

CITY OF HARTSVILLE, SOUTH CAROLINA
ADDITIONAL AMENDMENTS TO THE BOND ORDINANCE
ORDINANCE NO. 4353

AN ORDINANCE

PROVIDING FOR AND APPROVING ADDITIONAL AMENDMENTS TO AN ORDINANCE ENTITLED, “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.”

ORIGINALLY ENACTED ON OCTOBER 10, 2017
AS AMENDED ON AUGUST 14, 2018
AS FURTHER AMENDED ON NOVEMBER 13, 2018
(MASTER BOND ORDINANCE)

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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 OF FACT

Section 1.01. Recitals and Statements of Purpose.

Incident to the enactment of this ordinance (this “**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, as a fact, that each of the statements hereinafter set forth are in all respects true and correct.

(A) The City Council has made general provision for the issuance of Combined System Revenue Bonds (Second Lien) (the “**Bonds**”) of the City from time to time through the means of an ordinance entitled “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” duly enacted by the City Council on October 10, 2017, as amended on August 14, 2018 (the “**Bond Ordinance**”). All terms not otherwise defined herein shall have the definition ascribed thereto in the Bond Ordinance.

(B) The City Council enacted a series ordinance dated October 10, 2017 (the “**2017 Series Ordinance**”), authorizing the issuance and delivery of not exceeding \$10,000,000 Combined Public System Improvement Revenue Bonds, Series 2017 (Second Lien) of the City of Hartsville, South Carolina, which due to the anticipated issuance in calendar year 2018 will be designated as “Series 2018” (the “**2018 Bonds**”).

(C) Pending the issuance and delivery of the 2018 Bonds, the City, acting through the authorizations in the 2017 Series Ordinance, determined to issue its \$8,000,000 Combined System Improvement Revenue Bond Anticipation Note, Series 2017 of the City of Hartsville, South Carolina dated December 6, 2017 (the “**BAN**”).

(D) The issuance of the 2018 Bonds and the BAN and the terms, conditions and covenants related thereto were authorized and approved by City Council pursuant to the provisions of Ordinance No. 4308 of City Council dated October 10, 2017 (the “**Series Ordinance**”).

(E) Other than the BAN, which is anticipated for redemption with the proceeds of the 2018 Bonds, the City has no Bonds currently Outstanding (other than the Senior Lien Bonds).

(F) The City has received a preliminary commitment from Build America Mutual Assurance Company (“**BAM**”) to issue a municipal bond insurance policy (the “**Policy**”) and a municipal bond debt service reserve insurance policy (the “**Reserve Policy**”) relating to the 2018 Bonds.

(G) As a requirement for the issuance of the Policy and the Reserve Policy, BAM requires the satisfaction of certain conditions, including certain covenants and document provisions in the Bond Ordinance.

(H) The City Council has determined to enact this Ordinance as a means of (i) amending and modifying the Bond Ordinance to satisfy certain of BAM's conditions required for the issuance of the Policy and the Reserve Policy, and (ii) ratifying/approving the Preliminary Official Statement dated October 25, 2018 and the final Official Statement dated November 1, 2018 related to the 2018 Bonds.

[End of Article I]

ARTICLE II – AMENDMENTS

Section 2.01. Rationale for Amendments; Amendments.

A. As a requirement for the issuance of the Policy and the Reserve Policy, BAM has requested that the City implement certain additional provisions and covenants into the Bond Ordinance. Through the addition of certain provisions, certain amendments and additional definitions are required. Accordingly, Section 2.02 of the Bond Ordinance shall be amended as follows:

Section 2.02. Defined Terms.

“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.

(d) any outstanding Reserve Policy Costs (as such term is defined in Section 7.05(F)(1) herein) due and owing in such Fiscal Year shall be included in the calculation of the Annual Principal and Interest Requirement.

“Insured Obligations” shall mean any Series of Bonds insured by a Municipal Bond Insurance Policy.

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in the City of New York, New York, as its prime or base lending rate (**“Prime Rate”**) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as the Insurer, in its sole, absolute and reasonable discretion, shall designate. Interest at the Late Payment Rate shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Reserve Policy” means a surety bond policy, a line of credit policy, a letter of credit policy or an insurance policy credited to a Debt Service Reserve Fund.

“Reserve Provider” with respect to any Series of Bonds, shall mean a provider of a surety bond, line of credit, letter of credit or insurance policy that has written a Reserve Policy covering all or a portion of the Reserve Requirement of the Debt Service Reserve Fund related to such Series of Bonds. The term “Reserve Provider” is explicitly intended to incorporate any and all references to a provider of a surety bond, line of credit, insurance policy or letter of credit (as established under Section 7.05(D) hereof for the satisfaction of a Reserve Requirement for a Debt Service Reserve Fund) under this Bond Ordinance regardless of whether the term “Reserve Provider” is actually used.

B. As a requirement for the issuance of the Reserve Policy, BAM has requested that the City amend Section 7.05 of the Bond Ordinance related to the Debt Service Reserve Funds to provide for certain additional covenants and provisions. Accordingly, Section 7.05 of the Bond Ordinance shall be amended to add subsection (F) as follows:

Section 7.05 Debt Service Reserve Fund.

(F) (1) Under the provisions of the agreement with the Reserve Provider and the provisions of this Bond Ordinance, the City shall repay any draws under the Reserve Policy and pay all related reasonable expenses incurred by the Reserve Provider as described in Section 8.05 and 8.06 herein or as provided in an agreement between the City and the Reserve Provider. Interest shall accrue and be payable on such draws and expenses from the date of payment by the Reserve Provider at the Late Payment Rate (“**Reserve Policy Costs**”).

(2) Consistent with Section 7.05(A) above, draws under the Reserve Policy may only be used to make payments on Bonds covered by the Reserve Provider.

(3) Draws on any Reserve Policy and any Reserve Policy Costs shall be timely repaid in accordance with the provisions of Sections 8.05 and 8.06 herein or as provided in an agreement between the City and the Reserve Provider; upon any failure to timely pay any such costs (both draws and Reserve Policy Costs), such failure shall be considered an Event of Default under Section 13.01(A)(8) hereof, and the Reserve Provider shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under this Bond Ordinance.

(4) The Bond Ordinance shall not be discharged until all Reserve Policy Costs owing to the Reserve Provider shall have been paid in full. The City’s obligation to pay Reserve Policy Costs shall expressly survive the payment in full of the Bonds.

(5) The Authorized Officers shall be expressly permitted to negotiate and execute any reserve agreement with a Reserve Provider related to the issuance and delivery of the Reserve Policy, the terms of which shall be consistent with this Bond Ordinance.

(6) The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of Section 7.05(A) and (E) above and provide notice to the Reserve Provider at least three business days prior to each date upon which interest or principal is due on the Bonds. The Trustee’s failure to timely provide such notice shall not prohibit or limit the Trustee’s ability to make a claim upon the Reserve Policy in accordance with the terms of the Reserve Policy.

C. As a requirement for the issuance of the Reserve Policy, BAM has requested that the City amend Section 8.06 of the Bond Ordinance related to the Debt Service Reserve Funds to provide for certain additional covenants and provisions. Accordingly, Section 8.06 of the Bond Ordinance shall be amended and restated as follows:

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, expenses and any fees or penalties on amounts advanced by the Reserve Provider as contemplated in Section 7.05(D) hereof. Any interest, expenses and any fees or penalties on amounts advanced by the Reserve Provider as contemplated in Section 7.05(D) hereof (including any Reserve Policy Costs) shall be repaid on the same schedule contemplated with respect to any draws on a Debt Service Reserve Fund described in Section 8.05 herein or as provided in a reserve agreement or applicable Series Ordinance.

D. As a requirement for the issuance of the Policy and Reserve Policy, BAM has requested that the City maintain insurance at levels currently in effect at the time of issuance of the Bonds. As result, the City has determined to amend and restate Section 10.01(A) of the Bond Ordinance as follows:

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;

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

(7) That to the extent coverage is available, that it will maintain (in addition to the minimum coverage provided in subsection (A)(6) above) comprehensive general liability insurance for damages for bodily and personal injury, death and property damage occasioned by reason of the operation of the System from a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in such amounts as private corporations engaged in similar endeavors would customarily insure for; provided that any coverage and amounts maintained at the time of enactment of the amendment to this Bond Ordinance dated November 13, 2018 shall be sustained and maintained for all period of time that Bonds are Outstanding hereunder.

E. As a requirement for the issuance of the Policy, BAM's commitment for the Policy provides that the City "not sell, lease, transfer, encumber or otherwise dispose of the System or any material portion thereof, except upon obtaining the prior written consent of BAM." The provisions of the Bond Ordinance governing the sale, exchange, removal or disposal of components of the System are found in Section 11.03 thereof and do not currently require the consent of an Insurer prior to undertaking such action. As result, the City has determined to amend and restate Section 11.03 of the Bond Ordinance as follows:

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 or any material portion of a 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;

(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; and

(3) the City shall obtain the written consent of each Insurer, if any, prior to the sale, exchange, removal or disposal of any component of the System or any material portion thereof.

(C) If the City sells, exchanges, removes or otherwise disposes a component of the System or any material portion thereof, 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;

(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.

(D) For purposes of this Section 11.03, a material portion of a component comprising a part of the System is any portion of a component of the System representing more than 5% of the net capital assets of such component of the System as shown in the City's most recent audited financial statements.

F. As a requirement for the issuance of the Policy, BAM has requested that certain changes be made to the provisions of the Bond Ordinance related to subsequent

amendments. As result, the City has determined to amend and restate Section 12.01 of the Bond Ordinance, as follows:

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; and

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

(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.

G. As a requirement for the issuance of the Policy, BAM has requested that it be granted certain approval rights respecting any successor Trustee. As result, the City has determined to amend and restate Section 15.09 of the Bond Ordinance, as follows:

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) Notwithstanding anything herein to the contrary, the appointment of any successor Trustee shall be subject to the written approval of each Insurer.

(C) Immediately following the proper approval of the successor Trustee, the City shall give written notice of such appointment to the Bondholders and any Registrar other than the Trustee.

H. As a requirement for the issuance of the Policy, BAM has requested that certain provisions be added to the defeasance provisions in Article XVI of the Bonds Ordinance. As result, the City has determined to amend Article XVI of the Bond Ordinance to add Section 16.05, as follows:

Section 16.05. Other Defeasance Provisions Affecting Insurers.

At least (three) 3 Business Days prior to any defeasance with respect to any Insured Obligations, the City shall deliver to each Insurer draft copies of: (i) an escrow agreement, (ii) an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, and (iii) a verification report (under the standards provided in Section 16.01 above). Such opinion and verification report shall be addressed to the Insurer and shall be in form and substance satisfactory to Insurer. In addition, the escrow agreement shall provide that:

(A) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a verification report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of Insurer, which consent will not be unreasonably withheld;

(B) The City will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding Bonds, and (ii) as a condition to any such redemption, the verification report shall provide a determination of sufficiency of escrow receipts (without reinvestment) to meet the escrow requirements remaining following any such redemption; and

(C) The City shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of the Insurer.

I. As a requirement for the issuance of the Policy, BAM has requested that certain provisions be added to the general provisions affecting Insurers in Section 17.01 of the Bond Ordinance. As result, the City has determined to amend and restate Section 17.01 of the Bond

Ordinance as follows:

(A) Notwithstanding any provision of this Bond Ordinance to the contrary, each Insurer shall be deemed the exclusive Holder of all Insured Obligations 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, 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.

(D) The Trustee shall designate any portion of payment of principal on Insured Obligations paid by an Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books of registration as a reduction in the principal amount of Insured Obligations registered to the then current holder and shall issue a replacement Insured Obligation to the Insurer, registered in the name directed by the Insurer, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the City on any Insured Obligation or the subrogation or assignment rights of the Insurer. Irrespective of whether any such assignment is executed and delivered:

(1) any Insurer, to the extent such Insurer makes payments directly or indirectly (through either the Paying Agent or the Trustee) on account of principal of or interest on the Insured Obligations, will be subrogated to the rights of such Bondholders to receive the amount of such principal and interest from the City, with interest thereon, as provided and

solely from the sources stated in the Insured Obligations and this Bond Ordinance; and

(2) the City will pay to any such Insurer the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Insured Obligations to the Bondholder, and will otherwise treat the Insurer as the owner of such rights to the amount of such principal and interest.

(E) 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.

(F) 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.

(G) The City will provide each Insurer with all notices and other information it is obligated to provide (i) under any continuing disclosure agreements, and (ii) this Bond Ordinance or any Series Ordinance. All such notices shall be submitted in accordance with the notice information provided by each Insurer.

(H) Any notices required to be given to a Bondholder shall also be required to be given to each Insurer insuring such Series of Bonds.

(I) The City agrees unconditionally that it will pay or reimburse each Insurer (on demand) any and all reasonable charges, fees, costs, losses, liabilities and expenses that such Insurer may pay or incur, including, but not limited to, fees and expenses of any agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the documents governing the Insured Obligations (“**Administrative Costs**”). The City agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-

annually, from the date that payment is first due to the Insurer until the date the Insurer is paid in full.

(J) Notwithstanding anything herein to the contrary, the City agrees to pay to each Insurer (i) a sum equal to the total of all amounts paid by the Insurer under the Municipal Bond Insurance Policy (“**Policy Payment**”); and (ii) interest on such Policy Payments from the date paid by the Insurer until payment thereof in full by the City, payable to the Insurer at the Late Payment Rate per annum compounded semi-annually (collectively, “**Reimbursement Amounts**”). Notwithstanding anything to the contrary, Reimbursement Amounts shall be, and the City hereby covenants and agrees that the Reimbursement Amounts are, considered to be a part of the debt service due on the Insured Obligations and shall be secured by a pledge of the Net Revenues on a parity with the Insured Obligations and all other Series of Bonds then Outstanding. All Reimbursement Amounts shall be due and payable under Sections 8.04 and 14.03(B)(4) hereof, regardless of whether such amounts are actually paid out of the Debt Service Fund securing the Insured Obligations.

(K) Any reorganization or liquidation plan with respect to the City must be acceptable to each Insurer. The Trustee and each owner of the Insured Obligations shall be deemed to appoint the respective Insurer of each Series of Bonds, if any, as their agent and attorney-in-fact with respect to the Insured Obligations and agree that such Insurer may at any time during the continuation of any proceeding by or against the City under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “**Insolvency Proceeding**”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “**Claim**”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner of the Insured Obligations shall be deemed to delegate and assign to the respective Insurer of each Series of Bonds, if any (to the fullest extent permitted by law), the rights of the Trustee and each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

(L) No contract shall be entered into or any action taken by which the rights of an Insurer or security for or source of payment of the Insurer Obligations may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of each Insurer.

(M) The Authorized Officers shall be expressly permitted to negotiate and execute any insurance agreement with an Insurer related to the issuance and delivery of a Municipal Bond Insurance Policy, the terms of which shall be consistent with this Bond Ordinance.

J. As a requirement for the issuance of the Policy, BAM has requested that certain provisions be added to the general provisions affecting Insurers in Section 17.02 of the Bond Ordinance regarding the treatment of the Insurer as a third-party beneficiary. As result, the City has determined to amend and restate Section 17.02 of the Bond Ordinance as follows:

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 Insurer or Reserve Provider 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, each Insurer, each Reserve Provider, 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, each Insurer, each Reserve Provider, the Trustee, and the registered owners of the Bonds.

Section 2.02. Effecting the Amendments.

No Bonds are currently Outstanding under the Bond Ordinance. Therefore, the amendments above shall take effect immediately following the enactment of this Ordinance and shall apply to all Bonds, including the 2018 Bonds.

[End of Article II]

ARTICLE III – APPROVAL OF OFFERING DOCUMENT; MISCELLANEOUS

Section 3.01. Offering Document.

Respecting the 2018 Bonds as priced and sold on November 1, 2018, the City Council hereby ratifies the use of the Preliminary Official Statement dated October 25, 2018 and the final Official Statement dated November 1, 2018, final copies of which have been presented to City Council prior to the enactment of this Ordinance, and their distribution to prospective purchasers. Consistent with the provisions of the Series Ordinance, the Preliminary Official Statement was properly “deemed final” by the City Manager (as an Authorized Officer) under Rule 15c2-12 of the rules and regulations of the United States Securities and Exchange Commission and the City Council hereby confirms, ratifies and approves the actions taken by the Authorized Officers, particularly the City Manager, in executing the Official Statement in the name of the City, supervising its distribution to the Underwriter, to municipal securities information repositories and to potential purchasers and in making all changes from the Preliminary Official Statement to the Official Statement.

Section 3.02. Severability.

The provisions of this Ordinance are severable, and if one or more of the provisions, sentences, clauses, sections or parts hereof shall be held or deemed to be or shall in fact, be inoperative or unenforceable or invalid as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because of conflict with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstance, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever. It is hereby declared that this Ordinance would have been enacted if such inoperative or unenforceable or invalid provisions, sentences, clauses or sections or parts (i) shall be deemed severable from the remaining covenants and agreements and portions thereof provided in this Ordinance, and (ii) shall in no way affect the validity of the other provisions of this Ordinance.

[End of Article III]

DONE, RATIFIED AND ENACTED on November 13, 2018.

CITY OF HARTSVILLE, SOUTH CAROLINA

(SEAL)

Carl M. (Mel) Pennington IV, Mayor

Attest:

Sherron L. Skipper, City Clerk

First Reading:	October 31, 2018
Public Hearing:	November 13, 2018
Second Reading:	November 13, 2018