLOWS:

ARTICLE I - FINDINGS AND DETERMINATIONS

Section 1.01. Findings and Determinations – Generally.

Incident to the enactment of this bond ordinance (this “**Bond Ordinance**”), the City Council of the City of Hartsville (the “**City Council**”), the governing body of the City of Hartsville, South Carolina (the “**City**”), finds that the facts set forth in Sections 1.01, 1.02 and 1.03 exist, and the statements herein are in all respects true and correct:

1. The City is a municipal corporation of the State of South Carolina (the “**State**”), located in Darlington County, South Carolina (the “**County**”).

2. The City has all general powers granted by the Constitution and laws of the State to municipal corporations, including the power to operate utility systems and to furnish water and sewer collection for use both within and without the corporate limits of the City.

3. The City currently owns, operates and maintains a waterworks system (the “**Water System**”), which furnishes water to commercial, industrial and residential users, and a sewer system, which provides for the collection, treatment and disposal of sewerage from commercial, industrial and residential users (the “**Sewer System**”).

4. By ordinance enacted on December 8, 1949, and in accordance with South Carolina Code (as defined below), the City combined its Water System and its Sewer System into a single system which is now known as the Waterworks and Sewer System of the City of Hartsville, South Carolina (the “**Utility System**”).

Section 1.02. Findings and Determinations – Water Park Enterprise

1. The City Council is considering financing the design, construction, and equipping of a water park and related improvements to be located in Byerly Park (the “**Project**”).

2. The City currently operates a splash pad and other water-play equipment in Byerly Park (the “**Existing Park Assets**”). The Project shall be added to the Existing Park Assets, and thereafter operated as a business enterprise of the City (together, the “**Water Park Enterprise**”).

3. Section 6-21-40 of Revenue Bond Act for Utilities, which is codified at Sections 6-21-5 *et seq.* of the Code of Laws of South Carolina 1976, as amended (the “**Act**”), provides that “[t]he water and sewer systems of any municipality shall constitute one system and any two or more projects or undertakings described in Section 6-21-50 which are in any way related, as in the case of a waterworks and a sewer system, may be deemed a single system or project. . . .” (Emphasis supplied).

4. Section 6-21-50 of the Act provides a list of authorized public works which may be purchased or constructed by a municipality, as follows: “a waterworks system, water supply system, sewer system, sanitary disposal equipment and appliances . . . public recreation parks, swimming pools, . . . or other public buildings or structures and in furtherance thereof may purchase or construct any necessary part of any such system, either within or without the limits of such county or the corporate limits of such city or incorporated town.” (Emphasis supplied).

5. The City finds that the Water Park Enterprise (as contemplated) constitutes a public recreation park, a swimming pool and other public buildings or structures, each of which (together and standing alone) are authorized public works projects under the Act.

6. The City Council has further determined after due investigation that the Water Park Enterprise may be combined with the Utility System consistent with the requirements of the Act. In support of the City’s findings and to further justify the combining of the Utility System with the Water Park Enterprise, the City requested an assessment by Hanna Engineering, LLC (the “**Engineer**”) regarding the benefits of the combining the Utility System with the Water Park Enterprise to create the System (as defined below). The Engineer made the following written certifications to the City:

[A] The Water System has a rated capacity of 1.6 million gallons per day. The Project is estimated to initially use 700,000 gallons of water at the start of the season (April or May) and thereafter use approximately 50,000 gallons of water per month during its period of operation; such amount of water usage would result in the Project being one of the largest water users of the Water System.

[B] The creation of the [System] would increase the effectiveness of the Water System and quality of the water. Currently, the Water System is made up of a large network of pipes that collectively hold approximately 2 million gallons of water. To have the highest quality of water, the Water System relies on users to consume the treated water at such a rate that would regularly displace the treated water before becoming stagnant. Due to the high volume of anticipated water usage per day by the Project, more fresh water will move through the Water System, resulting in higher water turnover and reducing the potential for stagnant water.

[C] Stagnant water must be regularly flushed from the Water System and such flushing is expensive, wasteful and inefficient.

7. The Engineer further determined that the “Water System, Sewer System and the Project are all projects or undertakings referred to in Section 6-21-50 of the [Enabling] Act” and “Water System, Sewer System and the [Water Park Enterprise] are all related operations under the provisions of the [Enabling] Act and upon the combination thereof, the [System] would constitute a single system under the [Enabling] Act.”

Section 1.03. Findings and Determinations – The System

1. The City’s staff and the City Council find that, in addition to providing additional revenue to the System, the combination of the Utility System and the Water Park Enterprise will

offer enhancements and increased efficiencies to the operation and maintenance of the Utility System (including billing, collections and accounting operations) and result in higher quality service to the customers of the Utility System.

2. On the basis of the foregoing and based upon independent investigations of the City's staff and the City Council, as well as information provided to the City's staff and the City Council by the Engineer and other advisors, the City has determined to restructure the Utility System by combining the Utility System with the Water Park Enterprise to create a Combined Public Works System (the "**System**").

3. The revenues of the Utility System are presently pledged and hypothecated to secure the now outstanding installments of the originally issued \$7,780,000 Waterworks and Sewer System Improvement and Refunding Revenue Bonds, Series 2015, dated August 13, 2015 (the "**Senior Lien Bonds**").

4. The Senior Lien Bonds were issued in accordance with and are currently the only indebtedness of the City governed by the provisions of the a Master Bond Ordinance (Ordinance No. 4194) dated May 12, 2015 ("**Original Bond Ordinance**").

5. The City Council is cognizant of the fact that the provisions of the Original Bond Ordinance must remain in full force and effect until such time as (1) the Senior Lien Bonds are paid or defeased in accordance with the provisions of XVI of the Original Bond Ordinance or (2) the holders of the Senior Lien Bonds consent to be governed by this Bond Ordinance. The Original Bond Ordinance shall govern the Senior Lien Bonds while the same are outstanding, and at such time as the Senior Lien Bonds are no longer outstanding, the Original Bond Ordinance shall cease and determine, and automatically terminate without further action of the City Council.

6. The City Council has determined to close the lien provided by the Original Bond Ordinance and provide that all further debt secured by the revenues of the System shall be junior to the pledge and lien securing the Senior Lien Bonds. No additional Senior Lien Bonds may be issued.

7. The City Council is therefore enacting this Bond Ordinance (1) to close the lien provided by the Original Bond Ordinance and thereby prohibit any further debt to be issued under its provisions, (2) to combine the Utility System with the Water Park Enterprise to create the System, and (3) to provide the vehicle through which bonds payable from revenues of the System shall be issued from time to time, and thereby provide a mechanism for the ordering of pledges and liens created to secure such bonds.

[End of Article I]

ARTICLE II - DEFINITIONS, CONSTRUCTION AND INTERPRETATIONS

Section 2.01 Definition of Ordinance.

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

Section 2.02 Defined Terms.

In this Bond Ordinance, terms defined in Article I shall have the meaning assigned therein, and unless a different meaning clearly appears from the context, the following terms shall have the meanings assigned below:

“Accreted Value” shall mean the amounts set forth in or the amounts determined in the manner set forth in, a Series Ordinance, authorizing the issuance of Bonds in the form of Capital Appreciation Bonds.

“Accounting Principles” shall mean generally accepted accounting principles and practices applicable to governmental entities, including those applicable to governmentally owned and operating utility systems such as the System.

“Annual Budget” shall mean the budget or amended budget of the City for the System in effect as provided in or adopted pursuant to the provisions of this Bond Ordinance.

“Annual Principal and Interest Requirement” shall mean, with respect to any particular Fiscal Year and to a Series of Bonds Outstanding (or, where applicable, to the Senior Lien Bonds), an amount (other than amounts paid from proceeds of Bonds) equal to the sum of (1) all interest payable on such Series of Bonds (and where applicable, to the Senior Lien Bonds) during such Fiscal Year, plus (2) any Principal Installment of such Series of Bonds (and where applicable, to the Senior Lien Bonds) during such Fiscal Year, minus (3) any Interest Payment Subsidies received by or on deposit with the City for such Series of Bonds during such Fiscal Year and used to pay debt service on such Series of Bonds during such Fiscal Year.

For purposes of computing the Annual Principal and Interest Requirement:

(a) the rate of interest used to determine (1) above shall be a rate per annum equal to (i) with respect to any Series of Bonds (and where applicable, to the Senior Lien Bonds) which bear interest at a fixed rate, the rate of interest borne or to be borne by such Bonds (and where applicable, to the Senior Lien Bonds), and (ii) with respect to any Series of Variable Rate Bonds, the actual rate of interest on the date of calculation; provided however, if the Variable Rate Bonds have been Outstanding for at least twelve (12) months, the average rate over the twelve months immediately preceding the date of calculation.

(b) the Principal Installments for each Series of Bonds used to determine (2) above will be the actual planned Principal Installments, except as for any Series of Bonds in which 25% or

more of the Principal Installments are payable in a single Fiscal Year, the Principal Installment in such year will be assumed to be the result derived by dividing (A) the aggregate outstanding principal due on such Series of Bonds by (B) the number of full years in the remaining term of such Series of Bonds, but if the date of calculation is within twelve (12) months of the final maturity date of such Series of Bonds and a binding commitment by an institutional lender or municipal underwriting firm exists to provide money to refinance the outstanding aggregate principal amount of such Series of Bonds then Outstanding, the payment terms contained in the commitment are to be used for purposes of calculating the Principal Installments for such Series of Bonds.

(c) the amounts available in the Debt Service Reserve Fund established for a Series of Bonds may be applied against the interest payable on and the Principal Installments due on such Series of Bonds in the last Fiscal Year that such Series of Bonds is Outstanding.

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

“Authorized Investments” shall mean, within the limitations set forth herein, any investments now or hereafter permitted under Section 6-5-10 of the South Carolina Code, or any successor or similar statute, and shall also include the South Carolina Investment Fund established at Sections 6-6-10 to 6-6-40 of the South Carolina Code or any successor or similar statute and as the same may be further limited pursuant to the provisions of a Series Ordinance.

“Authorized Officers” means the Mayor, the City Manager, the Finance Director, or any other official authorized by the City Council to act on behalf of the City.

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

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

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

“Bonds” shall mean any indebtedness or obligations (issued as tax-exempt or taxable obligations) including those entered into under the provisions of long-term contracts payable from the revenues of the System, issued in accordance with the provisions of the Enabling Act, this Bond Ordinance and a Series Ordinance, excluding Senior Lien Bonds, Junior Lien Bonds and any other indebtedness incurred in accordance with Article VI hereof.

“Business Day” shall mean, except as set forth in a Series Ordinance with respect to the Series of Bonds issued thereunder, any day other than a Saturday, a Sunday, a day on which banking institutions in the State or in the State of New York are required or authorized by law

(including executive orders) to close or a day on which the United States federal reserve payment system is not operational.

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

“City” means the City of Hartsville, South Carolina.

“City Council” means the City Council of the City of Hartsville, the governing body of the City.

“City Manager” shall mean the City Manager of the City of Hartsville, South Carolina or in the absence of the City Manager, the assistant City Manager or the interim City Manager.

“Clerk” shall mean the City Clerk of the City. The term shall include the acting City Clerk or such other person designated by City Council to fulfill such role whenever, by reason of absence, illness or other reason, the person who is the City Clerk is unable to act.

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

“Consulting Engineers” shall mean a nationally recognized, independent, and qualified consultant having a favorable reputation for skill and experience in the planning, construction and operation and financial feasibility of facilities similar to the System.

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

“Debt Service Fund” shall mean each of the funds herein so designated and designed to provide for the payment of the principal of and interest on all Outstanding Bonds issued pursuant to this Bond Ordinance, as the same respectively fall due, and as established by the provisions of Section 7.04 hereof.

“Debt Service Reserve Fund” shall mean the funds, if any, so designated and designed (1) to secure the timely payment of the principal of and interest on the respective Series of Bonds Outstanding and issued pursuant to this Bond Ordinance and the applicable Series Ordinance, and (2) to provide for the redemption of such Series of Bonds Outstanding prior to their stated maturity, as established by the provisions of Section 7.05 hereof.

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

– State and Local Government Series Securities; and (iv) general obligation bonds, with an underlying rating of AAA as issued by at least one nationally recognized credit rating agency, of the State, its institutions, agencies, school districts and political subdivisions.

“Depository” shall mean any bank or trust company selected by the City as a depository of moneys or securities held under the provisions of this Bond Ordinance and may include the Trustee.

“Depreciation and Contingent Fund” shall mean the fund herein so designated and designed to provide for contingencies, for the replacement of depreciated or obsolete parts of the System and for improvements, betterments and extensions of the System, as established by the provisions of Section 7.06 hereof. For purposes of Section 6-21-440 of the Act, the Depreciation Fund and the Contingent Fund have been combined.

“Electronic Means” shall mean the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“Enabling Act” shall mean the Act and Chapter 21 of Title 11 of the South Carolina Code, and all other statutory authorizations authorizing and enabling the City to adopt this Bond Ordinance.

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

“Extraordinary Repairs” shall mean any unanticipated and unbudgeted costs to repair a portion of the System; any such repair shall result in the useful life of the repair asset being sustained or otherwise extended.

“Fiduciary” or **“Fiduciaries”** shall mean the Trustee and any Registrar and any other agent of the City appointed pursuant to the authorizations of this Bond Ordinance or any Series Ordinance or any or all of them, as may be appropriate.

“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.

“Government Obligations” shall mean: (a) direct obligations of the United States of America for the payment of which the full faith and credit of the United States of America are pledged; (b) obligations, the payment of the principal (if any), 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; and obligations issued by the Federal Home Loan Bank and/or the Federal National Mortgage Association, as permitted by Section 6-5-10(a)(2) of the South Carolina Code, as amended.

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

(a) all receipts and revenues derived from the operation of the System which remain after making payments on and for Senior Lien Bonds and Senior Lien Expenses, respectively, and including all service fees (including, without limitation, gate fees, concessions, connection fees, tap fees impact fees, capacity availability fees, and meter purchases);

(b) all proceeds from the sale or other disposition of any property owned directly or beneficially by the City in connection with the operation of the System;

(c) all interest and other income received directly or indirectly by the City from the investment of moneys or accounts relating to the System; excluding, however, investment income restricted to a purpose inconsistent with the payment of operating expenses or debt service, and specifically excluding (whether or not so restricted) interest earned on any construction fund or construction account created with the proceeds of borrowing by the City;

(d) all other unencumbered money to which the City may become entitled from any source whatsoever in connection with the operation of the System, but specifically excluding any amounts received by way of government grants, developer contributions and aids-to-construction; and

(e) all Interest Payment Subsidies to the extent such monies are not otherwise used to pay debt service on a Series of Bonds. Any Interest Payment Subsidies received by the City and used to pay debt service on a Series of Bonds shall not be included in Gross Revenues.

All amounts received as *ad valorem* taxes and all amounts allocable to the operation of Special Facilities, to the extent the same have been pledged to the payment of Special Facilities Bonds, shall not be included in Gross Revenues.

“Gross Revenue 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 operation of the System and all interest and other income earned by the City in connection with the System, less such amounts paid into and distributed to the Senior Lien Funds, as provided by the provisions of Section 7.02 hereof.

“Independent Consultant” shall mean such firm or firms, professional engineers, architects, financial advisors, accountants, rate consultants or other professionals who are nationally recognized and have a favorable reputation for consulting services for utility systems. Such Independent Consultant shall not be an employee of the City and shall be engaged by the City to perform the tasks set forth to be performed by such Independent Consultant under the provisions of this Bond Ordinance. Such term may include, where applicable, the Consulting Engineers.

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

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

“**Interest Payment Subsidies**” shall mean the refundable tax credit subsidies payable to the City from the federal government under any section of the Code that authorizes such tax credits or sums borrowed in a Series of Bonds for the purpose of paying all or a portion of the interest due on a Series of Bonds on specific Bond Payment Dates, as applicable. The amount of any Interest Payment Subsidies applicable to a Series of Bonds as of the date of any calculation shall be equal to the actual amount of the Interest Payment Subsidies received by the City for such Series of Bonds on the most recently preceding Bond Payment Date, provided, that in the event that the amount of any Interest Payment Subsidies applicable to a Series of bonds has, since the most recent Bond Payment Date, been altered by an act of the United States Congress, then the amount of such Interest Payment Subsidies must be calculated based upon such altered amount.

“**Junior Lien Bonds**” shall mean any revenue bonds or other obligations issued by the City which are secured by pledges of the revenues of the System which are junior and subordinate in all respects to the pledges made to secure the Senior Lien Bonds and the Bonds and to the payment by the City of all Operation and Maintenance Expenses.

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

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

“**Net Earnings**” shall mean, for the period in question, the Gross Revenues of the System, less Operation and Maintenance Expenses, and shall otherwise be adjusted as provided in (a), (b) and (c) below:

(a) Net Earnings shall include amounts transferred into the Operation and Maintenance Fund from the Rate Stabilization Fund and Other Available Sources.

(b) Net Earnings shall not include: (i) amounts transferred from Rate Stabilization Fund into any other fund, excluding the Operation and Maintenance Fund as provided in (a) above; and (ii) amounts transferred into the Rate Stabilization Fund.

“**Net Revenues**” shall mean, for the period in question, Gross Revenues, less Operation and Maintenance Expenses.

“**Operation and Maintenance Expenses**” shall mean, for the period in question, all expenses incurred in connection with the administration and the operation of the System, including, without limiting the generality of the foregoing, such expenses as may be reasonably necessary to preserve the System in good repair and working order, principal and interest payments with respect to lease financing arrangements under Section 6.03 hereof, the fees and charges of the

Trustee and the custodian or trustee of any fund, the costs of audits required hereunder, the costs of computation and payment of any arbitrage rebate, and the premiums for all insurance and fidelity bonds required by this Bond Ordinance. Operation and Maintenance Expenses shall not include:

- (a) depreciation and amortization allowances;
- (b) amounts paid as interest on Senior Lien Bonds or Bonds;
- (c) amounts expended for Extraordinary Repairs to the System;
- (d) amounts paid from government grants or aids-to-construction;
- (e) unfunded net pension liabilities, other post-employment benefit liabilities or similar accounting determinations under Accounting Principles that do not result in any actual disposition of cash;
- (f) any financing expenses, underwriting discounts, call premiums, gains or losses on the extinguishment of debt due to the refinancing of the same, and other related or incidental non-recurring expenses resulting from the issuance or refinancing of Senior Lien Bonds or Bonds; and
- (g) any transfers to the general fund (which shall only be payable out of surplus revenues under Section 8.09 herein).

“Operation and Maintenance Fund” shall mean the fund established by the provisions of Section 7.03 hereof and which is designed to provide for the payment of all Operation and Maintenance Expenses.

“Other Available Sources” as permitted by State law and the City’s code of ordinances, the City, in accordance with the budgeting procedures provided by Section 5.01 of this Bond Ordinance, may appropriate funds from other available sources as it, in its sole discretion, determines to apply toward the payments of amounts coming due on the Bonds; such appropriated amounts may be included in the calculation of Net Earnings for a Fiscal Year for which such amounts have been appropriated.

“Original Bond Ordinance” means Ordinance No. 4194 dated May 12, 2015 entitled “AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF THE CITY OF HARTSVILLE, SOUTH CAROLINA, AND OTHER MATTERS RELATING THERETO.”

“Outstanding”, when used with reference to any Bonds (and any Senior Lien Bonds as the context allows), subject to Section 17.01 hereof, and except as may be modified for any Series of Bonds pursuant to the provisions of a Series Ordinance, shall mean, as of any date, all such Bonds (and any Senior Lien Bonds as the context allows) theretofore or then being authenticated and delivered except:

- (a) Bonds cancelled at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds shall have been executed and delivered;
- (c) Bonds deemed to have been paid as provided in Article XVI hereof; and
- (d) for purposes of any consent or other action to be taken by the holders of a specified percentage of Bonds, Bonds, as to which a Responsible Officer (as defined herein) has actual knowledge, held by, or for the account of, the City, or by any person controlling, controlled by, or under common control with the City (unless all Bonds are so held).

“Paying Agent” shall mean the financial institution which is authorized by the City Council to pay the principal of or interest on and redemption premium, if any, on any Bonds and having the duties, responsibilities and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance. Pursuant to the provisions of Section 15.02 of this Bond Ordinance, the Trustee serves as the Paying Agent.

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

“Rate Stabilization Fund” shall mean the fund designed to provide for the stabilization of rates and charges of the System by carrying forward surplus revenues.

“Record Date” shall mean fifteen days prior to the next occurring Bond Payment Date (or such other time or times as shall be prescribed by any applicable Series Ordinance).

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

“Registrar” shall mean the Trustee or any bank, trust company, or national banking association which is authorized by the City to maintain an accurate list of those who from time to time shall be the Holders of Bonds of a particular Series and to effect the transfer of such Bonds

in accordance with the provisions of this Bond Ordinance and having the duties, responsibilities, and rights provided for in this Bond Ordinance and any Series Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Bond Ordinance; however, the City Council may, pursuant to a Series Ordinance, authorize the City to serve as Registrar for the applicable Series of Bonds, in lieu of the institutions referred to above.

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

“Responsible Officer” means, when used with respect to the Trustee, any vice president, assistant vice president, senior associate, associate or other officer of the Trustee having direct responsibility for the administration of this Bond Ordinance.

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

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

“Senior Debt Service Fund” shall mean the funds securing the payment of the principal and interest on the Senior Lien Bonds created pursuant to Section 7.03 of the Original Bond Ordinance.

“Senior Depreciation and Contingent Fund” shall mean the fund created under Section 7.06 of the Original Bond Ordinance.

“Senior Gross Revenues” shall mean all revenues deposited into the Senior Gross Revenue Fund as required by Section 8.01 of the Original Bond Ordinance.

“Senior Gross Revenue Fund” shall mean the fund created under Section 7.02 of the Original Bond Ordinance. The Senior Gross Revenue Fund is defined as the “General Revenue Fund” in the Original Bond Ordinance. Water Park Revenues shall not be deposited into the Senior Gross Revenue Fund; instead, all Water Park Revenues shall be deposited into the Gross Revenue Fund.

“Senior Lien Bonds” means the \$7,780,000 Waterworks and Sewer System Improvement and Refunding Revenue Bonds, Series 2015 of the City of Hartsville, South Carolina, dated August 13, 2015.

“Senior Lien Expenses” shall mean all expenses of the System as required by Sections 8.03 and 8.07 of the Original Bond Ordinance. Senior Lien Expenses do not include any Water Park Expenses.

“Senior Lien Funds” shall mean the Senior Gross Revenue Fund, the Senior Debt Service Fund, the Senior Operation and Maintenance Fund and the Senior Depreciation and Contingent Fund.

“Senior Operation and Maintenance Fund” shall mean the fund created under Section 7.05 of the Original Bond Ordinance.

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

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

“Series Ordinance” shall mean an ordinance of City Council authorizing the issuance of a Series or multiple Series of Bonds pursuant to this Bond Ordinance in accordance with the terms and provisions hereof, adopted by City Council in accordance with Article IV hereof.

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

“Special Facilities” shall mean those facilities financed with the proceeds of Special Facilities Bonds as described in Section 6.02 hereof.

“Special Facilities Bonds” shall mean those obligations issued in accordance with Section 6.02 hereof.

“State” shall mean the State of South Carolina.

“State Treasurer’s Office” shall mean the office of the South Carolina State Treasurer.

“System” shall mean the combined waterworks, sewer and water park enterprise system of the City as the same is now, or in accordance with Sections 11.02 and 11.03 of this Bond Ordinance may be constituted, all property real and personal, used and useful therefor, all apparatus and equipment used in connection therewith, and all acquisitions, replacements, enlargements, improvements, extensions, additions and betterments that may be made thereto at any time hereafter; provided, that during such time as any Special Facilities Bonds issued to finance Special Facilities are outstanding, the term “System” shall not include such Special Facilities.

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

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

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

“Water Park Revenues” shall mean that portion of the Gross Revenues attributable to the Water Park Enterprise.

“Water Park Expenses” shall mean those Operation and Maintenance Expenses attributable to the Water Park Enterprise.

“Water Quality Authority” shall mean the South Carolina Water Quality Revolving Fund Authority.

Section 2.03 Interpretations.

In this Bond Ordinance, unless the context otherwise requires:

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

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

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

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

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

[End of Article II]

ARTICLE III - FISCAL YEAR

Section 3.01 Establishment and Modification of Fiscal Year.

The System shall be operated on a Fiscal Year basis, which, 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 enacted 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 - THE BONDS

Section 4.01 Authorization for Bonds in Series.

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

(1) Obtaining funds for the purchasing, constructing, improving, enlarging and repairing of the System, including the recoupment of funds already so expended;

(2) Providing funds for the payment of any bond anticipation note or notes issued in order to defray the costs of expansions, additions and improvements to the System and that were issued in anticipation of the issuance and sale of Bonds;

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

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

(5) Funding any Debt Service Reserve Fund or restoring the value of the cash and securities in any Debt Service Reserve Fund to the amount equal to its Reserve Requirement, and reimbursing amounts owed to any providers of a surety bond, line of credit, insurance policy or letter of credit established pursuant to Section 7.05(E) hereof; and

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

but subject to the terms, limitations and conditions herein, the City Council may authorize the issuance of a Series of Bonds by the enactment of a Series Ordinance, and the Bonds of any such Series may be issued and delivered upon compliance with the provisions of this Article. The Bonds of each Series shall be issued in fully registered form, without coupons, and may be issued in the form of book-entry bonds. The Bonds shall, in addition to the title City of Hartsville, South Carolina, Combined System Revenue Bonds, bear a letter or number Series designation as may be necessary to distinguish them from the Bonds of every other Series and shall designate the year in which the Series is issued. The title of the Bonds may also, but shall not be required to, include a reference to "Junior Lien" or "Second Lien" if any of the Senior Lien Bonds are Outstanding at the time of issuance of such Bonds. Bonds of any Series may be authorized to be issued in the form of Serial Bonds or Term Bonds, with or without mandatory sinking fund payments, or Capital Appreciation Bonds, or a combination of any of them, and may bear interest in whatever manner and payable at whatever frequency as shall be prescribed by the applicable Series Ordinance.

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

- (1) The then period of usefulness of the System;
- (2) The Date of Issue of such Series of Bonds or the officials authorized to make such determinations;
- (3) The maximum authorized principal amount of such Series of Bonds, or the officials authorized to make such determination;
- (4) Bond Payment Dates and the date or dates of maturity and the amounts thereof, or the officials authorized to make such determinations, provided that the Series Ordinance shall specify a date beyond which the final maturity of such Series shall not extend, which date shall not be longer than forty-five (45) years from the Date of Issue;
- (5) The purposes for which such Series of Bonds are being issued;
- (6) The title and designation of the Bonds of such Series;
- (7) The manner or manners in which Bonds of such Series are authorized to be sold and provisions for the sale thereof and the officials authorized to choose the manner of sale and to cause such sale;
- (8) The interest rate or rates, or the officials authorized to determine such rate or rates, and whether and on what terms there shall be entered by the City an agreement for any form of interest rate swap or similar transaction with respect to such Series;
- (9) The portion of such Series that are Serial Bonds and that are Term Bonds and that are Capital Appreciation Bonds, if any, including the amount and date of each mandatory redemption or sinking fund installment, if any, required by such Series Ordinance to be paid for the retirement of any such Bonds, or the officials authorized to make such designations;
- (10) The Redemption Price or Redemption Prices and the redemption date or redemption dates and other terms of redemption, if any, applicable to any of the Bonds of such Series for such payments, or the manner of determining such dates and prices and the officials authorized to make such determinations;
- (11) The Trustee, the Paying Agent, and the Registrar for such Bonds and if other than the Trustee, the manner of determining the Paying Agent, the Registrar and the escrow agent, if such Bonds are refunding Bonds;
- (12) The form or forms of the Bonds of such Series;
- (13) The manner of numbering and lettering, and the denomination or denominations of the Bonds of such Series;

(14) Whether the Bonds of such Series shall be issued in book-entry form pursuant to Section 4.20 hereof;

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

(16) The Reserve Requirement, if any, for the Series of Bonds authorized thereby, or the officials authorized to make such determination;

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

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

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

Section 4.02 Conditions to Issuance of Bonds of a Series.

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

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

(2) Bonds shall bear interest at the rate or rates and be payable on the occasions prescribed or determined in the manner approved by the Series Ordinance.

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

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

(5) Unless on the date of delivery of such Series of Bonds there shall be on deposit in each Debt Service Reserve Fund the amount equal to the applicable Reserve Requirement, there shall be deposited in such Debt Service Reserve Funds such amounts

as may be necessary to make the value of the moneys and securities in each Debt Service Reserve Fund equal to the applicable Reserve Requirement, unless:

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

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

(6) Except in the case of the first Series of Bonds issued under this Bond Ordinance or in the event no Bonds are Outstanding, or in the case of Bonds issued for the purpose of refunding any Bonds and which meet the test prescribed in Section 4.02(7) hereof:

Net Earnings (during the most recent Fiscal Year for which audited financial statements of the System are completed), shall be certified by the an Authorized Officer on the basis of such audited financial statements to be not less than one hundred twenty percent (120%) of the maximum Annual Principal and Interest Requirements on all Bonds Outstanding and on such proposed Series of Bonds; provided that for purposes of this Section 4.02(6), such Net Earnings may be adjusted to reflect (1) any rate increases currently adopted and to be in effect prior to, coincident with or during the current Fiscal Year of the issuance of such proposed Series of Bonds and determined pro forma as though such rate increases had been in continuous effect during such recent Fiscal Year; (2) in the event a utility, system or enterprise that is in existence and operating and whose current customers have become customers of the System prior to the issuance of the proposed Series of Bonds or will become customers of the System concurrently with the issuance of such proposed Series of Bonds, 100% of the Net Earnings that the Auditors, the Independent Consultant or the Consulting Engineers estimate would have been received during such Fiscal Year if the utility, system or enterprise had been a part of the System throughout such recent Fiscal Year, taking into account, for the estimation of such Net Earnings in this subparagraph (2) only, the then-existing customer base and population of the acquired utility, system or enterprise; (3) in the event proceeds of such proposed Series of Bonds will be used to construct or to acquire a newly-constructed utility, system, enterprise, or component of the System which will serve an existing customer base and currently-populated area, 100% of the Net Earnings, estimated by the Independent Consultant or the Consulting Engineers, to be received by the System during the first Fiscal Year beginning after the date on which such project constructed or acquired with the proceeds of the proposed Series of Bonds is placed in service, taking into

account for the estimation of such Net Earnings in this subparagraph (3) only the then-existing customer base and population; (4) in the event proceeds of such proposed Series of Bonds will be used to pay interest on such proposed Series, 100% of the interest that will accrue on such Series of Bonds following the date of delivery of the proposed Series and that will be paid from such proceeds; and (5) in the event proceeds of such proposed Series of Bonds will be used to construct or to acquire an expansion to the System and to the extent not included by sub-paragraph (3), 100% of estimated Net Earnings to be received by the System in the first Fiscal Year following the completion of such project, certified by the Consulting Engineers or the Independent Consultant, from customers under long-term contracts which extend for the life of such proposed Series of Bonds.

In the event that a Series of Bonds is Outstanding and the City determines to issue a note or other obligation in anticipation of the issuance of a Series of Bonds, for the purposes of complying with the additional bonds test established in this Section 4.02(6) above, an Independent Consultant shall project the maturity schedule (including rate, term and principal maturities) of the future Series of Bonds that will be used to pay the note or other obligation at maturity; such future Series of Bonds and the accompanying projections shall qualify as a proposed Series of Bonds for purposes of the additional bonds test in Section 4.02(6) herein. The Authorized Officer making the calculations described in this Section 4.02(6) may, but is not required to, rely on a report or calculation of the Auditors or Independent Consultants.

Whenever this Section 4.02(6) requires a calculation based on the most recent Fiscal Year for which audited financial statements are available, the City may, in its discretion, provide for a special audit and a certification based upon such special audit, in lieu of the audit for such Fiscal Year, provided such special audit covers twelve (12) consecutive calendar months of the eighteen (18) full consecutive calendar months preceding the date of issuance of the proposed Series of Bonds.

(7) In the case of Bonds issued for the purpose of refunding any Bonds, Series of Bonds, or a portion of a Series of Bonds:

(a) the Annual Principal and Interest Requirement of the refunding Bonds shall not exceed one hundred ten percent (110%) of the Annual Principal and Interest Requirement of the refunded Bonds for any Fiscal Year until a time subsequent to the last maturity of Bonds issued prior to the issuance of such refunding Bonds which are not refunded and which remain Outstanding following the issuance of the refunding Bonds;

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

(c) the additional bonds test prescribed by paragraph (6) herein shall be complied with.

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

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

(b) The liquidity provider for such Bonds shall be rated within the highest two short term rating categories by any rating agency then rating any Series of Bonds; and

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

(9) All amounts then due under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid.

Section 4.03 Reliance on Certificates.

Each of the City, the Trustee and any purchaser of any Bonds shall be entitled to conclusively rely upon certificates of the Auditors and the certificates and reports of the Independent Consultant or the Consulting Engineers and certificates of any Insurance Consultant, made in good faith, pursuant to any provision of this Bond Ordinance.

Section 4.04 Execution of Bonds.

(A) Unless otherwise prescribed by any Series Ordinance, the Bonds shall be executed in the name of and on behalf of the City by the Mayor or in his absence another Authorized Officer, the corporate seal of the City shall be impressed or reproduced thereon and the same shall be attested by the Clerk. Such officers may employ facsimiles of their signatures.

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

Section 4.05 Authentication.

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

Section 4.06 Medium of Payment.

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

Section 4.07 Mutilated, Lost, Stolen or Destroyed Bonds.

In the event any Bond is mutilated, lost, stolen or destroyed, the City may execute and the Trustee may authenticate a new Bond of the same Series of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Trustee, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the City and to the Trustee evidence of such loss, theft or destruction satisfactory to the City and the Trustee together with indemnity satisfactory to them. In the event any such Bond shall have matured or shall mature within 30 days, instead of issuing a duplicate Bond, the City shall pay the same. The City and the Trustee may charge the Holder or owner of such Bond with their reasonable fees and expenses (including reasonable attorney's fees, costs and expenses) in connection with such actions.

Section 4.08 Transfer and Registry; Persons Treated as Owners.

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

(B) The City, the Trustee, and any Registrar may deem and treat the person in whose name any Bond shall be registered upon the registration books of the City as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium (if any) and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or, upon his order, shall be

valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid; and none of the City, the Trustee and any Registrar shall be affected by any notice to the contrary.

(C) Notwithstanding anything in paragraphs (A) and (B) of this Section 4.08 to the contrary, Bonds may be issued in the form of contractual obligations which are not instruments and which may be transferred as provided in such contracts.

Section 4.09 Date and Payment Provisions.

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

Owners of at least \$1,000,000 principal amount of Bonds may, by written notice containing wiring instructions filed with the Trustee at least twenty (20) days prior to any Bond Payment Date, provide for the payment of the interest on such Bonds by wire transfer to an account at a bank located in the continental United States.

Section 4.10 Transferability of Bonds.

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

Section 4.11 Regulations With Respect to Exchanges and Transfer.

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

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

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

Section 4.13 Notice of Redemption.

If any of the Bonds, or portions thereof, are called for redemption, the Trustee, shall give notice to the Holders of any Bonds to be redeemed, in the name of the City, of the redemption of such Bonds, or portions thereof. Notice of each redemption of Bonds is required to be mailed by the Trustee by first class mail, postage prepaid, at least thirty (30) but no more than sixty (60) days prior to the redemption date to each registered owner of Bonds to be redeemed, at the address of such owner recorded on the bond register and to be otherwise given in accordance with, among others, the following requirements:

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

(2) notices must be sent to the Municipal Securities Rulemaking Board, if necessary (via its Electronic Municipal Market Access (EMMA) system, as may be amended or modified), and any Securities Depository (if such Bonds are registered in the name of a Securities Depository or the nominee of such Securities Depository) by such method or such other method as is standard in the industry; in addition, any Bondholder holding in excess of \$1,000,000 principal amount of Bonds may request the Trustee to send notices to any additional addressee specified;

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

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

(5) CUSIP number identification, if applicable, with appropriate dollar amounts for each CUSIP number must accompany all redemption payments and interest payments, whether by check or by wire transfer.

The obligation to provide notice shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments or Government Obligations sufficient to pay the redemption price of the Bonds to which such notice relates or the interest thereon to the redemption date.

If at the time of mailing of a notice of redemption, there shall not have been deposited with the Trustee or Paying Agent moneys sufficient to redeem all the Bonds or portions thereof called for redemption, which moneys are or will be available for redemption of such Bonds, such notice is required to state that it is conditional on the deposit of the redemption moneys with the Trustee or Paying Agent not later than the opening of business on the redemption date, and such notice shall be of no effect unless such moneys are so deposited.

The failure of the Trustee to give notice to a Bondholder or any defect in such notice shall not affect the validity of the redemption of any other Bonds for which notice is properly given. Any Bondholder may waive notice of redemption by delivery of a written waiver to the Trustee, or delivery of the Bond for payment on the redemption date.

Any Series Ordinance providing for the issuance of Bonds not registered in the name of a Securities Depository or the nominee of such Securities Depository or providing for Bonds in bearer form may provide alternative methods for delivery of notice of redemption.

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

Section 4.14 Cancellation of Bonds Which Have Been Redeemed.

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

Section 4.15 Restriction on Optional Redemption.

Notwithstanding anything in this Bond Ordinance to the contrary, no optional redemption of Bonds may occur unless all amounts payable by the City owing under a reimbursement agreement with any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof shall have been paid in full.

Section 4.16 Selection of Bonds To Be Redeemed.

In the event that less than all of the Bonds of any Series are to be redeemed at the option of the City, Bonds to be redeemed shall be in such order of maturity as selected by the City. In the event of redemption of less than all of the Bonds of a Series of any maturity, the Bonds or portions of Bonds to be redeemed, shall be selected by lot by the Trustee, subject to the rules of the Securities Depository applicable at the time of such selection. The portion of any Bond of a denomination which is larger than the minimum denomination for the Bonds of such Series shall be in the principal amount of such minimum denomination or a multiple thereof, and that, in selecting portions of such Bonds for redemption, the Trustee shall treat each such Bond as representing that number of Bonds of minimum denomination which is obtained by dividing the principal amount of such Bond to be redeemed in part by the amount of the minimum denomination; provided further that, if less than all of the beneficial interests in a Bond of a single maturity registered in the name of a Securities Depository or a Securities Depository Nominee are to be redeemed, the beneficial interests to be redeemed shall be selected by lot or in such manner as may be directed by the Securities Depository. If there shall be drawn for redemption less than all of a Bond, the City shall execute and the Trustee shall authenticate and deliver, upon the surrender of such Bond, without charge to the owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of the same Series in any authorized denomination. The procedures for selection of Bonds of a Series for redemption set forth in this Section 4.16 are subject, however, to any alternative provisions set forth in a Series Ordinance applicable to such Series of Bonds.

Section 4.17 Purchase of Bonds.

The Trustee shall, if and to the extent practicable, purchase Bonds at the written direction of the City at such time, in such manner and at such price as may be specified by the City. The Trustee may so purchase Bonds with any money then held by the Trustee which is available for the redemption or purchase of Bonds and in excess of that set aside for the payment of Bonds called for redemption; provided, that the Trustee is provided with an opinion of Bond Counsel to the effect that such redemption or purchase complies with any limitations or restrictions on such redemption or purchase contained in this Bond Ordinance.

Section 4.18. Bonds Issued as Taxable Obligations.

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

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

The Bonds shall be payable solely from and shall be secured by a pledge of the Net Revenues. Pursuant to the provisions of Section 6-21-330 of the Act and as additional security for the payment of all Bonds, a statutory lien on the System is granted. Such pledge and lien securing the Bonds shall at all times and in all respects be and remain junior to the pledge and lien made and given to secure the Senior Lien Bonds, but shall be and remain superior to pledges and liens made and given to secure any other bonds or other obligations payable from the revenues of the System. However, no portion of the Water Park Revenues are pledged to the repayment of the Senior Lien Bonds and the statutory lien granted to secure the Senior Lien Bonds shall not attach to the Water Park Enterprise. The Bonds 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 any of the Bonds or the interest thereon except from the Net Revenues.

Section 4.20 Bonds in Book-Entry Form.

Notwithstanding any other provision of this Bond Ordinance with respect to the form of Bonds to the contrary, a Series Ordinance may provide for the issuance of one or more Series of Bonds solely in fully registered form registerable to a Securities Depository, a Securities Depository Nominee or the beneficial owner of the Bonds. The Series Ordinance may further provide that such Series of Bonds shall be evidenced by one or more certificates or by a system of book entries in a form satisfactory to an Authorized Officer and to provide for payment, redemption, notices and like provisions in a manner consistent with such system of registration.

Section 4.21 Waiver of Certain Provisions.

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

[End of Article IV]

ARTICLE V - RATES AND CHARGES

Section 5.01 Rate Covenant.

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

(1) To provide for the payment of Senior Lien Bonds in the manner prescribed by the Original Bond Ordinance;

(2) To provide for the payment of Senior Lien Expenses in the manner prescribed by the Original Bond Ordinance;

(3) To provide for the payment of Operation and Maintenance Expenses as may be necessary to preserve the same in good repair and working order;

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

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

(6) 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;

(7) To pay all amounts owing under a reimbursement agreement with any provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof;

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

(9) To discharge all obligations imposed by the Enabling Act and by this Bond Ordinance and any applicable Series Ordinance.

(B) The City covenants and agrees that it will, at all times, prescribe and maintain and thereafter collect rates and charges for the services and facilities furnished by the System which, together with other income, are reasonably expected to comply with the rate covenant in Section 5.01(B) of the Original Bond Ordinance and to otherwise yield annual Net Earnings in the current Fiscal Year equal to at least the sum of (1) one hundred ten percent (110%) of the Annual Principal

and Interest Requirements in such Fiscal Year for all Bonds Outstanding, plus (2) one hundred percent (100%) of the annual debt service payments in such Fiscal Year on any Junior Lien Bonds. Promptly upon any material change in the circumstances which were contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each Fiscal Year, the City, with or without the aid of an Independent Consultant, shall review the rates and charges for its services and shall promptly revise such rates and charges as necessary to comply with the foregoing requirement. Prior to the beginning of each Fiscal Year, the City shall adopt an Annual Budget including amended rate schedules for such Fiscal Year which shall set forth in reasonable detail the estimated revenues and operating expenses and other expenditures of the System for such Fiscal Year which shall include the amount to be deposited during such Fiscal Year in the Depreciation and Contingent Fund. The City may at any time adopt an amended Annual Budget for the remainder of the then current Fiscal Year.

(C) If the City, in adopting the Annual Budget, determines that revenues may not be sufficient to meet the rate covenant established hereinabove or if the audited financial statements of the City indicate that the City did not satisfy the rate covenant for the prior year, the City shall, within forty-five (45) days, engage an Independent Consultant to prepare a report recommending such actions which will provide sufficient revenues in the following Fiscal Year to permit the City to meet the rate covenant. Copies of such report shall be made available to the City and the Trustee no later than sixty (60) days after the engagement of the Independent Consultant.

The City agrees that it shall use its best efforts to effect such changes recommended by the Independent Consultant in its report. So long as the City uses its best efforts to comply with such recommendations, failure to comply with the rate covenant shall not constitute an Event of Default under Article XIII hereof; provided however, a failure to comply with the rate covenant for a period of two consecutive Fiscal Years shall constitute an Event of Default.

(D) To the extent Other Available Sources are made available by the City in its Annual Budget for the payment on the Bonds, such amount shall be transferred on a monthly basis to Operation and Maintenance Fund in accordance with Section 8.03 hereof.

[End of Article V]

ARTICLE VI - JUNIOR LIEN BONDS AND SPECIAL FACILITIES BONDS

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

Notwithstanding that Bonds may be Outstanding, the City may at any time, and without limitation and free of all conditions issue Junior Lien Bonds, in such amount as it may from time to time determine, payable from the revenues of the System, provided that the pledge of revenues of the System granted for the protection of said Junior Lien Bonds, shall at all times be and remain subordinate and inferior in all respects to the pledges of revenues made or authorized for the Bonds and to the payment of all Operation and Maintenance Expenses; and provided, further, that the maturity of Junior Lien Bonds may not be accelerated and paid in full unless all of the Bonds shall have been paid or provision therefor has been made pursuant to Article XVI hereof.

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

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

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

(3) There shall be deposited in the Debt Service Fund for such Series of newly-acceded Bonds the amounts which would have been required under the provisions of Section 8.04 hereof to be accumulated therein on the date of accession if said Junior Lien Bonds had originally been issued as Bonds.

(4) On the date of accession, the earnings tests prescribed by Section 4.02(6) hereof shall have been met, except as provided in Section 6.01(7) of this Bond Ordinance.

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

(6) The City shall obtain an opinion of Bond Counsel to the effect that: (a) this Bond Ordinance and the proceedings authorizing such Junior Lien Bonds have been duly

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

(7) In the event such Junior Lien Bonds were issued with variable rates and upon accession shall become Variable Rate Bonds, the provisions of subparagraph (8) of Section 4.02 shall have been met.

Section 6.02 Right to Issue Special Facilities Bonds.

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

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

(B) The revenues derived from Special Facilities need not be deposited in the Gross Revenue Fund, and may be pledged to secure Special Facilities Bonds; but no debt service or other costs or expense related to any Special Facilities may be paid from System revenues deposited in the Gross Revenue Fund except pursuant to Section 8.10 hereof.

For purposes of this Section 6.02, the term "Special Facilities" shall include all or a portion of water or sewer facilities (or those enterprises, if any referred to in Section 11.02 hereof) and rights to all or a portion of the use of, or the capacity available from, any such facilities.

Section 6.03. Lease Financing Agreements.

The City shall have at all times the right to enter into capital leases or other lease financing agreements secured by a lien on the property, plant and equipment comprising a part of the System; provided, however, that: (1) the aggregate principal amount of such lease or other financing obligations outstanding at any time shall not exceed ten percent (10%) of the value of the property, plant and equipment of the System, less accumulated depreciation, as shown on the audited balance sheet of the City for the most recent Fiscal Year for which audited financial statements are available; and (2) the loss of the property secured by the lien, as certified by an Authorized Officer, will not materially adversely affect the ability of the City to meet its financial obligations under this Bond Ordinance.

[End of Article VI]

ARTICLE VII - ESTABLISHMENT OF FUNDS

Section 7.01 Requirement for Special Funds; Senior Lien Funds.

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

(B) The Senior Lien Funds shall be maintained as provided in the Original Bond Ordinance. The funds created below are junior and subordinate to the Senior Lien Funds.

Section 7.02. The Gross Revenue Fund.

(A) There shall be established and maintained a fund or account of the City designated as the Gross Revenue Fund. This account shall be so maintained as to accurately reflect:

- (1) the Gross Revenues of the System;
- (2) Operation and Maintenance Expenses; and
- (3) Net Earnings.

(B) Except as otherwise specifically directed or permitted herein, all Gross Revenues of the System shall be deposited or credited in accordance with and in the manner prescribed by Article VIII hereof into this fund. Money in the Gross Revenue Fund shall be withdrawn and made use of only in the manner and in the order of priority specified in Article VIII hereof. So long as the City establishes, under Accounting Principles, proper records of receipts and disbursements for the Gross Revenue Fund, the Senior Gross Revenue Fund may be used for the purposes of the Gross Revenue Fund established hereunder and such fund may be used for the Senior Operation and Maintenance Fund, the Senior Depreciation and Contingent Fund, the Operation and Maintenance Fund established hereunder and the Depreciation and Contingent Fund established hereunder; all monies in the Gross Revenue Fund shall be subject to the prior applications of the amounts in the Gross Revenue Fund for the purposes set forth in Sections 7.04 and 7.05 hereof.

Section 7.03. The Operation and Maintenance Fund.

(A) There shall be established and maintained an Operation and Maintenance Fund. The Operation and Maintenance Fund is intended to provide for the payment of the Operation and Maintenance Expenses. The Operation and Maintenance Fund established hereunder shall be separate and distinct from Senior Operation and Maintenance Fund.

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

Section 7.04. Debt Service Funds.

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

(B) The Debt Service Funds shall be kept in the complete custody and control of the Trustee and withdrawals from the Debt Service Funds shall be made only by such Trustee who shall transmit to each Bondholder, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the respective Series of Bonds. Amounts held by the Trustee due to non-presentment of Bonds on any redemption date must be retained by the Trustee for a period of at least one year after the final maturity of such Bonds. Funds retained for more than one year shall either be remitted to the State Treasurer's Office as unclaimed property or shall be processed in accordance with the policies and procedures of the Trustee for unclaimed property. Further, subject to the written consent of the City, payment on a Series of Bonds may be made without presentation and surrender; in such event, the Trustee assumes no liability to any person and no obligation shall be imposed on the Trustee to seek the return of such Series of Bonds from the Holder thereof. Provided, however, in the event (1) a Series of Bonds is purchased by a single institution and thereafter held by a single Bondholder, and (2) there is not established for such Series of Bonds a Reserve Requirement, the Debt Service Fund established for such Series of Bonds may be held by the Holder of that Series of Bonds, and the Holder of any such Series of Bonds must provide to the Trustee, as and when requested by the Trustee, a written certificate containing current information as to the principal Outstanding, the redemption premium, if any, and accrued interest on such Series of Bonds, and, if the Holder of such Series of Bonds does not provide the Trustee such written certificate within five (5) Business Days of a request by the Trustee, the Trustee, for all purposes of this Bond Ordinance, shall conclusively assume that such Series of Bonds has been paid in accordance with the original tenor of such Series of Bonds.

(C) Money in the Debt Service Funds shall be invested and reinvested by the Trustee at the written direction of an Authorized Official or his designee in Authorized Investments, maturing not later than the date on which such money is required to pay the principal of, premium, if any, and interest on the next occurring maturity of the Bonds. The Trustee shall have no responsibility for the investment of money in a Debt Service Fund that is not held by the Trustee. Unless otherwise provided in a Series Ordinance, all earnings from such investments shall be added to and become a part of the Debt Service Fund in which such investments are held, but shall be credited against payments that would otherwise be made to such Debt Service Fund pursuant to the provisions of Section 8.04 hereof.

(D) All monies received by the Trustee as Interest Payment Subsidies shall be deposited in the Debt Service Fund for such Series of Bonds and used to pay debt service on the Series of Bonds with respect to which such Interest Payment Subsidy was received.

(E) Within each Debt Service Fund, the Trustee, or as otherwise provided in the Series Ordinance, is authorized to create sub-accounts, as it determines necessary for the timely payment of the principal of, interest on, and sinking fund installments due on the Bonds.

Section 7.05. The Debt Service Reserve Funds.

(A) Each Series Ordinance may create a Debt Service Reserve Fund for the Series of Bonds authorized thereby. Any such Debt Service Reserve Fund shall be for the equal and ratable benefit only of Bonds of that Series. Each such Debt Service Reserve Fund is intended to insure the timely payment of the principal of, and premium, if any, and interest on, that Series of Bonds, and to provide for the redemption of such Bonds prior to their stated maturities. Any Debt Service Reserve Fund shall be maintained in an amount equal to the Reserve Requirement for such Series of Bonds. Unless otherwise provided in a Series Ordinance, money in a Debt Service Reserve Fund shall be used for the following purposes, and for no other:

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

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

(3) To effect partial redemption of the Bonds of that Series; but subject to the restrictions of Section 4.15 hereof and provided that subsequent to said partial redemption, the market value of the cash and securities in the Debt Service Reserve Fund shall be not less than the Reserve Requirement therefor.

Notwithstanding the provisions of Section 7.05(A)(1-3) above and as permitted by the Code and Section 4.21 hereof, if the Debt Service Reserve Fund was funded with cash generated by the System, then, upon the written consent of the Holder of such Series of Bonds secured by such Debt Service Reserve Fund, the monies in such Debt Service Reserve Fund may be returned to the City prior to the final maturity of such Series. The requirements for and provisions governing any Debt Service Reserve Fund in the remainder of this Bond Ordinance shall, in references to “the Debt Service Reserve Fund”, “the Reserve Requirement” and “the Bonds”, be deemed to refer to each such Debt Service Reserve Fund created by a Series Ordinance, if any, and in each case to the respective Reserve Requirement for the respective Series of Bonds, and to Bonds only of that respective Series and not to any other Bonds.

(B) (1) Each Debt Service Reserve Fund shall be kept in the complete custody and control of the Trustee and withdrawals therefrom shall be made only by the Trustee who

shall transmit to the Bondholders, at such times as may be appropriate, the sums required to pay the principal of, redemption premium, if any, and interest on the Bonds.

(2) If a Series of Bonds is held by the Water Quality Authority, then the Debt Service Reserve Fund for such Series of Bonds may be kept in the custody and control of the State Treasurer's Office and invested in the Local Government Investment Pool in Authorized Investments. Withdrawals therefrom shall be made only as directed by the Water Quality Authority at such times as may be required to pay the principal and interest on such Series of Bonds. Any withdrawal of the monies in a Debt Service Reserve Fund that exceeds the Reserve Requirement shall be transferred in accordance with the provisions of Section 7.05(C) hereof.

(C) Except as provided in Section 7.05(B)(2) herein, money in a Debt Service Reserve Fund shall be invested and reinvested by the Trustee at the written direction of an Authorized Officer or his designee in Authorized Investments. Subject to the remaining provisions of this paragraph (C), the earnings from such investments shall be added to and become a part of the Debt Service Reserve Fund. Except as provided in a Series Ordinance, if as of any date of calculation, the value of the securities and money in a Debt Service Reserve Fund shall exceed its Reserve Requirement, such excess shall either be used to effect partial redemption of Bonds of that Series, or shall be removed from such Debt Service Reserve Fund and, either (i) transferred into the applicable Debt Service Fund, as directed in writing by an Authorized Officer, or (ii) transferred to the Gross Revenue Fund, as permitted by the provisions of the Code.

(D) In the event a Series Ordinance requires a Debt Service Reserve Fund to be established for a Series of Bonds, unless otherwise required by such Series Ordinance, the City, in lieu of the deposit of moneys into a Debt Service Reserve Fund, may alternatively satisfy the Reserve Requirement by causing to be so credited an irrevocable and unconditional surety bond, line of credit, letter of credit or insurance policy equal to the Reserve Requirement therefor.

(E) In the event the amount credited to a Debt Service Reserve Fund under a surety bond, letter of credit, or insurance policy (the "**Original Funding Instrument**") also includes amounts available under another surety bond, letter of credit, or insurance policy (the "**Additional Funding Instrument**"), draws on the Original Funding Instrument and the Additional Funding Instrument shall be made on a pro rata basis to fund any insufficiency in the Debt Service Fund. In the event a Debt Service Reserve Fund is funded with both monies and a surety bond, letter of credit, or insurance policy (1) any withdrawals from such Debt Service Reserve Fund shall be made first from such monies (or the liquidation of investments made therewith) and second from such surety bond, line of credit, letter of credit, or insurance policy, and (2) cash deposits to such Debt Service Reserve Fund shall be used first to restore the cash balance and second to reinstate the surety bond, line of credit, letter of credit, or insurance policy. The surety bond, line of credit, letter of credit, or insurance policy shall be payable (upon the giving of notice as required thereunder) on any Bond Payment Date on which moneys will be required to be withdrawn from such Debt Service Reserve Fund and applied to the payment of the principal of or interest on the Outstanding Series of Bonds to which such surety bond, line of credit, letter of credit, or insurance policy relates when such payments cannot be made by amounts otherwise credited to such Debt Service Reserve Fund.

Section 7.06. The Depreciation and Contingent Fund.

(A) There shall be established a Depreciation and Contingent Fund for the Bonds to be held and administered by the City under the provisions hereof. The Depreciation and Contingent Fund established hereunder shall be separate and distinct from the Senior Depreciation and Contingent Fund. This fund shall be maintained in an amount to be established not less frequently than annually by the City Council in order to provide a reasonable reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions of the System.

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

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

(2) For improvements, betterments and extensions to the System, other than for those things which are reasonably necessary to maintain the System in good repair and working order;

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

(4) To prevent defaults of Senior Lien Bonds, Bonds and Junior Lien Bonds;
and

(5) For optional redemption of Senior Lien Bonds, Bonds or Junior Lien Bonds.

(C) Withdrawals from this fund shall be made by or on order of the City.

Section 7.07. The Rate Stabilization Fund.

The City Council may, by ordinance, establish a Rate Stabilization Fund, as needed, and, if created, shall administer such fund under the provisions of this Bond Ordinance and State law.

Section 7.08. Investments of Funds.

Whenever, in the opinion of the City, it becomes desirable to invest money in any of the funds established by this Article (other than the Debt Service Reserve Funds, the Debt Service Funds, and any capitalized interest account) the City may make Authorized Investments. Earnings resulting from the investment of money in a particular fund shall be deposited into the Gross Revenue Fund (i) except as otherwise provided in Sections 7.04, 7.05 and 7.07 hereof, and (ii) unless the City Council shall have determined pursuant to the Annual Budget that any such earnings on amounts in the Depreciation and Contingent Fund shall remain therein.

[End of Article VII]

ARTICLE VIII - DISPOSITION OF REVENUES

Section 8.01. Deposits to Senior Gross Revenue Fund; Dispositions Therefrom; Closure of Senior Lien Funds.

(A) Deposits of all Senior Gross Revenues shall be made to the Senior Gross Revenue Fund and dispositions therefrom to the remaining Senior Lien Funds shall be made in accordance with the terms of the Original Bond Ordinance.

(B) At such time as the Senior Lien Bonds are no longer Outstanding (as defined in the Original Bond Ordinance), all of the Senior Lien Funds shall be closed and all such amounts previously deposited therein shall be deposited into the Gross Revenue Fund and thereafter distributed under the remaining provisions of this Article VIII.

Section 8.02. Deposits to the Gross Revenue Fund; Dispositions Therefrom.

All funds remaining in the Senior Gross Revenue Fund after the disposition therefrom required by the Original Bond Ordinance and all Water Park Revenues are declared to be a part of the Gross Revenue Fund and shall be promptly deposited in a bank or depository in an account which will reflect the fact that they are a part of the Gross Revenue Fund. If Bonds are Outstanding, the dispositions from the Gross Revenue Fund required by the remaining Sections of this Article shall be made on or before the first Business Day of each month. Payments from the Gross Revenue Fund shall be made in the order of priority established by the sequence of the remaining Sections of this Article.

Section 8.03. Deposits for the Operation and Maintenance Fund.

There shall be deposited in the Operation and Maintenance Fund, either from the Gross Revenue Fund, from Other Available Sources or the Rate Stabilization Fund, the amounts budgeted for Operation and Maintenance Expenses for the ensuing month and any amounts required for an operational reserve.

Section 8.04. Payments for Bonds.

Provision shall be made for the payment of principal of, premium, if any, and interest on all Bonds then Outstanding without priority of any other Bonds but ratably as to each Series of Bonds. To that end:

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

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

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

Section 8.05. Deposits for the Debt Service Reserve Funds - Valuation.

Deposits shall next be made in the amounts required by this Section 8.05 or Section 4.02(5) into the respective Debt Service Reserve Funds. Except as provided in Section 7.05(B)(2), the Trustee shall calculate the value of the cash and securities in each Debt Service Reserve Fund forty-five days prior to each Bond Payment Date in order to determine if each Debt Service Reserve Fund contains the Reserve Requirement therefor, and the extent to which payments therefor or withdrawals must be made therefrom, and the timing thereof, pursuant to this Bond Ordinance and the respective Series Ordinances. To the extent the Trustee determines that a deficiency exists, but such deficiency is solely the result of accounting practices governing the valuation of securities in the Debt Service Reserve Fund, the Trustee may alternatively calculate the value of the securities in each Debt Service Reserve Fund as of the maturity date of such securities, so long as such securities mature on or prior to the Bond Payment Date. Unless a Debt Service Reserve Fund is being funded pursuant to Section 4.02(5)(a) of this Bond Ordinance or then contains in cash and securities (or a surety bond, insurance policy, or letter of credit as herein described) an amount at least equal to its Reserve Requirement, unless otherwise provided in the Series Ordinance, there shall be paid into such Debt Service Reserve Fund on the last Business Day of each of the twenty-four (24) months following a determination of a deficiency in such Debt Service Reserve Fund one-twenty-fourth (1/24) of the amount necessary to re-establish in such Debt Service Reserve Fund its Reserve Requirement; provided, however, nothing herein shall preclude the City from fully re-establishing such Reserve Requirement in a more timely fashion than as so prescribed. Any surety bond, line of credit, insurance policy or letter of credit being used to meet the Reserve Requirement of a Debt Service Reserve Fund shall be valued at the amount still remaining to be drawn thereon; and in the event that any such surety bond, line of credit, insurance policy or letter of credit has been drawn upon, the amount necessary to restore the principal balance thereof shall be paid by the City in the same manner and on a parity with the

payments described in this Section 8.05 or as provided in an insurance agreement or applicable Series Ordinance.

The market value of any Authorized Investments in a Debt Service Reserve Fund shall be calculated as follows:

(1) as to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if published therein, then in The New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(2) as to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the Trustee in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service;

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

(4) as to any investment not specified above, the value thereof established by prior agreement between the City and the Trustee pursuant to the applicable Series Ordinance.

Section 8.06. Reimbursement of Interest on Amounts Advanced by Credit Providers for the Debt Service Reserve Fund.

Provision shall then be made for payment of interest and any fees or penalties on amounts advanced by the provider of any surety bond, line of credit, letter of credit or insurance policy as contemplated in Section 7.05(D) hereof.

Section 8.07. Deposits for the Depreciation and Contingent Fund.

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

Section 8.08. Payments for Junior Lien Bonds.

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

Section 8.09. Use of Surplus Money.

All money remaining after making the payments required by Sections 8.01 to 8.08, shall be disposed of for any lawful purpose in such manner as the City Council shall from time to time determine.

The City may determine, at any time, to deposit any percentage or any set amount of surplus money under this Section 8.09 into the Rate Stabilization Fund. Amounts on deposit in the Rate Stabilization Fund may, at the direction of an Authorized Officer, be used to make deposits into the Operation and Maintenance Fund required by Section 8.03 hereof. Amounts on deposit in the Rate Stabilization Fund may, at the option of the City Council, be withdrawn and used for any other required purpose of the System, but in such event, such withdrawal, if for a purpose other than the payments of Operation and Maintenance Expenses, shall be excluded from Net Earnings.

[End of Article VIII]

ARTICLE IX - AGREEMENT TO FURNISH INFORMATION WITH RESPECT TO SYSTEM

Section 9.01 Keeping Records.

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

- (A) The number of customers who may from time to time make use of the System;
- (B) The Senior Gross Revenues and Gross Revenues of the System and the source from whence derived;
- (C) All Senior Lien Expenses and Operation and Maintenance Expenses;
- (D) All Water Park Revenues;
- (E) All amounts appropriated as Other Available Sources;
- (F) The Net Earnings of the System and a schedule demonstrating compliance with Section 5.01(B) hereof for such Fiscal Year;
- (G) All expenditures made from the several funds established by the Original Bond Ordinance, this Bond Ordinance, and Series Ordinances authorizing the issuance of a Series of Bonds;
- (H) The rate schedules for each component of the System that may from time to time be in force; and
- (I) All revenues pledged to Special Facilities Bonds.

Section 9.02 Audit Required.

The City further covenants and agrees that so long as any Bonds are Outstanding, it will, not later than one hundred eighty (180) days after the close of each Fiscal Year, cause to be made and completed by the Auditors, an audit of the records, books and accounts pertaining to the System, made in accordance with Accounting Principles, showing, among other things, Senior Gross Revenues, Senior Lien Expenses, Gross Revenues, Operation and Maintenance Expenses, Net Revenues and Net Earnings; and that it will furnish a copy of such audit to the Trustee. Such audit shall comment upon any violation of any provision of any resolution authorizing the issuance

of any Bonds or Junior Lien Bonds and any violation of any provision of this Bond Ordinance noted by the Auditors, and such other matters as to them seem pertinent. The cost of such audit may be allocated by the City between the Senior Operation and Maintenance Expenses and Operation and Maintenance Expense upon any basis deemed reasonable by an Authorized Officer. Any audits made available to the City shall not otherwise be restricted as to their subsequent dissemination to any party.

[End of Article IX]

ARTICLE X - INSURANCE

Section 10.01 Requirement of Insurance.

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

(1) To the extent insurance coverage is available, that it will insure and at all times keep the System insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amount as private corporations engaged in similar endeavors would customarily insure for;

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

(3) That all premiums on all bonds or insurance policies related to the Water Park Enterprise (and at such time as no Senior Lien Bonds remain Outstanding, related to the Water and Sewer System) shall be deemed an Operation and Maintenance Expense and shall be paid out of Gross Revenues;

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

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

(6) That it will comply with the requirements of State law regarding the mandatory purchase of liability insurance contained in Section 15-78-140(b) of the South Carolina Code.

(B) Insurance required by this Section 10.01 may be provided through the South Carolina Insurance Reserve Fund. The City may obtain or adopt alternative risk management programs which an Insurance Consultant determines to be reasonable, including, without limitation, self-insurance in whole or in part individually or in connection with other institutions, participation in programs of captive insurance companies; participation with other governmental entities in mutual or other cooperative insurance or other risk management programs, participation in state or federal insurance programs, taking advantage of state or federal laws now or hereafter in existence limiting liability, or establishing or participating in other alternative risk management programs; all as may be approved by the Insurance Consultant as reasonable and appropriate risk

management by the City. If the City shall be self-insured for any coverage, the City shall obtain a report of an Insurance Consultant stating whether the anticipated funding of any self-insurance fund is actuarially sound, and if not, the required funding to produce such result and such coverage shall be reviewed by the Insurance Consultant not less frequently than annually. Any self-insurance program shall be subject to annual review by the Insurance Consultant who shall provide a written report to the City which shall include recommendations relating to such self-insurance program. The City shall provide to the Trustee annual certification evidencing compliance with the Insurance Consultant's recommendations.

[End of Article X]

ARTICLE XI - ADDITIONAL COVENANTS

Section 11.01 Additional Covenants to Secure Bonds.

The City further covenants and agrees:

(A) That neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except in accordance with the provisions hereof;

(B) That it will permit no free service to be rendered, or use to be made of the services and facilities of the System, and for the services and facilities of the System used by the City, the reasonable cost and value of such services and facilities shall be paid as such services accrue. Water used in the operation of the Water Park Enterprise shall be billed at rates comparable to other users of similar demand upon the Water System, or, in the absence of such users, rates based on prudent utility practice, consistent with the rate setting methodology for the Utility System generally. The revenue so received from the City shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;

(C) That, to the extent lawful, it will not permit competing systems to operate within its boundaries;

(D) That, it will permit no customer to be connected to the System, or to receive any service afforded by the System, unless a proper meter is installed, and such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force;

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

(F) That it will not pledge, mortgage, or otherwise encumber the System or any portion thereof, or any revenues therefrom except in the manner herein authorized, and (except as provided in Section 11.03 herein) it will not sell, lease or otherwise dispose of any portion of the System, necessary or useful in the operation of the System, until all Bonds shall be paid in full, or unless and until provision shall have been made for the payment of all Bonds and the interest thereon in full, and the City further obligates itself and covenants and agrees with the Bondholders to maintain in good condition and to operate said System, and to collect and charge such rates for the services and facilities of the System so that the income and revenues of the System will be sufficient at all times to meet the requirements of this Bond Ordinance. If, pursuant to this Section, anything belonging to the System which is not deemed by the City to be necessary or useful therefor shall be sold or disposed of, the proceeds of such sale or disposition shall be deposited in the Depreciation and Contingent Fund;

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

(H) That it will not make any use, and it shall direct the Trustee and each Fiduciary not to make any use of the proceeds of any Series of Bonds which Bonds were intended upon the issuance thereof to be exempt from federal income taxation, which, if such use had been reasonably expected on the date of the issuance of the Bonds of such Series would have caused such Bonds or any other Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and will observe and not violate the requirements of Section 148 of the Code;

(I) That, as to any Series of Bonds that was intended at the time of their issuance to be exempt from federal income taxation, it will take all actions required of it under the Code that are necessary to preserve the tax-exempt status of such Series of Bonds, including without limitation, actions necessary to comply with all information reporting requirements and any obligation to rebate arbitrage earnings on the proceeds of such Bonds to the United States Government;

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

(K) That no payments on account of appropriations to the general fund of the City shall be made except as permitted under Section 8.09 hereof.

Section 11.02 Acquisition of Additional Utilities.

No provision of this Bond Ordinance shall prevent the combining of the System with any other utility system or enterprise of whatever type if such combination then be permitted or authorized by the provisions of the South Carolina Code and if the requirements set forth below are met; but no such combination shall impair the validity or priority of the pledge of revenues and the lien thereon created by this Bond Ordinance. The City shall have the right, from time to time, to add other utilities, enterprises, activities and facilities (which at the date of enactment of this Bond Ordinance were not included in the definition of System hereunder) to the definition of System hereunder, provided that:

(A) the City Council shall have determined that such utilities, enterprises, activities or facilities are or will be owned by the City as of the effective date of such acquisition, and that the combination thereof with the System shall otherwise comply with the provisions of the Act;

(B) if necessary, the City Council shall have adopted an appropriate amendatory ordinance to this Bond Ordinance;

(C) the City shall have received an opinion of Bond Counsel to the effect that such action to be taken under this Section is authorized under this Bond Ordinance and the laws of the State and will not adversely affect the excludability of interest on the Bonds which were intended upon their issuance to be exempt from federal income taxation; and

(D) for each of the five (5) Fiscal Years following the date of the additions to the System, Net Earnings, as shall have been forecasted either by Independent Consultants with a reputation for expertise in the type of enterprise being added to the System, by the Auditors or by an Authorized Officer, will be not less than one hundred twenty percent (120%) of the Annual Principal and Interest Requirements on all Senior Lien Bonds, all Bonds and all Bonds then proposed to be Outstanding in each of such five (5) Fiscal Years; provided, however, that in the event that Bonds are being issued to acquire or improve the acquired utility, this paragraph (D) shall not apply and the City shall meet the requirements of Article IV hereof before issuing such Bonds and acquiring such utility.

Section 11.03. Sale, Exchange, Removal or Disposal of Component of System.

(A) The City may from time to time sell, exchange, remove or dispose of, (but not lease, contract or agree for the use thereof) the Water System, the Sewer System or the Water Park Enterprise, if it determines by ordinance, based upon certification of Independent Consultants or the Auditors:

(1) that the sale, exchange, removal or other disposition thereof would not materially reduce Net Earnings; or

(2) that the sale, exchange, removal or other disposition thereof (1) would not materially adversely affect the ability of the City to comply with the rate covenant, set forth in Section 5.01 hereof, for the current and next succeeding Fiscal Year, and (2) would be for a consideration of not less than reasonable value as may be determined in the sole discretion of the City Council.

(B) In addition to the provisions of Section 11.03(A) hereof, if the City determines to sell, exchange, remove or dispose of an entire component comprising a part of the System the following conditions shall also be met:

(1) the City shall obtain an opinion of Bond Counsel to the effect that the sale, exchange, removal or disposal of a component of the System from the System has been effected in accordance with the terms of this Bond Ordinance; and

(2) notice shall be provided by the City to any rating agency, if any, then rating any Series of Bonds regarding the sale, exchange, removal or disposal of such component from the System.

(C) If the City sells, exchanges, removes or otherwise disposes a component of the System, the proceeds, if any, of such transaction may be applied, at the discretion of the City, as follows:

(1) to the payment or satisfaction, in whole or in part, of (1) Bonds associated with or related to such component and (2) any other type of indebtedness of the City associated with or related to such component; or

(2) to the payment or satisfaction, in whole or in part, of the amount due under any type of contractual obligations of the City associated with or related to such component; or

(3) to the payment of the construction or purchase of additional improvements or expansions to the System.

[End of Article XI]

ARTICLE XII - MODIFICATION OF ORDINANCE

Section 12.01 Modification Without Bondholder Approval.

(A) Provided always that the security of the Bonds shall not be diminished, or in any manner impaired, the City Council may for any one or more of the following purposes at any time, or from time to time, enact an ordinance, supplementing this Bond Ordinance, which supplemental ordinance shall be fully effective in accordance with its terms:

(1) to provide for the issuance of a Series of Bonds in accordance with Article IV of this Bond Ordinance;

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

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

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

(5) to implement an addition to the System pursuant to Section 11.02 hereof; and

(6) for any other purpose which, in the opinion of Bond Counsel, does not materially affect the interests of the Bondholders.

(B) It is further provided that such supplemental ordinance shall not become effective until a copy thereof, duly certified, shall have been filed in the office of the Clerk of Court for the County. The Trustee will promptly give notice of enactment and a copy of any modification made hereunder to any Insurer.

Section 12.02 Modification with Bondholder Approval.

The rights and duties of the City and the Bondholders and the terms and provisions of this Bond Ordinance may be modified or altered in any respect by an ordinance enacted by the City Council with the consent of the Holders of fifty-one percent (51%) in principal amount of all Bonds of each Series which would be affected by such modification or alteration then Outstanding, if any, of each such Series of Bonds, such consent to be evidenced in such manner as may be acceptable to the Trustee, however no such modification or alteration shall, without the consent of the Holders of all Bonds affected by such change or modification:

(A) Effect a change as to the type of currency in which the City is obligated to effect payment of the principal, interest and redemption premium of any Bond;

- (B) Permit the creation of a pledge of the revenues of the System prior to or equal to the Bonds except as may be permitted under the provisions of this Bond Ordinance;
- (C) Permit preference or priority of any Bonds to others;
- (D) Alter or modify the provisions of Section 4.02 or of Articles V, VII, and VIII;
- (E) Reduce the percentage required for the written consent to the modification or alteration of the provisions of this Bond Ordinance; or
- (F) Change schedule for payment of principal or interest on affected Bonds.

Section 12.03 Procedure for Procuring Bondholder Approval.

The City and the Trustee may rely upon the registry books maintained by the Registrar to determine who are the Holders of the Bonds. Any and all modifications made pursuant to Section 12.02 shall not become effective until (1) there has been filed with the Clerk of Court for the County and with the Trustee a copy of such amendatory ordinance hereinabove provided for, duly certified, and (2) proof of consent to such modification by the Holders (depending on the type of type of modification) of (A) fifty-one percent (51%) in principal amount of the Bonds of each Series then Outstanding or (B) all Bonds Outstanding, shall be filed with the Trustee. In the event that any Series of Bonds are held under a book-entry system pursuant to Section 4.20, the approvals of Bondholders may be obtained in the manner provided in the agreement with the Securities Depository.

Section 12.04 Notice to Rating Agencies.

Any rating agency rating a Series of Bonds shall be provided notice and a copy of any amendment to this Bond Ordinance or to any Series Ordinance within fifteen (15) days of its execution or enactment; notice electronically filed on the Municipal Securities Rulemaking Board's EMMA system shall be deemed sufficient upon such filing for purposes of this Section 12.04.

[End of Article XII]

ARTICLE XIII - EVENTS OF DEFAULT

Section 13.01 Events of Default.

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

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

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

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

(4) Except as provided in Section 5.01(C) hereof, the City shall not comply with the rate covenant in Section 5.01(B) herein;

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

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

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

(8) The occurrence of an event of default on the part of the City under any reimbursement agreement between the City and a provider of a surety bond, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof; and

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

In determining whether a default in payment has occurred under paragraphs (1) or (2) of this subsection (A) and in determining whether a payment on Bonds has been made under any other provision of this Bond Ordinance, no effect shall be given to payments made under a Municipal Bond Insurance Policy.

(B) The foregoing provisions of paragraphs (4), (5) and (6) of the preceding subsection (A) are subject to the following limitations: If by reason of “force majeure” the City is unable in whole or in part to carry out its agreements herein contained (other than the obligations on the part of the City contained in any of Section 4.02 or Articles V, VII and VIII as to which this paragraph shall have no application), the City shall not be deemed in default during the continuance of such inability. The term “force majeure” as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States or of the State or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquake; fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, tunnels or canals; partial or entire failure of utilities; or any other cause or event not reasonably within the control of the City, it being agreed that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of the City unfavorable to the City.

[End of Article XIII]

ARTICLE XIV - REMEDIES

Section 14.01 Acceleration; Annulment of Acceleration.

(A) Subject to the approval of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Senior Lien Bonds then Outstanding (as defined in the Original Bond Ordinance), upon the occurrence of an Event of Default under Section 13.01(1) or (2) herein, the Trustee may, and shall, upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of Bonds Outstanding, by notice in writing to the City, declare all Bonds Outstanding immediately due and payable, and such Bonds shall become and be immediately due and payable, anything in the Bonds or in this Bond Ordinance to the contrary notwithstanding. In such event, there shall be due and payable on the Bonds an amount equal to the total principal amount of all such Bonds, plus all interest accrued thereon and which will accrue thereon to the date of payment.

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

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

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

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

(4) Every Event of Default as to which notice has been given to the Trustee or as to which the Trustee is deemed to have notice (other than a default in the payment of the principal of such Bonds then due only because of such declaration) shall have been remedied to the satisfaction of the Trustee.

No such annulment shall extend to or affect any subsequent Event of Default or impair any right consequent thereon.

In the event the Senior Lien Bonds have been declared to be due and payable under the terms of the Original Bond Ordinance, the Trustee shall give notice thereof to the Holders of the Bonds within three (3) business days of such declaration. If such declaration is annulled, the Trustee shall give notice thereof to the Holders of the Bonds within three (3) business days of such annulment and such declaration shall be considered a withdrawal of any approval by the Holders of the Senior Lien Bonds under Section 14.01(A) above.

Section 14.02 Additional Remedies and Enforcement of Remedies.

(A) Upon the occurrence and continuance of any Event of Default, the Trustee may, and upon the written request of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, shall proceed forthwith to protect and enforce its rights and the rights of the Bondholders under this Bond Ordinance by such suits, actions or proceedings as the Trustee, being advised by counsel, shall deem expedient, including but not limited to:

- (1) Seeking a *writ of mandamus*, requiring the City to carry out its duties and obligations under the terms of this Bond Ordinance and under the Enabling Act;
- (2) Suit upon all or any part of the Bonds;
- (3) Civil action to require the City to account as if it were the trustee of an express trust for the Holders of Bonds;
- (4) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Holders of the Bonds; or
- (5) Enforcement of any other right of the Bondholders conferred by law or by this Bond Ordinance including the right to make application for the appointment of a receiver to administer and operate the System.

(B) Regardless of the happening of an Event of Default, the Trustee, if requested in writing by the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds then Outstanding, and upon receipt of assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion, shall institute and maintain such suits and proceedings as it may be advised by counsel shall be necessary or expedient:

- (1) To prevent any impairment of the security under this Bond Ordinance by any acts which may be unlawful or in violation of this Bond Ordinance; or
- (2) To preserve or protect the interests of the Bondholders, provided that such request is in accordance with law and the provisions of this Bond Ordinance and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Holders of Bonds not making such request.

(C) When the Trustee incurs costs or expenses (including legal fees, costs and expenses) or renders services after the occurrence of an Event of Default, such costs and expenses and the compensation for such services are intended to constitute expenses of administration under any federal or state bankruptcy, insolvency, arrangement, moratorium, reorganization or other debtor relief law.

Section 14.03 Application of Revenues and Other Moneys After an Event of Default.

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

(1) Forthwith, and with due regard for the rights of the Holders of the Senior Lien Bonds, all moneys and securities then held by the City which are credited to any fund under this Bond Ordinance (specifically including any moneys and securities in any construction fund created with proceeds of Bonds if construction of the projects to be paid for thereby has been completed or terminated but exclusive of any amounts remaining in such construction fund that are in dispute between the City and any contractor). However, any monies in a Debt Service Reserve Fund shall be applied only toward a Series of Bonds for which such Debt Service Reserve Fund was established;

(2) As promptly as practicable after receipt thereof, all Gross Revenues; and

(3) All Other Available Sources appropriated by the City for the then-current Fiscal Year which have not yet been deposited as required by Section 5.01(D) of this Bond Ordinance.

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

(1) To the payment of the reasonable and proper charges of the Trustee and its reasonable counsel fees and expenses;

(2) To the payment of the amounts required by Section 8.01, according to the amounts dues thereon to the persons entitled thereto.

(3) To the payment of Operation and Maintenance Expenses;

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

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

(i) First: To the payment of the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference;

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

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

(5) To the payment of the amounts required by Section 8.05, ratably, according to the amounts due thereon to the persons entitled thereto;

(6) To the payment of the amounts required by Section 8.06, ratably, according to the amounts due thereon to the persons entitled thereto;

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

(8) To the payment of the amounts required by Section 8.08, ratably, according to the amounts due thereon to the persons entitled thereto.

Section 14.04 Remedies Not Exclusive.

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

Section 14.05 Remedies Vested in Trustee.

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

14.03 hereof, any recovery of judgment shall be for the equal benefit of the Holders of the Outstanding Bonds.

Section 14.06 Majority of Bondholders Control Proceedings.

If an Event of Default shall have occurred and be continuing, notwithstanding anything in this Bond Ordinance to the contrary, the Holders of at least a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument in writing executed and delivered to the Trustee, to direct the method and place of conducting any proceeding to be taken in connection with the enforcement of the terms and conditions of this Bond Ordinance or for the appointment of a receiver or any other proceedings hereunder, provided that such direction is in accordance with law and the provisions of this Bond Ordinance (including indemnity to the Trustee) and, in the sole judgment of the Trustee, is not unduly prejudicial to the interests of the Bondholders not joining in such direction and provided further that nothing in this Section 14.06 shall impair the right of the Trustee in its discretion to take any other action under this Bond Ordinance which it may deem proper and which is not inconsistent with such direction by Bondholders.

Section 14.07 Individual Bondholder Action Restricted.

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

(1) Subject to the approval of the Holders of the Senior Lien Bonds under the provisions of the Ordinance Bond Ordinance, an Event of Default has occurred:

(a) under paragraph (1) or (2) of subsection (A) of Section 13.01 hereof;

(b) as to which a Responsible Officer of the Trustee has actual notice;
and

(c) as to which the Trustee has been notified in writing;

(2) The Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding shall have made written request to the Trustee to proceed to exercise the powers granted in this Bond Ordinance or to institute such action, suit or proceeding in its own name; and

(3) Such Bondholders shall have provided assurances of indemnification of the Trustee, the sufficiency of which shall be determined in the Trustee's sole discretion; and

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

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

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

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

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

Section 14.08 Termination of Proceedings.

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

Section 14.09 Waiver and Nonwaiver of Event of Default.

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

(B) Subject to the approval of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Senior Lien Bonds then Outstanding (as defined in the Original Bond Ordinance), upon the written request of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds Outstanding, together with indemnification of the Trustee to its satisfaction therefor, the Trustee may waive any Event of Default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Bond Ordinance, or before the completion of the enforcement of any other remedy under this Bond Ordinance.

(C) Notwithstanding anything contained in this Bond Ordinance to the contrary but subject to the provisions of Section 17.01 hereof and the approval of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Senior Lien Bonds then Outstanding (as defined in the Original Bond Ordinance), the Trustee, upon the written request of the Bonds then Outstanding (including, if more than one Series of Bonds shall at the time be Outstanding, the Holders of a majority in principal amount of all Bonds then Outstanding of each such Series), shall waive any Event of Default hereunder and its consequences; provided, however, that except

under the circumstances set forth in subsection (B) of Section 14.01 hereof or subsection (B) of this Section 14.09, a default in the payment of the principal of, premium, if any, or interest on, any Bond, when the same shall become due and payable by the terms thereof or upon call for redemption, may not be waived without the written consent of the Holders of all the Bonds at the time Outstanding.

(D) In case of any waiver by the Trustee of an Event of Default hereunder, the City, the Trustee, each Insurer and the Bondholders shall be restored to their former positions and rights under this Bond Ordinance, respectively, but no such waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon. The Trustee shall not be responsible to anyone for waiving or refraining from waiving any Event of Default in accordance with this Section 14.09.

Section 14.10 Notice of Events of Default.

(A) Within thirty (30) days after:

(1) The receipt of notice of an Event of Default as provided in Section 14.07(A)(1)(b) or (c) hereof; or

(2) The occurrence of an Event of Default under paragraphs (1) or (2) of subsection (A) of Section 13.01 hereof, as to which the Trustee shall be deemed to have notice,

the Trustee shall, unless such Event of Default shall have theretofore been cured, give written notice thereof by first class mail to each Insurer of any Series of Bonds then Outstanding, if any, and to each Holder of Bonds then Outstanding, provided that, except in the case of a default in the payment of principal of, together with premium, if any and interest on any of the Bonds, the Trustee may withhold such notice if, in its sole judgment, it determines that the withholding of such notice is in the best interests of the Bondholders.

(B) The Trustee shall immediately notify the City and each Insurer of any Series of Bonds then Outstanding of any Event of Default actually known to a Responsible Officer of the Trustee.

Section 14.11 Rights of Insurers.

Any Series Ordinance may provide that any Insurer, insuring the applicable Series of Bonds, upon the occurrence of an Event of Default and with respect to all remedies provided herein, may prevent the acceleration of the Bonds of all Series or may prevent the annulment of the acceleration of the Bonds of all Series. Such Insurer may be subrogated to the rights to payment of the Holders of any Bonds with respect to which it pays any principal or interest on the Bonds owned by that Holder.

[End of Article XIV]

ARTICLE XV - TRUSTEE AND ITS FUNCTIONS; OTHER FIDUCIARIES

Section 15.01 Appointment and Vesting of Powers in Trustee; Limitation of Rights of Bondholders to Appoint Trustee.

Prior to the delivery of any Bonds pursuant to this Bond Ordinance, the City shall appoint the Trustee, which, while the Senior Lien Bonds are Outstanding, shall be the same entity as the Trustee for the Senior Lien Bonds. Such appointment shall be made by means of the Series Ordinance adopted by the City Council in connection with the issuance of the first Series of Bonds pursuant to this Bond Ordinance. The Trustee shall be and is hereby vested with all rights and powers necessary to enable it to discharge its duties hereunder but the right of the Bondholders to appoint a Trustee hereunder is limited to the circumstances contemplated by Section 15.10 hereof.

Section 15.02 Functions of Trustee.

The Trustee shall have the following additional functions:

- (A) To authenticate the Bonds of all Series that may be issued;
- (B) To act as custodian of the Debt Service Funds;
- (C) Except as otherwise provided herein, to act as custodian of the Debt Service Reserve Funds, if any;
- (D) Except as otherwise provided herein, to act as Paying Agent for the Bonds;
- (E) Unless otherwise prescribed by any Series Ordinance, to act as Registrar for the Bonds, and to maintain a set of registration books therefor, which shall at all times accurately reflect the names and addresses of all those who may be Holders of any Bonds;
- (F) To make reports to the City on a monthly or such other basis as may be requested by the City, but not less often than semi-annually:
 - (1) Establishing balances on hand;
 - (2) Listing investments made for any fund handled by the Trustee;
 - (3) Establishing the market value of the Debt Service Reserve Funds; and
 - (4) Listing all securities, if any, pursuant to Section 15.13 hereof.

Section 15.03 Duty of Trustee with Respect to Deficits in Debt Service Funds.

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

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

Section 15.04 Acceptance by Trustee Required.

Prior to the delivery of any Bonds, the Trustee appointed pursuant to Section 15.01 hereof shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Bond Ordinance, by executing and delivering to the City a written acceptance thereof.

Section 15.05 Liability as to Recitals in Bond Ordinance and Bonds.

The recitals of fact made in this Bond Ordinance and in the Bonds shall be taken as statements of the City, and the Trustee shall not be deemed to have made any representation as to the correctness of the same, nor shall the Trustee be deemed to have made any representation whatsoever as to the validity or sufficiency of this Bond Ordinance or of the Bonds issued hereunder except with respect to the authentication of any Bonds. Nor shall the Trustee be under any responsibility or duty with respect to the issuance of said Bonds, or the application of the proceeds thereof, except to the extent provided for herein. Nor shall the Trustee be liable in connection with the performance of its duties hereunder, except for its own negligence or default.

Section 15.06 Trustee May Rely on Notices, etc.

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

Section 15.07 Trustee Permitted to Resign.

The Trustee may, at any time, resign and be discharged of its duties and obligations hereunder by giving to the City and the Bondholders written notice of such resignation, specifying a date (not less than sixty (60) days after such notice) when such resignation is intended to take effect. Such resignation shall take effect immediately upon but not before the appointment and qualification of such successor. If after sixty (60) days no successor has been appointed, the Trustee may petition a court of competent jurisdiction to appoint a successor.

Section 15.08 Removal of Trustee.

(A) Subject to the approval of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Senior Lien Bonds then Outstanding (as defined in the Original Bond Ordinance), the Trustee may be removed at any time by the Holders of not less than fifty percent (50%) of the principal amount of Bonds at such time Outstanding upon 30 days written notice to the Trustee.

(B) Subject to the approval of the Holders of not less than fifty-one percent (51%) in aggregate principal amount of the Senior Lien Bonds then Outstanding (as defined in the Original

Bond Ordinance) and provided an Event of Default has not occurred and is not continuing, the Trustee may be removed at any time by the City upon 30 days written notice to the Trustee.

(C) Any such removal shall take effect immediately (after the 30 day notice period) upon, but not before the appointment and qualification of such successor.

Section 15.09 Appointment of Successor Trustee Upon Resignation or Removal of Trustee.

(A) In case at any time the Trustee shall resign, or be removed or become incapable of acting, or be adjudged bankrupt or insolvent, or a receiver of its property shall be appointed, or any public officer shall take charge or control of its property or affairs, a successor thereto shall be promptly appointed by an ordinance of the City duly enacted. Such successor shall in all instances be a bank or a trust company, and duly chartered pursuant to the laws of the United States or of any state and shall have a combined capital and surplus of not less than \$500,000,000.

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

Section 15.10 When Bondholder May Seek Successor Trustee.

If no appointment of a successor Trustee shall be promptly made pursuant to Section 15.09, any Bondholder, the resigning or removed Trustee may make application to any court of competent jurisdiction for the appointment of a successor and said court may thereupon, after such notice, if any, as such court may prescribe, appoint a successor.

Section 15.11 Acceptance by Successor Trustee.

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

Section 15.12 Effect of Trustee Merging With Another Bank.

Any bank or trust company into which the Trustee may be merged, or with which it may be consolidated, or any bank or trust company resulting from any merger or consolidation to which it shall be a party, or any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, shall become the successor without the execution or filing of any paper or the performance of any further act; provided, always, that if the City shall be dissatisfied with the institution resulting from the merger, consolidation or other action spoken

of above, then the City may at any time within thirty (30) days after such action name a new Trustee (with the qualifications prescribed by Section 15.09 hereof) in lieu of the Trustee then acting.

Section 15.13 Trustee to Secure Funds and Securities Held in Trust.

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

Section 15.14 Disposition of Paid Bonds.

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

Section 15.15 Appointment of Substitute Registrar.

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

Section 15.16. Additional Provisions Regarding the Trustee.

The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Bond Ordinance, and no implied covenants or obligations should be read into this Bond Ordinance against the Trustee. If any Event of Default under this Bond Ordinance shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Bond Ordinance and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs.

The Trustee agrees to perform the trust functions provided herein upon and subject to the following expressed terms and conditions:

(A) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents or receivers appointed with due care.

(B) The permissive items assigned to the Trustee as enumerated herein shall not be construed as a duty.

(C) The Trustee shall not be accountable for the use or application by the City of any money paid over by the Trustee in accordance with the provisions of this Bond Ordinance. Prior to an Event of Default as to which the Trustee has received notice, the Trustee shall not be accountable with respect to the determination, deposit or application of Senior Gross Revenues, Senior Lien Expenses, Gross Revenues, Operation and Maintenance Expenses Net Revenues, Net Earnings, Water Park Revenues, Water Park Expenses or revenues pledged to secure Special Facilities Bonds and shall have no liability with respect to the comingling of or accounting for such revenues.

(D) Before taking any action under this Bond Ordinance relating to an Event of Default or in connection with its duties under this Bond Ordinance other than making payments of principal and interest on the Bonds as they become due or causing an acceleration of the Bonds whenever required by this Bond Ordinance, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all costs and expenses to which it may be put (including legal fees, costs and expenses) and to protect it against all liability, including, but not limited to, any liability arising directly or indirectly under any federal, state or local statute, rule, law or ordinance related to the protection of the environment or hazardous substances and except liability which is adjudicated to have resulted from its own negligence or willful misconduct in connection with any action so taken.

(E) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds and shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(F) None of the provisions of this Bond Ordinance shall require the Trustee to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds cannot be assured to the Trustee's satisfaction.

(G) So long as investments are made in Authorized Investments, the Trustee may conclusively rely upon the City's written instructions as to both the suitability and legality of all investments directed hereunder. To the extent invested in Authorized Investments, the Trustee shall have no responsibility to monitor the ratings of investments after the initial purchase of such investments. The Trustee may make any and all such investments through its own investment department or that of its affiliates or subsidiaries, and may charge reasonable fees for such trades, including cash sweep accounts. Notwithstanding anything to the contrary herein, in the absence of written investment instructions from the City, the Trustee shall not be responsible or liable for keeping moneys held by it hereunder fully invested. While invested in Authorized Investments, the Trustee shall not be liable for any losses from such investments. Broker confirmations of investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered.

(H) The Trustee shall have no duty to review or analyze any financial statements delivered to it hereunder (including the audit required by Section 9.02 hereof) or verify the accuracy thereof and shall hold such financial statements solely as a repository for the benefit of the Bondholders; the Trustee shall not be deemed to have notice of any information contained therein or Event of Default which may be disclosed therein.

(I) Notwithstanding an Event of Default under Section 13.01(A)(1), (2) or (3), the Trustee shall not be deemed to have notice of any event or circumstance that may constitute an Event of Default hereunder or under any Series Ordinance absent written notice stating that an Event of Default has occurred.

(J) The City shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also its reasonable expenses, charges and other disbursements and the fees, costs, and expenses of its attorneys, agents and employees incurred in and about the administration and the performance of its powers and duties hereunder. If the Trustee is required by governmental agency or court proceeding initiated by a third party to undertake efforts beyond that which is set forth herein but related thereto, the Trustee shall notify the City of same in writing. Payment for such extraordinary fees, costs and expenses (including but not limited to reasonable attorney's fees, costs and expenses) shall be made promptly by the City only after said notice.

(K) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Bond Ordinance arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation: acts of God; earthquakes; fire; flood; hurricanes or other catastrophic storms; wars; terrorism; similar military disturbances; sabotage; epidemic; pandemic; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communications services; labor disputes; acts of civil or military authority or governmental action; it being understood that the Trustee shall use commercially reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as reasonably practicable under the circumstances.

(L) Upon request from any Bondholder and absent any further direction or consent of the City, the Trustee may disseminate a copy of the financial statements to such requester.

(M) The Trustee shall have the right to accept and act upon directions or instructions delivered using Electronic Means; provided, however, that the City shall provide to the Trustee an incumbency certificate listing Qualified Officers with the authority to provide such directions or instructions (each a "***Qualified Officer***") and containing specimen signatures of such Qualified Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustee's understanding of such directions or instructions shall be deemed controlling. The City understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Qualified Officer listed on the incumbency certificate provided to the Trustee have been sent by such Qualified Officer. The City shall be responsible for ensuring that only Qualified Officers transmit such directions or instructions to the

Trustee and that all Qualified Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The City agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions and (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

[End of Article XV]

ARTICLE XVI - DEFEASANCE

Section 16.01 Defeasance Generally.

Subject to the provisions of any Series Ordinance, if all of the Bonds issued pursuant to this Bond Ordinance and any other amounts required to be paid to a provider of a surety bond, line of credit, insurance policy or letter of credit hereunder shall have been paid and discharged, then the obligations of the City under this Bond Ordinance, the pledge of Net Revenues made hereby, and all other rights granted hereby shall cease and determine. Subject to the provisions of any Series Ordinance, Bonds shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

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

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

(C) If the City shall have deposited with the Trustee, or any other bank or trust company which would otherwise meet the chartering and capital and surplus requirements contained in Section 15.09(A) hereof, in irrevocable trust money or Defeasance Obligations, the principal of and interest on which when due (without reinvestment thereof) will, as certified in a verification report provided by an independent entity providing such services and deemed qualified by the Trustee, provide money which, together with the money, if any, deposited at the same time, shall be sufficient to pay, when due, the principal, interest and redemption premium, if any, due and to become due on and prior to the maturity, or, if the City has irrevocably elected to redeem Bonds, on and prior to the redemption date, of such Bonds.

Section 16.02 Money to be Held in Trust - When Returnable to the City.

Any money which at any time shall be deposited with the Trustee or other escrow holder authorized under Section 16.01(C), by or on behalf of the City, for the purpose of paying and discharging any Bonds or the interest thereon, shall be and is hereby assigned, transferred and set over to the Trustee or such other escrow holder in trust for the respective Holders of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. But if, through lapse of time or otherwise, the Holders of said Bonds shall no longer be entitled to enforce payment of their obligations, then, in such event, it shall be the duty of the Trustee or such other escrow holder to forthwith return said funds to the City.

Section 16.03 Deposits With Trustee Subject to Conditions of Article XVI.

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

Section 16.04 No Defeasance of Series of Bonds Paid by Insurer.

In the event that the principal and/or interest due on a Series of Bonds shall be paid by an Insurer pursuant to a Municipal Bond Insurance Policy, such Series of Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City until the Insurer has been reimbursed in full therefor in accordance with the terms of the Municipal Bond Insurance Policy, and the assignment and pledge of the Net Revenues of the System and all covenants, agreements and other obligations of the City to the registered Holders shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered Holders.

[End of Article XVI]

ARTICLE XVII - MISCELLANEOUS

Section 17.01 Miscellaneous Rights of an Insurer.

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

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

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

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

(E) The terms and provisions of this Bond Ordinance or of any applicable Series Ordinance may not be terminated as long as there are any moneys owed to an Insurer under such terms and provisions of this Bond Ordinance or the applicable Series Ordinance or any agreement between such Insurer and the City.

Section 17.02 Purpose of Covenants in Bond Ordinance.

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

connection, any provider of a surety bond, line of credit, insurance policy or letter of credit as contemplated under Section 7.05(D) hereof may enforce the terms, conditions and obligations under this Bond Ordinance as a third party beneficiary hereunder. Nothing in this Bond Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, an Insurer, the Trustee, and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Bond Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Bond Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, an Insurer, the Trustee, and the registered owners of the Bonds.

Section 17.03 Severability.

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

Section 17.04 Remedies Granted by Ordinance Not Being Available to Holders of Other Bonds.

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

Section 17.05 Authorization to Sign.

For purposes of all consents and other necessary documentation associated with the issuance of Bonds, the Authorized Officers and the Clerk shall be authorized to sign on behalf of the City and the City Council.

Section 17.06 Repealing Clause.

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

Section 17.07 Governing Law.

The provisions of this Bond Ordinance shall be governed by the laws of the State, without regard to conflict of law principles.

Section 17.08 Public Hearing; Date Effective.

Prior to the enactment of this 2017 Series Ordinance, a public hearing was properly noticed and held as required by Section 2-113 of the City's Code of Ordinances. The provisions of this Bond Ordinance shall become effective as of the enactment date hereof.

[End of Article XVII]

DONE, RATIFIED AND ENACTED on October 10, 2017.

CITY OF HARTSVILLE, SOUTH CAROLINA

(SEAL)

Carl M. (Mel) Pennington IV, Mayor

Attest:

Sherron L. Skipper, City Clerk

First Reading:	September 18, 2017
Public Hearing:	October 10, 2017
Second Reading:	October 10, 2017