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**A SERIES ORDINANCE NO. 4426**

**APPROVING THE FINANCING OF WATER SYSTEM IMPROVEMENTS, THROUGH THE BORROWING OF NOT EXCEEDING ONE MILLION FOUR HUNDRED SEVENTY-SEVEN THOUSAND THREE HUNDRED DOLLARS (\$1,477,300), PLUS CAPITALIZED INTEREST, IF ANY, FROM THE STATE DRINKING WATER REVOLVING LOAN FUND, BY AGREEMENT WITH THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, PURSUANT TO TITLE 48, CHAPTER 5, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; PROVIDING FOR THE AGREEMENT TO MAKE AND TO ACCEPT A LOAN, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN THE CITY OF HARTSVILLE, SOUTH CAROLINA AND THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE FROM THE CITY OF HARTSVILLE, SOUTH CAROLINA TO THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY; AND OTHER MATTERS RELATING THERETO.**

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CITY OF HARTSVILLE, SOUTH CAROLINA

Enacted: January 11, 2022

**Table of Contents**

**ARTICLE I - FINDINGS OF FACT ..... 1**

Section 1.1. Findings of Fact. .... 1

**ARTICLE II – AUTHORIZATION OF THE LOAN AND ESTABLISHMENT OF FUNDS ..... 5**

Section 2.1. Authorization of Loan..... 5

Section 2.2. Repayment of Loan by City..... 5

Section 2.3. Establishment of Funds..... 5

**ARTICLE III - LOAN AGREEMENT AND NOTE; FUNDING THE 2022 DEBT SERVICE RESERVE FUND..... 6**

Section 3.1. Authorization of Loan Agreement and the Note..... 6

Section 3.2. Provision for Funding the 2022 Debt Service Reserve Fund ..... 6

**ARTICLE IV - MISCELLANEOUS ..... 7**

Section 4.1. Other Instruments and Actions ..... 7

Section 4.2. Ordinance a Contract ..... 7

Section 4.3. Effective Date ..... 7

Section 4.4. Continuing Disclosure ..... 7

**Exhibit A – Form of Loan Agreement**  
A-1

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARTSVILLE, IN A MEETING DULY ASSEMBLED, AS FOLLOWS:**

**ARTICLE I - FINDINGS OF FACT**

Section 1.1 Findings of Fact. Incident to the enactment of this series ordinance (this “**2022 Series Ordinance**”), the City Council of the City of Hartsville (the “**City Council**”), the governing body of the City of Hartsville, South Carolina (the “**City**”), has made the following findings:

(a) The City is a municipality incorporated under the laws of the State of South Carolina (the “**State**”) and empowered by the provisions of Title 48, Chapter 5, Code of Laws of South Carolina 1976, as amended (the “**Authorizing Act**”) to: (i) undertake a waterworks project as defined and approved pursuant to the Federal Safe Drinking Water Act, 42 U.S.C. §§300f et seq.; (ii) make application for and to receive assistance from the South Carolina Water Quality Revolving Fund Authority (the “**State Authority**”); (iii) comply with regulations relating to the receipt and disposition of money of the State Drinking Water Revolving Loan Fund (the “**Fund**”) created by the Authorizing Act; (iv) apply for and receive state grants; (v) enter into loan agreements; and (vi) comply with all terms and conditions of any loan agreement.

(b) Title 6, Chapter 21 of the Code of Laws of South Carolina 1976, as amended, permits the incurrence of debt for the purpose of financing facilities for the furnishing of water, wastewater and waterpark services and permits the securing of such indebtedness with a pledge of the revenues upon the system from which such revenues are derived.

(c) The City Council has determined that, in order for the City to adequately serve its customers, it is necessary to undertake certain improvements to its waterworks system. The project consists of the construction of the Smith Street well, including a treatment building and related improvements and equipment (collectively, the “**Project**”). Upon completion, the Project will be a part of and will constitute a portion of the City’s combined waterworks, sewer, and waterpark system of the City (the “**System**”).

(d) On July 13, 2021, the City Council adopted a resolution authorizing an application to the State Authority for a loan from the Fund (the “**Loan**”).

(e) On November 15, 2021, the State Authority, upon review of the City’s loan application, conditionally approved the Loan.

(f) The Loan is to be made and secured pursuant to a loan agreement between the City and the State Authority (the “**Loan Agreement**”), the form of which is attached hereto as **Exhibit A** and a promissory note executed and delivered by the City, registered in the name of the State Authority (the “**Note**”), the form of which is attached as Appendix E to the Loan Agreement. Pursuant to the Loan Agreement, the City will agree to use the proceeds of the Loan only to pay the actual eligible costs of the Project, and, if deemed prudent by the City, capitalized interest on the Note pursuant to the terms of the Loan Agreement; the City will also agree to pay to the State Authority such amounts as shall be required to provide for the payment of all amounts due with

respect to the repayment of the Loan. To secure its obligations, the City will grant to the State Authority a pledge of the Net Revenues (as defined in the Bond Ordinance, which term is defined below) and a statutory lien upon the System as authorized by the Section 6-21-440 of the Act (as defined in the Bond Ordinance).<sup>1</sup> Upon any failure of the City to make any payments to the State Authority pursuant to the Loan Agreement or the Note, the State Authority shall require the State Treasurer to pay to the State Authority, subject to provisions of the Authorizing Act, such amount from the State appropriations to which the City may be or become entitled as may be necessary to provide for the payment of all amounts due with respect to the Note.

(g) The City Council is enacting this 2022 Series Ordinance in order to:

(i) authorize the execution and delivery of, on behalf of the City, the Loan Agreement and the Note;

(ii) evidence the approval of the Project and the Loan by the City Council; and

(iii) authorize the execution and delivery by, and on behalf of, the City of such other agreements and certificates and the taking of such other action by the City and its officers as shall be necessary or desirable in connection with the financing of the Project in order to carry out the intent of this 2022 Series Ordinance.

(h) The City is authorized, pursuant to an ordinance enacted by the City Council on October 10, 2017, 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,” as amended on August 14, 2018 and November 13, 2018 (as amended, the “**Bond Ordinance**”), to enact this 2022 Series Ordinance as a Series Ordinance thereunder and to issue the Note as a Series of Bonds thereunder; and the issuance of such Note is necessary for financing the Project. All capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Bond Ordinance.

(i) Under the Original Bond Ordinance (as such term is defined in the Bond Ordinance), the City has outstanding its originally issued \$7,780,000 original principal amount Waterworks and Sewer System Improvement and Refunding Revenue Bonds, Series 2015 dated August 13, 2015 (the “**Senior Lien Bonds**”).

(j) Under the Bond Ordinance, the City has outstanding its originally issued \$9,735,000 Combined System Improvement Revenue Bonds, Series 2018 (Second Lien) dated November 29, 2018 (the “**2018 Bonds**”).

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<sup>1</sup> The pledge and lien described herein 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 (as defined below); however, no portion of the Water Park Revenues (as defined in the Bond Ordinance) are pledged to the repayment of the Senior Lien Bonds and the statutory lien granted for the Senior Lien Bonds shall not attach to the Water Park Enterprise (as defined in the Bond Ordinance).

(k) The Note will not be junior to any other revenue-secured debt of the City other than the Senior Lien Bonds<sup>2</sup> and will be issued on parity with the 2018 Bonds.

(l) In accordance with Section 4.01(B) of the Bond Ordinance, the Note shall be issued as a Series of Bonds. The proceeds of the Loan secured by the Note are necessary to provide funds to be used and expended for the purpose of expanding and improving the System, which purposes are permitted by Sections 4.01(A)(1) of the Bond Ordinance. The City Council further specifies and determines as follows:

(i) The period of usefulness of the System is not less than twenty-five (25) years.

(ii) the Date of Issue of the Note shall be the date that the Note is executed and delivered as provided in Section 3.1 of this 2022 Series Ordinance;

(iii) the principal amount of the Note shall not exceed One Million Four Hundred Seventy-Seven Thousand Three Hundred Dollars (\$1,477,300), plus capitalized interest, if any; the exact principal amount (exclusive of capitalized interest) to be determined at the final disbursement of the Loan by the State Authority and Section 4.1 herein;

(iv) the dates for payment of interest on the Note, and the dates of maturity and the amounts thereof, shall be as set forth in the Loan Agreement;

(v) the Note is to be issued for the purpose of providing funds to defray all or a portion of the costs of the Project;

(vi) the Note shall be designated “City of Hartsville, South Carolina Combined System Revenue Bond, Series 2022”;

(vii) the Note shall be sold to the State Authority in accordance with the Act;

(viii) the Note shall bear interest at the rate set forth in the Loan Agreement per annum;

(ix) the Note shall be issued as a single term bond, payable by way of equal, amortized payments as set forth in the Loan Agreement;

(x) the Redemption Prices and dates applicable to the Note shall be as set forth in the Loan Agreement and the Note;

(xi) the Trustee (as defined in Section 2.3 herein) shall serve as Trustee, Paying Agent and Registrar for the Note;

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<sup>2</sup> However, the 2018 Bonds are only junior and subordinate to pledge and lien of the water and sewer components of the System. No portion of the Water Park Revenues are pledged to the payment of the Senior Lien Bonds and the statutory lien against the System granted to the Senior Lien Bonds does not attach to the Water Park Enterprise.

(xii) the Note, the form of which is attached as Appendix E to the Loan Agreement, shall be issued as a single bond in the denomination of principal amount thereof;

(xiii) the Note shall not be issued in book-entry form as permitted by Section 4.20 of the Bond Ordinance;

(xiv) the Reserve Requirement for the Note shall be as set forth in Section 3.2 hereof;

(xv) the proceeds of the Note shall be applied as set forth in the Loan Agreement;

(xvi) the 2022 Debt Service Fund shall be established as a Debt Service Fund under the Bond Ordinance as set forth in Section 2.3 of this 2022 Series Ordinance, but because the State Authority will hold the proceeds of the Note until such time as they are requisitioned for costs, no construction fund shall be established;

(xvii) the 2022 Debt Service Reserve Fund shall be established as a Debt Service Reserve Fund under the Bond Ordinance as set forth in Section 2.3 of this 2022 Series Ordinance; and

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

(xix) the Debt Service Reserve Fund for the 2018 Bond was fully funded in amount equal to the Reserve Requirement therefor with a municipal bond debt service reserve insurance policy issued by Build America Mutual has not been drawn upon by the City.

[END OF ARTICLE I]

**ARTICLE II – AUTHORIZATION OF THE LOAN AND ESTABLISHMENT OF FUNDS**

Section 2.1 Authorization of Loan. The City Council hereby authorizes the City’s acceptance of the Loan from the State Authority in an amount not exceeding \$1,477,300, plus capitalized interest, if any, pursuant to and in accordance with the provisions of the Loan Agreement.

Section 2.2 Repayment of Loan by City. The City Council hereby authorizes the repayment of the Loan by the City to the State Authority from the Net Revenues, or if said revenues are not sufficient, from state appropriations as the City may become entitled to, pursuant to and in accordance with the provisions of the Loan Agreement and the Note.

Section 2.3 Establishment of Funds. There shall be established by the City’s Finance Director (the “***Finance Director***”), as an Authorized Officer (as defined in the Bond Ordinance), the 2022 Debt Service Fund and the 2022 Debt Service Reserve Fund, each to be held by U.S. Bank National Association, as Trustee (the “***Trustee***”), and maintained in accordance with the provisions of the Bond Ordinance and the Loan Agreement.

[END OF ARTICLE II]

**ARTICLE III - LOAN AGREEMENT AND NOTE; FUNDING THE 2022 DEBT  
SERVICE RESERVE FUND**

Section 3.1 Authorization of Loan Agreement and the Note. The Loan Agreement, in substantially the forms attached hereto as **Exhibit A**, and the Note, in substantially the form attached to the Loan Agreement as Appendix E, with such changes as the Mayor of the City (the “*Mayor*”) shall approve (his execution to be conclusive evidence of such approval) are hereby approved, and the execution and delivery of the Loan Agreement and the Note on behalf of the City are hereby authorized and directed. The Loan Agreement and the Note shall be dated as of the Date of Issue, which is expected to be January 20, 2022; however, such Date of Issue may be subject to change in the sole discretion of the Mayor. The Loan Agreement and the Note shall be executed on behalf of the City by the Mayor, or in his absence or unavailability (for any reason) the Mayor Pro-Tempore, and attested by the City Clerk, or in her absence or unavailability (for any reason), the Finance Director.

In the absence or unavailability of the Mayor, the Mayor Pro-Tempore is authorized to undertake all actions and approvals granted to the Mayor. In the absence or unavailability of the City Clerk, the Finance Director is authorized to undertake all actions and approvals granted to the City Clerk.

Section 3.2 Provision for Funding of the 2022 Debt Service Reserve Fund. The Finance Director is hereby authorized to cause the satisfaction of the 2022 Reserve Requirement (as defined in the Loan Agreement) by funding the 2022 Debt Service Reserve Fund with cash or cash equivalents as authorized by the Bond Ordinance and as further provided for in the Loan Agreement. If required to be funded, the City, acting through the Trustee, will maintain the 2022 Reserve Requirement in accordance with the provisions of the Bond Ordinance and the Loan Agreement.

[END OF ARTICLE III]



**ARTICLE IV- MISCELLANEOUS**

Section 4.1 Other Instruments and Actions. In order to implement the Loan pursuant to the Loan Agreement and Note and to give full effect to the intent and meaning of this 2022 Series Ordinance and the agreements and actions herein authorized, the Authorized Officers (as defined in the Bond Ordinance) and the City Clerk are hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as the Mayor shall deem necessary or desirable. Additionally, the Finance Director is authorized to cause satisfaction of any such fees or expenses as may be required to close the Note.

Section 4.2 Ordinance a Contract. This 2022 Series Ordinance shall constitute a contract between the City and the State Authority, and shall be enforceable as such against the City.

Section 4.3 Effective Date. This 2022 Series Ordinance shall become effective upon enactment by the City Council.

Section 4.4 Continuing Disclosure. The City covenants to file with the State Authority and with a central repository for availability in the secondary bond market when requested:

- (a) an annual independent audit, within thirty days of City's receipt of the audit; and
- (b) event specific information within thirty (30) days of an event adversely affecting more than five percent of revenues of the System.

In the event the City fails to comply with the requirements of this Section 4.4, the only remedy shall be an action of specific performance.

[END OF ARTICLE IV]

**DONE, RATIFIED AND ENACTED** this 11th day of January 2022.

**CITY OF HARTSVILLE, SOUTH  
CAROLINA**

(SEAL)

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Casey Hancock, Mayor

Attest:

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Sherron L. Skipper, City Clerk, City of Hartsville, South Carolina

First Reading: December 14, 2021  
Public Hearing: January 11, 2022  
Final Reading: January 11, 2022

EXHIBIT A

FORM OF THE LOAN AGREEMENT