

**AN ORDINANCE**

**TO PROVIDE FOR THE ISSUANCE AND SALE OF A NOT EXCEEDING NINE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$975,000) CITY OF EASLEY, SOUTH CAROLINA, GENERAL OBLIGATION REFUNDING BOND, SERIES 2020; TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER MATTERS RELATING THERETO.**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EASLEY, SOUTH CAROLINA IN MEETING DULY ASSEMBLED:**

**ARTICLE I**

**FINDINGS OF FACT**

As an incident to the enactment of this Ordinance and the issuance of the bond provided for herein, the City Council of the City of Easley (the “*Council*”), the governing body of the City of Easley, South Carolina (the “*City*”), finds that the facts set forth in this Article exist, and the statements made with respect thereto are true and correct.

Section 1.01 Objectives.

(a) By virtue of Title 11, Chapter 15, Article 5, as supplemented by Section 11-27-40, Code of Laws of South Carolina 1976, as amended (the “*South Carolina Code*”), the City is empowered to issue general obligation bonds to refund other outstanding bonds of the City. By virtue of Title 5, Chapter 21, Article 5 of the South Carolina Code, the City is empowered to issue general obligation bonds for any “corporate purpose” as therein defined. The above-referenced titles, chapters and section of the South Carolina Code are hereinafter collectively referred to as the “*Enabling Act.*”

(b) The City previously issued its \$1,830,000 original principal amount General Obligation Bond, Series 2009, dated November 17, 2009 (the “*Series 2009 Bond*”), to provide for the financing of the acquisition, construction and equipping of various road and bridge improvements in the City’s Easley Town Center Redevelopment Project Area. There remains outstanding of the Series 2009 Bond the aggregate principal amount of \$940,000 maturing on April 1 of 2021 through and 2027, and bearing interest at the rate per annum of 4.72%.

(c) The Council has made an assessment of market conditions now prevailing, and has determined that a savings in the debt service of the outstanding Series 2009 Bond maturing in the years 2021 to 2027, inclusive, in the amount of \$940,000 (such maturities of the Series 2009 Bond are hereinafter referred to as the “*Refunded Bonds*”) can be achieved through a current refunding of the Refunded Bonds and calling the same at the first practicable permissible redemption date thereof. In accordance with the terms of the Original Ordinance (as defined in **Section 2.01** hereof), but subject to the provisions of **Section 3.01** hereof, the Refunded Bonds shall be redeemed on such date at the applicable redemption price thereof plus accrued interest thereon.

(d) In order to defray the cost of refunding the Refunded Bonds, the Council has determined to issue a general obligation bond in the principal amount of not exceeding \$975,000.

Section 1.02 Recital of Applicable Constitutional Provisions.

(a) Section 14 of Article X of the Constitution of the State of South Carolina, 1895, as amended (the “*State Constitution*”) provides that the municipalities of the State of South Carolina (the “*State*”) may issue bonded indebtedness in an amount not exceeding eight percent (8%) of the assessed value of all taxable property therein. Paragraph (6) of Section 14 of Article X of the State Constitution further provides that general obligation debt authorized by a majority of the qualified electors of the issuer may be issued without consideration of the eight percent (8%) limit otherwise imposed by Section 14 of Article X. The Council is informed that the assessed value of all taxable property located within the City for the year 2020, which is the last completed assessment thereof, is not less than the sum of \$98,444,336, exclusive of new industrial property exempt from taxation pursuant to Section 3(g) of Article X of the State Constitution.

Thus, the eight percent (8%) debt limit of the City is not less than \$7,875,546. At present, \$6,250,000 in general obligation debt is chargeable against this limit.

(b) The Refunded Bonds were issued within the 8% debt limit referred to above without a referendum, and currently counts against the limit in the amount of \$940,000. The principal amount of the Bond in the amount necessary to accomplish the purposes of this Ordinance in refunding the Refunded Bonds does not count against the City's debt limit in any amount in excess of that amount already charged.

[End of Article I]

## ARTICLE II

### DEFINITIONS AND CONSTRUCTION

#### Section 2.01 Definitions.

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

**“Authorized Investments”** means any investments that are at the time legal for investment of the City’s funds under the laws of the State and of the United States.

**“Authorized Officer”** means the Mayor or the City Administrator and any other officer or employee of the City designated from time to time as an Authorized Officer by a certificate signed by the Mayor of the City, and when used with reference to any act or document also means any other person authorized by a certificate of the Mayor of the City to perform such act or sign such document.

**“Bond”** or **“Bonds”** means the Bond of the City authorized by this Ordinance.

**“Bondholder”** or **“Holder”** or **“Holders of Bonds”** or **“Owner”** or similar term means, when used with respect to a Bond or Bonds, any person who shall be registered as the owner of any Bond Outstanding.

**“Bond Payment Date”** means each April 1 and October 1 on which interest on the Bond shall be payable or on which both a Principal Installment and interest shall be payable on the Bond.

**“City”** means the City of Easley, South Carolina.

**“City Administrator”** means the City Administrator of the City or the Interim City Administrator or the Acting City Administrator, as the case may be.

**“City Clerk”** means the City Clerk of the City or the interim City Clerk or acting City Clerk, as the case may be.

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

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

**“Enabling Act”** means Title 11, Chapter 15, Article 5 of the South Carolina Code, as amended and continued by Section 11-27-40 of the South Carolina Code and the Municipal Bond Act (Title 5, Chapter 21, Article 5 of the South Carolina Code, as amended) as amended and continued by Section 11-27-40 of the South Carolina Code.

**“Escrow Agent”** means a financial institution selected by the City.

**“Government Obligations”** means and includes direct general obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which is fully and unconditionally guaranteed by the United States of America.

**“Mayor”** means the Mayor of the City or, in the absence of the Mayor for any reason, the Mayor Pro Tempore.

**“Ordinance”** means this Ordinance as the same may be amended or supplemented from time to time in accordance with the terms hereof.

**“Original Ordinances”** means the ordinance of the City pursuant to which the Series 2009 Bond were issued.

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

- (i) any Bond cancelled or delivered to the Registrar for cancellation on or before such date;
- (ii) any Bond (or any portion thereof) deemed to have been paid in accordance with the provisions of **Section 7.01** hereof; and
- (iii) any Bond in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to **Section 3.11** of 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.

**“Principal Installment”** means, as of any date of calculation, the principal amount of the Bond due on a specified date.

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

**“Registrar”** means the City Clerk.

**“Series 2009 Bond”** has the meaning provided in **Section 1.01(b)** hereof.

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

**“State”** means the State of South Carolina.

Section 2.01 Construction.

In this Ordinance, unless the context otherwise requires:

- (a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Ordinance.
- (b) The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms refer to this Ordinance, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of adoption of this Ordinance.
- (c) 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.

[End of Article II]

## ARTICLE III

### ISSUANCE OF THE BOND

#### Section 3.01 Ordering the Issuance of the Bond.

Pursuant to the provisions of the Enabling Act, and for the purpose of obtaining funds to defray the costs of the current refunding described in **Section 1.01** hereof, there shall be issued not exceeding Nine Hundred Seventy-Five Thousand Dollars (\$975,000) aggregate principal amount of a general obligation refunding bond of the City. Such Bond shall be designated "City of Easley, South Carolina General Obligation Refunding Bond, Series 2020."

#### Section 3.02 Maturity Schedule of the Bond.

Unless determined otherwise by the City Administrator, interest on the Bond shall be payable on April 1, 2021 and semiannually thereafter on April 1 and October 1 of each year until payment of the principal thereof. Subject to the requirements of the Enabling Act, the Bond shall mature on October 1 of such years, beginning not later than April 1, 2021, and ending not later than April 1, 2027, and in such amounts, as shall be determined by the City Administrator.

#### Section 3.03 Provision for Payment of Interest on the Bond.

The original issue date of the Bond shall be the delivery date of the Bond, or such other date as may be selected by the City Administrator. The Bond shall be authenticated on the date as it shall be delivered. The Bond shall bear interest from the original issue date if no interest has yet been paid; otherwise from the last date to which interest has been paid and which date is on or prior to the date of such Bond's authentication. The interest payment on the Bond shall be made in accordance with **Section 3.04(c)** hereof to the Person in whose name the Bond is registered in accordance with **Section 3.08** hereof at the close of business on the Record Date with respect to such payment.

#### Section 3.04 Medium of Payment; Form and Denomination of the Bond, Place of Payment of Principal.

(a) The Bond shall be payable as to Principal Installment and interest at the rate per annum determined in the manner prescribed by **Section 5.02** hereof (on the basis of a 360 day year of twelve 30-day months) 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 a single, fully registered, typewritten bond and shall be identified by certificate number R-1.

(c) The Principal Installment and interest on the Bond shall be payable to the Person appearing on the Record Date on the registration books of the City, which books shall be held by the Registrar as provided in **Section 3.08** hereof, as the registered owner thereof, by check or draft mailed to such registered owner at his address as it appears on such registration books in sufficient time to reach such registered owner on the Bond Payment Date.

Section 3.05 Agreement to Maintain Registrar.

As long as the Bond remains Outstanding, the City Clerk shall be the Registrar and shall upon request inform the Holder as to where (i) the Bond may be presented for registration of transfers and (ii) notices and demands to or upon the City in respect of the Bond may be served.

Section 3.06 Execution and Authentication.

(a) The Bond shall be executed in the name and on behalf of the City by the signature of an Authorized Officer and attested by the signature of the City Clerk or other Authorized Officer (other than the officer executing the Bond). The Bond bearing the signature of any Person who shall have been such an Authorized Officer at the time the Bond was so executed shall bind the City notwithstanding the fact that he may have ceased to be such Authorized Officer prior to the authentication and delivery of the Bond or was not such Authorized Officer at the date of the authentication and delivery of the Bond.

(b) No Bond shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such Bond a certificate of authentication in the form set forth in this Ordinance, duly executed by the signature of the Registrar; and such certificate of authentication upon any Bond executed on behalf of the City shall be conclusive evidence that the Bond so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of this Ordinance.

Section 3.07 Reserved.

Section 3.08 Transferability and Registry.

The Bond shall at all times, when the same is Outstanding, be payable, both as to Principal Installment and interest 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 shall maintain and keep, at its office, books for the registration and transfer of the Bond, and, upon presentation thereof for such purpose, the City shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, the Bond, except that under no circumstances shall the Bond be registered or transferred to bearer. So long as the Bond remains Outstanding, the City shall make all necessary provisions to permit the transfer of the Bond.

Section 3.09 Transfer of the Bond.

The Bond shall be transferable only upon the books of the City, which shall be maintained for such purpose by the Registrar, upon presentation and surrender thereof by the Holder of such Bond in person or by his attorney duly authorized in writing, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his duly authorized attorney. Upon surrender for transfer of the Bond, the City shall execute and the Registrar shall authenticate and deliver, in the name of the Person who is the transferee, one new Bond of the same aggregate principal amount and maturity and rate of interest as the surrendered Bond.

Section 3.10 Regulations with Respect to Transfers.

The Bond surrendered in any transfer shall forthwith be cancelled by the Registrar. For each such transfer of the Bond, the City may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such transfer, which sum or sums shall be paid by the Holder requesting such transfer as a condition precedent to the exercise of the privilege of making such transfer. The City shall not be obligated to issue or transfer the Bond after the Record Date with respect to any Bond Payment Date of the Bond.

Section 3.11 Mutilated, Destroyed, Lost and Stolen Bond.

(a) If the Bond is surrendered to the City or if the City receives evidence to its satisfaction of the destruction, loss or theft of the Bond, and there is delivered to the City 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 the Registrar shall authenticate and deliver, in exchange for any such mutilated Bond or in lieu of the destroyed, lost or stolen Bond, a new Bond of like tenor and principal amount, bearing a number unlike that of the mutilated, lost or stolen Bond. The Registrar shall thereupon cancel the mutilated Bond so surrendered. In case the mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Bond, pay such Bond.

(b) Upon the issuance of any new Bond under this **Section 3.11**, 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 connected therewith.

(c) Each new Bond issued pursuant to this **Section 3.11** 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. 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 a 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 a mutilated, destroyed, lost or stolen Bond or securities.

Section 3.12 Holder as Owner of the Bond.

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

Section 3.13 Cancellation of the Bond.

The Registrar shall destroy the Bond upon surrender of the same to it for cancellation and shall deliver a certificate to that effect to the City. The Bond shall not be deemed Outstanding under this Ordinance and no Bond shall be issued in lieu thereof.

Section 3.14    Payments Due on Saturdays, Sundays and Holidays.

In any case where the Bond Payment Date shall be a 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 interest on or Principal Installment of the Bond 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 3.15    State Tax Exemption.

Both the Principal Installment and interest on said Bond shall be exempt from all State, county, municipal, school district, 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 and certain franchise taxes.

Section 3.16    Order of Tax Levy to Pay Principal and Interest of the Bond.

For the payment of the Principal Installment and interest on the Bond 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 by the City, in the same manner as City taxes are levied and collected, a tax on all taxable property in said City, sufficient to pay the Principal Installment and interest on the Bond as it matures, and to create such sinking fund as may be necessary therefor.

Section 3.17    Form of 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 OR PURCHASE OF THE BOND

#### Section 4.01 Optional Redemption.

The Bond shall be subject to redemption prior to maturity at any time at the option of the City, in whole or in part, but if in part in the principal amount as determined by the City (but only in integral multiples of \$1,000), on thirty (30) days written notice at a redemption price of par, together with accrued interest to the date fixed for redemption. Provided, however, that the City Administrator is hereby authorized to make any such adjustment to the redemption provisions set forth in the preceding sentence as he shall determine prior to offering the Bond for sale.

#### Section 4.02 City's Election to Redeem.

In the event that the City shall, in accordance with the provisions of **Section 4.01**, elect to redeem the Bond, it shall give notice to the registered Holder of the Bond of each optional redemption. Each notice shall specify the date fixed for redemption and the amount of the Bond which is to be redeemed.

#### Section 4.03 Notice of Redemption.

(a) When the Bond is to be redeemed, the City shall give notice of the redemption of the Bond specifying (i) the amount to be redeemed; (ii) the redemption date; (iii) the redemption price; (iv) the number and other distinguishing marks of the Bond; and (v) the place or places where amounts due upon such redemption will be payable. Such notice shall further state that on such date there shall become due and payable upon the Bond the redemption price thereof, together with interest accrued to the redemption date, and that, from and after such date, interest thereon shall cease to accrue. The City shall mail by registered mail a copy of such notice, postage prepaid, not less than 30 days before the redemption date to the registered Holder of the Bond at its address which appears upon the registration books, but failure to so mail any such notice to such Holder shall not affect the validity of the proceedings for the redemption of the Bond held by the Holder to whom written notice has been mailed. The obligation of the City to give the notice required by this **Section 4.03** shall not be conditioned upon the prior payment to the Escrow Agent of money or the delivery to the Escrow 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 shall, on the date fixed for redemption, become due and payable at the redemption price specified therein plus accrued interest to the redemption date, and upon presentation and surrender thereof at the place specified in such notice, such Bond shall be paid at the redemption price, plus accrued interest to the redemption date. On and after the redemption date (unless the City shall default in the payment of the redemption price and accrued interest), such Bond shall cease to bear interest, and such Bond shall no longer be considered as Outstanding hereunder. If money sufficient to pay the redemption price and accrued interest has not been made available by the City to the Escrow Agent on the redemption date, such Bond shall continue to bear interest until paid at the same rate as it would have borne, had it 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 Holder 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 and accrued interest on the Bond on such date, shall be deposited with the Escrow Agent unless such amount shall have been previously deposited with the Escrow Agent.

Section 4.05 Purchases of the Bond Outstanding.

Purchases of the Bond Outstanding may be made by the City at any time with money available to it from any source. Upon any such purchase the City shall deliver such Bond to the Registrar for cancellation.

[End of Article IV]

## ARTICLE V

### SALE OF THE BOND

#### Section 5.01    Determination of Time to Receive Bids – Form of Notice of Sale.

The Bond shall be sold at public sale, at a price of not less than par. Bids shall be received until noon (local time) on a date to be selected by the City Administrator. The form of the Official Notice of Sale, and the conditions of sale, shall be substantially those set forth in ***Exhibit B*** attached hereto and made a part hereof. The said Bond shall be advertised for sale in, at the discretion of the City Administrator, *The Bond Buyer* or *The Greenville News*, or both, which advertisement(s) shall each appear at least once, not less than seven (7) days before the date set for said sale. The date of sale may be adjusted in accordance with Section 11-27-40 of the South Carolina Code. The form of the advertisement(s) may be an abbreviated form of the Official Notice of Sale as shown in ***Exhibit C*** attached hereto and made a part hereof.

#### Section 5.02    Award of Bond.

Upon the receipt of bids for the purchase of the Bond, unless all bids are rejected, the City Administrator shall award the Bond to the bidder offering to purchase it at the lowest net interest cost to the City. For the purpose of determining lowest net interest cost, the aggregate of interest on the Bond from the dated date of the Bond, which is the original issue date, until its maturity, less any sum named by way of premium, shall be determined on each bid and the smallest amount to be paid by the City shall reflect lowest net interest cost.

[End of Article V]

## ARTICLE VI

### DISPOSITION OF PROCEEDS OF SALE OF THE BOND

#### Section 6.01    Disposition of Bond Proceeds Including Temporary Investments.

The proceeds derived from the sale of the Bond issued pursuant to this Ordinance shall be expended and made use of by the City as follows:

(a)     the sums necessary to effect the refunding and redemption of the Refunded Bonds shall be deposited immediately upon receipt in a special trust fund established pursuant to the provisions of an escrow agreement described in **Section 6.02** below and used to retire the Refunded Bonds; and

(b)     the remaining proceeds shall be expended and made use of by the Council to defray the cost of issuing the Bonds.

None of the proceeds of the Bond will be invested. Neither the purchaser nor any Holder of the Bond shall be liable for the proper application of the proceeds thereof.

#### Section 6.02    Redemption of Refunded Bonds.

The Council hereby irrevocably elects to redeem the Refunded Bonds on the first practicable (as determined by the City Administrator, in his discretion) permissible redemption date thereof and ratifies and approves the actions of the City Administrator in giving notice of such redemption in the name of the City.

[End of Article VI]

## ARTICLE VII

### DEFEASANCE OF THE BOND

Section 7.01 Discharge of Ordinance – Where and How Bond is Deemed to Have Been Paid and Defeased.

If the Bond issued pursuant to this Ordinance and all interest thereon shall have been paid and discharged, then the obligations of the City under this Ordinance and all other rights granted hereby shall cease and determine. The Bond shall be deemed to have been paid and discharged within the meaning of this **Section 7.01** if the City shall elect to provide for the payment of the Bond prior to its final Bond Payment Date 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 Installment and interest due and to become due on the Bond as the same matures.

Neither the Government Obligations nor moneys deposited pursuant to this **Section 7.01** nor the principal installment or interest payments thereon shall be withdrawn or used for any purpose other than, and shall be held in trust by the Escrow Agent for, the payment of the Principal Installment of and interest on the Bond; provided that any cash received from such principal installment or interest payments on Government Obligations so deposited, 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 and interest to become due on the Bond on the maturity date thereof and interest earned from such reinvestments not required for the payment of the Principal Installment and interest may be paid over to the City, as received by the Escrow Agent, free and clear of any trust, lien or pledge.

[End of Article VII]

## ARTICLE VIII

### CERTAIN TAX CONSIDERATIONS

#### Section 8.01    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, the requirement to file the information report with the Internal Revenue Service. 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.

#### Section 8.02    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 Holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder. Without limiting the generality of the foregoing, the City represents and covenants that:

(a) All property financed or refinanced by the net proceeds of the Bond will be owned by the City in accordance with the rules governing the ownership of property for federal income tax purposes.

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

(c) The City is not a party to, nor will the City enter into, any contracts with any person for the use or management of any facility financed or refinanced with the proceeds of the Bond that do not conform to the guidelines set forth in Revenue Procedure 2017-13, as amended.

(d) The City will not sell or lease any property financed or refinanced by the Bond to any person unless it obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the Bond.

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

#### Section 8.03    Rebate.

(1) In addition to the covenants contained in **Sections 8.01** and **8.02** hereof, the City covenants that:

(a) It will comply with the provisions of Section 148(f) of the Code and applicable Treasury Regulations pertaining to the rebate of certain investment earnings on the proceeds of the Bond to the United States Government. In this connection, the City covenants to compute, on or before the dates required of it in Section 148(f) of the Code and the applicable Treasury Regulations, the rebateable amounts, if any, pertaining to the Bond and to pay to the United States Government in a timely fashion all amounts required to be so paid under said Section 148(f) of the Code and applicable Treasury Regulations with respect to the Bond. In this respect, the City will pay to the United States Government in the manner described in subparagraph (b) below an amount equal to the sum of:

(i) the excess of:

a. The amount earned on all non-purpose investments (as defined in the Treasury Regulations) with respect to the Bond over

b. The amount which would have been earned if such non-purpose investments were invested at a rate equal to the yield (as defined in the Treasury Regulations) on the Bond, plus

(ii) any income attributable to such excess.

(b) Such payments shall be made to the United States Government, at the address prescribed in Section 148(f) of the Code and applicable Treasury Regulations, as follows:

(i) Not less frequently than once each five (5) years after the date of issuance of the Bond, an amount such that, together with prior amounts paid to the United States Government, the total paid to the United States Government is equal to ninety percent (90%) of the amount due as of the date of such payments, and

(ii) Not later than sixty (60) days after the date on which all of the Bond has been paid in full, all of the amount due as of the date of payment.

(2) The City Administrator is hereby authorized to make the necessary findings and elections to enable the City to elect to proceed with any spend down exemptions to rebate as may be permitted under said Section 148(f) of the Code and applicable Treasury Regulations as he shall determine in his discretion to be in the best interests of the City.

Section 8.04 Qualified Tax-Exempt Obligation.

The City, including all entities subordinate thereto, including the Combined Utility System of the City which is operated and maintained by the Commission of Public Works, does not intend to issue tax-exempt obligations in calendar year 2020, which, when added to the ***“Includable Principal Amount”*** described in the immediately following sentence, will exceed \$10,000,000 in aggregate principal amount (other than private activity bonds). The Includable Principal Amount referred to above is the portion of the principal amount of the Bond in excess of the principal amount of the Series 2009 Bond being refunded as shall not be attributable to the refunding of any prior bonds of the City which were designated as “qualified tax-exempt obligations”; within the meaning of Section 265(b)(3)(B) of the Code by the City at the time of their issuance. The Series 2020 Bond is hereby accordingly designated as a “qualified tax-exempt obligation” in accordance with Section 265(b)(3)(B) of the Code.

[End of Article VIII]

## ARTICLE IX

### MISCELLANEOUS

#### Section 9.01 Failure to Present Bond.

Anything in this Ordinance to the contrary notwithstanding, any money held by the Escrow 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 such Bond has become due and payable, that the Holder thereof shall no longer be able to enforce the payment thereof, the Escrow Agent shall at the written request of the City pay such money to the City as its absolute property free from trust. The Escrow Agent shall thereupon be released and discharged with respect thereto, and the Bondholder shall look only to the City for the payment of such Bond. Provided, however, the Escrow Agent shall forward to the City all moneys which remain unclaimed during a period five (5) years from a Bond Payment Date; and further provided, however, that before being required to make any such payment to the City, the Escrow Agent, at the expense of the City, may conduct such investigations as may in the opinion of the Escrow Agent be necessary to locate the Holders or those who would take if the Holder shall have died.

#### Section 9.02 Severability of Invalid Provisions.

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 9.03 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 by or on behalf of the City shall bind and inure to the benefit of said successor whether so expressed or not.

#### Section 9.04 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. Such provisions are covenants and agreements with such Holders which the City hereby determines to be necessary and desirable for the security and payment thereof.

#### Section 9.05 Filing of Copies of Ordinance.

Copies of this Ordinance shall be filed in the office of the City Clerk and the offices of the Clerks of Court of Pickens County and Anderson County (as a part of the Transcript of Proceedings).

#### Section 9.06 Further Action by Officers of City.

The proper officers of the City 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.

Section 9.07    Continuing Disclosure.

Pursuant to Section 11-1-85 of the South Carolina Code, the City covenants to file with a central repository for availability in the secondary bond market when requested:

- (1)     An annual independent audit, within thirty days of the City’s receipt of the audit;  
and
- (2)     Event specific information within thirty days of an event adversely affecting more than five percent of revenue or the City’s tax base.

The only remedy for failure by the City to comply with the covenant in this **Section 9.07** 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 (including any repeal of) said Section 11-1-85, without the consent of any Bondholder.

Section 9.08    Effective Date of this Ordinance.

This Bond Ordinance shall take effect upon its second reading and shall be forthwith codified in the Code of City Ordinances and indexed under the general heading “Bond Issue – Not Exceeding \$975,000 City of Easley, South Carolina General Obligation Refunding Bond, Series 2020.”

[End of Article IX]

**DONE** in meeting duly assembled, this 12<sup>th</sup> day of October, 2020.

**CITY OF EASLEY, SOUTH CAROLINA**

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Mayor

Attest:

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City Clerk

First reading:           September 14, 2020  
Second reading:        October 12, 2020



The Bond shall be subject to redemption prior to maturity at any time at the option of the City, in whole or in part, but if in part in the principal amount as determined by the City (but only in integral multiples of \$1,000), on thirty (30) days written notice at a redemption price of par, together with accrued interest to the date fixed for redemption.

This Bond is in the principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) and is issued pursuant to and in accordance with the Constitution and Statutes of the State of South Carolina, including particularly the provisions of Title 11, Chapter 15, Article 5 and Title 5, Chapter 21, Article 5, all as supplemented by Section 11-27-40, of the Code of Laws of South Carolina, 1976, as amended (collectively, the “*Enabling Act*”), and an Ordinance duly enacted by the City Council of the City on October 12, 2020 (the “*Ordinance*”).

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 City Clerk and in the offices of the Clerks of Court of Pickens County and Anderson County.

For the prompt payment thereof, both principal and interest, as the same shall become due, the full faith, credit and taxing power of the City are irrevocably pledged.

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

The Bond is issuable only as a single, fully registered Bond in the principal amount of \$\_\_\_\_\_.

This Bond is transferable, as provided in the Ordinance, only upon the books of the City kept for that purpose at its office by the Registered Holder in person or by his duly authorized attorney, upon (i) surrender of this Bond together with a written instrument of transfer satisfactory to the City duly executed by the Registered Holder or his duly authorized attorney and (ii) payment of the charges, if any, prescribed in the Ordinance. Thereupon a new fully registered Bond of like maturity, interest rate and redemption provisions and in a like aggregate 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 or on account of the principal and interest due hereon and for all other purposes.

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

It is hereby certified and recited that all conditions, acts and things required by the Constitution and Statutes of the State of South Carolina to exist, be performed or happen precedent to or in the issuance of the Bond in order to make the Bond the legal, valid and binding general obligation of the City in accordance with its terms, do exist, have been performed and have happened in regular and due form as required by law; and that the amount of the Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by such State Constitution or Statutes, and that provision has been made for the allocation, on an annual basis, of sufficient tax revenues to provide for the punctual payment of the principal of and interest on the Bond.

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

**IN WITNESS WHEREOF**, the City of Easley, South Carolina has caused this Bond to be signed in its name by the Mayor of the City of Easley, South Carolina and attested to by the Clerk of the City of Easley.

**CITY OF EASLEY, SOUTH CAROLINA**

\_\_\_\_\_  
Mayor

Attest:

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

**CERTIFICATE OF AUTHENTICATION**

This Bond is the Bond described in the within mentioned Ordinance.

**CITY OF EASLEY, SOUTH CAROLINA,**

By: \_\_\_\_\_  
City Clerk

Date: \_\_\_\_\_

**(FORM OF ASSIGNMENT)**

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

\_\_\_\_\_ (please print or type name and address of Transferee and Social Security or other identifying number of Transferee) the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

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

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

NOTICE: Signature(s) must be guaranteed by an institution which is a participation in the Securities Transfer Agents Medallion Program (“**STAMP**”) or similar program enlargement.

\_\_\_\_\_  
Authorized Individual or 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 any change whatever.



**Redemption Provisions:** The Bond shall be subject to redemption prior to maturity at any time at the option of the City, in whole or in part, but if in part in the principal amount as determined by the City (but only in integral multiples of \$1,000), on thirty (30) days written notice at a redemption price of par, together with accrued interest to the date fixed for redemption.

**Additional Covenants and Terms:** The covenants of the City with respect to the Bond are set forth in the Ordinance enacted on October 12, 2020, authorizing the issuance of the Bond (the “*Bond Ordinance*”) which will be available from the City or Bond Counsel.

**Bid Requirements:** The Bond shall be sold at a price not less than par at a single, fixed rate of interest. A bid for less than all the Bond will not be considered. The City Administrator reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 24 hours after the time established for the receipt of the bids.

**Form of Bid:** Each bid must be on the Official Bid Form, must be unconditional and irrevocable and must be in accordance with the terms and conditions set forth in this Official Notice of Sale.

**Basis for Award:** If satisfactory bids are received, the Bond will be awarded to the lowest responsible bidder by the City not later than 24 hours after the time established for the receipt of bids. The lowest bidder shall be the bidder offering to purchase the Bond at the lowest net interest cost to the City at a price not less than par. For the purpose of determining lowest net interest cost, the aggregate of interest on the Bond from the dated date of the Bond, which is the original issue date, until its maturity, less any sum named by way of premium, shall be determined on each bid and the smallest amount to be paid by the City shall reflect lowest net interest cost. In the event that two or more bidders have bid the same net interest cost, the award shall be made by lot. The determination by the City of the net interest cost of each bid and the City’s award of the bid will be final.

**Investment Letter:** The successful purchaser will be requested to execute a letter to the City in form satisfactory to Bond Counsel acknowledging among other things, that (1) no official statement or other offering material has been furnished other than this Official Notice of Sale; (2) the purchaser had an opportunity to make appropriate inquiries of officials of the City; (3) the purchaser is capable of evaluating the merits and risks of the purchase of the Bond; (4) the purchaser is acquiring the Bond as a vehicle for making a commercial loan and without a present view to the distribution thereof (subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be under its control) within the meaning of the Federal securities laws; and (5) the purchaser is acquiring the Bond solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein.

**Legal Opinion:** The City shall furnish upon delivery of the Bond the final approving opinion of Haynsworth Sinkler Boyd, P.A., Greenville, South Carolina, together with the usual closing documents, including a certificate that no litigation is pending affecting the Bond.

**Delivery:** The Bond will be delivered on or about \_\_\_\_\_, 2020, in Easley, South Carolina, at the expense of the City. The purchase price then due must be paid in federal funds or other immediately available funds.

**Postponement:** The City reserves the right to postpone from time to time the date established for receipt of bids. The City will communicate any such change in the sale date through the Bloomberg Wire or the Bond Buyer Wire prior to the time bids are to be received. If any date fixed for the receipt of bids and the sale of the Bond is postponed, any alternative sale date will be announced through the Bloomberg Wire or the Bond Buyer Wire at least 48 hours prior to such alternative sale date. On any such alternative sale date, any bidder may submit a bid for the purchase of the Bond in conformity in all respects with the provisions of this Official

Notice of Sale, except for the date of sale and except for the changes announced through the Bloomberg Wire or the Bond Buyer Wire at the time the sale date and time are announced.

**Additional Information:** Persons seeking additional information should communicate with the City Administrator, telephone (864) 855-7900; the City's Municipal Advisor, Southern Municipal Advisors, Inc. at (561) 756-9935 or the City's Bond Counsel, Haynsworth Sinkler Boyd, P.A., Brad Love at (864) 240-3388. Financial information is available upon request from the City Administrator.

/s/Stephen Steese \_\_\_\_\_  
Administrator, City of Easley, South Carolina

Dated: \_\_\_\_\_, 2020

SUMMARY NOTICE OF SALE

NOT EXCEEDING \$975,000  
CITY OF EASLEY, SOUTH CAROLINA  
GENERAL OBLIGATION REFUNDING BOND  
SERIES 2020

Electronic bids will be received by the City of Easley, South Carolina (the “*Issuer*”) pursuant to the Official Notice of Sale dated \_\_\_\_\_, 2020.

Sale Date: \_\_\_\_\_, 2020

Sale Time: 11:00 a.m., Eastern Time Zone

Bonds Dated: Date of delivery, anticipated to be \_\_\_\_\_, 2020

Form of Bonds: One fully registered Bond in the denomination of not exceeding \$975,000.

Interest Payments: April 1 and October 1, commencing April 1, 2021.

Maturity: Payable annually on April 1, 2021 through April 1, 2027, inclusive.

Redemption Provisions: The Bond shall be subject to redemption prior to maturity at any time at the option of the City, in whole or in part, but if in part in the principal amount as determined by the City (but only in integral multiples of \$1,000), on thirty (30) days written notice at a redemption price of par, together with accrued interest to the date fixed for redemption.

Legal Opinion: Haynsworth Sinkler Boyd, P.A., Greenville, South Carolina.

Official Notice of Sale: Available from the Issuer at (864) 855-7900 or from the Issuer’s Bond Counsel, Haynsworth Sinkler Boyd, P.A., Greenville, South Carolina, Brad Love at (864) 240-3388.

For the payment of principal and interest on the Bond, as it matures, the full faith, credit, and taxing power of the Issuer are pledged.

*This Notice is given to evidence the Issuer’s intent to receive bids for and award the Bond on the date stated above. Such sale may be postponed upon notice given prior to the time bids are to be received as disseminated by the Bond Buyer Wire or the Bloomberg Wire. If canceled, the sale may be thereafter rescheduled and notice of such rescheduled date of sale will be disseminated at least 48 hours prior to the time for receipt of bids by the Bond Buyer Wire or the Bloomberg Wire.*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS )

**CERTIFIED COPY OF ORDINANCE**

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

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance which was given two readings on two separate days, with an interval of at least six days between the readings by the City Council of the City (the "*City Council*"). The original of this Ordinance is duly entered in the permanent records of minutes of meetings of the City Council, in my custody as such City Clerk.

That each of said meetings was duly called, and all members of the City Council were notified of the same; that a quorum of the membership remained throughout the proceedings incident to the adoption of this Ordinance.

**IN WITNESS WHEREOF**, I have hereunto set my Hand this 12<sup>th</sup> day of October, 2020.

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City Clerk  
City of Easley, South Carolina

First reading:           September 14, 2020  
Second reading:       October 12, 2020