
AN ORDINANCE

TO PROVIDE FOR THE ISSUANCE AND SALE OF A NOT EXCEEDING ONE MILLION ONE HUNDRED THOUSAND DOLLAR (\$1,100,000) GENERAL OBLIGATION BOND, SERIES 2023 OF THE CITY OF HARTSVILLE, SOUTH CAROLINA, TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED, TO PROVIDE FOR THE PAYMENT THEREOF, AND OTHER MATTERS RELATING THERETO.

City of Hartsville, South Carolina

Dated: March 14, 2023

TABLE OF CONTENTS

ARTICLE I - FINDINGS OF FACT 1

 SECTION 1.01 FINDINGS AND RECITALS. 1

ARTICLE II - DEFINITIONS AND AUTHORITY 3

 SECTION 2.01 DEFINITIONS..... 3

 SECTION 2.02 CONSTRUCTION..... 5

ARTICLE III - ISSUANCE OF BOND 6

 SECTION 3.01 ORDERING THE ISSUANCE OF THE BOND. 6

 SECTION 3.02 MATURITY SCHEDULE OF THE BOND. 6

 SECTION 3.03 MEDIUM OF PAYMENT; FORM AND DENOMINATION OF THE BOND; PLACE
 OF PAYMENT. 6

 SECTION 3.04 EXECUTION AND AUTHENTICATION 7

 SECTION 3.05 EXCHANGE OF THE BOND..... 7

 SECTION 3.06 TRANSFERABILITY AND REGISTRY. 7

 SECTION 3.07 TRANSFER OF THE BOND..... 7

 SECTION 3.08 REGULATIONS WITH RESPECT TO EXCHANGES AND TRANSFERS..... 8

 SECTION 3.09 MUTILATED, DESTROYED, LOST AND STOLEN BOND..... 8

 SECTION 3.10 HOLDER AS OWNER OF THE BOND..... 9

 SECTION 3.11 CANCELLATION OF THE BOND..... 9

 SECTION 3.12 PAYMENTS DUE SATURDAYS, SUNDAYS AND HOLIDAYS..... 9

 SECTION 3.13 TAX EXEMPTION IN SOUTH CAROLINA..... 9

 SECTION 3.14 ORDER TO LEVY AD VALOREM TAXES TO PAY PRINCIPAL AND INTEREST
 OF THE BOND..... 9

 SECTION 3.15 FAILURE TO PRESENT BONDS. 9

 SECTION 3.16 FORM OF THE BOND. 10

ARTICLE IV - REDEMPTION OF BOND..... 11

 SECTION 4.01 REDEMPTION OF THE BOND..... 11

 SECTION 4.02 ELECTION TO REDEEM. 11

 SECTION 4.03 NOTICE OF REDEMPTION. 11

 SECTION 4.04 DEPOSIT OF REDEMPTION PRICE. 12

 SECTION 4.05 PARTIAL REDEMPTION OF BOND. 12

ARTICLE V - SALE OF BOND 13

 SECTION 5.01 SALE OF THE BOND. 13

 SECTION 5.02 NOTICE OF SALE. 13

 SECTION 5.03 AUTHORIZATION TO NEGOTIATE SALE IN CERTAIN CIRCUMSTANCES..... 13

ARTICLE VI - DISPOSITION OF PROCEEDS OF SALE OF BOND 15

 SECTION 6.01 DISPOSITION OF BOND PROCEEDS INCLUDING TEMPORARY
 INVESTMENTS..... 15

ARTICLE VII - DEFEASANCE OF BOND..... 16

SECTION 7.01 DEFEASANCE.....	16
ARTICLE VIII - CERTAIN TAX AND DISCLOSURE CONSIDERATIONS	18
SECTION 8.01 TAX COVENANTS.	18
SECTION 8.02 CONTINUING DISCLOSURE.	20
ARTICLE IX - PURCHASE OF HPDC PROPERTIES22.....	<u>21</u>
SECTION 9.01 PURCHASE AUTHORIZATION. 22	<u>21</u>
<u>SECTION 9.02 PURCHASE AGREEMENT.</u>	<u>21</u>
ARTICLE X - MISCELLANEOUS23.....	<u>22</u>
SECTION 10.01 SAVINGS CLAUSE.	23 <u>22</u>
SECTION 10.02 SUCCESSORS.	23 <u>22</u>
SECTION 10.03 ORDINANCE TO CONSTITUTE CONTRACT.....	23 <u>22</u>
SECTION 10.04 FILING OF COPIES OF ORDINANCE.....	23 <u>22</u>
SECTION 10.05 FURTHER ACTION BY OFFICERS OF THE CITY.	23 <u>22</u>
SECTION 10.06 NOTICE PURSUANT TO SECTION 11-27-40, PARAGRAPH 8 OF THE SOUTH CAROLINA CODE.....	24 <u>23</u>
SECTION 10.07 PROFESSIONAL SERVICES.	24 <u>23</u>
SECTION 10.08 EFFECTIVE DATE OF ORDINANCE.....	24 <u>23</u>
EXHIBIT A – FORM OF BOND	
EXHIBIT B – FORM OF NOTICE OF SALE	
EXHIBIT C – FORM OF SUMMARY NOTICE OF SALE	
EXHIBIT D – FORM OF NOTICE OF ENACTMENT	
EXHIBIT E – FORM OF PURCHASE AGREEMENT	
EXHIBIT F – LIST OF <u>MAP</u> THE PROPERTY	

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HARTSVILLE, SOUTH CAROLINA, IN COUNCIL ASSEMBLED, AS FOLLOWS:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Findings and Recitals.

As an incident to the enactment of this ordinance (this “**Ordinance**”) and the issuance of the Bond (as hereinafter defined), 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 this Article exist and the statements made with respect thereto 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, and as such possesses all general powers granted to municipal corporations.

2. By virtue of Chapter 21, Title 5 and the provisions of Section 11-27-40, Code of Laws of South Carolina 1976, as amended (together, the “**Enabling Act**”), the City is empowered to issue general obligation bonds for any “authorized purpose” as therein defined.

3. The City Council, after due investigation and deliberation, has determined that it is necessary to issue general obligation debt in an amount not exceeding \$1,100,000 of the City to: (1) defray the costs of purchasing and acquiring that certain property on Chinaberry Street in the City of Hartsville (TMS No. 056-06-02-051) from the Hartsville Public Development Corporation (the “**HPDC**”), a map of which is shown on Exhibit F (collectively, the “**Property**”)¹; and (2) pay costs of issuance of the Bond. It is presently estimated that the costs of the Property, together with the costs of issuance of the Bond, will not be in excess of \$1,100,000.

4. The acquisition of the Property constitutes an authorized purpose within the meaning of the Enabling Act.

5. ~~Article X~~, Section 14 ~~of Article X~~ of the Constitution of the State of South Carolina 1895, as amended (the “**Constitution**”) provides that subsequent to November 30, 1977, the municipalities of the State may issue bonded indebtedness in an amount not exceeding 8% of the assessed value of all taxable property therein (the “**Debt Limit**”) without the necessity of conducting a referendum. As certified by the County Auditor on February 15, 2023, the assessed value of all taxable property in the City as of June 30, 2022, which is the last completed assessment thereof, is not less than the sum of \$27,939,431; thus, the Debt Limit equals \$2,235,154. Presently, the City has outstanding its \$600,000 original principal amount General Obligation Bond, Series 2017 (the “**2017 GO Bond**”). The 2017 GO Bond is currently outstanding in the principal amount of \$538,000, all of which is chargeable against the Debt Limit. After applying the outstanding

¹ The Property consists of 40 former parcels of property that were combined into a single parcel by the Darlington County Assessor in 2021 and 2022.

principal due on the 2017 GO Bond against the Debt Limit, the City is authorized to borrow not exceeding \$1,697,154 by way of general obligation debt.

~~The Debt Limit is in excess of the anticipated not exceeding \$1,100,000 principal amount intended to be borrowed by the City under this Ordinance and under the provisions of Section 14 of Article X and the Enabling Act; therefore, the City may borrow such money without the necessity of holding a referendum.~~

~~6. In connection therewith, the City Council has determined 6. In light of the foregoing, the City is authorized by Article X, Section 14 of the Constitution and the Enabling Act to issue general obligation debt of the City in an amount not to exceed \$1,100,000 (the “**Bond**” or “**Bonds**”) to finance the acquisition of the Property and pay the cost of issuance thereof under the terms of this Ordinance.~~

[End of Article I]

ARTICLE II

DEFINITIONS AND AUTHORITY

Section 2.01 Definitions.

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

“Authorized Investments” means any securities which are now or hereafter authorized legal investments for municipalities pursuant to the Code of Laws of South Carolina 1976, as amended.

“Authorized Officers” means the City Manager of the City, the Mayor of the City, the Mayor Pro Tempore, the Finance Director of the City, the City Clerk, or any other officer or employee designated from time to time as an Authorized Officer by resolution of the City Council, and when used with reference to any act or document also means any other person authorized by resolution of the City Council to perform such act or sign such document. For purposes of this Ordinance and the delegations recited herein, the City Manager shall be the Authorized Officer responsible for making such determinations.

“Bond” or **“Bonds”** has the meaning given such term in Section 1.01, which includes any Bonds of the City authorized by this Ordinance, and, where context dictates, a Bond or Bonds of a Series issued hereunder.

“Bond Account Fund” means a fund which serves as the depository account for the proceeds of a Series of Bonds, which may be held by the City.

“Bond Counsel” means Pope Flynn, LLC, or any successor firm, or an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state, and public agency financing.

“Bondholder” or **“Holder”** or **“Holder of Bond”** or **“Owner”** or **“Registered Owner”** or similar term means, when used with respect to the Bond means any person who shall be registered as the owner of the Bond Outstanding as shown on the registration books of the City maintained by the Registrar.

“Bond Payment” means the periodic payments of principal of, interest on and redemption premium, if any, on the Bond.

“Bond Payment Date” means each date on which a Bond Payment shall be payable.

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

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

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

“**City Council**” means the City Council of the City of Hartsville, the governing body of the City or any successor governing body.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations promulgated thereunder.

“**Enabling Act**” has the meaning given to such term in Section 1.01 hereof.

“**Escrow Agent**” means a financial institution appointed by an Authorized Officer to hold funds for the purpose of defeasing all or a portion of the Bonds in accordance with Article VII of this Ordinance.

“**Financial Advisor**” has the meaning given such term in Section 9.07 hereof.

“**Government Obligations**” means (1) 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; (2) obligations, the payment of the principal (if any), or the interest (if any) on which is fully guaranteed as a full faith and credit obligation of the United States of America; (3) non-callable, U.S. Treasury Securities – State and Local Government Series Securities; and (4) AAA-rated general obligation bonds (based upon a rating issued by at least one nationally recognized credit rating organization) of the State, its institutions, agencies, and political subdivisions.

“**Governmental Unit**” means a state or local governmental unit within the meaning of Section 141(b) of the Code.

“**Nongovernmental Person**” means any Person other than a Governmental Unit.

“**Ordinance**” shall mean this ordinance of the City Council authorizing the issuance of the Bond.

“**Original Issue Date**” shall mean the date of delivery of the Bond to the initial purchaser thereof.

“**Outstanding**”, when used in this Ordinance with respect to the Bond, means as of any date, the Bond theretofore delivered pursuant to this Ordinance except:

(a) the Bond if cancelled or delivered to the Registrar for cancellation on or before such date;

(b) the Bond if deemed to have been paid in accordance with the provisions of Section 7.01 hereof; and

(c) the Bond if in lieu of or in exchange for which another Bond shall have been delivered pursuant to Section 3.05 hereof.

“**Paying Agent**” means, initially, the City, acting in such capacity through the City Clerk. A specific position or office shall be identified by the Authorized Officer to perform such function. A

successor Paying Agent may be named by an Authorized Officer and in such case means any bank, trust company or national banking association which is authorized to pay the principal installments of or interest on any Bond and has the duties, responsibilities and rights provided for in this 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 Ordinance.

“**Person**” means an individual, a partnership, a corporation, a trust, a trustee, an unincorporated organization, or a government or an agency or political subdivision thereof.

“**Record Date**” means the 15th day immediately preceding each Bond Payment Date.

“**Registrar**” means, initially, the City, acting by and through the City Clerk. A successor Registrar may be named by an Authorized Officer and in such case means any bank, trust company or national banking association which is authorized to discharge the duties, responsibilities and rights of the Registrar provided for in this 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 Ordinance.

“**Series**” or “**Series of Bonds**” means Bonds issued hereunder as a single issue; i.e., sold and closed on the same dates with a common bond caption and Series designation.

“**South Carolina Code**” means the Code of Laws of South Carolina 1976, as amended.

“**Taxable Bond**” means a Series of Bonds that have been designated as taxable under the Code by an Authorized Officer.

Section 2.02 Construction.

In this Ordinance, unless the context otherwise requires:

1. Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Ordinance.
2. Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.
3. Exhibits to this Ordinance constitute an integral part hereof.
4. Any fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

ARTICLE III

ISSUANCE OF BOND

Section 3.01 Ordering the Issuance of the Bond.

(a) Pursuant to the provisions of the Enabling Act, an Authorized Officer is hereby ordered and directed to cause the issuance of the Bond to provide funds: (1) to defray the costs of acquiring the Property; and (2) to pay the costs of issuance thereof. The Bond may be issued in a single Series, or from time to time in multiple Series. An Authorized Officer is hereby authorized to determine the final principal amount of the Bond and other items related to the sale and marketability of the Bond. The Bond shall bear a series designation as determined by an Authorized Officer, but in all cases shall include the calendar year of the issuance thereof. The Bond may, in addition to the title "City of Hartsville, South Carolina, General Obligation Bond[s]," bear a numerical or alphanumeric Series designation as may be necessary to distinguish them from the Bonds of every other Series, or other general obligation bonds of the City, and shall designate the year in which the Series is issued.

(b) The City, acting through the Authorized Officer, may elect to issue separate Series of Bonds so long as each Series of Bonds otherwise conforms to the provisions contained herein. If multiple Series of Bonds are issued, all references to the Bond in this Ordinance shall be construed as referring to all Series of Bonds that may be issued under the terms hereof. Any Series of Bonds issued as a Taxable Bond shall bear an appropriate designation so as to distinguish its tax status.

Section 3.02 Maturity Schedule of the Bond.

(a) The Bond shall be dated as of the date of its delivery and shall bear interest from its dated date. The principal amount, term, rate of interest and payment details of the Bond shall be determined by an Authorized Officer, provided, however, that in no event shall the principal amount of the Bond exceed \$1,100,000, nor shall the rate of interest exceed 7.00%. Bond Payments on the Bond shall be scheduled to occur no less frequently than annually, or more frequently as determined by an Authorized Officer. The Bond issued hereunder must be issued within five years of the date of enactment of this Ordinance, and no Bond shall mature later than 20 years from their date of delivery.

(b) The Bond shall be dated as of the Original Issue Date, unless an Authorized Officer and purchaser of the Bond agree otherwise.

Section 3.03 Medium of Payment; Form and Denomination of the Bond; Place of Payment.

(a) The Bond shall be payable as to principal and interest on the basis of a 360-day year, consisting of twelve thirty-day months each, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(b) The Bond shall be issued in the form of one fully registered bond.

(c) The City shall serve as Paying Agent for the Bond, and the Bond Payments shall be made by the Paying Agent to the Person appearing on each Record Date on the registration books of the City, which books shall be held by the City as Registrar, as provided in Section 3.06 hereof, as the Registered Owner thereof, by check or draft mailed from the City to such Registered Owner at his or her address as it appears on such registration books in sufficient time to reach such Registered Owner on each Bond Payment Date. Payment of the final Bond Payment shall be made when the same is due and payable upon the presentation and surrender for cancellation of the Bond at the administrative office of the City; provided, however, the requirement for final presentment and surrender may be waived by a mutual, written agreement of the City and the Holder.

Section 3.04 Execution and Authentication.

(a) The Bond shall be executed in the name and on behalf of the City by the manual or facsimile signature of an Authorized Officer, with its corporate seal impressed, imprinted or otherwise reproduced thereon, and attested by the manual signature of the City Clerk or other Authorized Officer (other than the officer or officers executing the Bond). The Bond may bear the manual signature of any person who shall have been such an Authorized Officer authorized to sign the Bond at the time such Bond was so executed, and shall bind the City notwithstanding the fact that his or her authorization may have ceased prior to the delivery of the Bond.

(b) The Bond shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. The Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth in the applicable form of the Bond attached hereto as Exhibit A.

Section 3.05 Exchange of the Bond.

The Bond, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Holder or his or her duly authorized attorney, may, at the option of the registered Holder thereof, be exchanged for a new Bond of the same interest rate and maturity. So long as the Bond remains Outstanding, the City shall make all necessary provisions to permit the exchange of the Bond. Such new bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.06 Transferability and Registry.

The Bond shall at all times, when the same is Outstanding, be payable to a Person, and shall be transferable only in accordance with the provisions for registration and transfer contained in this Ordinance and in the Bond. So long as the Bond remains Outstanding, the City (acting through the City Clerk), as Registrar, shall maintain and keep, at its administrative office, books for the registration and transfer of the Bond, and, upon presentation thereof for such purpose at such office, the City shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, such Bond.

Section 3.07 Transfer of the Bond.

The Bond shall be transferable only upon the books of the Registrar, upon presentation and surrender thereof by the Holder of the Bond in person or by his or her attorney duly authorized in

writing, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his or her duly authorized attorney. Upon surrender for transfer of the Bond, the City shall execute and deliver, in the name of the Person who is the transferee, a new Bond of the same principal amount and maturity and rate of interest as the surrendered Bond. Such new Bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.08 Regulations with Respect to Exchanges and Transfers.

The Bond surrendered in any exchange or transfer shall forthwith be cancelled by the Registrar. For each such exchange or transfer of the Bond, the Registrar may make a charge sufficient to reimburse itself for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the Holder requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The City shall not be obligated to issue, exchange or transfer the Bond during the 15 days next preceding any (a) Bond Payment Date, or (b) date upon which the Bond will be redeemed, if any.

Section 3.09 Mutilated, Destroyed, Lost and Stolen Bond.

(a) If the Holder surrenders a mutilated Bond to the Registrar or the Registrar receives evidence to its satisfaction of the destruction, loss, or theft of the Bond, and there is delivered to the Registrar such security or indemnity as may be required by it to save it harmless, then, in the absence of notice that the Bond has been acquired by a bona fide purchaser, the City shall execute and deliver, in exchange for the mutilated Bond or in lieu of any such destroyed, lost, or stolen Bond, a new Bond of like tenor, maturity, and interest rate bearing a number unlike that of such mutilated, destroyed, lost, or stolen Bond, and shall thereupon cancel any such mutilated Bond so surrendered. In case any such mutilated, destroyed, lost, or stolen Bond has become or is to become due for final payment within one month, the City in its discretion may, instead of issuing a new Bond, pay the Bond.

(b) Upon the issuance of any new Bond under this Section 3.09, the City may require the payment of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees or other fees, of the City or the Registrar connected therewith.

(c) Each new Bond issued pursuant to this Section, in lieu of any destroyed, lost, or stolen Bond, shall constitute an additional contractual obligation of the City, whether or not the destroyed, lost, or stolen Bond shall at any time be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with the Bond duly issued pursuant to this Ordinance.

(d) The Bond shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond or securities.

Section 3.10 Holder As Owner of the Bond.

In its capacity as Registrar, the City may treat the Registered Owner of the Bond as the absolute owner thereof, whether the Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Bond Payment on the Bond and for all other purposes; and payment of the Bond Payment shall be made only to, or upon the order of, such Holder. All payments to such Registered Owner shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid, and the City shall not be affected by any notice to the contrary.

Section 3.11 Cancellation of the Bond.

The Registrar shall destroy the Bond when the same shall be surrendered to it for cancellation. In such event, the Bond shall no longer be deemed Outstanding under this Ordinance and no bond shall be issued in lieu thereof.

Section 3.12 Payments Due Saturdays, Sundays and Holidays.

In any case where the Bond Payment Date shall be Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of the Bond Payment need not be made on such date but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date and no interest shall accrue for the period after such date.

Section 3.13 Tax Exemption in South Carolina.

The interest on the Bond shall be exempt from all State, county, municipal, City, and all other taxes or assessments of the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer or certain franchise taxes.

Section 3.14 Order to Levy Ad Valorem Taxes to Pay Principal and Interest of the Bond.

For the payment of Bond Payments as the same become due and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the City are hereby irrevocably pledged, and there shall be levied and collected an *ad valorem* tax, without limit as to rate or amount, upon all taxable property located within the City sufficient to pay the Bond Payments until the Bond is no longer Outstanding, and to create such sinking fund as may be necessary therefor. Such levy shall be reduced to the extent that, at the time the annual millage levy for the Bond Payments is set, the City has available other amounts for the payment of amounts due on the succeeding Bond Payment Date and has deposited the same into the sinking fund established for the payment of the Bond Payment.

Section 3.15 Failure to Present Bonds.

Anything in this Ordinance to the contrary notwithstanding, any money held by the Paying Agent in trust for the payment and discharge of the Bond, or the interest thereon, which remains unclaimed for such period of time, after the date when the Bond has become due and payable, that

the Registered Owner thereof shall no longer be able to enforce the payment thereof, the Paying Agent shall at the written request of the City pay such money to the City as its absolute property and free from trust, and the Paying Agent shall thereupon be released and discharged with respect thereto and the Registered Owners shall look only to the City for the payment of such Bond; provided, however, the Paying Agent shall forward to the City all moneys which remain unclaimed during a period five years from a Bond Payment Date, provided, however, that before being required to make any such payment to the City, the Paying Agent, at the expense of the City, may conduct such investigations as may in the opinion of the Paying Agent be necessary to locate the Registered Owners of those who would take if the Registered Owner shall have died.

Section 3.16 Form of the Bond.

The form of the Bond and registration provisions to be endorsed thereon, shall be substantially as set forth in Exhibit A attached hereto and made a part of this Ordinance.

[End of Article III]

ARTICLE IV

REDEMPTION OF BOND

Section 4.01 Redemption of the Bond.

The Bond shall be subject to redemption prior to maturity at such times and in such amounts and upon such terms as may be determined by an Authorized Officer.

Section 4.02 Election to Redeem.

In the event that the City shall, in accordance with the provisions of Section 4.01 hereof, elect to redeem the Bond, it shall give notice to the Registrar and the Paying Agent of each optional redemption. Such notice shall specify the date fixed for redemption and the Bond which is to be redeemed. Such notice shall be given at least 30 days prior to the date fixed for redemption or such lesser number of days as shall be acceptable to the Registrar and the initial purchaser of the Bond.

Section 4.03 Notice of Redemption.

(a) When the Bond is to be redeemed, the Registrar shall give notice of the redemption of the Bond in the name of the City specifying: (1) the Bond (or, as applicable the particular Series thereof), and maturities to be redeemed; (2) the redemption date; (3) the redemption price (or calculation thereof); (4) the number and other distinguishing marks of the Bond to be redeemed (unless all of the Outstanding Bond is to be redeemed); (5) the place or places where amounts due upon such redemption will be payable; (6) whether the redemption of the Bond is conditioned upon any event; and (7) in the case of a partial redemption, the respective portions of the principal thereof to be redeemed. Such notice shall further state that on such date there shall become due and payable upon the Bond to be redeemed the redemption price thereof, and that, from and after such date, interest thereon shall cease to accrue; provided, however, that in the event of any conditional provision in the notice, the Bond will not become due and payable as provided in this section unless such condition has been satisfied as of the redemption date. The Registrar shall mail by registered mail a copy of such notice, postage prepaid, not less than 30 days before the redemption date to the Registered Owner of the Bond or portions of the Bond that are to be redeemed at the addresses which appear upon the registry books of the Registrar. The obligation of the Registrar to give the notice required by this Section shall not be conditioned upon the prior payment to the Paying Agent of money or the delivery to the Paying Agent of Authorized Investments sufficient to pay the redemption price of the Bond to which such notice relates or the interest thereon to the redemption date.

(b) Notice of redemption having been given as provided in subsection (a) hereof, the Bond or portions thereof to be redeemed shall, on the date fixed for redemption, become due and payable at the redemption price specified therein, and upon presentation and surrender thereof at the place specified in such notice, the Bond or portions thereof shall be paid at the redemption price on the redemption date; provided, however, that in the event of any conditional provision in the notice, the Bonds will not become due and payable as provided in this section until such condition has been satisfied as of the redemption date. On and after the redemption date (unless the City shall default in the payment of the redemption price, or any conditional provision in the

notice shall not have been satisfied as of the redemption date), the Bond shall cease to bear interest, and the Bond shall no longer be considered as Outstanding hereunder. If money sufficient to pay the redemption price has not been made available by the City to the Paying Agent on the redemption date, the Bond shall continue to bear interest until paid at the same rate as they would have borne, had they not been called for redemption, until the same shall have been paid.

Section 4.04 Deposit of Redemption Price.

On or before any date fixed for redemption of the Bond, cash and/or a principal amount of non-callable Government Obligations maturing or redeemable at the option of the Registered Owner thereof not later than the date fixed for redemption which, together with income to be earned on such Government Obligations prior to such date fixed for redemption, will be sufficient to provide cash to pay the redemption price of the Bonds or portions thereof which are to be redeemed on such date, shall be deposited with the Paying Agent unless such amount shall have been previously deposited with the Paying Agent. Provided, however, that in the event of a conditional redemption such condition is not met, this Section 4.04 is inapplicable.

Section 4.05 Partial Redemption of Bond.

In the event part, but not all of the Bond shall be selected for redemption, upon presentation and surrender of such Bond (or by mutual agreement as permitted by Section 3.03(c) hereof) by the Registered Owner thereof or his or her attorney duly authorized in writing (with, if the City or the Registrar so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the City and the Registrar duly executed by, the Holder thereof or his or her attorney duly authorized in writing) to the Registrar, the City shall execute and the Registrar shall authenticate and deliver to or upon the order of such Holder, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond of any authorized denomination of like tenor. The Bond, if so presented and surrendered, shall be cancelled in accordance with Section 3.11 hereof.

[End of Article IV]

ARTICLE V
SALE OF BOND

Section 5.01 Sale of the Bond.

The Bond shall be sold at public sale, at a price not less than par plus accrued interest to the date of delivery. Bids shall be solicited on the basis of an official notice of sale, the form of which is attached hereto as Exhibit B (the “*Notice of Sale*”). Unless all of the bids are rejected, the award of the Bond shall be made to the party offering the terms most advantageous to the City. An Authorized Officer, in his or her sole discretion, shall determine what grounds constitute the terms most advantageous to the City, considering the interest cost (calculated on a true-interest-cost basis (TIC)) to the City and any terms or conditions specific to each bid, with the basis of such award to be set forth in the Notice of Sale. The Authorized Officer may reserve the right, on behalf of the City, to waive any irregularities and negotiate final terms in order to secure the most advantageous bid.

Section 5.02 Notice of Sale.

In accordance with the Enabling Act, the Notice of Sale shall be published in The State, a newspaper of general circulation in the State or, if deemed appropriate by an Authorized Officer, in a financial publication published in the City of New York, State of New York, or both. The Notice of Sale shall appear at least once, not less than 7 days before the date set for said sale.

In lieu of publishing the Notice of Sale in its entirety, an Authorized Officer may elect to publish an abbreviated form of such notice and provide the entire Notice of Sale to those parties who may request the same. The summary notice of sale shall be published on the same terms described in the foregoing paragraph. A form of the summary is attached hereto as Exhibit C; such form shall be subject to change in the sole discretion of the Authorized Officer.

Section 5.03 Authorization to Negotiate Sale in Certain Circumstances.

(a) An Authorized Officer may negotiate the sale of the Bond directly with a purchaser in either of the following circumstances:

- (1) In the event no bids are received or in the event all bids are rejected in accordance with Section 11-27-40(9)(c) of the South Carolina Code; or
- (2) Should the Bond be sold in an amount not exceeding \$1,500,000 and mature not later than ten years from its Original Issue Date, the sale of the Bond may be negotiated at private sale at an interest rate to be agreed to by an Authorized Officer and the purchaser of the Bonds. In negotiating the sale of the Bond, an Authorized Officer is authorized to solicit bids from qualified lenders for the purchase of the Bond and the award of any such solicitation shall be made under the same standards as provided in Section 5.01 above.

(b) If the Bond is sold under the provisions of this section, notice of the sale of the Bond (meeting the requirements of 11-27-40(4) of the South Carolina Code) shall be given not less than seven days prior to delivery of the Bond.

[End of Article V]

ARTICLE VI

DISPOSITION OF PROCEEDS OF SALE OF BOND

Section 6.01 Disposition of Bond Proceeds Including Temporary Investments.

The proceeds derived from the sale of the Bond shall be paid to the City, to be applied as follows: (a) to payment of costs of issuance of the Bond; and (b) the remaining amount shall be deposited into the Bond Account Fund, and shall be expended and made use of by the City Council to defray the costs of acquiring the Property described in Section 1.01 hereof, including reimbursement, if any, as described in Section 9.01(b) hereof. Pending the use of Bond proceeds, the same shall be invested and reinvested by the City in Authorized Investments. All earnings from such investments shall be applied, at the direction of an Authorized Officer, either (1) to defray the cost of the undertakings for which the Bond is issued and if not required for this purpose, then (2) to pay the first maturing Bond Payment on the Bond; if any balance remains, it shall be held by the City in a special fund, invested by the City in Government Obligations, with a yield not in excess of the yield on such Bond and used to effect the retirement thereof.

Amounts utilized by the City to reimburse itself for costs incurred prior to the issuance of the Bond may be immediately withdrawn from the Bond Account Fund and utilized to reimburse any City fund or account to which such reimbursement is applicable.

Neither the purchaser nor Holder of the Bond shall be liable for the proper application of the proceeds thereof.

[End of Article VI]

ARTICLE VII

DEFEASANCE OF BOND

Section 7.01 Defeasance.

(a) If the Bond issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of this Ordinance hereunder, and all other rights granted thereby shall cease and determine. The Bond shall be deemed to have been paid and discharged within the meaning of this section under any of the following circumstances:

- (1) The Escrow Agent shall hold at the stated maturities of the Bond, in trust and irrevocably appropriated thereto, sufficient moneys for the payment of the principal installment and interest, or redemption price, thereof; or
- (2) If default in the payment of the principal of the Bond or the interest thereon shall have occurred on any Bond Payment Date, and thereafter tender of such payment shall have been made, and at such time as the Escrow Agent shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or
- (3) If the City shall elect to provide for the payment of the Bond prior to its stated maturity and shall have deposited with the Escrow Agent, in an irrevocable trust moneys which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide moneys, which together with moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay when due the principal installments, redemption price, and interest due and to become due on the Bond on and prior to its maturity date or redemption date, as the case may be. In the event that the City shall elect to redeem the Bond prior to its stated maturity, the City shall proceed in the manner prescribed by Article IV hereof and provide irrevocable direction to redeem the Bond.

Neither the Government Obligations nor moneys deposited with the Escrow Agent pursuant to this Section nor the principal or interest payments thereon shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal installment and interest, or redemption price, of the Bond; provided that any cash received from such principal or interest payments on Government Obligations deposited with the Escrow Agent, if not then needed for such purpose, shall, to the extent practicable, be invested and reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the principal installment, interest, or redemption price, to become due on the Bond on and prior to the maturity date or redemption date thereof, as the case may be, and interest earned from such reinvestments not required for the payment of the principal installment and interest, or redemption price, may be paid over to the City, as received by the Escrow Agent, free and clear of any trust, lien or pledge.

(b) In addition to the above requirements of paragraphs (a)(1), (2), and (3), in order for this Ordinance to be discharged, all other fees, expenses and charges of the Escrow Agent shall have been paid in full at that time.

(c) Notwithstanding the satisfaction and discharge of this Ordinance, the Escrow Agent, as applicable, shall continue to be obligated to hold in trust any moneys or investments then held by the Escrow Agent for the payment of the principal installments and interest, or redemption price, of the Bond, to pay to the Registered Owner of Bond the funds so held by the Escrow Agent as and when payment becomes due.

(d) Any release under this Section shall be without prejudice to the rights of the Escrow Agent to be paid reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, and other disbursements and those of their respective attorneys, agents, and employees, incurred on and about the performance of the powers and duties under this Ordinance.

(e) Any moneys which at any time shall be deposited with the Escrow Agent by or on behalf of the City for the purpose of paying and discharging the Bond shall be and are hereby assigned, transferred, and set over to the Escrow Agent, as applicable, in trust for the Registered Owner of the Bond, and the moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the holders of the Bond shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Escrow Agent to transfer the funds to the City.

(f) Any Escrow Agent shall be appointed by an Authorized Officer and shall accept in writing its acceptance to its obligations under this Ordinance.

[End of Article VII]

ARTICLE VIII

CERTAIN TAX AND DISCLOSURE CONSIDERATIONS

Section 8.01 Tax Covenants.

(a) *General Tax Covenant.* The City will comply with all requirements of the Code in order to preserve the tax-exempt status of the Bond, including without limitation, (1) the requirement to file Form 8038-G, *Information Return for Tax-Exempt Government Obligations*, with the Internal Revenue Service, and (2) the requirement to rebate certain arbitrage earnings to the United States Government pursuant to Section 148(f) of the Code. In this connection, the City covenants to execute any and all agreements or other documentation as it may be advised by Bond Counsel will enable it to comply with this Section 8.01, including its certification on reasonable grounds that the Bond is not an “arbitrage bond” within the meaning of Section 148 of the Code.

(b) *Tax Representations.* The City hereby represents and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bond to become includable in the gross income of the Registered Owner thereof for federal income tax purposes pursuant to the provisions of the Code. Without limiting the generality of the foregoing, the City represents and covenants that:

- (1) All property financed or refinanced with the proceeds of the Bond will be owned by the City or another political subdivision of the State so long as the Bond is Outstanding in accordance with the rules governing the ownership of property for federal income tax purposes.
- (2) The City shall not use, and will not permit any party to use, the proceeds of the Bond, or any bonds refunded thereby, in any manner that would result in (i) 10% or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any Nongovernmental Person, (ii) 5% or more of such proceeds being considered as having been used directly or indirectly in any trade or business of any Nongovernmental Person that is either “unrelated” or “disproportionate” to the governmental use of the financed facility by the City or by any other Governmental Unit (as the terms “unrelated” and “disproportionate” are defined for purposes of Section 141(b)(3) of the Code) or (iii) more than 5% of such proceeds, but in no event more than \$5,000,000, being considered as having been used directly or indirectly to make or finance loans to any Nongovernmental Person.
- (3) The City is not a party to, and will not enter into or permit any other party to enter into, any contract with any person involving the management of any facility financed or refinanced with the proceeds of the Bond or by notes paid by the Bond that does not conform to the guidelines set forth in Revenue Procedure 2017-13, or a successor revenue procedure, or Code provision.

- (4) The City will not sell, or permit any other party to sell, any property financed or refinanced with the Bond to any person unless it obtains an opinion of Bond Counsel that such sale will not affect the tax-exempt status of the Bond.
- (5) The Bond will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. The City shall not enter into, or permit any other party to enter into, any leases or sales or service contract with any federal government agency with respect to any facility financed or refinanced with the proceeds of the Bond and will not enter into any such leases or contracts unless it obtains the opinion of Bond Counsel that such action will not affect the tax-exempt status of the Bond.

(c) *Arbitrage Bonds, Rebate.* The City covenants that no use of the proceeds of the sale of the Bond shall be made which, if such use had been reasonably expected on the date of issue of the Bond, would have caused the Bond to be “arbitrage bonds” as defined in the Code, and to that end the City shall: (i) comply with the applicable regulations of the Treasury Department previously promulgated under Section 103 of the Internal Revenue Code of 1954, as amended, and any regulations promulgated under the Code, so long as the Bond is Outstanding; (ii) establish such funds, make such calculations, and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebate of certain amounts to the United States Government; (iii) make such reports of such information at the time and places required by the Code; and (iv) take such other action as may be required to assure that the tax-exempt status of the Bond will not be impaired.

(d) *Bank Qualified.* The City (together with any subsidiary entities under the control of the City and any entities that issue obligations on behalf of the City) expects to issue no tax-exempt obligation in calendar year 2023 that, along with the Bond, would aggregate more than \$10,000,000. Accordingly, the Bond is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code.

(e) *Tax Certificate.* An Authorized Officer is hereby authorized and directed to execute, at or prior to delivery of the Bond, a certificate or certificates specifying actions taken or to be taken by the City, and the reasonable expectations of such officials, with respect to the Bond, the proceeds thereof, or the City. The City agrees to comply with its undertakings on its part set forth in any such certificate delivered with respect to Bond.

(f) *Taxable Bond.* Prior to or upon the issuance of the Bond, an Authorized Officer may, in consultation with Bond Counsel, designate the Bond or a Series thereof as Taxable Bonds. The election to issue a Series of Taxable Bonds shall be clearly indicated by including the phrase “Taxable Series,” or words to that effect, in the series designation of such Taxable Bonds. The above provisions of this Section 8.01 shall not be applicable to any Series of Taxable Bonds.

Section 8.02 Continuing Disclosure.

(a) The City hereby covenants and agrees that it will comply with and carry out all of the provisions of any continuing disclosure certificate or agreement, executed by an Authorized Officer and dated the date of delivery of the Bond, which will meet the requirements, as applicable,

of Section 11-1-85 of the South Carolina Code, which may require, among other things, that the City file with a central repository when requested: (1) a copy of its annual independent audit within 30 days of its receipt and acceptance and (2) event-specific information, within 30 days of an event adversely affecting more than five percent of its revenues or five percent of its tax base. The only remedy for failure by the City to comply with the covenants in this Section 8.02 shall be an action for specific performance of this covenant. The City specifically reserves the right to amend this covenant to reflect any change in Section 11-1-85 of the South Carolina Code, without the consent of any Bondholder.

(b) As may be mutually agreed by an Authorized Officer and the purchaser of the Bond, the City shall provide financial information to the purchaser, including the provision of annual audited financial statements within a fixed period or by a set date. Any failure by the City to comply with this paragraph, or an agreement or covenant authorized hereby, shall be enforceable solely by an action for specific performance to provide the appropriate documents or information, and shall not be a default under this Ordinance or the Bond.

[End of Article VIII]

ARTICLE IX

PURCHASE OF HPDC PROPERTIES

Section 9.01 Purchase Authorization.

(a) The City is authorized to purchase the Property from the HPDC in accordance with the terms of the Purchase and Sale Agreement attached hereto as Exhibit E (the “*Purchase Agreement*”). The Property shall be purchased with the proceeds of the Bond, and other funds made available or reasonably appropriated by the City, if any.

(b) In anticipation of the issuance of the Bond, the City, acting through its Finance Director or any other Authorized Officer, may appropriate the sum of not exceeding \$1,100,000 from fund balance to necessary to acquire the Property prior to the issuance of the Bond. In the event of such appropriation, which is contemplated by the City’s fiscal year 2022-23 budget ordinance and expressly permitted under this Ordinance, the proceeds of the Bond shall be utilized to immediately replenish the City’s general fund to the extent any such appropriation is made or required.

(c) Upon the proper execution and delivery of the deed or deeds of HPDC, title to all of the Property shall vest with and be transferred to the City.

Section 9.02 Purchase Agreement

The Authorized Officer, acting on behalf of the City Council, shall be authorized to execute and deliver the Purchase Agreement and any and all instruments related to the acquisition of the Property. The Authorized Officer shall be further authorized to do all other things necessary to acquire and retain the Property, to include making arrangements for the due and proper satisfaction of any mortgage, lien or other encumbrance associated therewith or included thereon. Any actions by the Authorized Officer related to the acquisition of the Property prior to the authorization recited herein are ratified and confirmed. In addition to the foregoing authorization, the City Manager shall be authorized to negotiate, revise, assign or terminate any and all agreements relates to the Property, including any and all actions necessary to satisfy security obligations associated with the Property or the obligations of the HPDC. Such termination authorization expressly includes the right to implement the termination of the Property Maintenance Agreement with HPDC dated April 19, 2018, as amended.

[End of Article IX]

ARTICLE X
MISCELLANEOUS

Section 10.01 Savings Clause.

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

Section 10.02 Successors.

Whenever in this Ordinance the City is named or referred to, it shall be deemed to include any entity, which may succeed to the principal functions and powers of the City, and all the covenants and agreements contained in this Ordinance or by or on behalf of the City shall bind and inure to the benefit of said successor whether so expressed or not.

Section 10.03 Ordinance to Constitute Contract.

In consideration of the purchase and acceptance of the Bond by those who shall purchase and hold the same from time to time, the provisions of this Ordinance shall be deemed to be and shall constitute a contract between the City and the Holders from time to time of the Bond, and such provisions are covenants and agreements with such Holders which the City hereby determined to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants, and agreements herein set forth to be performed on behalf of the City shall be for the benefit, protection, and security of the Holders of the Bond.

Section 10.04 Filing of Copies of Ordinance.

Copies of this Ordinance shall be filed in the offices of the City Clerk and in the office of the Clerk of Court of Darlington County, South Carolina (as a part of the Record of Proceedings for the Bond).

Section 10.05 Further Action by Officers of the City.

The Authorized Officers are fully authorized and empowered to take the actions required to implement the provisions of this Ordinance and to furnish such certificates and other proofs as may be required of them. In the absence of any officer of the City Council herein authorized to take any act or make any decision, the Mayor Pro Tempore is hereby authorized to take any such act or make any such decision.

Section 10.06 Notice Pursuant to Section 11-27-40, paragraph 8 of the South Carolina Code.

In order that the City Council may proceed as soon as possible to issue and deliver the Bond authorized hereby, an Authorized Officer may determine that the City avail itself of the provisions of paragraph 8 of Section 11-27-40 of the South Carolina Code. If such determination is made, the notice of enactment prescribed thereby shall be published, the form of which shall be substantially as set forth in Exhibit D attached hereto.

Section 10.07 Professional Services.

The City Council hereby authorizes, approves or ratifies, as applicable, the engagement of Compass Municipal Advisors, LLC to act as financial advisor (the “*Financial Advisor*”) and Pope Flynn, LLC to act as Bond Counsel in connection with the issuance of the Bond and authorizes (or ratifies, as applicable) an Authorized Officer to engage the services of such other professionals and institutions of a type and in a manner customary in connection with the issuance of municipal bonds, including, but not limited to, contractual arrangements with other professionals, rating agencies, verification agents, financial and trust institutions, printers and the suppliers of other goods and services in connection with the sale, execution and delivery of the Bond, as is necessary and desirable.

Section 10.08 Effective Date of Ordinance.

This Ordinance shall take effect upon its second reading and shall be forthwith codified in the City’s Code of Ordinances.

[End of Article IX]

DONE, RATIFIED AND ENACTED this 14th day of March 2023.

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

(SEAL)

Mayor

Attest:

City Clerk
City of Hartsville, South Carolina

First Reading: February 21, 2023
Public Hearing: March 14, 2023
Second Reading: March 14, 2023

[FORM OF BOND]

WITH THE CONSENT OF THE PURCHASER, AND NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED IN THE ORDINANCE, THE BOND MAY BE SOLD OR TRANSFERRED ONLY TO SUBSEQUENT PURCHASERS WHO EXECUTE AN INVESTMENT LETTER DELIVERED TO THE CITY, IN FORM SATISFACTORY TO THE CITY, CONTAINING CERTAIN REPRESENTATIONS, WARRANTIES AND COVENANTS AS TO THE SUITABILITY OF SUCH PURCHASERS TO PURCHASE AND HOLD THE BOND. SUCH RESTRICTION SHALL BE SET FORTH ON THE FACE OF THE BOND AND SHALL BE COMPLIED WITH BY EACH TRANSFEREE OF THE BOND.

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
CITY OF HARTSVILLE
GENERAL OBLIGATION BOND, SERIES 2023

No. R-1

\$_[_____]

Registered Holder: _____

Principal Amount: _____ Dollars (\$_____)

The City of Hartsville, South Carolina (the “*City*”), a public body corporate and politic and a political subdivision of the State of South Carolina (the “*State*”), created and existing by virtue of the laws of the State, acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount stated above.

This Bond is issued in the principal amount of _____ Dollars (\$_____) for purposes authorized by and pursuant to and in accordance with the Constitution and statutes of the State, including particularly the provisions of Sections 5-21-210 through 5-21-500 and Section 11-27-40, Code of Laws of South Carolina 1976, as amended, and an ordinance (the “*Ordinance*”) duly enacted by the City Council of the City (the “*Council*”) on March 14, 2023. Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinance. Certified copies of the Ordinance are on file in the office of the Clerk of Court of Darlington County, South Carolina and in the office of the City Council.

This Bond shall be payable with respect to principal on _____ 1 of each year, beginning _____ 1, 202_, through _____ 1, 202_, the date of final maturity of this Bond (the “*Final Maturity*”), and shall be payable with respect to interest each _____ 1 and _____ 1 (the

“**Bond Payment Dates**”) beginning _____ 1, 202_, through and including the Final Maturity. The payments due on the Bond Payment Dates (the “**Bond Payments**”) are set forth at Exhibit A hereto. This Bond shall bear interest at the rate of _____% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months, from the Original Issue Date of this Bond and shall be paid by way of the Bond Payments to the person in whose name this Bond is registered at the close of business on the fifteenth day of the month next preceding each Bond Payment Date. The Bond Payments shall be payable by check or draft mailed at the times provided herein from the City to the person in whose name this Bond is registered at the address shown on the registration books. The Bond Payments are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

[The City and the Registered Holder have mutually agreed to waive all requirements for presentation and surrender of this Bond in connection with the payment thereof; provided, however that upon the payment of final Bond Payment, the Registered Owner will either (1) present and surrender this Bond, (2) provide other indicia of satisfaction, or (3) [insert mutually agreed mechanism].]

[INSERT REDEMPTION PROVISIONS]

If this Bond is called for redemption, the Registrar will give notice to the Registered Owner of this Bond in the name of the City, of the redemption of such Bonds, or portions thereof. Notice and redemption conditions shall otherwise comply with Article IV of the Ordinance.

FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND AS IT MATURES AND FOR THE CREATION OF SUCH SINKING FUND AS MAY BE NECESSARY THEREFOR, THE FULL FAITH, CREDIT, AND TAXING POWER OF THE CITY ARE HEREBY IRREVOCABLY PLEDGED, AND THERE SHALL BE LEVIED AND COLLECTED ANNUALLY A TAX, WITHOUT LIMIT, ON ALL TAXABLE PROPERTY IN THE CITY SUFFICIENT TO PAY THE PRINCIPAL OF AND INTEREST ON THE BOND AS THEY BECOME DUE AND PAYABLE AND TO CREATE SUCH SINKING FUND AS MAY BE NECESSARY THEREFOR.

This Bond is issued in the form of one fully registered bond and is transferable, as provided in the Ordinance, only upon the registration books of the City kept for that purpose at the offices of the City by the registered Holder in person or by his or her duly authorized attorney upon (i) surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his or her duly authorized attorney, and (ii) payment of the charges, if any, prescribed in the Ordinance. Thereupon a new fully registered bond of like interest rate and principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance. The City may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of the Bond Payment due hereon and for all other purposes.

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

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

It is hereby certified and recited that all acts, conditions, and things required to exist, happen, and to be performed precedent to and in the adoption of the Ordinance and in the issuance of this Bond in order to make the legal, valid, and binding general obligation of the City in accordance with its terms, do exist, have been done, have happened and have been performed in regular and due form as required by law; and that the issuance of this Bond does not exceed or violate any constitutional, statutory, or other limitation upon the amount of indebtedness prescribed by law.

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

IN WITNESS WHEREOF, the City has caused this Bond to be signed by the manual signature of the Mayor of the City, attested by the manual signature of the City Clerk, and the seal of the City impressed hereon.

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

(SEAL)

Mayor

Attest:

City Clerk
City of Hartsville, South Carolina

CERTIFICATE OF AUTHENTICATION

This Bond has been registered in the name of [PURCHASER], on the registration books kept by the City Clerk, as Registrar.

City Clerk, as Registrar
City of Hartsville, South Carolina

(FORM OF ASSIGNMENT)

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

within bond and does hereby irrevocably constitute and appoint

attorney to transfer the within bond on the books kept for registration thereof, with full power of
substitution in the premises.

Dated: _____

Signature

(Authorized Officer)

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

FORM OF OFFICIAL NOTICE OF SALE

\$1,100,000*
CITY OF HARTSVILLE, SOUTH CAROLINA
GENERAL OBLIGATION BOND,
SERIES 2023

NOTICE IS HEREBY GIVEN that electronic bids, addressed to the City of Hartsville, South Carolina (the “**City**”), will be received by the City until 12:00 P.M. (local time) on

[[day], _____, 2023] (the “**Date of Sale**”)

at which time said bids will be opened in the offices of the City for the purchase of a commercial loan to be evidenced by \$1,100,000* General Obligation Bond, Series 2023, of the City of Hartsville, South Carolina (the “**Bond**”).

- Issuer:* City of Hartsville, South Carolina.
- Par Amount:* The preliminary par amount is \$1,100,000*; however, the City has the right to adjust the total par amount and estimated annual principal amounts as shown on **Exhibit A**, attached hereto, prior to closing. All items marked with an asterisk (*) throughout this Official Notice of Sale are preliminary and subject to change.
- Purposes:* The Bond is being issued for the purposes of (i) defray the costs of acquiring certain properties from the Hartsville Public Development Corporation, and (ii) paying costs associated with issuing the Bond.
- Tax Treatment:* Tax-exempt, not subject to alternative minimum tax (AMT) treatment. The City will covenant and agree that it will not take any actions which will, or fail to take any action which failure will, cause interest on the Bond to become includable in the income of holders of the Bond for federal income tax purposes pursuant to the provisions of Section 103 of the Internal Revenue Code of 1986, as amended (the “**Code**”).
- Bank Qualified:* The Bond will be designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code.
- Legal Authority:* Pursuant to Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, Title 5, Chapter 21 of the Code of Laws of South Carolina 1976, as amended, and Section 11-27-40 of the Code of Laws of South Carolina 1976, as amended, the City is authorized to issue general obligation debt for any corporate or public purpose. The Bond is further authorized by an ordinance of the City Council of the City of Hartsville, dated March 14, 2023 (the “**Ordinance**”), a copy of which is

available upon request. All capitalized terms used but not otherwise defined shall have the meaning ascribed thereto in the Ordinance.

- The Bond:* The Bond will be issued as a single bond, in registered form and will be dated as of its date of delivery, which is expected to be _____, 2023 as described in Anticipated Delivery below. Interest on the Bond will be a single, fixed rate of interest, computed on a 30/360 basis (calculated on the basis of a 360-day year consisting of twelve-30 day months). Bidders shall specify the rate of interest per annum that the Bond is to bear, to be expressed in multiples of 1/100 of 1%. The City requests that bidders submit a bid for the Bond based on the maturity schedule attached as **Exhibit A** hereto.
- Security:* As security for the payments of the principal of and interest on the Bond (the “**Bond Payments**”), the full faith, credit, and taxing power of the City are irrevocably pledged and there shall be levied an ad valorem property tax, without limit as to rate or amount, upon all taxable property located within the City sufficient to pay the Bond Payments until the Bond is no longer outstanding.
- Outstanding Bonds:* The City currently has outstanding its \$600,000 General Obligation Bond, Series 2017, which is currently outstanding in the principal amount of \$538,000.
- Principal Payment Dates:* Annual principal payments on the Bond will be due on _____1 of each year, beginning _____1, _____, until the final maturity date.
- Interest Payment Dates:* Semi-annual interest payments shall be due on each _____1 and _____1 commencing _____1, _____, until the Bond matures or is otherwise redeemed.
- Denominations:* The Bond will be issued in a single denomination equal to the par amount thereof.
- Redemption Provisions:* The City is interested in evaluating prepayment flexibility. Proposals with multiple redemption options are permitted.
- Paying Agent, Registrar:* City of Hartsville, South Carolina.
- Rating:* The City has no plans to apply for bond ratings directly related to the Bond.
- Award of the Bond:* Although the selection will be based substantially on the lowest total financing cost (including both interest cost (calculated on a true interest cost basis) together with any upfront fees and expenses), the City reserves the right to award the Bond to the bidder proposing the most advantageous terms to the City (as determined by the City).

All bids shall be final and binding. The successful bidder will be notified of the award within twenty-four (24) hours from the Date of Sale. Any bid for

less than one hundred percent (100.0%) of the principal amount of the Bond will be rejected. The right is reserved to reject any and all bids and to waive informalities in any and all bids. Each bid must clearly state, and the City reserves the right to reject any bid that contains, any covenants, conditions, provisions, or requirements that may be in addition to the stated terms and conditions set forth in this Official Notice of Sale. Bids shall not be contingent upon or subject to further credit approval. All costs and expenses associated with a bid shall be fully disclosed as absolute figures and will be considered in awarding the Bond.

Any accepted bid will be subject to official acceptance by the City.

Yield Maintenance: The successful bidder will not be allowed to receive an after tax yield or gross up on the interest remaining on the then outstanding principal amount of the Bond upon the occurrence of a determination of taxability or in the event of a change in the successful bidder's corporate tax rate.

Anticipated Delivery: The Bond is offered when, as, and if issued. The Bond will be dated the date of delivery and is expected to be delivered on or about _____, 2023. Delivery of a properly executed Bond will be made in Hartsville, South Carolina, or such other place as is mutually agreed upon by the City and the purchaser, at the expense of the City, accompanied by a transcript of the record of the proceedings, a Signature and No-Litigation Certificate, and the unqualified approving opinion of Pope Flynn, LLC, as Bond Counsel ("**Bond Counsel**"). The proceeds of the Bond shall be made in immediately available Federal funds by wire transfer as directed by the City on or prior to closing. The amount of the payment shall be equal to the principal amount bid.

Submission of Bids: Bids are due by **[[day], _____, 2023] AT 12:00 P.M. (LOCAL TIME)** by email.

E-Mail Delivery. Bidders are required submit bids to the City by email to the individuals listed below. Any delay in receipt of an email bid, or any incompleteness or illegible portions of any bid, will be the responsibility of the bidder.

Bids should be transmitted to the following individuals on a term sheet incorporating the information in this Official Notice of Sale and transmitted to the following:

Daniel Moore, City Manager
Email: daniel.moore@hartsvillesc.gov
Karen Caulder, Finance Director
Email: karen.caulder@hartsvillesc.gov
Lawrence Flynn, Bond Counsel
Email: lflynn@popeflynn.com
Brian Nurick, Financial Advisor
Emails: [proposals@compassmuni.com]

*Audited Financial
Statements:*

Copies of the City's audits (for the last three years) and a copy of the current budget can be accessed via the following link:
<https://www.hartsvillesc.gov/government/finance/>

*Written Confirmation
of Lender:*

The successful purchaser of the Bond will be required to execute a Written Confirmation of Lender in substantially the form attached hereto as **Exhibit B** and incorporated herein by reference.

Additional Information: Any questions regarding this Official Notice of Sale should be directed in writing, via e-mail, to the City's Financial Advisor, Compass Municipal Advisors, LLC, using the e-mail address above. All questions will be answered via e-mail with a copy to each firm.

Exhibit A

Proposed Maturity Schedule

Exhibit B

FORM OF WRITTEN CONFIRMATION OF LENDER

[Date of Pricing]

City of Hartsville
Hartsville, South Carolina

Pope Flynn, LLC
Columbia, South Carolina

Compass Municipal Advisors, LLC
Columbia, South Carolina

Re: \$1,100,000 General Obligation Bond, Series 2023 of the City of Hartsville, South Carolina (the “Bond”)

Ladies and Gentlemen:

[NAME OF LENDER] (the “Lender”) has agreed to purchase the above-referenced Bond issued by the City of Hartsville, South Carolina (the “City”).

The Lender hereby represents to you that:

- (1) The Bond is non-transferable or restricted to transfer to acquirers similar to the Lender.
- (2) The Bond may be transferred through participation or syndication only.
- (3) The financing arrangement between the Lender and the City is represented solely by the Bond, which is a contract between the parties thereto.
- (4) The Bond is not rated by a credit rating agency.
- (5) The Bond is not assigned a CUSIP number.
- (6) Assignment of the Lender’s rights under the Bond is subject to the terms and conditions of the Bond.
- (7) There is no agreement facilitating creation of a market for trading, such as a marketing or remarketing agreement or continuing disclosure agreement, with respect to the Bond or any obligations thereunder.
- (8) The terms of the Bond have been negotiated between the Lender and the City.
- (9) The obligations of the Lender under the Bond will be those of the Lender, not the securities affiliate of the Lender.

- (10) The Lender will treat the transaction contemplated by the Bond as a loan, not a security, for accounting and regulatory purposes.
- (11) The Bond is being issued in physical form and registered in name of the Lender.
- (12) The Lender has sufficient knowledge and experience in financial and business matters, including those involving loans to public bodies, to be able to evaluate the risks and merits of the credit represented by the purchase of the Bond.
- (13) The Lender understands that no official statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the City and the Bond is being issued, and that, in due diligence, it has made its own inquiry and analysis with respect to the City, the Bond, and other material factors affecting the security for and payment of the City's obligations under the Bond.
- (14) The Lender acknowledges that it has either been supplied with or has access to information, including financial statements and other financial information, regarding the City, to which a reasonable lender would attach significance in making credit decisions, and has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City, the Bond and the security therefor, so that as a reasonable lender, it has been able to make its decision to purchase the Bond.
- (15) The Lender understands that the scope of engagement of Pope Flynn, LLC, as Bond Counsel, with respect to the Bond has been limited to matters set forth in their opinion based on their view of such legal proceedings as they deem necessary to approve the validity of the Bond.

[LENDER]

By: _____
Name: _____
Title: _____

EXHIBIT C

FORM OF SUMMARY NOTICE OF SALE

Bids will be received by the City of Hartsville, South Carolina, at 12:00 p.m. (Eastern Time) on [day], _____, 2023, pursuant to the Official Notice of Sale dated _____, 2023 with respect to the sale of the \$[1,100,000] General Obligation Bond, Series 2023 of the City of Hartsville, South Carolina. The par amount of the bonds is subject to adjustment as set forth in the Official Notice of Sale. The Official Notice of Sale and other information is available from Brian Nurick, Financial Advisor to the City (email: proposals@compassmuni.com).

EXHIBIT D

FORM OF NOTICE OF ENACTMENT

Notice is hereby given that on March 14, 2023, the City Council of the City of Hartsville, enacted an ordinance entitled “AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF A NOT EXCEEDING ONE MILLION ONE HUNDRED THOUSAND DOLLAR (\$1,100,000) GENERAL OBLIGATION BOND, SERIES 2023 OF THE CITY OF HARTSVILLE, SOUTH CAROLINA, TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED, TO PROVIDE FOR THE PAYMENT THEREOF, AND OTHER MATTERS RELATING THERETO.”

By order of the City Council, this ____ day of _____ 2023.

FORM OF PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”), dated as of _____, 2023, is made by and between **HARTSVILLE PUBLIC DEVELOPMENT CORPORATION** (as the context dictates “**Seller**” or “**HPDC**”) and **CITY OF HARTSVILLE, SOUTH CAROLINA** (as the context dictates, “**Purchaser**” or “**City**”). The term “**Effective Date**” shall mean the date this Agreement becomes binding on Seller and Purchaser, as evidenced by that date on which the last of the parties to this Agreement as indicated in the signature block below.

WITNESSETH:

WHEREAS, Seller is the owner of fee simple title to the that certain property on Chinaberry Street in the City of Hartsville (TMS No. 056-06-02-051), a map of which is shown on Exhibit A attached hereto (collectively, the “**Property**”).*

WHEREAS, certain of the Property was previously conveyed to the HDPC by the City under various approval ordinances of the City Council of the City of Hartsville, as the governing body of the City, while portions of the Property were acquired by HPDC using grant and loan funds from the Byerly Foundation (“**Byerly**”).

WHEREAS, it was originally intended that the Property would be utilized by HPDC to develop a mixed-use commercial and residential development known as the “**Canalside Project**.”

WHEREAS, the Canalside Project has not developed as anticipated and certain loan obligations between HPDC and Byerly are due and payable on July 1, 2023 (the “**Loans**”).

WHEREAS, HPDC is unable to pay off the Loans and effectuate the release of the mortgages on certain parcels of the Property without the financial support of the City.

WHEREAS, the City has determined to issue a general obligation bond in an amount sufficient to redeem the Loans and all accrued interest thereon, however, an express condition of such payment and redemption is that all of the Property be conveyed and transferred to the City.

WHEREAS, on the basis of the foregoing, HPDC, acting as Seller, has agreed to sell and convey the Property to the City, in its capacity as Purchaser and the Purchaser has agreed to purchase, and acquire the Property according to the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the foregoing recitals (which, by this reference, are incorporated into the operative provisions of this Agreement), the mutual covenants, premises, and undertakings set forth herein, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

*
The Property consist of 40 former parcels of property that were combined into a single parcel by the Darlington County Assessor in 2021 and 2022.

1. Sale and Closing.

1.1 Commitment. Subject to the terms and conditions of this Agreement, Seller agrees to sell, transfer, and convey to Purchaser, and Purchaser agrees to purchase and acquire from Seller, all of Seller's right, title and interest in and to the Property, including the real property and any facilities or fixtures thereon. Seller agrees to convey to Purchaser, and Purchaser agrees to accept from Seller, the Property under the terms of this Agreement.

1.2 Closing. Subject to the terms and conditions of this Agreement, payment of the Purchase Price (as defined below) and the sale and transfer of the Property shall occur, subject to the satisfaction of all closing contingencies set forth in this Agreement, no later than 90 days after the execution of this Agreement at a time and location (the "**Closing**") mutually agreeable to Seller and Purchaser, or by mail if so agreed by the parties (the "**Closing Date**").

2. Purchase Price; Guarantee.

2.1 The Property. The purchase price for the Property (the "**Purchase Price**") shall be [_____ and No/100s Dollars (\$____.00)]. Payment of the Purchase Price shall be made to Byerly for the benefit of Seller in cash or by electronic funds transfer of U.S. funds (in accordance with written payment instructions delivered by Seller to Purchaser), less any prorations as hereafter provided.

3. Representations and Warranties.

3.1 By Seller. Seller hereby makes the following representations and warranties to Purchaser, which shall also be true as of the Closing Date:

3.1.1 The person signing this Agreement on behalf of Seller is authorized to do so.

3.1.2 Seller has the full right and authority to enter into this Agreement and to consummate the transactions contemplated by this Agreement.

3.1.3 This Agreement and all documents required hereby to be executed by Seller are and shall be valid, legally binding obligations of Seller, enforceable against Seller in accordance with their terms.

3.1.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by Seller.

3.1.5 The execution and delivery of this Agreement and the Closing of the transaction contemplated herein in accordance with the terms and conditions hereof shall not and do not constitute a violation or breach by Seller of any agreements or other instruments to which Seller is a party.

3.1.6 To the best of the Seller's knowledge, there are no actions, suits, or legal proceedings of any kind or nature whatsoever, legal or equitable, to which Seller is a party affecting the Property. If Seller receives notice or obtains knowledge of any such actions, suits, or proceedings prior to Closing, Seller shall promptly notify Purchaser.

For purposes of the foregoing representations in this Section 3.1 and other terms and conditions of this Agreement, the phrase "to the best of Seller's knowledge" or words of similar import shall mean the actual knowledge of the representative of the Seller that executes this Agreement.

3.2 By Purchaser. Purchaser hereby makes the following representations and warranties to Seller, which shall also be true as of the Closing Date:

3.2.1 The person signing this Agreement on behalf of Purchaser is authorized to do so.

3.2.2 Purchaser has the full right and authority to enter into this Agreement and to consummate the transactions contemplated by this Agreement.

3.2.3 This Agreement and all documents required hereby to be executed by Purchaser are and shall be valid, legally binding obligations of Purchaser, enforceable against Purchaser in accordance with their terms.

3.2.4 No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under Federal or State bankruptcy laws is pending against or contemplated by Purchaser.

3.2.5 Purchaser is purchasing the Property in its "AS IS, WHERE IS" condition with no warranties by Seller as to merchantability, suitability, habitability or fitness for any particular use, except as otherwise set forth herein. Purchaser has not relied on any representations of Seller in Purchaser's determination of the condition of the Property to be sold to Purchaser under this Agreement.

3.3 Brokers. Purchaser and Seller hereby confirm and agree that no broker has represented either party in this transaction.

3.4 Information Purposes Only. The furnishing of any materials, documents, reports, or agreements by Seller to Purchaser pursuant to this Agreement shall not be interpreted in any manner as a representation or warranty of any type or kind by Seller, any agent of Seller, or any officer, director, employee, or counsel of Seller or of any person or entity related in any way to Seller.

3.5 "AS IS, WHERE IS" Sale of Property.

3.5.1 Purchaser acknowledges for Purchaser and any permitted assigns the following: (a) that this Agreement gives Purchaser a reasonable opportunity to investigate the Property and all aspects relating thereto, either independently or through agents and experts of

Purchaser's choosing; and (b) that Purchaser will acquire the Property based upon Purchaser's own investigation and inspection thereof and without reliance on any statement or representation by Seller or its agents or counsel, except those express warranties and representations made in this Agreement. Except for the express warranties and representations made in this Agreement by Seller, Purchaser agrees that the Property shall be sold and Purchaser shall accept title to and possession of the Property at Closing "AS IS, WHERE IS, WITH ALL FAULTS" with no right of set-off or reduction in the Purchase Price and, except for any express warranties and representations made by Seller in this Agreement, such sale shall be without representation or warranty of any kind, express or implied, including, without limitation, warranty of income potential, operating expenses, access, uses, merchantability or fitness for a particular purpose, and Seller does hereby disclaim and renounce any such representation or warranty. Purchaser specifically acknowledges that Purchaser is not relying on any representations or warranties of any kind whatsoever, express or implied, from Seller as to any matters concerning the Property, including, without limitation, the condition or the safety of the Property or whether the Property is in compliance with applicable Federal, State, or local laws, codes, regulations or ordinances. Purchaser further acknowledges and agrees that Seller shall be under no duty to make any affirmative disclosure regarding any matter (other than matters pertaining to future governmental action affecting the Property which actually becomes known to Seller prior to Closing) that may be known to Seller, except as specifically set forth herein. Except as otherwise provided herein, the Purchaser hereby waives, and forever releases Seller from, any and all claims, liabilities and obligations of any nature whatsoever that directly or indirectly relate to the physical or environmental condition of the Property which may arise or be identified before or after the Closing Date.

4. Title and Possession. Seller agrees that good and marketable, fee simple title to the subject Property will be conveyed to Purchaser at closing by [limited-warranty] deed(s), free and clear of all liens and encumbrances except (a) ad valorem or other property taxes not yet due and payable, (b) zoning or development ordinances affecting the subject Property, and (c) general utility easements and rights of ways of record which do not hinder or impact upon Purchaser's intended use of subject Property. For purposes of this conveyance, the rights of Seller to be conveyed to Purchaser shall include all appurtenant property rights, including Seller's interest in easements, licenses, privileges, water and air rights, mineral rights, roadways, billboard lease and drainage rights benefiting the Property. As used herein, the term "Property" will include and encompass all of the above. Further any lease rights, or other encumbrances associated with the Property, expressly including the lease between the HPDC and Wild Heart Brewing dated February 1, 2021, shall be assigned to the City as the successor in interest to the ownership of the Property.

5. Notices. Any notice required or permitted to be given hereunder shall be deemed to be given when actually delivered. Notice may be given by hand delivery, certified or registered mail, return receipt requested, or by a nationally recognized overnight express service under a next day guaranteed delivery service, and addressed to the parties at their following respective addresses: If to Purchaser: City of Hartsville, Attn: City Manager, Post Office Drawer 2497, Hartsville, SC 29551. If to Seller: Hartsville Public Development Corporation, Attn: President, Post Office Drawer 2497, Hartsville, SC 29551. Either party may use a substitute address from time to time upon giving notice in writing to the other party.

6. Closing and Conditions Precedent to Sale.

6.1 Seller's Deliveries. At Closing, Seller shall deliver the following original documents, each executed and, if required, acknowledged: (a) this Agreement; (b) closing statement (if necessary) mutually agreed upon by the parties; and (c) such other certificates, documents, statements or agreements as may be reasonably requested by Purchaser or its counsel to consummate the Closing.

6.2 Purchaser's Deliveries. At Closing, Purchaser shall pay Byerly, for the benefit of the Seller, the Purchase Price as set forth in Section 2 herein and shall deliver the following original documents, each executed, and if required, acknowledged: (a) closing statement (if necessary) mutually agreed upon by the parties; and (b) such other certificates, documents, statements or agreements as may be reasonably requested by Seller or its counsel to consummate the Closing.

6.3 Possession. Purchaser shall be entitled to possession of the Property upon conclusion of the Closing.

7. Default. If Purchaser shall be in material breach of or material default under this Agreement beyond any applicable grace or cure period, the Seller shall have all rights and remedies provided at law or in equity as a result of Purchaser's material breach or material default under this Agreement, including the right to terminate this Agreement. If Seller shall be in material breach of or material default under this Agreement beyond any applicable grace or cure period, the Purchaser shall have all rights and remedies provided at law or in equity as a result of Seller's material breach or material default under this Agreement, including the right to terminate this Agreement and exercise the performance guarantee.

8. Assignment. Purchaser may not assign this Agreement without first obtaining the Seller's prior written consent, such consent to be given or withheld in Seller's sole discretion. Seller may freely assign its rights under this Agreement without the prior consent of the Purchaser. Any assignment in contravention of this provision shall be void. No permitted assignment shall release the Purchaser from any obligation or liability under this Agreement. Any permitted assignee shall be deemed to have made any and all representations and warranties made by its assignor hereunder, as if the assignee were the original signatory hereto.

9. Miscellaneous.

9.1 Amendments. This Agreement may not be modified or amended except by subsequent written agreement authorized and executed by the parties.

9.2 Indemnity. The Purchaser, including any contractors, subcontractor's, employees, invitees or other related third parties, agrees to, and shall indemnify, defend and hold harmless the Seller and its agents and employees and the City of Hartsville (to the extent necessary) from and against any and all claims and demands whatever for loss or damage, including property

damage, personal injury and wrongful death, arising out of or in connection with the purchase, sale, moving, relocation, siting or encroachment of the Property or in the performance of this Agreement by Seller, its agents, employees, contractors, subcontractors, or invitees or as a result of any incident, environmental disturbance or contamination, fire or other casualty or a nuisance on or in respect of the Property, or any failure by the Seller or the Purchaser to keep the Property or the Property, in a safe condition. This provision shall survive Closing and any subsequent termination of this Agreement.

9.3 Severability and Survivability. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. The covenants contained in this Agreement which by their terms, or which by their very nature, require their performance after the expiration or termination of this Agreement shall be enforceable notwithstanding the Closing, delivery of the Property, or any termination of this Agreement.

9.4 Applicable Law. This Agreement shall be construed and enforced in accordance with the laws and judicial decisions of the State of South Carolina.

9.5 No Waiver. The failure of either party to exercise any power given any party hereunder or to insist upon strict compliance by either party of its obligations hereunder, shall not constitute a waiver of either party's right to demand exact compliance with the terms hereof.

9.6 Binding Effect. This Agreement shall be binding upon and inure to the benefit of Purchaser and Seller and their respective successors and permitted assigns.

9.7 Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of this Agreement or the scope or content of any of its provisions.

9.8 Time of Essence. Time is of the essence in this Agreement. If any notice or action required or permitted by this Agreement falls on a date that is a Saturday, Sunday, or Federal or South Carolina holiday, then such date shall be extended to the next business day.

9.9 Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which as so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.

9.10 Review by Counsel. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

9.11 Further Assurances. Each of the parties hereto agrees to perform, execute, acknowledge and deliver and cause to be performed, executed, acknowledged and delivered all

such further acts, assignments, transfers and assurances as shall reasonably be requested of it in order to carry out this Agreement and give effect thereto. The parties hereto acknowledge that it is to their mutual benefit to effectuate an orderly and efficient transfer of the ownership of the Property as contemplated hereby. Accordingly, without in any manner limiting their specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

9.12 No Partnership. Nothing contained in this Agreement shall be construed to create a partnership or joint venture between the parties or their successors in interest.

9.13 Freedom of Information Act. The parties understand and agree that (i) the Purchaser is a public body within the meaning of the South Carolina Freedom of Information Act, Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended (the “**Act**”); (ii) the Purchaser is required to comply with the provisions of that Act by disclosing certain public records upon receipt of a written request; and (iii) after execution of this Agreement, this Agreement and all documents and other information incidental to this Agreement are subject to disclosure pursuant to the Act upon request. If disclosure of this Agreement and related information is required, the Purchaser agrees to redact any information in this Agreement or any documents incidental thereto that is clearly marked as confidential and proprietary and has been provided to the by either party for economic development or contract negotiation purposes.

[Signature Page(s) Follow]

IN WITNESS WHEREOF, Purchaser and Seller, by authority duly given, have executed this Agreement on the dates set forth below.

PURCHASER:

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

SELLER:

**HARTSVILLE PUBLIC
DEVELOPMENT CORPORATION,**
a South Carolina nonprofit corporation

By:

Name:

Title:

Date:

By:

Name:

Title:

Date:

EXHIBIT A

MAP OF THE PROPERTY

TMS: 056-06-02-051



EXHIBIT F
MAP OF PROPERTY

TMS: 056-06-02-051

