



**NEWBERRY COUNTY COUNCIL
COUNTY COUNCIL AGENDA
November 15, 2023
6:00 P.M.**

Call to order: Todd Johnson, Chairman
Invocation and Pledge of Allegiance: Les Hipp, Vice-Chairman

1. Oath of Office:
 - a. Leon Fulmer Jr. - District 2.

2. Adoption of Consent Agenda:
 - a. Newberry County Council Work Session Minutes – November 1, 2023.
 - b. Newberry County Council Meeting Minutes – November 1, 2023.

3. Additions, Deletions & Adoption of the Agenda.

4. Ordinance No. 10-03-2023. An Ordinance to authorize the County of Newberry, by Newberry County Council, to sell the real estate described on Attached Exhibit “A” which is incorporated herein by reference known as Tax Map number 451-10-1 to Trucast LLC upon such terms and conditions described in the bill of sale in Exhibit “B”.
 - a. Third Reading

5. Ordinance 10-04-2023. An Ordinance to amend County Ordinance 12-30-10 to provide for alternative members of county committees.
 - a. Third Reading

6. Ordinance 10-05-2023. An Ordinance to provide for the issuance and sale of not exceeding thirty-five million, two hundred fifty thousand (\$35,250,000) general obligation bonds of Newberry County, South Carolina, the sale and issuance of general obligation bond anticipation notes in anticipation to the issuance of such bonds, and other matters relating thereto.
 - a. Public Hearing
 - b. Second Reading

7. Ordinance No. 11-01-2023. An Ordinance regulating public nuisances and unfit dwellings within Newberry County and providing procedures for enforcement and penalties for violation and matters related thereto.
 - a. Public Hearing
 - b. Second Reading

8. Consideration and award of bid for construction of the Whitmire Town Hall Garage Addition, a 2016 CPST project (Solicitation# 2023-20) – Crystal Waldrop, Director of Purchasing

9. Consideration of a motion to accept the proposed Natural Resources, Priority Investment and Resiliency elements of the draft Comprehensive Plan.

10. Resolution No. 12-23. An Inducement Resolution committing to negotiate a Fee-In-Lieu of *Ad Valorem* Taxes agreement between Newberry County and *Project Cavalier*; identifying the project; and other matters related thereto.

11. Ordinance No. 11-02-2023. An Ordinance authorizing the execution and delivery of a Fee-In-Lieu of *Ad Valorem* Taxes and incentive agreement by and between Newberry County, South Carolina and *Project Cavalier* to provide for payment of a Fee-In-Lieu of Taxes; authorizing certain infrastructure credits; and other related matters.
 - a. First Reading

12. Appointments.

13. Public Comments.

14. Comments/Requests from County Administrator.

15. Comments/Requests from Council.

16. Future meetings:

- a. Economic Development Committee – December 4 at 6 p.m.
- b. Newberry County Council Work Session – December 6 at 5 p.m.
- c. Newberry County Council – December 6 at 6 p.m.

17. Adjournment.

**NEWBERRY COUNTY COUNCIL WORK SESSION
MINUTES
November 1, 2023**

Newberry County Council met on Wednesday, November 1, 2023, at 5:00 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a Work Session.

Notice of the meeting was duly advertised, as required by law.

PRESENT: Todd Johnson, Chairman
Les Hipp, Vice Chairman
Karl Sease, Council Member
Robert N. Shealy, Council Member
Travis Reeder, Council Member
Johnny Mack Scurry, Council Member
Jeff Shacker, County Administrator
Eric Nieto, I.T. Director
Katie Werts, Director of Planning and Development Services
Andrew Wigger, Clerk to Council/PIO

Mr. Johnson called the meeting to order at 5:00 p.m.

1. Review and discussion of the draft Future Land Use Map for the Comprehensive Plan
 - Mr. Shacker and Ms. Werts presented the draft future land use map, which incorporated modifications requested by county council at the September 6, 2023, work session.
 - Staff indicated that the purpose of this review is to confirm that the revised future land use map is in-line with the wishes of council, prior to it being sent back to the Planning Commission for their consideration.
 - Staff overviewed the changes made, which consisted primarily of the expansion of areas identified as having the potential for future development. Those areas, which included land adjacent to the municipalities in the county

and a corridor along Interstate-26, have been designated transitional development areas.

- Mr. Sease asked if definitions of the map designations have been included in the Comprehensive Plan, which staff confirmed.
- Mr. Hipp clarified that the land use element in the Comprehensive Plan is a ten-year plan and that any properties identified as having future development potential would still be required to be rezoned in most cases, which necessitates planning commission review, a public hearing, and three readings of an ordinance. The comprehensive plan and future land use map does not pre-approve or disapprove the use of any property in any location for specific purposes. It is a ten-year vision and does not change the current zoning designation of any property in Newberry County nor does it change the taxable value of any property in the county.
- Staff further clarified that the preparation and adoption by council of a ten-year comprehensive plan is required by state law. It is simply a vision, which can be modified by council from time to time. In many cases, changes in how property is used require a zoning amendment, which must be reviewed by the planning commission and approved by council by ordinance.

2. Review and discussion of the draft of the Property Maintenance and Nuisance Codes.

- Mr. Shacker and Ms. Werts provided an overview of the changes made to the proposed Property Maintenance and Nuisance Codes Ordinance in response to feedback provided by council at the September 6, 2023, work session:
 - Section 3 (Public Nuisances Identified), Subsection A:
 - Staff modified the language to limit the number of vehicles stored on an individual property that are mechanically inoperable, or without a valid South Carolina tag, to less than five provided that the vehicles are visually screened from adjacent properties and roadways. property is a permitted business.

- Mr. Hipp asked staff to revisit the language to ensure that the number of vehicles constituting a nuisance is clear.
- Mr. Johnson asked if consideration would be given to the owner of an inoperable vehicle who is actively engaged in repairs. Ms. Werts said that such an exception can be added prior to second reading.
- Section 3 (Public Nuisances Identified), Subsection G:
 - Mr. Sease asked about the concern that he raised at the September 6, 2023, work session about a court case dealing with the enforcement of odor-related nuisance codes. Staff indicated that they would review the case with the County Attorney and revise as necessary. Staff also clarified that odors related to agricultural processes and activities are exempt from enforcement under the general agriculture exemption contained within the proposed ordinance. Mr. Johnson added that if the activity is associated with a permitted business, there is also an exemption that applies.
- Section 3 (Public Nuisances Identified), Subsection M:
 - Staff added language to the subsection which makes clear that agricultural implements and implements used for agricultural purposes do not constitute a nuisance.
- Section 4 (General Requirements), Subsection B:
 - Staff modified the subsection to provide that the abatement standard for structures determined unfit for human habitation shall be the requirements of the building code in effect at the time that construction of the structure was completed.
- Section 6 (Authority):
 - Staff added language requiring that, prior to issuing a notice of violation, the code official inform the Planning and Development Services Director and the County Administrator of a determination that a structure is unfit for human habitation.

- Staff clarified that an owner of a structure determined to be unfit for human occupancy would have the ability to appeal that determination to the Newberry County Building, Fire and Nuisance Codes Board of Appeals.
- Mr. Shealy asked what if someone refuses or is unable to bring their dwelling or structure up to code. Ms. Werts said that the owner could enter into a correction agreement, which would allow them to incrementally address the deficiencies in accordance with a timeline specified in the agreement.
- Section 8 (Notification), Subsection E:
 - Ms. Werts identified the need to specify that the seven-day period to abate a nuisance, or to reach out to the county to enter into a correction agreement, is calendar days not business days. Staff made the modification, which is reflected in the current draft of the proposed property maintenance and nuisance codes.
- Section 11 (Appeals):
 - Staff added Section 11 language, which gives property owners the ability to appeal a code official's determination that structure(s) they own are unfit for human habitation to the Newberry County Building, Fire and Nuisance Codes Board of Appeals.
 - Mr. Hipp asked that staff revisit the language defining the Board's role and scope of authority when an appeal is filed to ensure that it is clear. Mr. Shacker and Ms. Werts said they would revisit the language as requested and clarified that the board's role would be to hear the appeal and either sustain or overrule the determination of the code official.
 - Mr. Shealy asked who would be responsible for the demolition of a dilapidated structure. Mr. Shacker said that it would be the responsibility of the owner.
- Section 12 (Penalties):

- Staff removed imprisonment as a possible penalty for violating the proposed property maintenance and nuisance ordinance, as requested by council.
- Section 15 (Correction Agreement):
 - Staff added language clarifying that the option for the county and a property owner to mutually agree to enter into a correction agreement following the issuance of a notice of violation shall be available when the nuisance is a dilapidated structure unfit for habitation AND/OR when the nuisance falls within another category of identified nuisance in the proposed ordinance.

3. Executive Session:

a. Economic Development Matter(s):

- i. Discussion of matters related to the transfer of an existing FILOT pursuant to SC Code of Laws Section 30-4-70(A)(5).
 - Mr. Sease made a motion to go into Executive Session, Mr. Shealy gave the second and the motion was approved 6-0. Council went into Executive Session at 5:39 p.m.
 - Mr. Shealy made a motion to come out of Executive Session at 6:02 p.m., Mr. Hipp gave the second and the motion was approved 6-0.
 - Mr. Johnson stated that council went into Executive Session for the aforementioned reason and no action was taken.

4. Questions or comments from County Administrator and council.

- No comments.

5. Adjournment.

- Mr. Shealy made a motion to adjourn at 6:02 p.m.; Mr. Sease gave the second and the motion was approved 6-0.

NEWBERRY COUNTY COUNCIL

Todd Johnson, Chairman

Andrew Wigger, Clerk to Council

Minutes Approved: _____

**NEWBERRY COUNTY COUNCIL
MINUTES
November 1, 2023**

Newberry County Council met on Wednesday, November 1, 2023, at 6:02 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a regular scheduled meeting.

Notice of the meeting was duly advertised, as required by law.

PRESENT: Todd Johnson, Chairman
Les Hipp, Vice Chairman
Karl Sease, Council Member
Robert N. Shealy, Council Member
Travis Reeder, Council Member
Johnny Mack Scurry, Council Member
Jeff Shacker, County Administrator
Eric Nieto, I.T. Director
Katie Werts, Director of Planning and Development Services
Karen Brehmer, Deputy County Administrator
Debbie S. Cromer, Finance Director
Liz McDonald, Assessor
Tommy Long, Emergency Services Director
Brandon Wicker, Emergency Services Coordinator
Captain Ben Chapman, NCSO
Andrew Wigger, Clerk to Council/PIO

Mr. Johnson called the meeting to order at 6:02 p.m.

Council Member Nick Shealy led the invocation and Pledge of Allegiance.

1. Adoption of Consent Agenda:

- a. Newberry County Council Executive Session Minutes – October 18, 2023.

b. Newberry County Council Meeting Minutes – October 18, 2023.

- Mr. Sease made a motion to accept the minutes as presented, Mr. Hipp provided the second. The motion was approved 6-0.

2. Additions, Deletions & Adoption of the Agenda.

- Mr. Scurry made a motion to adopt the agenda as presented, Mr. Reeder provided the second. The motion was approved 6-0.

3. A Proclamation declaring November as *Family Court Awareness Month* in Newberry County.

- Mr. Hipp made a motion to adopt the Proclamation, Mr. Shealy provided the second. The motion was approved 6-0.

4. Ordinance No. 10-01-2023. An Ordinance acting on a request to amend the official zoning map established pursuant to Zoning Ordinance No. 12-24-01 as revised and amended by Zoning Ordinance No. 06-11-16 and codified in Chapter 153 of the Newberry County Code of Ordinances, establishes zoning classification and districts as to rezone one (1) real estate parcel totaling one (1) acre designated as TMS No. 339-1-10 from RG-General Residential to R2-Rural.

a. Third Reading

- As there were no changes to the Ordinance, Mr. Shealy made a motion to approve the third reading; Mr. Reeder provided the second. The motion was approved 6-0.

5. Ordinance No. 10-02-2023. An Ordinance adopting the Newberry County Fire Protection and Prevention Code, providing for periodic inspections and enforcement of the code, and establishing a process for appeals and penalties for violations.

a. Third Reading

- Mr. Sease made a motion to approve the third reading; Mr. Shealy provided the second. The motion was approved 6-0.

6. Ordinance No. 10-03-2023. An Ordinance to authorize the County of Newberry, by Newberry County Council, to sell the real estate described on Attached Exhibit "A" which is incorporated herein by reference known as Tax Map number 451-10-1 to Trucast LLC upon such terms and conditions described in the bill of sale in Exhibit "B".

a. Public Hearing

- Mr. Johnson declared the public hearing open. With no one signing up or standing to speak, Mr. Johnson declared the public hearing closed.

b. Second Reading

- As there were no changes to the Ordinance, Mr. Hipp made a motion to approve the second reading; Mr. Sease provided the second. The motion was approved 6-0.

7. Ordinance 10-04-2023. An Ordinance to amend County Ordinance 12-30-10 to provide for alternative members of county committees.

a. Public Hearing

- Mr. Johnson declared the public hearing open. With no one signing up or standing to speak, Mr. Johnson declared the public hearing closed.

b. Second Reading

- As there were no changes to the Ordinance, Mr. Hipp made a motion to approve the second reading; Mr. Shealy provided the second. The motion was approved 6-0.

8. Resolution No. 11-23. A Resolution authorizing and approving the assignment and assumption of a fee in lieu of tax and incentive agreement and other matters related thereto.

- Mr. Shacker said that the county entered a new Fee-in-Lieu of Tax (FILOT) Agreement back in 2018 with Schweitzer-Mauduit International, which had an engineered papers production plant in the Newberry County Industrial Park that was relocated to Mid-Carolina Commerce Park after the Samsung project was announced.
- Schweitzer-Mauduit, Mr. Shacker said, is in the process of selling to Evergreen Hill, which intends to operate the facility in the same manner, and the transaction is expected to close by the end of the month.
- According to Mr. Shacker, State law requires the use of an ordinance by a county to enter a FILOT with an industry, following a public hearing. However, state law provides that the county may transfer a FILOT to the purchaser by ordinance, resolution, or administrative action. Council felt strongly that the transfer be authorized in a transparent manner during an open session of council, so the County Attorney prepared a resolution for council's consideration.

- The proposed resolution will allow Evergreen Hill to apply to the Department of Revenue for FILOT treatment, according to Mr. Shacker.
- Mr. Shealy asked, for sake of clarification, that nothing changed in the agreement, which Mr. Shacker confirmed.
- Mr. Hipp made a motion to adopt the resolution; Mr. Reeder provided the second. The motion was approved 6-0.

9. Ordinance No. 11-01-2023. An Ordinance regulating public nuisances and unfit dwellings within Newberry County and providing procedures for enforcement and penalties for violation and matters related thereto.

a. First Reading

- Mr. Shacker indicated that there has been growing interest in the county adopting minimum standards for the maintenance of property and enforcement of nuisances in Newberry County. State law gives counties and municipalities the authority to adopt and enforce property maintenance and nuisance codes. At the present time, the county does not have the tools necessary to address properties with maintenance issues. The proposed ordinance, which is relatively comprehensive, would put in place the tools needed to address those issues.
- In addition to establishing standards for maintenance and the regulation of public nuisances, according to Mr. Shacker, the proposed ordinance also establishes the process which must be followed to enforce the ordinance and address nuisances, gives the county and property owners the option of developing a mutually agreed upon corrective action plan to abate nuisances and avoid a summons, and provides an avenue of appeal for property owners who disagree with the determinations made by the county's code officials.

- Mr. Johnson added that council held a work session at 5 p.m. to further discuss the proposed ordinance. The review during that session was a follow-up to the work session held by council on September 6, 2023, to review the initial draft of the ordinance. At the 5 p.m. Work Session, council identified additional desired changes, staff were asked to address before second reading Mr. Johnson added that he has heard from constituents that are concerned the proposed ordinance will impact agricultural and forestry operations and pursuits. Mr. Johnson then clarified that, aside from dwellings inhabited by humans, agriculture and forestry uses are exempt from the provisions of the proposed ordinance.
- Mr. Hipp added that council is moving forward with the first reading, but has requested that, prior to second reading, staff make the language revisions which were requested by council during the 5 p.m. Work Session.
- Mr. Shealy made a motion to approve the first reading; Mr. Scurry provided the second. The motion was approved 6-0.

10. Appointments.

- There were no appointments.

11. Public Comments.

- Mr. Brandon Wicker said they went over what he was going to discuss on September 18, at the Public Safety meeting, regarding fire engines and where the county stands. He said the average age of the county's fire engines is roughly around 20 years old, he said it is recommended that when they are in the 10–15-year range is when they need to be off the front line. He said they have some newer than 20 years old, but some that are past their prime. He said they have seven that need immediate replacement and three due in roughly three years.

- Mr. Wicker said they ran into a deal from a company they work with, he said they had roughly 11 trucks available in September, ready to purchase in the first quarter. He said he just spoke with the representative, and they are down to 10, he said those trucks range from \$700,000-\$800,000, which includes loose equipment they will need. He said that number sounds like a lot of money, but the prices are increasing.
- Mr. Wicker said he wanted to bring this to the whole council and let everyone know they are trying to make things better for the county and right now this is the cheapest route to go about it.
 - Mr. Johnson said the Public Safety Committee has made everyone aware and that they are trying to find the money for two fire trucks and the air packs, which he said his understanding must be purchased and that is another million dollars. He said it is going to take time to find the money, but when they do, they will bring Mr. Wicker back to the Public Safety Committee and they want to move forward but finding \$2.5 million in the middle of a budget year is not an easy thing to do.

12. Comments/Requests from County Administrator.

- Mr. Shacker said that the 5 p.m. Work Session was helpful and provided staff with the direction they needed to move forward with both the future land use map and the proposed property maintenance and nuisance ordinance.
- Mr. Shacker said they had three productive kick-off meetings with DP3 Architects - one of the two firms providing architectural and engineering services for the CPST projects. The meetings were in Little Mountain (Reunion Park), Whitmire (town gym), and Old Gallman School (building renovation). In addition to DP3 Architects, county staff, the project owners, and Clayton Construction (the company that the county has engaged to manage the construction of the CPST projects) participated in the kick-off meetings. Four more such meetings are scheduled on November 8. Those meetings are for the Newberry Downtown Amphitheater, Prosperity Park

Upgrades, Pomaria Community Center, and Newberry County Public Safety Complex projects.

- Mr. Shacker said staff will bring a recommendation to council at the November 15 or December 6 council meeting for the selection of a project architect for the County Detention Center project.
- Additionally, at the November 15 council meeting, Mr. Shacker said staff will ask council to hold a public hearing and to consider second reading of an ordinance authorizing the issuance of up to \$35,250,000 of general obligation bonds to fund construction of the CPST projects.
- Mr. Hipp asked what time the meetings will be on November 8. Mr. Shacker responded that Pomaria will be at 9 a.m., the Amphitheater will be at 11 a.m., the Public Safety Complex will be at 2 p.m. and Prosperity will be at 4 p.m.

13. Comments/Requests from Council.

- Mr. Shealy said a very busy, but productive night.
- Mr. Sease said it was a good Work Session and a productive day.

14. Future meetings:

- a. Executive Committee – November 6 at 6 p.m. -- CANCELLED.
- b. Veterans Day – Offices Closed - November 10
- c. Newberry County Council – November 15 at 6 p.m.
- d. Economic Development Committee – December 4 at 6 p.m.
- e. Newberry County Council – December 6 at 6 p.m.

15. Adjournment.

- Mr. Shealy made a motion to adjourn the meeting at 6:35 p.m., Mr. Scurry provided the second. The motion was approved 6-0.

NEWBERRY COUNTY COUNCIL

Todd Johnson, Chairman

Andrew Wigger, Clerk to Council

Minutes Approved: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

Ordinance No. 10-03-2023

AN ORDINANCE TO AUTHORIZE THE COUNTY OF NEWBERRY, BY NEWBERRY COUNTY COUNCIL, TO SELL THE REAL ESTATE DESCRIBED ON ATTACHED EXHIBIT "A" WHICH IS INCORPORATED HEREIN BY REFERENCE KNOWN AS TAX MAP NUMBER 451-10-1 TO TRUCAST LLC UPON SUCH TERMS AND CONDITIONS DESCRIBED IN THE BILL OF SALE THAT IS EXHIBIT B

WHEREAS, under the Ordinances of Newberry County, it is necessary for Newberry County Council to pass an Ordinance and have a public hearing whenever it sells county property; and

WHEREAS, Newberry County owns property being and situate within the Newberry County, specifically in the Newberry Industrial Park, and being a certain parcel or tract of land known as known as Tax Map No. 451-10-1; and

WHEREAS, Newberry County Council had determined that it is in the best interest of the County and the citizens of Newberry County to approve the sale of said property to Trucast LLC. upon such terms and conditions as described in the Bill of Sale that is Exhibit B and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL FOR NEWBERRY COUNTY, SOUTH CAROLINA, DULY ASSEMBLED THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:

Newberry County Council does hereby authorize the sale of the real estate described on attached Exhibits "A" and "B" upon such terms and conditions and stipulations and agreements as described in approved agreement of sale and any amendments thereto.

This Ordinance shall be effective upon adoption by the Newberry County Council on the date of the final reading approval.

Enacted and approved this 15th day of November 2023.

DONE IN MEETING DULY ASSEMBLED, this 15th day of November 2023.

COUNTY COUNCIL OF NEWBERRY COUNTY

Todd Johnson, Chairman
County Council of Newberry County

ATTEST:

Andrew Wigger
Clerk to County Council of Newberry County

First Reading: October 18, 2023
Second Reading: November 1, 2023
Public Hearing: November 1, 2023
Third Reading: November 15, 2023

EXHIBIT A

All that certain tract of land, containing 8.00 acres, more or less, situate, lying and being on the south side of S.C. Highway #219, east of the City of Newberry, in the County of Newberry, in the State of South Carolina, as more particularly shown as 8.00 acres, more or less, on a Survey and Plat prepared for Newberry County by Tom Abraham Land Surveying, dated March 11, 1996, and recorded in the Office of the Clerk of Court for Newberry County in Plat Book B-75 at Page 6.

Further reference being made to Final Plat of Newberry Industrial Park prepared for Newberry County by Tom Abraham Land Surveying, dated December 18, 1998, and recorded in the Office of the Clerk of Court for Newberry County in Plat Book B-132 at Page 1, re-recorded in Plat Book B-157 at Page 6.

Said property having such metes and bounds as shown on the aforesaid latter plat, which is incorporated herein by reference.

ALSO:

Easement for access, ingress, and egress over and across that sixty-six (66') foot right-of-way as shown on the above survey and plat.

ALSO:

Easement for access, ingress, and egress over and across that forty (40') foot Buffer (Newberry County) adjacent to S.C. Hwy. #219 also shown on the above survey and plat.

This being a portion of the same property conveyed to Newberry County by deed of Interstate Properties of Newberry County in Deed Book 435 at Page 249. See also quitclaim deed dated January 27, 1999, and recorded in said Office in Deed Book 503 at Page 258.

This conveyance is made subject to all conditions, covenants, easements, restrictions, and rights of way indicated by instruments appearing of record in the chain of title of the subject property, or those visible upon an actual physical inspection of the subject property, and to all applicable zoning or other land use regulations or restrictions of any political subdivision in which the subject property is situate.

EXHIBIT B
BILL OF SALE

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

Ordinance No. 10-04-2023

**AN ORDINANCE TO AMEND COUNTY ORDINANCE 12-30-10
TO PROVIDE FOR ALTERNATIVE MEMBERS ON COUNTY COMMITTEES**

WHEREAS, pursuant to S.C. Code §4-9-170 and Newberry County Ordinance 12-30-10, Newberry County Council has the authority to create boards and commissions necessary and proper to provide services of local concern for public purposes; and

WHEREAS, the Newberry County Council further has the authority to prescribe the functions thereof and to regulate, modify, merge or abolish any such boards and commissions; and

WHEREAS, both State and County Code sections contemplate the creation of County Council Committees who are appointed by the sitting Chair, or in his or her absence, the sitting Vice-Chair; and

WHEREAS, in the interest of maintaining a proper and steady course of business for the County, it is important for meetings of committees to be fully staffed; and

WHEREAS, County Council members who sit on a County Council Committee need the ability to provide an alternative member on their Committee where they find they are unable to attend such meeting; and

WHEREAS, the existing County ordinance does not provide for this substitution.

NOW, THEREFORE BE IT RESOLVED THAT NEWBERRY COUNTY COUNCIL BY PASSAGE OF THIS ORDINANCE DOES HEREBY AUTHORIZE COUNTY COUNCIL MEMBERS TO PROVIDE AN ALTERNATIVE MEMBER ON THEIR COMMITTEE WHERE THAT COUNTY COUNCIL MEMBER FINDS THEMSELVES UNABLE TO ATTEND A COMMITTEE MEETING AND SHALL INFORM THE COMMITTEE CHAIR OF SUCH SUBSTITUTION.

This Ordinance shall be effective upon adoption by the Newberry County Council on the date of the final reading approval.

Enacted and approved this 15th day of November 2023.

DONE IN MEETING DULY ASSEMBLED, this 15th day of November 2023.

COUNTY COUNCIL OF NEWBERRY COUNTY

Todd Johnson, Chairman
County Council of Newberry County

ATTEST:

Andrew Wigger

Clerk to County Council of Newberry County

First Reading: October 18, 2023
Second Reading: November 1, 2023
Public Hearing: November 1, 2023
Third Reading: November 15, 2023

NEWBERRY COUNTY, SOUTH CAROLINA

ORDINANCE 10-05-2023

AN ORDINANCE TO PROVIDE FOR THE ISSUANCE AND SALE OF NOT EXCEEDING THIRTY-FIVE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$35,250,000) GENERAL OBLIGATION BONDS OF NEWBERRY COUNTY, SOUTH CAROLINA, THE SALE AND ISSUANCE OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS, AND OTHER MATTERS RELATING THERETO.

_____, 2023

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BE IT ORDAINED BY THE NEWBERRY COUNTY COUNCIL, IN NEWBERRY COUNTY, SOUTH CAROLINA, AS FOLLOWS:

ARTICLE I

FINDINGS OF FACT

As an incident to the enactment of this Ordinance, and the issuance of the bonds provided for herein the Newberry County Council (the “Council”), the governing body of Newberry County, South Carolina (the “County”), 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 of Expenditures.

On July 6, 2022, the Council enacted an ordinance entitled: “An Ordinance To Impose A One Percent Sales Tax, Subject To Referendum, Within Newberry County Pursuant To The Capital Project Sales Tax Act; To Define The Specific Purposes And Designate The Projects For Which The Proceeds Of The Tax May Be Used; To Provide The Maximum Cost Of The Projects Or Facilities Funded From The Proceeds To Be Raised By The Tax, Subject To Funding Cost Overruns As Provided By Law; To Provide For A County-Wide Referendum And To Concur In The Contents Of The Ballot Question In Such Referendum; To Establish The Priority In Which The Proceeds Of The Tax Are To Be Expended; To Authorize The Issuance Of General Obligation Bonds Of Newberry County, Subject To Such Referendum, To Defray Costs Of Projects And Issuance Costs; To Provide For The Conduct Of Such Referendum; To Provide For The Administration Of The Tax; To Provide For The Payment Of The Tax; And To Provide For Other Matters Relating Thereto” (the “Referendum Ordinance”). The Referendum Ordinance was enacted pursuant to the authority of the Capital Project Sales Tax Act, §§4-10-300 *et seq.*, Code of Laws of South Carolina, 1976, as amended (the “CPST Act”).

Pursuant to the Referendum Ordinance and the CPST Act, a referendum was held in the County on November 8, 2022. As certified by the Newberry County Registration and Elections Commission, the question presented in the referendum (the “Referendum Question”) was approved by the majority of the voters casting a vote thereon, with 7,859 votes cast in favor and 4,546 votes cast in opposition. The Referendum Question stated as follows:

Must a special one percent sales and use tax be imposed in Newberry County for not more than seven years to raise the amounts specified for the following purposes:

<u>Item</u>	<u>Project Description</u>	<u>Cost</u>
1	Newberry County Public Safety Complex, including facilities for Emergency Services, a relocated Friendly Fire Department and a relocated Newberry Rescue Squad.	\$7,750,000
2	Improvements to City of Newberry Recreation Complex, including splash pad expansion, Miracle Field, skate park, sidewalk and paved walking trail, shade structures, additional restrooms, and maintenance access drive and maintenance building.	3,295,000
3	Improvements to Town of Prosperity parks, including Langford St. Park, Town Center Park, North Main St. Park and Town Center Football-Soccer Field.	3,150,000

4	New cell block building and upgrades to support facilities at Newberry County Detention Center.	8,000,000
5	Improvements to Town of Little Mountain Reunion Park, including park entrance upgrade, walking trail, shelter renovations with stage conversion, renovation of smokehouse/picnic shelter including bathrooms.	2,015,825
6	Downtown Newberry amphitheater and pavilion/support building.	3,650,000
7	Upgrade and Expansion of Newberry County Water and Sewer Authority's Cannon's Creek Wastewater Treatment Plant.	5,154,560
8	Renovation of Old Gallman High School for use as community center by Building Thriving Communities Foundation.	1,450,000
9	IT/Network/Security Improvements at Newberry County Courthouse.	295,000
10	Roof replacement and HVAC improvements at The Newberry Museum.	815,000
11	Improvements to Town of Pomaria's Old Pomaria School community center.	671,745
12	Improvements to Town of Whitmire City Gym.	800,000

and must the County Council of Newberry County be authorized to issue not exceeding \$35,250,000 principal amount of general obligation bonds of Newberry County as a single issue or several issues, provided that the proceeds of such bonds shall be applied to defray the costs of the foregoing purposes, including costs overruns, and issuance costs, and provided further that in the event the sales and use tax to be imposed as stated herein is inadequate for the payment of such bonds, such bonds shall be payable from an ad valorem tax imposed on all taxable property in Newberry County?

The Council has determined that it is in the best interests of the County and its citizens to authorize the issuance of not exceeding \$35,250,000 general obligation bonds as authorized by the Referendum Question (the "CPST Bonds") and to apply the proceeds of such bonds to defray the costs of the improvements described in the Referendum Question (the "Improvements") and costs of issuance thereof. The Council has made such determination after due investigation and has found that providing funding to the entities listed in the Referendum Question for the respective purposes listed therein will serve a public purpose and a corporate purpose of the County. The CPST Bonds will be general obligations of the County and secured by the full faith, credit and taxing power of the County, provided, however, that debt service thereon shall be initially payable from the proceeds of a one percent tax imposed in the County pursuant to the authority of the CPST Act (the "CPST"). In order to provide funds pending the issuance of the CPST Bonds, the Council has determined to authorize the issuance of not exceeding \$30,000,000 general obligation bond anticipation note order to provide a portion of the funds necessary to defray the cost of one or more of the Improvements.

Section 1.02. Recital of Statutory Authorization. Pursuant to the provisions of the County Bond Act, §§4-15-410 *et seq.*, Code of Laws of South Carolina, 1976, as amended, the County is authorized to issue general obligation bonds, the proceeds of which may be applied to any corporate

purpose of the County. Pursuant to the CPST Act, the County is authorized to issue such bonds to defray the costs of the Improvements and to secure such bonds with the proceeds of the CPST, as well as by a pledge of the full faith, credit and taxing power of the County.

Section 1.03. Recital of Applicable Constitutional Provisions. Article X, §14 of the Constitution of the State of South Carolina, 1895, as amended, provides that after November 30, 1977, the governing body of any political subdivision may incur general obligation debt in an amount not exceeding eight percent of the assessed value of all taxable property of such political subdivision (the “Bonded Debt Limit”) and upon such terms and conditions as the General Assembly of South Carolina may prescribe by general law. In addition, Article X, §14(6) of the Constitution provides that general obligation debt authorized by a majority vote of the qualified electors of the political subdivision pursuant to a referendum shall not be considered in the computation of the Bonded Debt Limit. Inasmuch as the Bonds were approved by the qualified electors of the County pursuant to the Referendum, the Bonds shall not be chargeable against the constitutional debt limit of the County.

Section 1.04. Holding of Public Hearing and Notice Thereof. A public hearing, after giving reasonable notice, shall be conducted prior to the third and final reading of this Ordinance by Council. In accordance with this provision, a public hearing shall be conducted and due notice shall be provided by publication in *The Newberry Observer* not less than 15 days prior to date of such hearing. The form of the notice to be published shall be substantially as set forth as ***Exhibit “A”*** attached hereto.

* * * *

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” mean and include any securities which at the time of determination are legal investments for political subdivisions in South Carolina as provided by the Code of Laws of South Carolina, 1976, as amended.

“Available Proceeds” means all sales tax collected in the County prior to May 1, 2024, delivered to the County in accordance with the CPST Act, and which remain in the custody of the County Treasurer.

“Authorized Officer” means the Chairman, or the Vice-Chairman, the County Administrator and any other officer or employee of the Council designated from time to time as an Authorized Officer by Ordinance of the Council, and when used with reference to any act or document also means any other person authorized by Ordinance of the Council to perform such act or sign such document.

“Bond” or **“Bonds”** means any of the Bonds of the County authorized by this Ordinance, and, where appropriate, Bonds of a Series issued hereunder.

“BANs” means such bond anticipation notes issued pursuant to Section 3.21 of this Bond Ordinance.

“Bond Counsel” means Haynsworth Sinkler Boyd, P.A. or any firm of attorneys engaged by the County hereafter for the purpose of advising the County in connection with the issuance of Bonds and BANs and delivering an opinion as to the validity and enforceability thereof to the purchaser of any such instrument.

“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 May 1 and November 1 on which interest on any of the Bonds shall be payable or on which both the Principal Installment and interest shall be payable on any of the Bonds.

“Bond Proceeds Recipient” means each of the entities to receive proceeds of the Bonds in the amounts and for the purposes listed in *Exhibit “B”*.

“Capital Project Bond Debt Service Fund” means the debt service fund created pursuant to Section 3.18 of this Ordinance and held by the Newberry County Treasurer or by a financial institution maintaining corporate trust offices acting on behalf of and as determined by County Treasurer and from which payments of principal of and interest on the Bonds shall be made.

“Capital Project Bond Proceeds Fund” means the fund created and held by the Newberry County Treasurer pursuant to Section 6.01 of this Ordinance and from which payments of costs of issuance of the Bonds and Costs of the Improvements shall be made.

“Chairman” means the Chairman of the Council, or, in his absence or disability, the Vice-Chairman of the Council.

“Clerk to Council” means the Clerk to the County Council of the County.

“Corporate Trust Office”, when used with respect to any Paying Agent or Registrar, means the office at which its principal corporate trust business shall be administered.

“Costs of Improvements” means any cost associated with the design, construction and equipping of the Improvements as shown in *Exhibit “B”* hereto.

“Council” means the Newberry County Council, South Carolina, the governing body of Newberry County or any successor governing body of the County.

“County” means Newberry County, South Carolina.

“County Administrator” means the County Administrator of the County.

“County Auditor” means the County Auditor of the County.

“County Bond Act” shall have the meaning given thereto in Section 1.01 of this Ordinance.

“County Request” means a written request of the County signed by an Authorized Officer.

“County Treasurer” means the County Treasurer of the County.

“CPST” means the Capital Project Sales Tax imposed in the County pursuant to the authorization of the Sales Tax Act and the referendum held in the County on November 8, 2022.

“CPST Act” shall have the meaning given thereto in Section 1.01 of this Ordinance.

“Fiduciary” means any financial institution appointed to serve as the Paying Agent, the Registrar and their successors and assigns.

“Financial Advisor” means Compass Municipal Advisors, LLC, or any subsequent registered Municipal Advisor or firm thereof engaged by the County.

“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.

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

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

(i) any Bond canceled 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.

“Net Proceeds” means the proceeds of the Capital Project Sales Tax collected in the County on and after May 1, 2024, and delivered to the County Treasurer of the County in accordance with the CPST Act.

“Paying Agent” means any bank, trust company or national banking association which is authorized to pay the principal or interest on any Bonds and having 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. The institution named as Paying Agent may also act as Registrar.

“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 all Bonds due on a specified date.

“Record Date” means the fifteenth day of the month immediately preceding each Bond Payment Date.

“Registrar” means any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the Holders of the Bonds and shall effect the exchange and transfer of Bonds in accordance with the provisions of this Ordinance and having 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. The institution named as Registrar may also act as Paying Agent.

“Reserve Fund” means that fund established pursuant to Section 6.01 herein and held by a financial institution maintaining corporate trust offices acting on behalf of and as determined by County Treasurer.

“Restricted Fund” means that fund established pursuant to Section 6.01 herein and held by a financial institution maintaining corporate trust offices acting on behalf of and as determined by County Treasurer.

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

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

“Series” or **“Series of Bonds”** shall mean Bonds issued hereunder as a single issue, i.e., sold and closed on the same dates under a common designation.

Section 2.02. 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.

(d) 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.

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ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Ordering the Issuance of Bonds. Pursuant to the provisions of the County Bond Act and the CPST Act, and for the purpose of obtaining funds to pay the Costs of Improvements, there shall be issued not exceeding Thirty-Five Million Two Hundred Fifty Thousand Dollars (\$35,250,000) of general obligation bonds of the County, designated General Obligation Bonds. The Bonds shall bear such series designation as shall identify the year in which the Bonds are delivered; such series designation shall also alphabetically indicate the sequence among all general obligation bonds of the County in which the Bonds were delivered within such calendar year. The Bonds may be issued as a single Series, or as separate Series of Bonds from time to time, as determined by the County Administrator.

Section 3.02. Maturity Schedule of Bonds. The Bonds shall mature on the dates and in the principal amounts as determined by the County Administrator, upon advice of the Newberry County Administrator and the Financial Advisor and Bond Counsel, provided that the aggregate principal amount of the Bonds issued hereunder shall not exceed \$35,250,000. The Bonds shall bear interest at rates determined in the manner prescribed by Section 3.15 hereof. Interest on the Bonds shall be payable on May 1 and November 1 of each year, commencing as to a Series of Bonds on such date as elected by the County Administrator, but in any case not more than 12 months after the dated date thereof. All Bonds issued hereunder shall mature no later than May 1, 2032.

Section 3.03. Provision for Payment of Interest on the Bonds. The Bonds shall be authenticated on such dates as they shall, in each case, be delivered. The original issue date of the Bonds shall be the first day or such other day of the month in which the Bonds are delivered as may be designated by the County Administrator. The Bonds shall bear interest from the May 1 or the November 1 to which interest has been paid next preceding the authentication date thereof, unless the authentication date thereof is a May 1 or a November 1, in which case, from such authentication date, or if dated prior to the initial Bond Payment Date for Bonds of that Series, then from the original issue date of that Series. The interest to be paid on any May 1 or November 1 shall be paid to the Person in whose name such Bond is registered at the close of business on the Record Date next preceding such May 1 or November 1.

Section 3.04. Medium of Payment; Form and Denomination of Bonds; Place of Payment of Principal.

(a) The Bonds shall be payable as to Principal Installment and interest at the rates per annum determined in the manner prescribed by Section 3.15 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 Bonds shall be issued in the form of fully registered Bonds. The Bonds shall be issued in the denomination of \$5,000 or any whole multiple thereof, not exceeding the principal amount of the Bonds maturing in such year. The Bonds shall be numbered from 1 upwards in such fashion as to maintain a proper record thereof.

(c) The Principal Installment of all Bonds shall be payable at the Corporate Trust Office of the Paying Agent and payment of the interest on each Bond shall be made by the Paying Agent to the Person appearing on each Record Date on the registration books of the County, 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. Payment of the Principal Installment of all Bonds shall be made upon the presentation and surrender for cancellation of such Bonds as the same shall become due and payable.

Section 3.05. Agreement to Maintain Registrar and Paying Agent. As long as any of the Bonds remain Outstanding there shall be a Registrar and a Paying Agent, each of which shall be a financial institution maintaining Corporate Trust Offices where (i) the Bonds may be presented for registration of transfers and exchanges, (ii) notices and demands to or upon the County in respect of the Bonds may be served, and (iii) the Bonds may be presented for payment, exchange and transfer. The County Administrator is authorized to select a financial institution to initially serve as both the Paying Agent and the Registrar of the Bonds and, upon advice of Bond Counsel, to enter into an agreement with such financial institution regarding the provision of such services and fees payable therefor.

Section 3.06. Execution and Authentication.

(a) The Bonds shall be executed in the name and on behalf of the County by the manual or facsimile signature of an Authorized Officer, with its corporate seal (or a facsimile thereof) impressed, imprinted or otherwise reproduced thereon, and attested by the manual or facsimile signature of its Clerk to Council or other Authorized Officer (other than the officer executing such Bonds). Bonds bearing the manual or facsimile signature of any Person who shall have been such an Authorized Officer at the time such Bonds were so executed shall bind the County notwithstanding the fact that he may have ceased to be such Authorized Officer prior to the authentication and delivery of such Bonds or was not such Authorized Officer at the date of the authentication and delivery of the Bonds.

(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 manual signature of the Registrar and such certificate of authentication upon any Bond executed on behalf of the County 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. Exchange of Bonds. Bonds, 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 duly authorized attorney, may, at the option of the registered Holder thereof, be exchanged for an equal aggregate principal amount of Bonds in authorized denominations of the same interest rate and maturity. So long as any of the Bonds remain Outstanding, the County shall make all necessary provisions to permit the exchange of Bonds at the Corporate Trust Office of the Registrar.

Section 3.08. Transferability and Registry. All Bonds shall at all times, when the same are 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 Bonds. So long as any of the Bonds remain Outstanding, the County shall maintain and keep, at the office of the Registrar, books for the registration and transfer of Bonds, and, upon presentation thereof for such purpose at the Corporate Trust Office of the Registrar, the County shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it or the Registrar may prescribe, any Bond, except that under no circumstances shall any Bond be registered or transferred to bearer. So long as any of the Bonds remain Outstanding, the County shall make all necessary provisions to permit the transfer of Bonds at the Corporate Trust Office of the Registrar.

Section 3.09. Transfer of Bonds. Each Bond shall be transferable only upon the books of the County, which shall be kept for such purpose at the Corporate Trust Office of the Registrar 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 any such Bond, the County shall execute and the Registrar shall authenticate and deliver, in the name of the Person who is the transferee, one or more new Bonds of the same aggregate principal amount and maturity and rate of interest as the surrendered Bond. All action taken by the Registrar pursuant to this section shall be deemed to be the action of the County.

Section 3.10. Regulations with Respect to Exchanges and Transfers. All Bonds surrendered in any exchanges or transfers shall forthwith be cancelled by the Registrar. For each such exchange or transfer of Bonds, the County or the Registrar may make a charge sufficient to reimburse it or them 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 County shall not be obligated to issue, exchange or transfer any Bond during the 15 days next preceding any Bond Payment Date.

Section 3.11. Mutilated, Destroyed, Lost and Stolen Bonds.

(a) If any mutilated Bond is surrendered to the Registrar and the Registrar or the County receive evidence to their satisfaction of the destruction, loss or theft of any Bond, and there is delivered to the Registrar or the County such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice that such Bond has been acquired by a bona fide purchaser, the County shall execute, and upon County Request, the Registrar shall authenticate and deliver, in exchange for any such mutilated Bond or in lieu of any such destroyed, lost or stolen Bond, a new Bond of like tenor, principal amount and redemption provisions, bearing a number unlike that of a Bond contemporaneously Outstanding. The Registrar shall thereupon cancel any such mutilated Bond so surrendered. In case any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the County 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 County 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 County 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 County, 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 any and all other Bonds duly issued pursuant to this Ordinance. All Bonds shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Bonds or securities.

Section 3.12. Holder As Owner of Bond. The County, the Registrar and any Paying Agent may treat the Holder of any 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 neither the County nor any Paying Agent shall be affected by any notice to the contrary.

Section 3.13. Cancellation of Bonds. The Registrar shall destroy all Bonds surrendered to it for cancellation and shall deliver a certificate to that effect to the County. No such Bonds shall be deemed Outstanding under this Ordinance and no Bonds 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 Bonds 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. Conditions Relating to Naming of Interest Rates. The Bonds shall bear such rate or rates of interest as shall at the sale of such Bonds reflect the lowest net interest cost or lowest true interest cost (as determined by the County Administrator) to the County calculated in the manner hereinafter prescribed in this Section 3.15 at a price of not less than par, but:

- (a) all Bonds of the same maturity shall bear the same rate of interest;
- (b) no rate of interest named shall be no more than four per centum (4%) (or such other amount as selected by the County Administrator upon advice of the Financial Advisor) higher than the lowest rate of interest named;
- (c) each interest rate named shall be a multiple of 1/8th or 1/20th of one per centum; and
- (d) any premium offered must be paid in cash as a part of the purchase price.

Section 3.16. Tax Exemption in South Carolina. Both the Principal Installment and interest on said Bonds shall be exempt from all State, County, Municipal, School District, 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.

Section 3.17. Order of Tax Levy to Pay Principal and Interest of Bonds.

(a) For the payment of the Principal Installment and interest on the Bonds as the same respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are hereby irrevocably pledged, and there shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as county taxes are levied and collected, a tax on all taxable property in the County, sufficient to pay the Principal Installment and interest on such Bonds as they respectively mature, and to create such sinking fund as may be necessary therefor. There are also pledged to secure the Bonds the Net Proceeds to the extent provided herein.

(b) The levy of *ad valorem* property taxes for payment of debt service on the Bonds shall be reduced in a given year in an amount which is equal to the aggregate value as of August 15 of that year of all securities and uninvested cash in the Capital Projects Debt Service Fund, the Reserve Fund and the Restricted Fund, plus that amount which is equal to the average of the two most recent deposits of Net Proceeds received by the County Treasurer from the State (the "Levy Reduction Amount"). The County

Treasurer shall notify the County Auditor no later than September 1 of each year in accordance with this paragraph and Section 6.03 of this Ordinance of the value of the Reduction Amount. The County Auditor shall reduce the levy of *ad valorem* property taxes for payment of debt service on the Bonds accordingly. No adjustment of the *ad valorem* property tax levy shall be undertaken at any time during which the collection of the CPST has been suspended or terminated by a court of competent jurisdiction.

Section 3.18. Notice to Auditor and Treasurer to Levy Tax. The County Auditor and County Treasurer shall each be notified of each issue of Bonds and directed to levy and collect, upon all taxable property in the County an annual tax sufficient to meet the payment of the Principal Installment and interest on said Bonds, as the same respectively mature, subject to the provisions in Section 3.17(b) above, and, as to the initial Series issued hereunder, to create the Capital Project Bond Debt Service Fund, the Reserve Fund and the Restricted Fund.

Section 3.19. Bonds Issued in Book-Entry-Only Form.

(a) Notwithstanding any provision of this Ordinance to the contrary, the Bonds will initially be issued under the DTC Book-Entry-Only System in fully registered form, registered in the name of Cede & Co. as the registered owner and securities depository nominee of The Depository Trust Company, New York, New York (“DTC”), which will act as initial securities depository for the Bonds. Notwithstanding anything to the contrary herein, so long as the Bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the Bonds will be effected pursuant to rules and procedures established by such securities depository. DTC and any successor securities depositories are hereinafter referred to as the “Securities Depository.” Cede & Co. and successor securities depository nominees are hereinafter referred to as the “Securities Depository Nominee.”

(b) Notwithstanding any other provision of this Ordinance, as long as a book-entry system is in effect for the Bonds, the Securities Depository Nominee will be recognized as the Holder of the Bonds for the purposes of (i) paying the principal and interest on such Bonds, (ii) giving any notice permitted or required to be given to Bondholders under this ordinance, (iii) registering the transfer of Bonds, and (iv) requesting any consent or other action to be taken by the Holders of such Bonds, and for all other purposes whatsoever, and the County shall not be affected by any notice to the contrary.

(c) The County shall not have any responsibility or obligation to any participant, any beneficial owner or any other person claiming a beneficial ownership in any Bonds which are registered to a Securities Depository Nominee under or through the Securities Depository with respect to any action taken by the Securities Depository as Holder of such Bonds.

(d) The County shall pay all principal of and interest on Bonds issued under a book-entry system only to the Securities Depository or the Securities Depository Nominee, as the case may be, for such Bonds, and all such payments shall be valid and effectual to fully satisfy and discharge the obligations with respect to the principal of and interest on such Bonds.

(e) In the event that the Securities Depository for the Bonds discontinues providing its services, the County shall either engage the services of another Securities Depository or arrange with a Registrar and Paying Agent for the delivery of physical certificates.

(f) In connection with any notice or other communication to be provided to the Holders of Bonds by the County or by the Registrar and Paying Agent with respect to any consent or other action to be taken by the Holders of Bonds, the County or the Registrar and Paying Agent, as the case may be, shall establish a record date for such consent or other action and give the Securities Depository Nominee notice of such record date not less than 15 days in advance of such record date to the extent possible.

(g) The closing of the Bonds may be accomplished under DTC's "FAST" procedures, in which circumstance delivery of the Bonds at closing shall be made to the Paying Agent for the Bonds.

(h) For as long as the Bonds are being held under a book-entry system of a securities depository, the County shall remit to the Paying Agent and Registrar by 1:00 p.m. New York time on each Bond Payment Date funds for all principal and interest payments due thereupon, or at such earlier time as required by the Paying Agent and Registrar to guarantee that DTC or successor Securities Depository will receive payment in same-day funds by 2:30 p.m. New York time on such Bond Payment Date. In addition, automated payment details receipt shall be provided by the Paying Agent by 12:00 noon New York time of each Bond Payment Date for interest payments and by 2:30 p.m. New York time for redemption and corporate action payments.

Section 3.20. Form of Bonds. The form of the Bonds, and registration provisions to be endorsed thereon shall be substantially as set forth in *Exhibit "C"* attached hereto and made a part of this Ordinance.

Section 3.21. Bond Anticipation Notes. The County Administrator may determine to issue one or more series of notes in anticipation of the issuance of the Bonds ("BANs") in accordance with this Section 3.21. The aggregate principal amount of BANs issued hereunder shall not exceed \$30,000,000. The form of the BANs, and registration provisions to be endorsed thereon shall be substantially as set forth in *Exhibit "D"* attached hereto and made a part of this Ordinance.

(a) The BANs shall be dated and bear interest from the date of delivery thereof, payable upon the stated maturity thereof and shall mature on such date as selected by the County Administrator, with such privilege of prepayment, if any, as determined by the County Administrator. Except as provided in Section 3.21(m) herein, the BANs may be issued in denominations of \$5,000 and integral multiples thereof.

(b) The BANs shall be initially issued under the DTC Book-Entry-Only System in the form of a single fully registered bond anticipation note, registered in the name of Cede & Co. as the registered owner and nominee of the Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the BANs.

(i) Transfers of beneficial ownership of the BANs will be effected pursuant to rules and procedures established by such securities depository. The initial securities depository for the BANs will be DTC. DTC and any successor securities depositories are hereinafter referred to as the "Securities Depository." The BANs shall be registered in the name of Cede & Co., as the initial securities depository nominee for the BANs. Cede & Co. and successor securities depository nominees are hereinafter referred to as the "Securities Depository Nominee."

(ii) As long as a book-entry system is in effect for the BANs, the Securities Depository Nominee will be recognized as the Holder of the BANs for the purposes of (a) paying the principal and interest on the BANs at the maturity thereof, (b) giving any notice permitted or required to be given to beneficial owners of the BANs under this Ordinance, (c) registering the transfer of beneficial ownership of the BANs, and (d) requesting any consent or other action to be taken by the Holders of the BANs, and for all other purposes whatsoever, and the County shall not be affected by any notice to the contrary.

(iii) The County shall not have any responsibility or obligation to any participant, any beneficial owner or any other person claiming a beneficial ownership in the BANs when

registered to a Securities Depository Nominee under or through the Securities Depository with respect to any action taken by the Securities Depository as Holder of the BANs.

(c) Both the principal of and interest on the BANs shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. During such time as the BANs are held in book-entry-only form the County, acting through the County Administrator, shall serve as the Registrar for the BANs (for purposes of this Section 3.21, the "Registrar") at the administrative office of the County and shall fulfill all functions of the Registrar Agent enumerated in this Section 3.21. The County Treasurer shall serve as Paying Agent for the BANs.

(d) The principal of and interest on the BANs shall be payable at the office of the Paying Agent to the Person appearing on the BAN Record Date (as defined below) on the registration books of the County, which books shall be held by the Registrar, 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. The BAN Record Date as to a BAN shall be that date which is fifteen calendar days immediately prior to the due date of a BAN.

(e) Bids for the purchase of the BANs shall be solicited pursuant to a preliminary offering memorandum with an accompanying notice of sale in form satisfactory to the County Administrator. Bids may be submitted in person and by electronic bidding system and facsimile transmission. The County Administrator is authorized to award the BANs to the bidder offering to purchase the BANs at the lowest net interest cost to the County at a price of not less than par. Net interest cost will be determined by deducting premium, if any, from the interest on the BANs, until maturity.

(f) No good faith check shall be required as a condition of submitting a proposal for the purchase of BANs.

(g) The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar for the registration and transfer of the BANs. Upon presentation at its office for such purpose the Registrar shall register or transfer, or cause to be registered or transferred, on such registry books, the BANs under such reasonable regulations as the Registrar may prescribe.

(h) Each BAN shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such BAN the Registrar on behalf of the County shall issue in the name of the transferee a new fully registered BAN or BANs, of the same aggregate principal amount, interest rate and maturity as the surrendered BAN. Any BAN surrendered in exchange for a new registered BAN pursuant to this Section shall be cancelled by the Registrar.

(i) The County and the Registrar may deem or treat the person in whose name any fully registered BAN shall be registered upon the registry books as the absolute owner of such BAN, whether such BAN shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such BAN and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such BAN to the extent of the sum or sums so paid, and neither the County nor the Registrar shall be affected by any notice to the contrary. In all cases in which the privilege of transferring BANs is exercised, the County shall execute and the Registrar shall authenticate and deliver BANs in accordance with the provisions of this Ordinance. Neither the County nor the Registrar shall be obliged to make any such transfer of BANs

during the period beginning on the day after the fifteenth calendar day preceding the maturity date thereof.

(j) In the event any BAN is mutilated, lost, stolen or destroyed, the County may execute a new BAN of like date and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated BAN, such mutilated BAN shall first be surrendered to the County, and in the case of any lost, stolen or destroyed BAN, there shall be first furnished to the County evidence of such loss, theft or destruction satisfactory to the County, together with indemnity satisfactory to it; provided that, in the case of a Holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event any such BAN shall have matured, instead of issuing a duplicate BAN, the County may pay the same without surrender thereof. The County may charge the Holder of such BAN with its reasonable fees and expenses in this connection.

(k) For the payment of the principal of and interest on the BANs as the same shall fall due, the full faith, credit, and taxing power of the County shall be pledged. In addition thereto, so much of the principal proceeds of the Bonds when issued shall and is hereby directed to be applied, to the extent necessary, to the payment of the BANs; and, further, the County covenants and irrevocably pledges to effect the issuance of the Bonds or, in the alternative, to refund or renew outstanding BANs in order that the proceeds thereof will be sufficient to provide for the retirement of any BANs issued pursuant hereto.

(l) The Board hereby authorizes the County Administrator to prepare, or cause to be prepared, a Preliminary Offering Memorandum to be distributed physically or electronically to prospective purchasers of the BANs together with the Notice of Sale. The Board authorizes the County Administrator to designate the Preliminary Offering Memorandum as "near final" for purposes of Rule 15c2-12 of the Securities Exchange Commission. The County Administrator is further authorized to complete or cause the completion of the final form of the Offering Memorandum upon the sale of the BANs and to provide the same to the purchaser of the BANs. Upon advice of counsel, the foregoing offering memoranda need not be prepared and circulated in connection with the issuance of BANs.

(m) The proceeds derived from the sale of the BANs issued pursuant to this Ordinance shall be paid to the Treasurer of Newberry County, South Carolina. Pending the use of proceeds of the BANs, the same shall be invested and reinvested by the Treasurer of Newberry County, South Carolina, in Authorized Investments. The proceeds of the BANs and all earnings from the investment thereof shall be applied to defray the cost of the Improvements or to pay costs of issuance associated with the BANs.

(n) The Board hereby authorizes the Chairman or Vice-Chairman of the Council and the County Administrator to execute any and all such documents and instruments as may be necessary to effect the issuance of the BANs.

(o) In lieu of the issuance of BANs in book-entry-only form, the County Administrator may elect to sell one or more issues of BANs, each in the form of a single BAN payable to a single financial institution. In such event, requests for proposals for the purchase of the BANs shall be solicited from at least three (3) financial institutions selected by the County Administrator with advice of the Financial Advisor. A BAN issued pursuant to this paragraph (m) may be awarded to the institution offering the lowest single fixed rate of interest therefor, at a price of not less than par, adjusted for any cash premium and treating any legal fees required to be paid by the purchase thereof as additional interest, running from the date of delivery of the BAN to the maturity date thereof, unless all bids are rejected. A BAN sold pursuant to this Section 3.21(m) shall not be subject to paragraphs (b), (e), and (l) of this Section 3.21.

(i) The purchaser of such BAN shall be required to provide the County with a certificate detailing, to the satisfaction of Bond Counsel, its suitability as a purchaser of the BAN

and its intent to purchase and hold such BAN as an investment and not with a view to the distribution thereof.

(ii) The form of the BAN appearing at ***Exhibit “D”*** shall be appropriately modified, with advice of Bond Counsel, to reflect its issuance as a single instrument.

Section 3.22. Bonds Issued as Single Instrument.

Notwithstanding any provision of this Ordinance to the contrary, one or more Series of Bonds authorized hereby, if so determined by the County Administrator upon advice of the Financial Advisor, may be issued in the form of a single Bond. In the event the Bonds of a Series are so issued as a single Bond, the following shall apply:

(a) The dated date of the Bond shall be the date of its delivery, and the Bond shall bear interest from such date. The Bond need not be issued in a denomination constituting a multiple of \$5,000. No good faith deposit shall be required of any bidder.

(b) In no event shall the Bond be issued or reissued as other than a single Bond in such denomination as determined by the County Administrator pursuant to Section 3.02 and Section 3.22(a) of this Ordinance.

(c) The references to “Bonds” throughout this Ordinance shall be understood to refer to the single instrument authorized by this Section 3.22.

(d) The form of the Bond shall be substantially as set forth in ***Exhibit “C”*** attached hereto and the Notice of Sale shall be substantially as forth in ***Exhibit “E”*** attached hereto, together with such amendments and modifications thereto as shall be determined by the County Administrator to be necessary or appropriate, upon advice of Bond Counsel.

(e) The County Treasurer of Newberry County shall serve as Paying Agent for the Bond, and the County, acting through the Clerk to Council, shall serve as Registrar for the Bond, provided that neither the County Treasurer of Newberry County nor the Clerk to Council shall be deemed to be a Fiduciary within the meaning of Article VIII herein. The references to the “Corporate Trust Office” of the Paying Agent in this Ordinance shall be understood to refer to the main office of the County Treasurer of Newberry County in Newberry, South Carolina, and references to the “Corporate Trust Office” of the Registrar in this Ordinance shall be understood to refer to the main administrative office of the County.

(f) Unless requested by the purchaser of the Bond, the Bond shall not be issued in book-entry-only form, and, in lieu thereof, shall be registered in the name of the Holder as directed by the purchaser thereof. This provision shall supersede the first clause of Section 3.19(a).

(g) Presentment of the Bond may be waived by the County.

(h) The purchaser of the Bond shall be required to provide the County with a certificate detailing, to the satisfaction of Bond Counsel, its suitability as a purchaser of the Bond and its intent to purchase and hold such Bond as an investment and not with a view to the distribution thereof.

(i) An official statement shall not be prepared or circulated in connection with the sale of the Bond, and the delivery of the Bond shall be conditioned upon the delivery by the purchaser thereof at closing of a certificate in form satisfactory to Bond Counsel regarding the suitability of the purchaser and restrictions on transfer of the Bond. The County shall not in such case be obligated to deliver a continuing disclosure certificate pursuant to Section 9.04 of this Ordinance unless agreed to by the County Administrator upon request of such purchaser. Nonetheless, the County, if requested by the purchaser of a Bond, may covenant and agree with such purchaser to provide the holder of the Bond, for so long as the same remains Outstanding, with a copy of its audited financial statements and such other financial and operating data as determined by the County Administrator, upon advice of the Financial

Advisor and Bond Counsel, within 270 days of the close of each fiscal year; provided, that the only remedy for enforcement of this covenant shall be an action for mandamus in the Court of Common Pleas for Newberry County, South Carolina. This covenant shall be documented on behalf of the County by written certification of the County Administrator upon delivery of such Bond.

(i) Proposals for the purchase of the Bond which require payment of bank counsel fees shall be evaluated as if the maximum proposed amount of such fee constitutes interest on the Bond. The County Administrator, however, to maximize the amount of proceeds available to defray the cost of the Improvements, may elect that the County will not pay any bank counsel fees, and to so provide in any solicitation for the purchase of the Bond.

(j) The County shall not accept any proposal under this Section 3.22 which requires an increase in the interest rate applicable to the Bond in the event of any change in state or federal law. A proposal which requires an increase in the applicable interest rate in the event of a determination of a change, as the result of an act or omission of the County, in the taxability of interest on the Bond or the loss of status as “qualified tax-exempt obligations” under Section 265(b)(3)(B) of the Code, if applicable, may be accepted by the County Administrator in his discretion, but only if the proposal and the Bond state the interest rates which would thereby become applicable upon the occurrence of either such event.

The County Administrator may require that proposals for the purchase of the Bond not be subject to further credit review.

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ARTICLE IV

PURCHASE OF BONDS

Section 4.01. Bonds Not Subject to Redemption. The Bonds shall not be subject to redemption prior to their stated maturities, except that any Bond issued pursuant to Section 3.22 of this Ordinance may be subject to redemption on terms mutually acceptable by the County Administrator and the Purchaser of such Bond.

Section 4.02. Purchases of Bonds Outstanding. Purchases of Bonds Outstanding may be made by the County at any time with money available to it from any source. Upon any such purchase the County shall deliver such Bonds to the Registrar for cancellation.

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ARTICLE V

**SALE OF BONDS; APPROVAL
OF OFFICIAL STATEMENT**

Section 5.01. Determination of Time to Receive Bids – Form of Notice of Sale. The Bonds shall be sold at public sale at a price of not less than par and accrued interest, if any, to the date of delivery. Bids for the Bonds shall be received until such time or times and on such date or dates to be selected by the County Administrator. The Bonds shall be advertised for sale in *The State* or in *The Bond Buyer*, which advertisement shall appear at least once, not less than seven (7) days before the date set for said sale. The form of the Notice of Sale shall be substantially as set forth in *Exhibit “E”* attached hereto and the conditions of sale of the Bonds shall be as set forth in the Notice of Sale; provided, however, that a summary notice of sale may be published in *The State* or in *The Bond Buyer*. A Bond sold as a single instrument in accordance with Section 3.22 of this Ordinance and in principal amount not in excess of \$1,500,000 may be sold by way of private sale in accordance with S.C. Code Ann.§11-27-40(4) and the notice of sale prescribed thereby may be utilized in lieu of a notice in the form of *Exhibit “E”*.

Section 5.02. Award of Bonds. Unless all bids are rejected, the award of the Bonds shall be made by the County Administrator following the receipt of bids as provided in this Ordinance. The County Administrator is further authorized to name the Registrar and Paying Agent of the Bonds as provided in Section 3.05 herein.

Section 5.03. Approval of Official Statement. The County Administrator is hereby authorized to deem a preliminary Official Statement to be “final” within the meaning of Rule 15(c)(2)-(12) of the United States Securities and Exchange Commission as of its date, and hereby authorizes the distribution of such preliminary Official Statement, when so deemed final, to prospective bidders. Council further authorizes and approves the distribution and delivery of a final Official Statement by the successful bidder in connection with the reoffering and sale of the Bonds by the successful bidder.

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ARTICLE VI

DISPOSITION OF PROCEEDS OF SALE OF BONDS; DEBT SERVICE FUND

Section 6.01. Deposit of Proceeds. Upon the delivery of the first Series of Bonds issued hereunder, the County Treasurer shall establish the Capital Project Bond Proceeds Fund, the Reserve Fund and the Restricted Fund. The proceeds derived from the sale of the Bonds shall be paid to the County Treasurer and shall be expended and made use of by the County as follows:

(a) Any accrued interest shall be applied to the payment of the first installment of interest to become due on the Bonds.

(b) Any premium shall be applied to the payment of the first installment of principal of the Bonds.

(c) The principal of the Bonds and BANs, if any, shall be placed into the Capital Project Bond Proceeds Fund and applied to defray the Costs of the Improvements, to pay the principal of and interest on the Note, if any, and to pay costs of issuance of the Bonds. Pending the expenditure of the proceeds of the Bonds for such purposes, the same shall be invested in Authorized Investments. Investment earnings derived from Bond proceeds shall be applied to defray Costs of the Improvements. The County Treasurer is hereby directed to invest the proceeds of the Bonds upon advice of Bond Counsel and the Financial Advisor.

(d) If, in the determination of the County Administrator, the proceeds of the Bonds shall not be sufficient to fund all Improvements to the amounts shown on *Exhibit "B"*, such items not to be funded by Bond proceeds shall be funded only at such time as all other Bond Proceeds Recipients have received all amounts due them according to *Exhibit "B"* or, as to a given Improvement, such lesser amount as may be required to complete the same. To the extent funds remain available thereafter, either from unexpended Bond proceeds, investment earnings or as provided in Section 6.02(f) of this Ordinance, such items will be fully funded in the order and to the extent shown on *Exhibit "B"*.

(e) Once all Improvements (including those not funded from Bond proceeds) have been funded to the extent shown on *Exhibit "B"* (or, in any case, such lesser amount as shall be sufficient to complete a given Improvement), funds which remain available shall be applied to (i) complete projects then not completed owing to cost overruns and, if applicable, (ii) reimburse any amounts previously paid by the County or other parties to defray cost overruns, in the order of priority shown on *Exhibit "B"*, beginning with item 1.

(f) If any balance remains, it shall be held by the County Treasurer in a special fund and used to effect the retirement of the Bonds authorized by this Ordinance. The Treasurer is authorized without further action of Council to apply such balance to the defeasance of all or a portion of the Bonds then Outstanding upon advice of Bond Counsel.

Provided, that neither the purchaser nor any Holder of the Bonds or any BANs shall be liable for the proper application of the proceeds thereof.

Section 6.02. Capital Project Bond Debt Service Fund; Reserve and Restricted Funds.

(a) Except as provided in Sections 6.02(b), 6.02(c) and 6.02(f) herein, all Net Proceeds received by the County shall be deposited into the Capital Project Bond Debt Service Fund established hereby and held by the County Treasurer. Pending expenditure, amounts on deposit in the Capital Project

Bond Debt Service Fund shall be invested by the County Treasurer in Authorized Investments. All investment earnings derived from Net Proceeds shall be transferred to the Investment Earnings Account established pursuant to Section 6.03 herein and shall be available to defray the Costs of the Improvements, including cost overruns, consistent with Sections 6.01 and 6.02 herein.

(b) At any time at which the balance in the Capital Project Bond Debt Service Fund exceeds the total principal and interest due on Bonds in the next following thirteen months, all monies in excess of such amount shall be transferred to the Reserve Fund established hereby and held by the County Treasurer. Amounts in the Reserve Fund shall be invested by the County Treasurer in Authorized Investments. At any time at which the balance in the Capital Project Debt Service Fund is less than the maximum permitted balance therefor as provided in this Section 6.02(b), the difference shall be transferred from the Reserve Fund to the Capital Project Bond Debt Service Fund.

(c) At any time at which the balance in the Reserve Fund exceeds ten percent of the aggregate par amount of the Bonds as issued, or such lesser amount as the Treasurer is advised by Bond Counsel to be necessary to maintain the tax-exempt status of the Bonds, all monies in excess of such amount shall be transferred to the Restricted Fund established hereby and held on behalf of the County Treasurer by a financial institution maintaining corporate trust offices and selected by the County Treasurer. Amounts in the Restricted Fund shall be invested in Authorized Investments, and, as advised by Bond Counsel, restricted as to yield so as to preserve the tax-exempt status of the Bonds. At any time at which the balance in the Reserve Fund is less than the maximum permitted balance therefor as provided in this Section 6.02(c), the difference shall be transferred from the Restricted Fund to the Reserve Fund.

(d) The maximum balances permitted to be held in the Capital Project Debt Service Fund and the Reserve Fund may be adjusted by the County Treasurer at any time when, in the opinion of Bond Counsel, such adjustment is necessary to preserve the tax-exempt status of interest on the Bonds, or, without threatening such status, will be in the best interests of the County.

(e) At such time as the County has collected sufficient Net Proceeds to pay all remaining Principal Installments of and interest on the Outstanding Bonds, taking into account investment earnings, the County Treasurer may proceed to defease such Outstanding Bonds. At such time as all Bonds have been paid or defeased, any remaining funds may be applied in accordance with Sections 6.01(d) and 6.01(e) or for any lawful purpose.

(f) Notwithstanding the foregoing provisions of this Section 6.02, if, as of any May 2 or November 2, Net Proceeds then held by the Newberry County Treasurer exceeds the debt service on the Bonds falling due in the next following 12 months, such excess amount or portion thereof may be applied if so determined by the County Administrator in his discretion upon advice of Bond Counsel and the Financial Advisor to defray the Costs of the Improvements, including cost overruns, in accordance with the provisions of Section 6.01 herein.

Section 6.03. Disbursements From Capital Project Bond Proceeds Fund. Amounts required to pay costs of issuance of the Bonds shall be disbursed from the Capital Project Bond Proceeds Fund upon request of the County Administrator. Amounts required to pay principal of and interest on the BANs, if any, shall be disbursed from the Capital Project Bond Proceeds Fund at or prior to the maturity of the BANs, as determined by the County Administrator. Amounts required to pay Costs of Improvements shall only be disbursed upon delivery to the County Administrator of the following documents:

(a) A requisition (upon which the County may conclusively rely and shall be protected in relying thereon) setting forth (i) the name and address of the person to whom the disbursement is due and payable; (ii) the total amount of the requested disbursement; (iii) a statement that the total disbursement therein requested is for an obligation properly incurred with respect to an Improvement that is the responsibility of the Bond Proceeds Recipient which submitted the requisition, and that the obligation has not been the basis of any previous requisition; (iv) the nature of the obligation for which the disbursement is requested; and (v) a copy of the bill or statement of account for each obligation for which disbursement is requested. Any requisition for reimbursement from the Capital Project Bond Proceeds Fund of amounts previously paid by a Bond Proceeds Recipient to pay Costs of Improvements shall include like detail as to the expenditure for which reimbursement is sought.

(b) Written approval by the Newberry County Administrator of the requisition described in (a) above.

Section 6.04. Investment Earnings Account

(a) The County Treasurer shall establish the Investment Earnings Account and deposit therein upon receipt all earnings derived from the investment of Net Proceeds. Amounts in the Investment Earnings Account are not pledged to the payment of the Bonds, and shall be applied at the direction of the County Administrator to defray the Costs of Improvements, including cost overruns, consistent with Sections 6.01 and 6.02 herein.

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ARTICLE VII

DEFEASANCE OF BONDS

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

(a) If all of the Bonds issued pursuant to this Ordinance and all interest thereon shall have been paid and discharged, then the obligations of the County under this Ordinance and all other rights granted hereby shall cease and determine. The Bonds shall be deemed to have been paid and discharged within the meaning of this Article under any of the following circumstances, viz:

(i) If the Paying Agent shall hold, at the stated maturities of the Bonds, in trust and irrevocably appropriated thereto, sufficient moneys for the payment of the Principal Installment and interest thereof; or

(ii) If default in the payment of the principal of the Bonds or the interest thereon shall have occurred on any Bond Payment Date, and thereafter tender of payment shall have been made, and at such time as the Paying Agent shall hold in trust and irrevocably appropriated thereto sufficient moneys for the payment thereof to the date of the tender of payment; or

(iii) If the County shall have deposited with the Paying 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 said Paying Agent at the same time, shall be sufficient to pay when due the Principal Installment and interest due and to become due on the Bonds on and prior to their maturity dates.

Neither the Government Obligations nor moneys deposited with the Paying 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 on said Bonds; provided that any cash received from such principal or interest payments on Government Obligations deposited with the Paying 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, and interest to become due on said Bonds on and prior to the maturity date, and interest earned from such reinvestments not required for the payment of the Principal Installment and interest may be paid over to the County, as received by the Paying Agent, free and clear of any trust, lien or pledge.

(b) In addition to the above requirements of paragraphs (i), (ii), and (iii) in order for this Ordinance to be discharged, all other fees, expenses and charges of the Paying Agent have been paid in full at that time.

(c) Notwithstanding the satisfaction and discharge of this Ordinance, the Paying Agent shall continue to be obligated to hold in trust any moneys or investments then held by the Paying Agent for the payment of the principal of, premium, if any, and interest on, the Bonds, to pay to the owners of Bonds the funds so held by the Paying Agent as and when payment becomes due.

(d) Any release under this Section shall be without prejudice to the rights of the Paying 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 Paying Agent by or on behalf of the County for the purpose of paying and discharging any Bonds shall be and are hereby assigned, transferred, and set over to the Paying Agent in trust for the respective holders of the Bonds, 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 such Bonds shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Paying Agent to transfer the funds to the County.

(f) In the event any Bonds are not to be redeemed within the sixty (60) days next succeeding the date the deposit described by Section 7.01(a)(iii) is made, the County shall give the Registrar irrevocable instructions to mail, as soon as practicable by registered or certified mail, a notice to the owners of the Bonds at the addresses shown on the registry books that (i) the deposit described by subparagraph (a)(iii) of this Section 7.01 has been made with the Paying Agent and (ii) the Bonds are deemed to have been paid in accordance with this Section.

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ARTICLE VIII

CONCERNING THE FIDUCIARIES

Section 8.01. Fiduciary; Appointment and Acceptance of Duties. A financial institution chosen pursuant to Section 5.02 hereof to act as Paying Agent and Registrar hereunder shall accept the duties and trusts imposed upon it by this Ordinance and shall agree in writing to perform such trusts but only upon the terms and conditions set forth in this Article VIII. Similarly, each financial institution appointed as a successor Registrar or as a successor Paying Agent shall signify its acceptance of the duties and trusts imposed by this Ordinance by a written acceptance.

Section 8.02. Responsibilities of Fiduciaries. The recitals of fact herein and in the Bonds contained shall be taken as the statements of the County and no Fiduciary assumes any responsibility for the correctness of the same except in respect of the authentication certificate of the Registrar endorsed on the Bonds. No Fiduciary makes any representations as to the validity or sufficiency of this Ordinance or of any Bonds or as to the security afforded by this Ordinance, and no Fiduciary shall incur any liability in respect thereof. No Fiduciary shall be under any responsibility or duty with respect to the application of any moneys paid to any other Fiduciary. No Fiduciary shall be under any obligation or duty to perform any act which would involve it in expense or liability or to institute or defend any suit in respect hereof or to advance any of its own moneys, unless indemnified to its reasonable satisfaction. No Fiduciary shall be liable in connection with the performance of its duties hereunder except for its own negligence or willful misconduct.

Section 8.03. Evidence on Which Fiduciaries May Act.

(a) Each Fiduciary, upon receipt of any notice, Ordinance, request, consent order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Ordinance, shall examine such instrument to determine whether it conforms to the requirements of this Ordinance and shall be protected in acting upon any such instrument believed by it to be genuine and to have been signed or presented by the proper party or parties. Each Fiduciary may consult with counsel, who may or may not be of counsel to the County, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Ordinance in good faith and in accordance therewith.

(b) Whenever any Fiduciary shall deem it necessary or desirable that a matter to be proved or established prior to taking or suffering any action under this Ordinance, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer, and such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Ordinance upon the faith thereof; but in its discretion the Fiduciary may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may deem reasonable.

(c) Except as otherwise expressly provided in this Ordinance, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision thereof by the County to any Fiduciary shall be sufficiently executed if executed in the name of the County by an Authorized Officer.

Section 8.04. Compensation. The County shall pay to each Fiduciary from time to time reasonable compensation based on the then standard fee schedule of the Fiduciary for all services rendered under this Ordinance, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of its attorneys, agents, and employees, incurred in and about the

performance of their powers and duties under this Ordinance; provided, however, that any specific agreement between the County and a Fiduciary with respect to the compensation of such Fiduciary shall control the compensation to be paid to such Fiduciary. Subject to the provisions of Section 8.02 hereof, the County further agrees to indemnify and save each Fiduciary harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to its negligence or willful misconduct.

Section 8.05. Certain Permitted Acts. Any Fiduciary may become the owner or underwriter of any bonds, notes or other obligations of the County or conduct any banking activities with respect to the County, with the same rights it would have if it were not a Fiduciary. To the extent permitted by law, any Fiduciary may act as depositary for, and permit any of its officers or directors to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Ordinance.

Section 8.06. Resignation of Any Fiduciary. Any Fiduciary may at any time resign and be discharged of the duties and obligations created by this Ordinance by giving not less than sixty (60) days' written notice to the County and not less than thirty (30) days' written notice to the Holders of the Bonds as established by the books of registration prior to the next succeeding Bond Payment Date and such resignation shall take effect upon the date specified in such notice unless previously a successor shall have been appointed by the County pursuant to Section 8.08 hereof in which event such resignation shall take effect immediately on the appointment of such successor. In no event, however, shall such a resignation take effect until a successor has been appointed.

Section 8.07. Removal of Fiduciary. Any Fiduciary may be removed at any time by an instrument or concurrent instruments in writing, filed with the County and such Fiduciary, and signed by the Bondholders representing a majority in principal amount of the Bonds then Outstanding or their attorneys in fact duly authorized, excluding any Bonds held by or for the account of the County.

Section 8.08. Appointment of Successor Fiduciaries. In case any Fiduciary hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable or acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor shall be appointed by the County. Every such Fiduciary appointed pursuant to the provisions of this Section shall be a trust company or bank organized under the laws of the United States of America or any state thereof and which is in good standing, within or outside the State of South Carolina, having a stockholders' equity of not less than \$50,000,000 if there be such an institution willing, qualified and able to accept the trusts upon reasonable and customary terms.

If in a proper case no appointment of a successor Fiduciary shall be made by the County pursuant to the foregoing provisions of this Section within forty-five (45) days after any Fiduciary shall have given to the County written notice as provided in Section 8.06 hereof or after a vacancy in the office of such Fiduciary shall have occurred by reason of its removal or inability to act, the former Fiduciary or any Bondholder may apply to any court of competent jurisdiction to appoint a successor. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor.

Section 8.09. Transfer of Rights and Property to Successor. Any successor Fiduciary appointed under this Ordinance shall execute, acknowledge and deliver to its predecessor, and also to the County, an instrument accepting such appointment, and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties and obligations of such predecessor Fiduciary, with like effect as if originally named in such capacity; but the Fiduciary ceasing to act shall nevertheless, on the written request of the County, or of the successor, execute, acknowledge and deliver such instruments of conveyance and further assurance and

do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor all the right, title and interest of the predecessor Fiduciary in and to any property held by it under this Ordinance, and shall pay over, assign and deliver to the successor Fiduciary any money or other property subject to the trusts and conditions herein set forth. Should any deed, conveyance or instrument in writing from the County be required by such successor Fiduciary for more fully and certainly vesting in and confirming to such successor any such estates, rights, powers and duties, any and all such deeds, conveyances and instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the County. Any such successor Fiduciary shall promptly notify the Paying Agent and depositaries, if any, of its appointment as Fiduciary.

Section 8.10. Merger or Consolidation. Any company into which any Fiduciary may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it may be party or any company to which any Fiduciary may sell or transfer all or substantially all of its corporate trust business, provided such company shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, and shall be authorized by law to perform all the duties imposed upon it by this Ordinance, shall be the successor to such Fiduciary without the execution or filing of any paper or the performance of any further act.

Section 8.11. Adoption of Authentication. In case any of the Bonds contemplated to be issued under this Ordinance shall have been authenticated but not delivered, any successor Registrar may adopt the certificate of authentication of any predecessor Registrar so authenticating such Bonds and deliver such Bonds so authenticated. In case any such Bonds shall not have been authenticated, any successor Registrar may authenticate such Bonds in the name of the predecessor Registrar or in the name of the successor Registrar, and in all such cases such certificate shall be of full force and effect.

* * * *

ARTICLE IX

MISCELLANEOUS

Section 9.01. 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 any of the Bonds, or the interest thereon, which remains unclaimed for such period of time, after the date when such Bonds have become due and payable, that the Holder thereof shall no longer be able to enforce the payment thereof, the Paying Agent shall at the written request of the County pay such money to the County as its absolute property and free from trust, and the Paying Agent shall thereupon be released and discharged with respect thereto and the Bondholders shall look only to the County for the payment of such Bonds; provided, however, the Paying Agent shall forward to the County all moneys which remain unclaimed during a period five (5) years from a Bond Payment Date, provided, however, that before being required to make any such payment to the County, the Paying Agent, at the expense of the County, may conduct such investigations as may in the opinion of the Paying Agent be necessary to locate the Holders of those who would take if the Holder shall have died.

Section 9.02. Tax Covenants. Council hereby covenants and agrees that the County will comply with the requirements of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder, compliance with which is required in order that interest on the Bonds be and remain excludable from the gross income of the Holders for Federal income tax purposes. Council further covenants to file Internal Revenue Service form 8038-G at the time and in the place required therefor under the Code.

Section 9.03. Ability to Meet Arbitrage Requirement; Private Activity Limitations. Careful consideration has been given to the time in which the expenditure of the proceeds of the Bonds will be made, and it has been ascertained from due inquiry of each Bond Proceeds Recipient that all Bond proceeds will be expended within the limitations imposed by the Internal Revenue Code of 1986 as amended (the "Code"); accordingly the Council will be able to certify upon reasonable grounds that the Bonds herein provided for are not "arbitrage bonds" within the meaning of Section 148 of the Code.

The Council hereby covenants to comply with all of the restrictions and requirements of the Code as its provisions are applicable to the Bonds authorized herein in order that such Bonds shall be and remain exempt from federal income taxation. Without limiting the generality of the foregoing, the Council specifically covenants that:

(a) All property provided by the net proceeds of the Bonds will be owned by the Bond Proceeds Recipients in accordance with the rules governing the ownership of property for federal income tax purposes.

(b) The County shall not permit the proceeds of the Bonds or any facility financed with the proceeds of the Bonds to be used in any manner that would result in (i) 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 (ii) 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 County is not a party to nor will it enter into any contracts with any person for the use or management of any facility provided with the proceeds of the Bonds that do not conform to the guidelines set forth in Revenue Procedure 2017-13, as modified by the Code or subsequent

pronouncements by the Internal Revenue Service, or the County obtains the opinion of nationally recognized bond counsel that such arrangement will not adversely affect the tax exemption of the Bonds.

(d) The Bond Proceeds Recipients will not sell or lease any of the Improvements or any other property provided by the Bonds to any person unless the County obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the Bonds.

(e) The Bonds will not be federally guaranteed within the meaning of Section 149(b) of the Code. No Bond Proceeds Recipient shall be a party to any leases or sales or service contracts with any federal government agency with respect to the Improvements and shall not enter into any such leases or contracts unless the County obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of the Bonds.

The County covenants that it will cause and require to the extent recommended by Bond Counsel each Bond Proceeds Recipient to execute a certificate of representations regarding the use of Bond proceeds by that Bond Proceeds Recipient in a manner consistent with this Section 9.03, and shall not allow disbursement of any Bond proceeds to a Bond Proceeds Recipient unless its certificate of representations demonstrates that such Bond Proceeds Recipient will apply Bond proceeds disbursed to it in accordance with the requirements of this Section 9.03.

Section 9.04. Continuing Disclosure.

(a) In accordance with Act No. 442 of the Acts and Joint Ordinances of the General Assembly of the State of South Carolina, 1994, the County represents and covenants that it will file with the EMMA System maintained by the Municipal Securities Rulemaking Board or any successor thereto, a copy of its annual independent audit within thirty (30) days of its receipt and acceptance and event-specific information, within thirty (30) days of an event adversely affecting more than five percent (5%) of its revenues or five percent (5%) of its tax base.

(b) Council hereby covenants and agrees that it will comply with the requirements of (i) Rule 15c2-12 promulgated by the Securities and Exchange Commission. In this regard, the Chairman of Council is hereby authorized to execute and deliver on behalf of the County a Disclosure Dissemination Agreement in substantially the form of *Exhibit "F"* hereto, with such changes as may be approved by the Chairman of Council, his approval to be evidenced by his execution thereof.

The only remedy available to a Holder in the event of the failure of the County to comply with the provisions of this Section 9.04 shall be a writ of mandamus issued by a court of competent jurisdiction requiring the County to so comply.

Section 9.05. 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 9.06. Successors. Whenever in this Ordinance the County is named or referred to, it shall be deemed to include any entity, which may succeed to the principal functions and powers of the County, and all the covenants and agreements contained in this Ordinance or by or on behalf of the County shall bind and inure to the benefit of said successor whether so expressed or not.

Section 9.07. Ordinance to Constitute Contract. In consideration of the purchase and acceptance of the Bonds 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 County and the Holders from time to time of the Bonds, and such provisions are covenants and agreements with such Holders which the County 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 County shall be for the equal benefit, protection, and security of the Holders of any and all of the Bonds, all of which shall be of equal rank without preference, priority or distinction of any Bonds over any other Bonds.

Section 9.08. Filing of Copies of Ordinance. Copies of this Ordinance shall be filed in the offices of the Council, the office of the Clerk of Court for Newberry County (as a part of the Transcript of Proceedings) and at the offices of each of the Paying Agent and Registrar.

Section 9.09. Further Action by Offices of County. The proper officers of the County 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 9.10. Effective Date of Ordinance. This Bond Ordinance shall take effect upon its third reading and shall be forthwith codified in the Code of County Ordinances and indexed under the general heading "Bond Issue -- Not Exceeding \$35,250,000 General Obligation Bonds of Newberry County, South Carolina".

* * * *

DONE IN MEETING DULY ASSEMBLED, this _____ day of _____, 2023.

(SEAL)

Chairman, Newberry County Council

Attest:

Clerk, Newberry County Council

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Newberry County Council, State of South Carolina, will conduct the following public hearing(s) at its meeting on the ___ day of ____, 2023, to be held in the Newberry County Council Chamber, 1309 College Street, Newberry, South Carolina, at 6:00 p.m.

- An Ordinance To Provide For The Issuance And Sale Of Not Exceeding Thirty-Five Million Two Hundred Fifty Thousand Dollars (\$35,250,000) General Obligation Bonds Of Newberry County, South Carolina, The Sale And Issuance Of General Obligation Bond Anticipation Notes In Anticipation Of The Issuance Of Such Bonds, And Other Matters Relating Thereto.

At the time and place fixed for said public hearing, all taxpayers, residents or other interested persons who appear will be given an opportunity to express their views for or against the adoption of the Ordinance. A copy of the proposed Ordinance is available for inspection in the Clerk to Council's office located in the Courthouse Annex at 1309 College Street, Newberry, South Carolina, during its regular business hours. Assistance is available for those who are visually or hearing-impaired. For assistance, call the County Clerk to Council, (803) 321-2100.

Chairman, Newberry County Council

**LIST OF IMPROVEMENTS, AMOUNTS AND
BOND PROCEEDS RECIPIENTS**

<u>Item</u>	<u>Project Description</u>	<u>Cost</u>
1	Newberry County Public Safety Complex, including facilities for Emergency Services, a relocated Friendly Fire Department and a relocated Newberry Rescue Squad.	\$7,750,000
2	Improvements to City of Newberry Recreation Complex, including splash pad expansion, Miracle Field, skate park, sidewalk and paved walking trail, shade structures, additional restrooms, and maintenance access drive and maintenance building.	3,295,000
3	Improvements to Town of Prosperity parks, including Langford St. Park, Town Center Park, North Main St. Park and Town Center Football-Soccer Field.	3,150,000
4	New cell block building and upgrades to support facilities at Newberry County Detention Center.	8,000,000
5	Improvements to Town of Little Mountain Reunion Park, including park entrance upgrade, walking trail, shelter renovations with stage conversion, renovation of smokehouse/picnic shelter including bathrooms.	2,015,825
6	Downtown Newberry amphitheater and pavilion/support building.	3,650,000
7	Upgrade and Expansion of Newberry County Water and Sewer Authority's Cannon's Creek Wastewater Treatment Plant.	5,154,560
8	Renovation of Old Gallman High School for use as community center by Building Thriving Communities Foundation.	1,450,000
9	IT/Network/Security Improvements at Newberry County Courthouse.	295,000
10	Roof replacement and HVAC improvements at The Newberry Museum.	815,000
11	Improvements to Town of Pomaria's Old Pomaria School community center.	671,745
12	Improvements to Town of Whitmire City Gym.	800,000

(FORM OF BOND)

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
GENERAL OBLIGATION BOND, SERIES 20__

No. _____

INTEREST RATE	MATURITY DATE	ISSUE DATE	CUSIP
		_____ 1, 20__	

Registered Holder:

Principal Amount: **DOLLARS**

NEWBERRY COUNTY, SOUTH CAROLINA (the "County"), 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 set forth above on the Maturity Date stated above, unless this Bond be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender of this Bond at the Corporate Trust Office of _____ in the City of _____, State of _____ (the "Paying Agent"), and to pay interest on such Principal Amount as hereinafter provided at the annual Interest Rate stated above (calculated on the basis of a three hundred and sixty-day year of twelve (12) thirty-day months), until the obligation of the County with respect to the payment of such Principal Amount shall be discharged.

This Bond shall bear interest from the May 1 or the November 1 to which interest has been paid next preceding the authentication date thereof, unless the authentication date thereof is a May 1 or a November 1, in which case, from such authentication date, or from the May 1 or the November 1 to which interest has last been paid, or if dated prior to _____, then from the original issue date of such Bonds. The interest to be paid on any May 1 or November 1 shall be paid to the Person in whose name such Bond is registered at the close of business on the Record Date next preceding such May 1 or November 1. Interest on this Bond is payable on May 1 and November 1 of each year beginning _____, at which time interest for _____ () months will be due. The interest so payable on any May 1 or November 1 shall be payable to the person in whose name this Bond is registered at the close of business on the fifteenth day of the March or on the fifteenth day of the September next preceding such May 1 or November 1.

Interest hereon shall be payable by check or draft mailed at the times provided herein from the office of the Paying Agent to the person in whose name this Bond is registered at the address shown on

the registration books. The principal of and interest on this Bond 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; provided, however, that payment of the interest on this Bond shall be effected by check or draft as set forth above. This Bond is not subject to redemption prior to maturity.

This Bond is one of an issue of Bonds in the aggregate principal amount of _____ (\$ _____) of like tenor, except as to number, rate of interest and date of maturity, issued pursuant to and in accordance with the Constitution and Statutes of the State of South Carolina, including particularly the provisions of Title 4, Chapter 15, Code of Laws of South Carolina, 1976, as amended, as amended and supplemented by Title 11, Chapter 27, Code of Laws of South Carolina, 1976, as amended, and as amended and supplemented by Title 4 Chapter 10, Article 3, Code of Laws of South Carolina, 1976, as amended (collectively, the "County Bond Act"), and an Ordinance duly adopted by the County Council of the County (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 Registrar, in the office of the Paying Agent and in the office of the Clerk of Court of Newberry County, South Carolina.

For the prompt payment hereof, both principal and interest, as the same shall become due, the full faith, credit and taxing power of the County are irrevocably pledged. The Net Proceeds, as defined in the Ordinance, excluding, however, investment earnings thereon, are also pledged to secure this Bond, subject to the terms of the Ordinance.

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 and transfer taxes, but the interest hereon may be includable for franchise fees and taxes.

The Bonds are issuable only as fully registered Bonds without coupons in the denomination of \$5,000 or any multiple thereof not exceeding the principal amount of the Bonds maturing in such year. The Bonds are not subject to redemption prior to their respective maturities.

The Bonds are being issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as provided in the Ordinance. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the Securities Depository Nominee (as defined in the Ordinance), is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's Participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such Participants. Transfers of ownership shall be effected on the records of the Securities Depository and its Participants pursuant to rules and procedures established by the Securities Depository and its Participants. The County, the Registrar and the Paying Agent will recognize the Securities Depository Nominee, while the registered owner of this Bond, as the owner of this Bond for all purposes, including payments of principal of and interest on, this Bond, notices and voting. Transfer of principal and interest to Participants of the Securities Depository will be the responsibility of the Securities Depository, and transfer of principal and interest to beneficial owners of the Bonds by Participants of the Securities Depository will be the responsibility of such Participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, its Participants or persons acting through such Participants. While the Securities Depository Nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal of and interest on, this

Bond shall be made in accordance with existing arrangements between the Paying Agent or its successors under the Ordinance and the Securities Depository.

This Bond is transferable, as provided in the Ordinance, only upon the registration books kept for that purpose at the Corporate Trust Office of the Registrar 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 Registrar 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 or Bonds of like maturity and interest rate and in a like aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Paying Agent and the Registrar 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 exchange or transfer of the Bonds, the County, the Paying Agent, or the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or 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 this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the County, does not exceed any limit prescribed by such 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 this Bond and the issue of Bonds of which this Bond is one.

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, Newberry County, South Carolina, has caused this Bond to be signed in its name by the manual signature of the Chairman of the Newberry County Council and its corporate seal to be hereon reproduced and attested to by the manual signature of the Clerk to the Newberry County Council.

NEWBERRY COUNTY, SOUTH CAROLINA

(SEAL)

By: _____
Chairman, Newberry County Council

Attest:

Clerk, Newberry County Council

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Ordinance.

REGISTRAR

By: _____
Authorized Officer

Authentication Date:

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the entireties

_____ Custodian _____
(Cust) (Minor)

JT TEN - as joint tenants with right of survivorship and not as tenants in common

under Uniform Gifts to Minors Act _____
(state)

Additional abbreviations may also be used though not in above list.

(FORM OF ASSIGNMENT)

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

(Name and Address of Transferee)

the 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 Guaranteed

(Authorized Officer)

(Signature must be guaranteed by a participant in the Securities Transfer Agents Medallion Program (STAMP))

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 BOND ANTICIPATION NOTE)

**UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY
BOND ANTICIPATION NOTE
ISSUED PURSUANT TO CHAPTER 17, TITLE 11,
CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED**

INITIAL REGISTERED HOLDER:

PRINCIPAL AMOUNT:

Newberry County, South Carolina (the "County") hereby acknowledges itself indebted, and, for value received, promises to pay to the Registered Holder hereof (the "Purchaser") on _____ (the "Due Date"), the Principal Amount shown above at the office of the Paying Agent, the Newberry County Treasurer, and to pay interest on said principal sum from the date hereof at the rate of _____ per centum (____%) per annum, payable upon the stated maturity or the earlier redemption of this Note. Both the principal of and interest on this Note are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

This Note may be redeemed on and after _____, without penalty upon written notice given to the Purchaser or its assigns, at least seven (7) business days prior to such redemption and upon payment of the principal amount due, plus interest hereon to the redemption date.

This Note is issued pursuant to an Ordinance duly adopted by the County Council of Newberry County, South Carolina (the "Ordinance") in anticipation of the proceeds of general obligation bonds to be issued by the County under the authority of Chapter 15 of Title 4, Code of Laws of South Carolina 1976, as amended. For the payment of this Note, both principal and interest, the proceeds of the bonds to be issued in anticipation of which this Note is issued are hereby irrevocably pledged, together with the full faith, credit and taxing power of the County.

Certain capitalized terms used herein shall have the meanings given thereto in the Ordinance.

This Note and the interest hereon are exempt from all State, county, municipal, school district, 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 and certain franchise taxes.

This Note shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the office of the County Administrator of Newberry County, who is Registrar of this Note, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered

owner or his duly authorized attorney. Transfer of this Note is subject to the delivery to the County by the transferor thereof of a letter executed by the transferee, in form satisfactory to the County regarding the suitability of the transferee to hold this Note. This Note shall not be valid for any purpose unless the Certificate of Authentication has been executed by the Registrar.

Upon presentation at its office for such purpose the Registrar shall register or transfer, or cause to be registered or transferred, on such registry book, this Note under such reasonable regulations as the Registrar may prescribe. Upon the transfer of this Note the Registrar on behalf of the County shall issue in the name of the transferee a new fully registered Note, of the same principal amount, interest rate and maturity as the surrendered Note.

The County, the Registrar and Paying Agent may deem or treat the person in whose name this Note shall be registered upon the registry books as the absolute owner thereof, whether this Note shall be overdue or not, for the purpose of receiving payment of the principal of and interest on this Note and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon this Note to the extent of the sum or sums so paid. Neither the County nor the Registrar shall be obliged to make any such transfer of this Note during the period beginning the fifteenth calendar day preceding the maturity date thereof or at any time after the County has notified the registered owner hereof of its intent to exercise its right to redeem this Note prior to maturity.

In the event this Note is mutilated, lost, stolen or destroyed, the County may execute a new Note of like date and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the County, and in the case of any lost, stolen or destroyed Note, there shall be first furnished to the County evidence of such loss, theft or destruction satisfactory to the County, together with indemnity satisfactory to it; provided that, in the case of a holder which is a bank or insurance company, the agreement of such bank or insurance company to indemnify shall be sufficient. In the event this Note shall have matured, instead of issuing a duplicate Note, the County may pay the same without surrender thereof. The County may charge the holder of this Note with its reasonable fees and expenses in this connection.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and Statutes of the State of South Carolina to exist, to happen, or to be performed precedent to or in the issuance of this Note do exist, have happened, and have been performed in regular and due time, form and manner, and that the County has irrevocably obligated itself to issue and sell, prior to the stated maturity hereof, in the manner prescribed by law, the bonds in anticipation of which this Note is issued.

IN WITNESS WHEREOF, Newberry County, South Carolina, has caused this Note to be manually signed by the Chairman of the County Council, attested by the manual signature of the Clerk to Council of the County Council, the seal of the County impressed hereon and this Note to be dated the ____ day of _____, 2023.

NEWBERRY COUNTY, SOUTH CAROLINA

(SEAL)

Chairman, County Council

Attest:

Clerk to Council, Newberry County

CERTIFICATE OF AUTHENTICATION

This Note is the Note authorized by the above-described Ordinance.

NEWBERRY COUNTY, SOUTH CAROLINA
as Registrar

Clerk to Council, Newberry County

OFFICIAL NOTICE OF SALE

§ _____
GENERAL OBLIGATION BONDS, SERIES 20__
NEWBERRY COUNTY, SOUTH CAROLINA

Time and Place of Sale: **NOTICE IS HEREBY GIVEN** that sealed proposals, addressed to the undersigned, will be received by the County Council, the governing body of Newberry County, South Carolina (the "County"), until _____ (local time) on

_____, _____, 2023

(the "Sale Date") at which time said proposals will be publicly opened in the **Office of the Newberry County Administrator, Newberry County Administration Center, Newberry, South Carolina** for the purchase of \$ _____ **GENERAL OBLIGATION BONDS, SERIES 20__, OF NEWBERRY COUNTY, SOUTH CAROLINA** (the "Bonds").

In the event that the County does not receive bids from at least three Underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds, the County shall so advise the winning bidder. The County may determine to treat (i) the first price at which 10% of the Bonds (the "10% test") is sold to the Public as the issue price of the Bonds and/or (ii) the initial offering price to the Public as of the sale date of the Bonds as the issue price (the "hold-the-offering-price rule"). The winning bidder shall advise the County if the Bonds satisfy the 10% test as of the date and time of the award of the Bonds. The County shall promptly advise the winning bidder, at or before the time of award of the Bonds, whether the Bonds shall be subject to the 10% test or shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation in the event that the County determines to apply the hold-the-offering-price rule to the Bonds. Bidders should prepare their bids on the assumption that the Bonds will be subject to the hold-the-offering-price rule in order to establish the issue price of the Bonds.

Details of the Bonds: The Bonds will be issued initially under the DTC book-entry only system in the form of single, fully registered bonds in the aggregate principal amount maturing in each year, registered in the name of Cede & Co., as the registered owner and nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository for the Bonds. The Bonds will be dated as of _____, 20__; will be numbered from R 1 upward; and will mature serially in successive annual installments, on May 1 in each of the years and in the principal amounts as follows:

[Maturity Schedule Inserted Here]

SAID BONDS will bear interest from _____, 20__, at a rate or rates to be named by the bidder, payable on May 1 and November 1 of each year (the "Bond Payment Dates") commencing _____.

Registrar and Paying Agent: Initially, a financial institution designated by the County shall act as Paying Agent and Registrar. So long as the Bonds remain outstanding in book-entry form with DTC, all payments of principal and interest with respect to the Bonds shall be through the facilities of DTC.

Bid Requirements: Bidders are invited to name the rate or rates of interest which the Bonds are to bear, and unless all bids are rejected, they will be awarded to the bidder offering to purchase them at the lowest (net/true) interest cost to the County at a price of not less than par and accrued interest to the date of delivery. Bidders may name any number of rates of interest, in any variations selected by the bidder except that:

- (a) all Bonds of the same maturity shall bear the same rate of interest;
- (b) no rate of interest shall be more than ____ per centum (___%) higher than the lowest rate of interest named;
- (c) each interest rate named shall be a multiple of one-twentieth (1/20th) or one-eighth (1/8) of one per centum (1%); and
- (d) any sum named by way of premium shall be paid in cash as a part of the purchase price.

Bidders are requested to present tabulations showing aggregate interest cost in dollars and cents, but such tabulations are not required and will not be regarded as a part of the bid. The right is reserved to reject all proposals, and to waive technicalities, but no auction sale will be conducted.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20th or 1/8th of 1% with no greater difference than 3% between the highest and lowest rates of interest named by a bidder. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for the Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds or a bid at a price less than par will not be considered. Any premium offered must be paid in cash as a part of the purchase price for the Bonds.

Bid Submission: Proposals for the purchase of the Bonds must be submitted to the County through the BiDCOMP/Parity Electronic Bid Submission System (“PARITY”), and no other form of bid or provider of electronic bidding services will be accepted. Such bids are to be publicly opened and read at such time and place on said day. The time as maintained by PARITY shall constitute the official time with respect to all bids submitted. Bids must be received by the County, before the time stated above, and the County shall not be responsible for any delay, failure, misdirection or error in the means of transmission selected by any bidder. The County is not liable for any costs incurred in the preparation, delivery, acceptance or rejection of any bid. If any provisions of this Official Notice of Sale conflict with information provided by PARITY as the approved provider of electronic bidding services, this Official Notice of Sale shall control. Further information about PARITY may be obtained from IPREO, Municipal Services, telephone (212) 849-5023, or munis@ipreo.com.

Bid Deposit: The successful bidder for the Bonds shall within 24 hours after the award thereof wire immediately available funds in the amount of \$50,000 to an account as directed by the County as a good faith deposit. The County reserves the right to cancel the award of the Bonds upon a failure of the successful bidder to comply with this paragraph. The deposit will be applied to the purchase price of the Bonds or returned to the bidder in the event the Bonds are not issued. No credit for interest or any costs of the bidder will be allowed in either case.

Adjustment of Par Amount of Bonds: The aggregate principal amount of the Bonds is subject to adjustment, both before and after the receipt and opening of sealed bids for their purchase; provided that in no event shall the principal amount be adjusted by more than 15% following the sale of the Bonds.

Changes to be made prior to the sale will be published on an electronic dissemination service not later than 9:30 a.m. EDT on the date of sale.

An adjustment in the principal amount of the Bonds made following the receipt of bids therefor shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award thereof, bidders must disclose to the County in connection with their bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment in the principal amount of the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. The Bonds, adjusted as to principal amount, will bear interest at the same rate and must have the same reoffering yield as specified by the successful bidder therefor in its bid for the purchase of such Bonds. Nevertheless, the award of Bonds will be made to the bidder whose proposal produces the lowest net interest cost without taking into account any reduction in principal amount pursuant to this paragraph.

Award of Bonds: The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County from the date of delivery of the Bonds. The Board 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 4:00 p.m., South Carolina time, on the date of the sale. Bids submitted may not be withdrawn prior to the award. In the event two or more bidders offer to purchase the Bonds at the same lowest TIC, the County will award the Bonds to one of such bidders based upon which bid was received first, as determined by reference to the time stamp displayed on PARITY.

Insurance: If a bidder for the Bonds desires to have the Bonds insured, the bidder shall specify in its bid whether bond insurance will be purchased and the premium of such bond insurance must be paid at or prior to closing by the successful bidder.

Purpose: The Bonds are issued for the purpose of providing funds to construct certain improvements within the County as approved by a referendum held on November 8, 2022 pursuant to the Capital Project Sales Tax Act, Sections 4-10-300 *et seq.*, Code of Laws of South Carolina, 1976, as amended (the "Sales Tax Act").

Security: The Bonds shall constitute binding general obligations of the County and the full faith, credit, resources and taxing power of the County are irrevocably pledged for the payment of the Bonds. The Bonds are additionally secured by amounts paid to the County from a special one-percent capital project sales tax imposed in Newberry County pursuant to the Sales Tax Act (excluding investment earnings derived therefrom).

Legal Opinion: Purchasers will be furnished with the Bonds and an opinion on their validity by Haynsworth Sinkler Boyd, P.A., Attorneys at Law, Columbia, South Carolina, Bond Counsel, a copy of which will be attached to each Bond and with the usual closing proofs, which will include (a) a certificate that there is no litigation threatened or pending to restrain the issuance or sale of said Bonds, and (b) certificates establishing that the Bonds are not "arbitrage" bonds, within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations issued thereunder as in effect on the occasion of the delivery of the Bonds.

Certificate as to Issue Price: The County expects and intends that the bid for the Bonds will satisfy the competitive sale requirements under provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining "competitive sale" for purposes of establishing the issue price of the Bonds), including, among other things, receipt of bids for the Bonds from at least three underwriters, who have established industry

reputations for underwriting new issuances of municipal bonds (a “Qualified Competitive Bid”). The County will advise the Purchaser of the Bonds as promptly as possible after the bids are opened whether the bid constitutes a Qualified Competitive Bid, or, in the alternative, a bid that fails to satisfy such requirements (a “Nonqualified Competitive Bid”). It is noted that procedures for a Nonqualified Competitive Bid may require the winning bidder of the Bonds and, if applicable, other underwriters of the Bonds, to hold the initial offering prices for certain maturities of the Bonds for up to five business days after the sale date, as further specified in the form of such certification.

The Purchaser of the Bonds must deliver to the County at closing an “issue price” or similar certificate setting forth the reasonably expected initial reoffering price to the public of the Bonds, together with the supporting pricing wires or equivalent communications, substantially in the form attached hereto as Exhibit A, if the bid constitutes a Qualified Competitive Bid, or as Exhibit B, if the bid constitutes a Nonqualified Competitive Bid, with such modifications as may be appropriate or necessary, in the reasonable judgement of the Purchaser, the County, and Bond Counsel.

Delivery: The Bonds will be delivered to DTC on or about _____, 202_, against payment in federal or other immediately available funds. The certificates and other documents relating to the Bonds will be delivered to the Purchasers on the date of delivery of the Bonds. The Bonds will be delivered within thirty (30) days of the date of sale, in New York, New York, at the expense of the County, or at such other place as may be agreed upon with the Purchasers at the expense of the Purchaser. The balance of the purchase price then due (including the amount of accrued interest) must be paid in Federal funds or other immediately available funds.

Official Statement: The County has prepared a Preliminary Official Statement relating to the Bonds which the County deems, for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the “Rule”), to be final as of its date. The County shall deliver, at closing, a certificate executed by appropriate officials of the County to the effect that as of the date of delivery the information contained in the Official Statement, and any supplement to the Official Statement, relating to the County and the Bonds is true and correct in all material respects, and that the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

The County will furnish without cost sufficient copies of the Official Statement to the successful bidder within seven (7) working days after the award of the Bonds to allow it to comply with the Rule. The successful bidder must notify the County in writing within two (2) working days of the award of the Bonds of the number of copies of the Official Statement it requires.

Continuing Disclosure: In order to assist bidders in complying with the provisions of the Rule, the County will undertake, pursuant to the Bond Ordinance and a Disclosure Dissemination Agreement, to provide certain annual information reports and notices of certain events. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement. The delivery by the County of a fully executed Disclosure Dissemination Agreement by the County dated the date of delivery of the Bonds, is a condition precedent to the delivery of the Bonds as described in the Notice of Sale. Failure by the County to deliver such Disclosure Dissemination Agreement will relieve the successful bidder of its contractual obligation arising from the acceptance of its bid. The Preliminary Official Statement has been deemed final by the County for purposes of paragraph (b)(1) of the Rule but is subject to revision, amendment and completion in the final Official Statement as provided in the Rule.

In accordance with Section 1-11-85 of the Code of Laws of South Carolina, 1976, as amended, the County has covenanted in the Bond Ordinance authorizing the issuance of the Bonds to file for

availability in the secondary bond market when requested an annual independent audit, within thirty (30) days of the County's receipt of the audit; and event-specific information, within thirty (30) days of an event adversely affecting more than five percent (5%) of the County's revenue or tax base. The only remedy for failure by the County to comply with this covenant shall be an action for specific performance. Moreover, the County has specifically reserved the right to amend the covenant to reflect any change in Section 1-11-85 without the consent of any bondholder.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the Purchaser thereof to accept delivery of and pay for said Bonds. All expenses of preparation of the Bonds shall be paid by the County, but the CUSIP Bureau charge for the assignment of the numbers shall be paid by the Purchaser of the Bonds.

Additional Information: Persons seeking information should communicate with Jeff Shacker, Newberry County Administrator, Newberry, South Carolina, (telephone (803) 321-2100), Bond Counsel, Theodore B. DuBose, Esquire, Haynsworth Sinkler Boyd, P.A., Columbia, South Carolina (telephone (803) 779-3080), or the County's Financial Advisor with respect to the offering of the Bonds, Brian Nurick, Compass Municipal Advisors LLC, 1310 Pulaski St., Columbia, South Carolina (telephone (859) 368-9616).

County Administrator
Newberry County, South Carolina

EXHIBIT A

**FORM OF ISSUE PRICE CERTIFICATE
FOR QUALIFIED COMPETITIVE BID**

§ _____
GREENWOOD COUNTY SCHOOL DISTRICT NO. 52, SOUTH CAROLINA
GENERAL OBLIGATION BONDS, SERIES 2023

The undersigned, a duly authorized officer of _____, as the purchaser (the “Purchaser”) of the above-captioned obligations (the “Bonds”) issued by Greenwood County School District No. 52, South Carolina (the “School District”), represents and certifies, to establish the “issue price” of the Bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), and certain other matters, that:

1. Reasonably Expected Initial Offering Price.

(a) As of the Sale Date, the reasonably expected initial offering prices of the Bonds to the Public by the Purchaser are the prices listed in Schedule A (the “Expected Offering Prices”). The Expected Offering Prices are the prices for the Maturities of the Bonds used by the Purchaser in formulating its bid to purchase the Bonds. Attached as Schedule B is a true and correct copy of the bid provided by the Purchaser to purchase the Bonds.

(b) The Purchaser was not given the opportunity to review other bids prior to submitting its bid.

(c) The bid submitted by the Purchaser constituted a firm offer to purchase the Bonds.

(d) The Purchaser has an established industry reputation for underwriting new issuances of municipal bonds.

2. Defined Terms.

(a) *Maturity* means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(b) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to an Underwriter. The term “related party” for purposes of this certificate generally means any two or more persons who have greater than 50% common ownership, directly or indirectly.

(c) *Sale Date* means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is _____, 2023.

(d) *Underwriter* as used herein means (i) any person that agrees pursuant to a written contract with the School District (or with the lead Underwriter to form a syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser's interpretation of any laws, including specifically Sections 103 and 148 of the Code and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the School District with respect to certain of the representations set forth in the Tax and Arbitrage Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Haynsworth Sinkler Boyd, P.A., Bond Counsel to the School District, in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the School District from time to time relating to the Bonds.

Signed this ____ day of _____, 2023.

[PURCHASER]

By: _____
Name: _____
Title: _____

Schedule A

Expected Offering Prices

Schedule B

Copy of Winning Bid

EXHIBIT B

**FORM OF ISSUE PRICE CERTIFICATE
FOR NONQUALIFIED COMPETITIVE BID**

§ _____
GREENWOOD COUNTY SCHOOL DISTRICT NO. 52, SOUTH CAROLINA
GENERAL OBLIGATION BONDS, SERIES 2023

The undersigned, a duly authorized officer of _____, as the purchaser (the “Purchaser”) of the a of the Internal Revenue Code of 1986, as amended (the “Code”), and certain other matters, that:

1. Sale of the General Rule Maturities.

As of the date of this Certificate, for each Maturity of the General Rule Maturities, the first price at which 10% of such Maturity was sold by the Purchaser to the Public is the respective price listed in Schedule A.

2. Initial Offering Price of the Hold-the-Offering-Price Maturities.

(a) The Purchaser offered the Hold-the-Offering Price Maturities to the Public for purchase at the respective initial offering prices listed in Schedule A (the “Initial Offering Prices”) on or before the Sale Date. A copy of the pricing wire or equivalent communication for the Bonds is attached to this Certificate as Schedule B.

(b) As set forth in the Official Notice of Sale, the Purchaser has agreed in writing that, (i) for each Maturity of the Hold-the-Offering-Price Maturities, it would neither offer nor sell any of the Bonds of such Maturity to any person at a price that is higher than the Initial Offering Price for such Maturity during the Holding Period for such Maturity (the “hold-the-offering-price rule”), and (ii) any selling group agreement shall contain the agreement of each dealer who is a member of the selling group, and any retail distribution agreement shall contain the agreement of each broker-dealer who is a party to the retail distribution agreement, to comply with the hold-the-offering-price rule. Pursuant to the foregoing, no Underwriter has offered or sold any Maturity of the Hold-the-Offering Price Maturities at a price that is higher than the respective Initial Offering Price for that Maturity of the Bonds during the Holding Period.

3. Defined Terms.

(a) General Rule Maturities means those Maturities of the Bonds shown in Schedule A hereto as the “General Rule Maturities.”

(b) Hold-the-Offering-Price Maturities means those Maturities of the Bonds listed in Schedule A hereto as the “Hold-the-Offering-Price Maturities.”

(c) Holding Period means, with respect to a Hold-the-Offering-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of the fifth business day after the Sale Date, or (ii) the date on which the Purchaser has sold at least 10% of such Hold-the-Offering-Price Maturity to the Public at prices that are no higher than the Initial Offering Price for such Hold-the-Offering-Price Maturity.

(d) Issuer means Greenwood County School District No. 52, South Carolina.

(e) Maturity means Bonds with the same credit and payment terms. Bonds with different maturity dates, or Bonds with the same maturity date but different stated interest rates, are treated as separate Maturities.

(f) Public means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than a Purchaser or a related party to the Purchaser. The term “related party” for purposes of this Certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(g) Sale Date means the first day on which there is a binding contract in writing for the sale of a Maturity of the Bonds. The Sale Date of the Bonds is _____, 2023.

(h) Underwriter means (i) any person that agrees pursuant to a written contract with the Issuer (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Purchaser’s interpretation of any laws, including specifically Sections 103 and 148 of the Code and the Treasury Regulations thereunder. The undersigned understands that the foregoing information will be relied upon by the School District with respect to certain of the representations set forth in the Tax and Arbitrage Certificate and with respect to compliance with the federal income tax rules affecting the Bonds, and by Haynsworth Sinkler Boyd, P.A., Bond Counsel to the School District in connection with rendering its opinion that the interest on the Bonds is excluded from gross income for federal income tax purposes, the preparation of the Internal Revenue Service Form 8038-G, and other federal income tax advice that it may give to the School District from time to time relating to the Bonds.

Signed this ____ day of _____, 2023.

[PURCHASER]

By: _____
Name: _____
Title: _____

Schedule A

Sale Prices of the General Rule Maturities

Initial Offering Prices of the Hold-the-Offering-Price Maturities

Schedule B
Pricing Wire or Equivalent Communication

FORM OF DISCLOSURE DISSEMINATION AGREEMENT

This Disclosure Dissemination Agent Agreement (the "Disclosure Agreement"), dated as of _____, 20__, is executed and delivered by Newberry County, South Carolina (the "Issuer") and Digital Assurance Certification, L.L.C., as exclusive Disclosure Dissemination Agent (the "Disclosure Dissemination Agent" or "DAC") for the benefit of the Holders (hereinafter defined) of the Bonds (hereinafter defined) and in order to assist the Issuer in processing certain continuing disclosure with respect to the Bonds in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time (the "Rule").

The services provided under this Disclosure Agreement solely relate to the execution of instructions received from the Issuer through use of the DAC system and do not constitute "advice" within the meaning of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act"). DAC will not provide any advice or recommendation to the Issuer or anyone on the Issuer's behalf regarding the "issuance of municipal securities" or any "municipal financial product" as defined in the Act and nothing in this Disclosure Agreement shall be interpreted to the contrary. DAC is not a "Municipal Advisor" as such term is defined in Section 15B of the Securities Exchange Act of 1934, as amended, and related rules.

SECTION 1. Definitions. Capitalized terms not otherwise defined in this Disclosure Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with the Rule, in the Official Statement (hereinafter defined). The capitalized terms shall have the following meanings:

"Annual Filing Date" means the date, set in Sections 2(a) and 2(f) hereof, by which the Annual Report is to be filed with the MSRB.

"Annual Financial Information" means annual financial information as such term is used in paragraph (b)(5)(i) of the Rule and specified in Section 3(a) of this Disclosure Agreement.

"Annual Report" means an Annual Report containing Annual Financial Information described in and consistent with Section 3 of this Disclosure Agreement.

"Audited Financial Statements" means the annual financial statements of the Issuer for the prior fiscal year, certified by an independent auditor as prepared in accordance with generally accepted accounting principles or otherwise, as such term is used in paragraph (b)(5)(i)(B) of the Rule and specified in Section 3(b) of this Disclosure Agreement.

"Bonds" means the bonds as listed on the attached Exhibit A, with the 9-digit CUSIP numbers relating thereto.

"Certification" means a written certification of compliance signed by the Disclosure Representative stating that the Annual Report, Audited Financial Statements, Notice Event notice, Failure to File Event notice, Voluntary Event Disclosure or Voluntary Financial Disclosure delivered to the Disclosure Dissemination Agent is the Annual Report, Audited Financial Statements, Notice Event notice, Failure to File Event notice, Voluntary Event Disclosure or Voluntary Financial Disclosure required to be submitted to the MSRB under this Disclosure Agreement. A Certification shall accompany each such document submitted to the Disclosure Dissemination Agent by the Issuer and include the full name of the Bonds and the 9-digit CUSIP numbers for all Bonds to which the document applies.

“Disclosure Dissemination Agent” means Digital Assurance Certification, L.L.C., acting in its capacity as Disclosure Dissemination Agent hereunder, or any successor Disclosure Dissemination Agent designated in writing by the Issuer pursuant to Section 9 hereof.

“Disclosure Representative” means the Executive Director of Finance or his or her designee, or such other person as the Issuer shall designate in writing to the Disclosure Dissemination Agent from time to time as the person responsible for providing Information to the Disclosure Dissemination Agent.

“Failure to File Event” means the Issuer’s failure to file an Annual Report on or before the Annual Filing Date.

“Financial Obligation” as used in this Disclosure Agreement is defined in the Rule as (i) a debt obligation; (ii) derivative instrument entered into in connection with, or pledged as a security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

“Force Majeure Event” means: (i) acts of God, war, or terrorist action; (ii) failure or shut-down of the Electronic Municipal Market Access system maintained by the MSRB; or (iii) to the extent beyond the Disclosure Dissemination Agent’s reasonable control, interruptions in telecommunications or utilities services, failure, malfunction or error of any telecommunications, computer or other electrical, mechanical or technological application, service or system, computer virus, interruptions in Internet service or telephone service (including due to a virus, electrical delivery problem or similar occurrence) that affect Internet users generally, or in the local area in which the Disclosure Dissemination Agent or the MSRB is located, or acts of any government, regulatory or any other competent authority the effect of which is to prohibit the Disclosure Dissemination Agent from performance of its obligations under this Disclosure Agreement.

“Holder” means any person (a) having the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries) or (b) treated as the owner of any Bonds for federal income tax purposes.

“Information” means, collectively, the Annual Reports, the Audited Financial Statements, the Notice Event notices, the Failure to File Event notices, the Voluntary Event Disclosures and the Voluntary Financial Disclosures.

“MSRB” means the Municipal Securities Rulemaking Board, or any successor thereto, established pursuant to Section 15B(b)(1) of the Securities Exchange Act of 1934.

“Notice Event” means any of the events enumerated in paragraph (b)(5)(i)(C) of the Rule and listed in Section 4(a) of this Disclosure Agreement.

“Obligated Person” means any person, including the Issuer, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the Bonds (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities), as shown on Exhibit A.

“Official Statement” means that Official Statement prepared by the Issuer in connection with the Bonds, as listed on Exhibit A.

“Trustee” means the institution, if any, identified as such in the document under which the Bonds were issued.

“Voluntary Event Disclosure” means information of the category specified in any of subsections (e)(vi)(1) through (e)(vi)(11) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(a) of this Disclosure Agreement.

“Voluntary Financial Disclosure” means information of the category specified in any of subsections (e)(vii)(1) through (e)(vii)(9) of Section 2 of this Disclosure Agreement that is accompanied by a Certification of the Disclosure Representative containing the information prescribed by Section 7(b) of this Disclosure Agreement.

SECTION 2. Provision of Annual Reports.

(a) The Issuer shall provide, annually, an electronic copy of the Annual Report and Certification to the Disclosure Dissemination Agent, together with a copy for the Trustee, not later than the Annual Filing Date. Promptly upon receipt of an electronic copy of the Annual Report and the Certification, the Disclosure Dissemination Agent shall provide an Annual Report to the MSRB not later than the February 1 after the end of each fiscal year of the Issuer, commencing with February 1, 2024. Such date and each anniversary thereof is the Annual Filing Date. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross reference other information as provided in Section 3 of this Disclosure Agreement.

(b) If on the fifteenth (15th) day prior to the Annual Filing Date, the Disclosure Dissemination Agent has not received a copy of the Annual Report and Certification, the Disclosure Dissemination Agent shall contact the Disclosure Representative by telephone and in writing (which may be by e-mail) to remind the Issuer of its undertaking to provide the Annual Report pursuant to Section 2(a). Upon such reminder, the Disclosure Representative shall either (i) provide the Disclosure Dissemination Agent with an electronic copy of the Annual Report and the Certification no later than two (2) business days prior to the Annual Filing Date, or (ii) instruct the Disclosure Dissemination Agent in writing that the Issuer will not be able to file the Annual Report within the time required under this Disclosure Agreement, state the date by which the Annual Report for such year will be provided and instruct the Disclosure Dissemination Agent to immediately send a Failure to File Event notice to the MSRB in substantially the form attached as Exhibit B, which may be accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(c) If the Disclosure Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on Annual Filing Date (or, if such Annual Filing Date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a Failure to File Event shall have occurred and the Issuer irrevocably directs the Disclosure Dissemination Agent to immediately send a Failure to File Event notice to the MSRB in substantially the form attached as Exhibit B without reference to the anticipated filing date for the Annual Report, which may be accompanied by a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

(d) If Audited Financial Statements of the Issuer are prepared but not available prior to the Annual Filing Date, the Issuer shall, when the Audited Financial Statements are available, provide at such time an electronic copy to the Disclosure Dissemination Agent, accompanied by a Certification, together with a copy for the Trustee, if any, for filing with the MSRB.

(e) The Disclosure Dissemination Agent shall:

- (i) verify the filing specifications of the MSRB each year prior to the Annual Filing Date;

- (ii) upon receipt, promptly file each Annual Report received under Sections 2(a) and 2(b) hereof with the MSRB;
- (iii) upon receipt, promptly file each Audited Financial Statement received under Section 2(d) hereof with the MSRB;
- (iv) upon receipt, promptly file the text of each Notice Event received under Sections 4(a) and 4(b)(ii) hereof with the MSRB, identifying the Notice Event as instructed by the Issuer pursuant to Section 4(a) or 4(b)(ii) hereof (being any of the categories set forth below) when filing pursuant to Section 4(c) of this Disclosure Agreement:
 - 1. “Principal and interest payment delinquencies;”
 - 2. “Non-Payment related defaults, if material;”
 - 3. “Unscheduled draws on debt service reserves reflecting financial difficulties;”
 - 4. “Unscheduled draws on credit enhancements reflecting financial difficulties;”
 - 5. “Substitution of credit or liquidity providers, or their failure to perform;”
 - 6. “Adverse tax opinions, IRS notices or events affecting the tax status of the security;”
 - 7. “Modifications to rights of securities holders, if material;”
 - 8. “Bond calls, if material;”
 - 9. “Defeasances;”
 - 10. “Release, substitution, or sale of property securing repayment of the securities, if material;”
 - 11. “Rating changes;”
 - 12. “Tender offers;”
 - 13. “Bankruptcy, insolvency, receivership or similar event of the obligated person;”
 - 14. “Merger, consolidation, or acquisition of the obligated person, if material;”
 - 15. “Appointment of a successor or additional trustee, or the change of name of a trustee, if material;”
 - 16. “Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material;” and

17. “Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.
- (v) upon receipt (or irrevocable direction pursuant to Section 2(c) of this Disclosure Agreement, as applicable), promptly file a completed copy of Exhibit B to this Disclosure Agreement with the MSRB, identifying the filing as “Failure to provide annual financial information as required” when filing pursuant to Section 2(b)(ii) or Section 2(c) of this Disclosure Agreement;
- (vi) upon receipt, promptly file the text of each Voluntary Event Disclosure received under Section 7(a) hereof with the MSRB, identifying the Voluntary Event Disclosure as instructed by the Issuer pursuant to Section 7(a) (being any of the categories set forth below) when filing pursuant to Section 7(a) of this Disclosure Agreement:
1. “amendment to continuing disclosure undertaking;”
 2. “change in obligated person;”
 3. “notice to investors pursuant to bond documents;”
 4. “certain communications from the Internal Revenue Service;” other than those communications included in the Rule;
 5. “secondary market purchases;”
 6. “bid for auction rate or other securities;”
 7. “capital or other financing plan;”
 8. “litigation/enforcement action;”
 9. “change of tender agent, remarketing agent, or other on-going party;”
 10. “derivative or other similar transaction;” and
 11. “other event-based disclosures;”
- (vii) upon receipt, promptly file the text of each Voluntary Financial Disclosure received under Section 7(b) hereof with the MSRB, identifying the Voluntary Financial Disclosure as instructed by the Issuer pursuant to Section 7(b) (being any of the categories set forth below) when filing pursuant to Section 7(b) of this Disclosure Agreement:
1. “quarterly/monthly financial information;”
 2. “change in fiscal year/timing of annual disclosure;”
 3. “change in accounting standard;”
 4. “interim/additional financial information/operating data;”
 5. “budget;”

6. “investment/debt/financial policy;”
7. “information provided to rating agency, credit/liquidity provider or other third party;”
8. “consultant reports;” and
9. “other financial/operating data.”

(viii) provide the Issuer evidence of the filings of each of the above when made, which shall be by means of the DAC system, for so long as DAC is the Disclosure Dissemination Agent under this Disclosure Agreement.

(f) The Issuer may adjust the Annual Filing Date upon change of its fiscal year by providing written notice of such change and the new Annual Filing Date to the Disclosure Dissemination Agent, Trustee (if any) and the MSRB, provided that the period between the existing Annual Filing Date and new Annual Filing Date shall not exceed one year.

(g) Anything in this Disclosure Agreement to the contrary notwithstanding, any Information received by the Disclosure Dissemination Agent before 6:00 p.m. Eastern time on any business day that it is required to file with the MSRB pursuant to the terms of this Disclosure Agreement and that is accompanied by a Certification and all other information required by the terms of this Disclosure Agreement will be filed by the Disclosure Dissemination Agent with the MSRB no later than 11:59 p.m. Eastern time on the same business day; provided, however, the Disclosure Dissemination Agent shall have no liability for any delay in filing with the MSRB if such delay is caused by a Force Majeure Event provided that the Disclosure Dissemination Agent uses reasonable efforts to make any such filing as soon as possible.

SECTION 3. Content of Annual Reports.

(a) Each Annual Report shall contain Annual Financial Information with respect to the Issuer, including:

1. Most recently completed market and assessed valuation of the County in the form appearing at page ___ of the Official Statement.
2. Tax Levy and Collections for most recently completed fiscal year in the form appearing at page ___ of the Official Statement.
3. Ten Largest Taxpayers in County for most recently completed fiscal year in the form appearing at page ___ of the Official Statement.
4. Capital Project Sales Tax receipts by in the County for the most recently completed fiscal year.

(b) Audited Financial Statements prepared in accordance with generally accepted accounting principles (“GAAP”) as described in the Official Statement will be included in the Annual Report. If audited financial statements are not available, then unaudited financial statements, prepared in accordance with GAAP as described in the Official Statement will be included in the Annual Report. In such event, Audited Financial Statements (if any) will be provided pursuant to Section 2(d).

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Issuer is an “obligated person” (as defined by the Rule), which have been previously filed with the Securities and Exchange Commission or

available on the MSRB Internet Website. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The Issuer will clearly identify each such document so incorporated by reference.

The Issuer will reserve the right to modify from time to time the specific type of information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the Issuer; provided that the Issuer will agree that any such modification will be done in a manner consistent with the Rule.

SECTION 4. Reporting of Notice Events.

(a) The occurrence of any of the following events with respect to the Bonds constitutes a Notice Event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of Bond holders, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership or similar event of the Obligated Person;

Note to subsection (a)(12) of this Section 4: For the purposes of the event described in subsection (a)(12) of this Section 4, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for an Obligated Person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Obligated Person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Obligated Person.

13. The consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of the Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. The incurrence of a financial obligation of an Obligated Person, if material, or an agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of an Obligated Person, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of an Obligated Person, any of which reflect financial difficulties.

The Issuer shall, in a timely manner not later than nine (9) business days after its occurrence, notify the Disclosure Dissemination Agent in writing of the occurrence of a Notice Event. Such notice shall instruct the Disclosure Dissemination Agent to report the occurrence pursuant to subsection (c) and shall be accompanied by a Certification. Such notice or Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Issuer desires to make, contain the written authorization of the Issuer for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Issuer desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(b) The Disclosure Dissemination Agent is under no obligation to notify the Issuer or the Disclosure Representative of an event that may constitute a Notice Event. In the event the Disclosure Dissemination Agent so notifies the Disclosure Representative, the Disclosure Representative will within two business days of receipt of such notice (but in any event not later than the tenth business day after the occurrence of the Notice Event, if the Issuer determines that a Notice Event has occurred), instruct the Disclosure Dissemination Agent that either (i) a Notice Event has not occurred and no filing is to be made or (ii) a Notice Event has occurred and the Disclosure Dissemination Agent is to report the occurrence pursuant to subsection (c) of this Section 4, together with a Certification. Such Certification shall identify the Notice Event that has occurred (which shall be any of the categories set forth in Section 2(e)(iv) of this Disclosure Agreement), include the text of the disclosure that the Issuer desires to make, contain the written authorization of the Issuer for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Issuer desires for the Disclosure Dissemination Agent to disseminate the information (provided that such date is not later than the tenth business day after the occurrence of the Notice Event).

(c) If the Disclosure Dissemination Agent has been instructed by the Issuer as prescribed in subsection (a) or (b)(ii) of this Section 4 to report the occurrence of a Notice Event, the Disclosure Dissemination Agent shall promptly file a notice of such occurrence with MSRB in accordance with Section 2(e)(iv) hereof. This notice may be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-1.

SECTION 5. CUSIP Numbers. The Issuer will provide the Dissemination Agent with the CUSIP numbers for (i) new bonds at such time as they are issued or become subject to the Rule and (ii)

any Bonds to which new CUSIP numbers are assigned in substitution for the CUSIP numbers previously assigned to such Bonds.

SECTION 6. Additional Disclosure Obligations. The Issuer acknowledges and understands that other state and federal laws, including but not limited to the Securities Act of 1933 and Rule 10b-5 promulgated under the Securities Exchange Act of 1934, may apply to the Issuer, and that the duties and responsibilities of the Disclosure Dissemination Agent under this Disclosure Agreement do not extend to providing legal advice regarding such laws. The Issuer acknowledges and understands that the duties of the Disclosure Dissemination Agent relate exclusively to execution of the mechanical tasks of disseminating information as described in this Disclosure Agreement.

SECTION 7. Voluntary Filing.

(a) The Issuer may instruct the Disclosure Dissemination Agent to file a Voluntary Event Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Event Disclosure (which shall be any of the categories set forth in Section 2(e)(vi) of this Disclosure Agreement), include the text of the disclosure that the Issuer desires to make, contain the written authorization of the Issuer for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Issuer desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Issuer as prescribed in this Section 7(a) to file a Voluntary Event Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Event Disclosure with the MSRB in accordance with Section 2(e)(vi) hereof. This notice may be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-2.

(b) The Issuer may instruct the Disclosure Dissemination Agent to file a Voluntary Financial Disclosure with the MSRB from time to time pursuant to a Certification of the Disclosure Representative. Such Certification shall identify the Voluntary Financial Disclosure (which shall be any of the categories set forth in Section 2(e)(vii) of this Disclosure Agreement), include the text of the disclosure that the Issuer desires to make, contain the written authorization of the Issuer for the Disclosure Dissemination Agent to disseminate such information, and identify the date the Issuer desires for the Disclosure Dissemination Agent to disseminate the information. If the Disclosure Dissemination Agent has been instructed by the Issuer as prescribed in this Section 7(b) hereof to file a Voluntary Financial Disclosure, the Disclosure Dissemination Agent shall promptly file such Voluntary Financial Disclosure with the MSRB in accordance with Section 2(e)(vii) hereof. This notice may be filed with a cover sheet completed by the Disclosure Dissemination Agent in the form set forth in Exhibit C-3.

(c) The parties hereto acknowledge that the Issuer is not obligated pursuant to the terms of this Disclosure Agreement to file any Voluntary Event Disclosure pursuant to Section 7(a) hereof or any Voluntary Financial Disclosure pursuant to Section 7(b) hereof.

(d) Nothing in this Disclosure Agreement shall be deemed to prevent the Issuer from disseminating any other information through the Disclosure Dissemination Agent using the means of dissemination set forth in this Disclosure Agreement or including any other information in any Annual Report, Audited Financial Statements, Notice Event notice, Failure to File Event notice, Voluntary Event Disclosure or Voluntary Financial Disclosure, in addition to that required by this Disclosure Agreement. If the Issuer chooses to include any information in any Annual Report, Audited Financial Statements, Notice Event notice, Failure to File Event notice, Voluntary Event Disclosure or Voluntary Financial Disclosure in addition to that which is specifically required by this Disclosure Agreement, the Issuer shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report, Audited Financial Statements, Notice Event notice, Failure to File Event notice, Voluntary Event Disclosure or Voluntary Financial Disclosure.

SECTION 8. Termination of Reporting Obligation. The obligations of the Issuer and the Disclosure Dissemination Agent under this Disclosure Agreement shall terminate with respect to the Bonds upon the legal defeasance, prior redemption or payment in full of all of the Bonds, when the Issuer is no longer an obligated person with respect to the Bonds, or upon delivery by the Disclosure Representative to the Disclosure Dissemination Agent of an opinion of counsel expert in federal securities laws to the effect that continuing disclosure is no longer required.

SECTION 9. Disclosure Dissemination Agent. The Issuer has appointed Digital Assurance Certification, L.L.C. as exclusive Disclosure Dissemination Agent under this Disclosure Agreement. The Issuer may, upon thirty days written notice to the Disclosure Dissemination Agent and the Trustee, replace or appoint a successor Disclosure Dissemination Agent. Upon termination of DAC's services as Disclosure Dissemination Agent, whether by notice of the Issuer or DAC, the Issuer agrees to appoint a successor Disclosure Dissemination Agent or, alternately, agrees to assume all responsibilities of Disclosure Dissemination Agent under this Disclosure Agreement for the benefit of the Holders of the Bonds. Notwithstanding any replacement or appointment of a successor, the Issuer shall remain liable to the Disclosure Dissemination Agent until payment in full for any and all sums owed and payable to the Disclosure Dissemination Agent. The Disclosure Dissemination Agent may resign at any time by providing thirty days' prior written notice to the Issuer.

SECTION 10. Remedies in Event of Default. In the event of a failure of the Issuer or the Disclosure Dissemination Agent to comply with any provision of this Disclosure Agreement, the Holders' rights to enforce the provisions of this Agreement shall be limited solely to a right, by action in mandamus or for specific performance, to compel performance of the parties' obligation under this Disclosure Agreement. Any failure by a party to perform in accordance with this Disclosure Agreement shall not constitute a default on the Bonds or under any other document relating to the Bonds, and all rights and remedies shall be limited to those expressly stated herein.

SECTION 11. Duties, Immunities and Liabilities of Disclosure Dissemination Agent.

(a) The Disclosure Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement. The Disclosure Dissemination Agent's obligation to deliver the information at the times and with the contents described herein shall be limited to the extent the Issuer has provided such information to the Disclosure Dissemination Agent as required by this Disclosure Agreement. The Disclosure Dissemination Agent shall have no duty with respect to the content of any disclosures or notice made pursuant to the terms hereof. The Disclosure Dissemination Agent shall have no duty or obligation to review or verify any Information or any other information, disclosures or notices provided to it by the Issuer and shall not be deemed to be acting in any fiduciary capacity for the Issuer, the Holders of the Bonds or any other party. The Disclosure Dissemination Agent shall have no responsibility for the Issuer's failure to report to the Disclosure Dissemination Agent a Notice Event or a duty to determine the materiality thereof. The Disclosure Dissemination Agent shall have no duty to determine, or liability for failing to determine, whether the Issuer has complied with this Disclosure Agreement. The Disclosure Dissemination Agent may conclusively rely upon Certifications of the Issuer at all times.

The obligations of the Issuer under this Section shall survive resignation or removal of the Disclosure Dissemination Agent and defeasance, redemption or payment of the Bonds.

(b) The Disclosure Dissemination Agent may, from time to time, consult with legal counsel (either in-house or external) of its own choosing in the event of any disagreement or controversy, or question or doubt as to the construction of any of the provisions hereof or its respective duties hereunder, and shall not incur any liability and shall be fully protected in acting in good faith upon the advice of such legal counsel. The reasonable fees and expenses of such counsel shall be payable by the Issuer.

(c) All documents, reports, notices, statements, information and other materials provided to the MSRB under this Agreement shall be provided in an electronic format and accompanied by identifying information as prescribed by the MSRB.

SECTION 12. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the Issuer and the Disclosure Dissemination Agent may amend this Disclosure Agreement and any provision of this Disclosure Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to both the Issuer and the Disclosure Dissemination Agent to the effect that such amendment or waiver does not materially impair the interests of Holders of the Bonds and would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule; provided neither the Issuer or the Disclosure Dissemination Agent shall be obligated to agree to any amendment modifying their respective duties or obligations without their consent thereto.

Notwithstanding the preceding paragraph, the Disclosure Dissemination Agent shall have the right to adopt amendments to this Disclosure Agreement necessary to comply with modifications to and interpretations of the provisions of the Rule as announced by the Securities and Exchange Commission from time to time by giving not less than 20 days written notice of the intent to do so together with a copy of the proposed amendment to the Issuer. No such amendment shall become effective if the Issuer shall, within 10 days following the giving of such notice, send a notice to the Disclosure Dissemination Agent in writing that it objects to such amendment.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the Issuer, the Trustee, if any, for the Bonds, the Disclosure Dissemination Agent, the underwriter, and the Holders from time to time of the Bonds, and shall create no rights in any other person or entity.

SECTION 14. Governing Law. This Disclosure Agreement shall be governed by the laws of the State of South Carolina (other than with respect to conflicts of laws).

SECTION 15. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of page intentionally left blank]

The Disclosure Dissemination Agent and the Issuer have caused this Continuing Disclosure Agreement to be executed, on the date first written above, by their respective officers duly authorized.

DIGITAL ASSURANCE CERTIFICATION, L.L.C., as
Disclosure Dissemination Agent

By: _____
Name: _____
Title: _____

NEWBERRY COUNTY, SOUTH CAROLINA
as Issuer

By: _____
Name: _____
Title: _____

EXHIBIT A

NAME AND CUSIP NUMBERS OF BONDS

Name of Issuer	Newberry County, South Carolina
Obligated Person(s)	Newberry County, South Carolina
Name of Bond Issue:	[\$___] General Obligation Bonds, Series 202_
Date of Issuance:	_____, 202_
Date of Disclosure Agreement	_____, 202_

EXHIBIT B

NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer Newberry County, South Carolina
Obligated Person(s) Newberry County, South Carolina
Name of Bond Issue: \$[] General Obligation Bonds, Series 202_
Date of Issuance: _____, 202_
Date of Disclosure Agreement _____, 202_

CUSIP Numbers:

NOTICE IS HEREBY GIVEN that the Issuer has not provided an Annual Report with respect to the above named Bonds as required by the Disclosure Agreement between the Issuer and Digital Assurance Certification, L.L.C., as Disclosure Dissemination Agent. [The Issuer has notified the Disclosure Dissemination Agent that it anticipates that the Annual Report will be filed by _____].

Dated: _____

Digital Assurance Certification, L.L.C., as Disclosure
Dissemination Agent, on behalf of the Issuer

cc: School District

**EXHIBIT C-1
EVENT NOTICE COVER SHEET**

This cover sheet and accompanying "event notice" may be sent to the MSRB, pursuant to Securities and Exchange Commission Rule 15c2-12(b)(5)(i)(C) and (D).

Issuer's and/or Other Obligated Person's Name:

[C1] _____

Issuer's Six-Digit CUSIP Number:

[C2] _____

or Nine-Digit CUSIP Number(s) of the bonds to which this event notice relates:

[C3] _____

Number of pages attached: [C4] _____

____ Description of Notice Events (Check One): [C5]

1. _____ "Principal and interest payment delinquencies;"
2. _____ "Non-Payment related defaults, if material;"
3. _____ "Unscheduled draws on debt service reserves reflecting financial difficulties;"
4. _____ "Unscheduled draws on credit enhancements reflecting financial difficulties;"
5. _____ "Substitution of credit or liquidity providers, or their failure to perform;"
6. _____ "Adverse tax opinions, IRS notices or events affecting the tax status of the security;"
7. _____ "Modifications to rights of securities holders, if material;"
8. _____ "Bond calls, if material;"
9. _____ "Defeasances;"
10. _____ "Release, substitution, or sale of property securing repayment of the securities, if material;"
11. _____ "Rating changes;"
12. _____ "Tender offers;"
13. _____ "Bankruptcy, insolvency, receivership or similar event of the obligated person;"
14. _____ "Merger, consolidation, or acquisition of the obligated person, if material;"
15. _____ "Appointment of a successor or additional trustee, or the change of name of a trustee, if material;"
16. _____ "Incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the obligated person, any of which affect security holders, if material," and
17. _____ "A default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of an obligated person, any of which reflect financial difficulties."

____ Failure to provide annual financial information as required. [C6]

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

Name: [C7] _____ Title: [C8] _____

Digital Assurance Certification, L.L.C.
315 East Robinson Street
Suite 300
Orlando, FL 32801
407-515-1100

Date: [C9]

EXHIBIT C-2
VOLUNTARY EVENT DISCLOSURE COVER SHEET

This cover sheet and accompanying “voluntary event disclosure” may be sent to the MSRB, pursuant to the Disclosure Dissemination Agent Agreement dated as of [C10] _____ between the Issuer and DAC.

Issuer’s and/or Other Obligated Person’s Name:

[C1] _____

Issuer’s Six-Digit CUSIP Number:

[C2] _____

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

[C3] _____

Number of pages attached: [C4] _____

____ Description of Voluntary Event Disclosure (Check One): [C11]

1. _____ “amendment to continuing disclosure undertaking;”
2. _____ “change in obligated person;”
3. _____ “notice to investors pursuant to bond documents;”
4. _____ “certain communications from the Internal Revenue Service;”
5. _____ “secondary market purchases;”
6. _____ “bid for auction rate or other securities;”
7. _____ “capital or other financing plan;”
8. _____ “litigation/enforcement action;”
9. _____ “change of tender agent, remarketing agent, or other on-going party;”
10. _____ “derivative or other similar transaction;” and
11. _____ “other event-based disclosures.”

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

Name: [C7] _____

Title: [C8] _____

Digital Assurance Certification, L.L.C.
315 East Robinson Street
Suite 300
Orlando, FL 32801
407-515-1100

Date: [C9]

**EXHIBIT C-3
VOLUNTARY FINANCIAL DISCLOSURE COVER SHEET**

This cover sheet and accompanying "voluntary financial disclosure" may be sent to the MSRB, pursuant to the Disclosure Dissemination Agent Agreement dated as of [C9] _____ between the Issuer and DAC.

Issuer's and/or Other Obligated Person's Name:

[C1] _____

Issuer's Six-Digit CUSIP Number:

[C2] _____

or Nine-Digit CUSIP Number(s) of the bonds to which this notice relates:

[C3] _____

Number of pages attached: [C4] _____

____ Description of Voluntary Financial Disclosure (Check One): [C12]

1. _____ "quarterly/monthly financial information;"
2. _____ "change in fiscal year/timing of annual disclosure;"
3. _____ "change in accounting standard;"
4. _____ "interim/additional financial information/operating data;"
5. _____ "budget;"
6. _____ "investment/debt/financial policy;"
7. _____ "information provided to rating agency, credit/liquidity provider or other third party;"
8. _____ "consultant reports;" and
9. _____ "other financial/operating data."

I hereby represent that I am authorized by the issuer or its agent to distribute this information publicly:

Signature:

Name: [C7] _____ Title: [C8] _____

Digital Assurance Certification, L.L.C.
315 East Robinson Street
Suite 300
Orlando, FL 32801
407-515-1100

Date: [C9]

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

I, the undersigned, Clerk of the County Council of Newberry County, South Carolina (“County Council”), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance which was given three (3) readings on three (3) separate days, with an interval of not less than seven (7) days between the second and third readings. That each of said meetings was duly called, and all members of the County Council were notified of the same; that all/a majority of the membership were notified of each meeting and remained throughout the proceedings incident to the adoption of this Ordinance.

The agenda for each meeting of Council at which this Ordinance was read was (i) posted in the administrative offices of the County, (ii) posted on the County’s public website, and (iii) provided to news media and persons requesting the same, in each case more than 24 hours prior to the commencement of the applicable meeting, and, in each case included as an item the consideration of the Ordinance.

Such Ordinance has not been amended, modified or rescinded as of the date hereof. The original of this Ordinance is duly entered in the permanent records of minutes of meetings of the County Council, in my custody as such Clerk.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the County, this _____ day of _____, 2023.

(SEAL)

Clerk, County Council of Newberry County,
South Carolina

First Reading: _____, 2023

Second Reading: _____, 2023

Public Hearing: _____, 2023

Third Reading: _____, 2023

STATE OF SOUTH CAROLINA)
)
COUNTY OF NEWBERRY)

ORDINANCE NO. 11-01-23

**AN ORDINANCE REGULATING PUBLIC NUISANCES AND UNFIT DWELLINGS
WITHIN NEWBERRY COUNTY AND PROVIDING PROCEDURES FOR
ENFORCEMENT AND PENALTIES FOR VIOLATION AND MATTERS RELATED
THERE TO.**

WHEREAS, public nuisances can substantially degrade residential and business areas within the County and promote blight and social, economic and physical deterioration; and

WHEREAS, public nuisances and the resulting social, economic and physical deterioration impacts the health, safety, and economic wellbeing of Newberry County residents and property owners; and

WHEREAS, Newberry County Council has determined that negative impact of public nuisances warrants the enactment of regulations and procedures to adequately address such nuisances; and

WHEREAS, Newberry County Council has determined that the passage and enforcement of this ordinance will over time steadily improve the health, safety, and general welfare of the citizens of Newberry County and the value of property within the county; and

WHEREAS, Newberry County Council has the authority to enact this ordinance pursuant to South Carolina Code of Laws 1976, Sections 4-9-25 and 4-9-30, in addition to other authority of the Council.

NOW, THEREFORE BE IT ORDAINED by the County Council of the County of Newberry, in Council duly assembled this 6th day of December 2023 **that the following requirements are hereby adopted:**

CHAPTER 157 – PUBLIC NUISANCES AND UNFIT DWELLINGS

GENERAL PROVISIONS

§ 157.001 PURPOSE.

In addition to the burden placed on the County’s public services, nuisance properties present health, safety and quality of life concerns and exist when the persons responsible for such properties fail to take corrective actions to abate nuisance activities or a nuisance condition. Public nuisance properties have a significant adverse effect on the quality of life, safety and health of the neighborhoods where they are located. Public nuisance properties are a financial and operational burden on the County by generating repeat calls for service to the properties. Public nuisance properties adversely affect the value of adjacent properties.

Pursuant to the County's police powers, public nuisance properties are hereby declared to constitute a public nuisance and are subject to enforcement and abatement as described herein. The nuisance abatement process hereinafter set forth may be used by the County in conjunction with any and all legal actions available to the governing body.

It is the County's intent:

- A. To identify public nuisance activities and public nuisance conditions.
- B. To hold accountable those persons responsible for such nuisance activities and/or conditions on the property.
- C. To assist victims of crime and penalize those who commit crimes or those who permit conditions to exist that give rise to crime or excessive calls for service.
- D. To establish rules, procedures, and penalties to address property owners and occupants that have public nuisance issues and fail to take corrective measures.
- E. To work in partnership with the owners and occupants to address the negative results caused by public nuisance activities and/or conditions and to improve the vitality of neighborhoods by addressing excessive calls for service.
- F. To encourage owners and operators to abate conditions considered a nuisance through a local government process which is separate from the County's Magistrate Court system.
- G. To establish a means for the County to abate public nuisance properties in the event the owner or occupant is unwilling or unable to correct such conditions in a timely manner.

§ 157.002 DEFINITIONS.

Words used in this chapter shall have their customary meanings as determined by the standard dictionary definition except for the following specific words and terms which are herein defined. In any case, the Code Enforcement Officer, or other County designee shall have the right to define or interpret any words or terms contained within this chapter.

Abandoned Building means any building that is both: a) vacant and/or dangerous or in need of repair greater than 50% of its fair market value, and b) not occupied by the property owner, family member, renter, lessee or other legal occupant for a period of six months or longer.

Abandoned/Junk Vehicle means any vehicle, automotive or marine, that is mechanically inoperable, including any vehicle that is wrecked or partially dismantled, and has been unregistered for a period longer than 30 days.

Abate means repair, replace, remove, destroy or other otherwise remedy the condition in question by means, in such time, in such a manner and to such an extent as the enforcement officer shall determine to be in the best interest of the public, taking into account all facts and circumstances.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons or property.

Building Materials means any material such as lumber, brick, plaster, gutters or other substances accumulated as a result of repairs or additions to existing buildings, construction of new buildings or demolition of existing structures.

Close and Secure or **Closing and Securing** means compliance with the provisions of this chapter regarding minimum standards for uninhabited or vacant buildings.

Code Enforcement Officer means the person designated by Newberry County as the person responsible for enforcement of the provisions of this Ordinance.

County means Newberry County.

County Council means Newberry County Council.

Dwelling means a building or portion of a building arranged or designed exclusively for human habitation and includes any outhouses and appurtenances belonging thereto or usually employed therewith.

Garbage means any waste from the preparation, cooking and serving of food, market refuse, and waste from the handling, storage and sale of produce and meats as well as disposal of household items.

Habitation means the act of inhabiting by a human for any length of time, unrelated to the owners or parties in interest acting to preserve, maintain, repair or inspect the property.

Junk means any materials consisting of waste, discarded or salvage matter consisting of a total of more than three cubic yards of volume regardless of whether it is to be bought, sold, exchanged, stored, baled, packed or disassembled for profit, trade or hire, and shall include any vehicle damaged do as not to comply with state or federal safety regulations, incapable of self-propulsion or partially dismantled if retained on the premises for more than 72 hours, whether for repair or not. The term junk shall also mean, but not be limited to, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

Junk Vehicle (see Abandoned/Junk Vehicle)

Lien-holder means that person, persons, organization, or corporation that holds the property of a debtor as security or payment for a debt.

Litter means garbage, refuses, waste materials or any other discarded, used or unconsumed substance which is not handled as specified herein.

Local Governing Body means Newberry County Council

Local Official means the designee(s) from the County Administrator.

Occupant means any person who resides or is present in a house or vehicle at any given time.

Outdoor Storage means the accumulation or storage of disassembled, inoperable, or unlicensed vehicles, decaying animal or vegetable matter, animal or human feces, trash, rubbish, garbage, rotting lumber, packing materials, old or scrap copper, brass, aluminum, rope, rags, paper, trash, tires, carcasses, rubber debris, old vehicle parts, non-working major appliances, and other old ferrous or non-ferrous material.

Owner means any person, persons, organization, or corporation that owns, in whole or part, the land, structure or other property as the holder of title in fee simple or is the purchaser of the property under contract for deed.

Premises means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, occupied or unoccupied, including adjacent parking.

Public Nuisance means any activity or failure to act that adversely affects the public and shall include, but not be limited to, any condition which poses an immediate and direct hazard to human health if left unheeded due to the existence of the condition itself or due to the immediate threat of transmission of disease through insects, animals including rodents, or other means or transmission or infection.

Refuse means trash, garbage, rubbish, waste papers, bottles or cans, debris, litter, oil, solvents, liquid waste, or other discarded materials.

Structural Defect means any physical damage to the designated load-bearing elements of the structure caused by failure of such load-bearing elements which affects the load-bearing function to the extent the structure becomes unsafe, unsanitary or unlivable.

Structure as defined by the latest version of the International Building Code as adopted by the State of South Carolina.

Temporary means anything lasting for only a limited period of time; not permanent.

Unsafe means if conditions exist in such dwelling or other structure which are dangerous or injurious to health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of Newberry County. Such conditions may include the following without limiting the generality of the foregoing: defects increasing the hazards of fire, accidents, or other calamities.

Unsafe Structure means any building or structure which has been determined to be unsafe by the Code Enforcement Officer or Building Official.

Vegetation means any object of natural growth.

Vehicle includes any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle and includes boat, boat trailer, travel trailer, storage trailer, recreational vehicle, etc.

§ 157.003 PUBLIC NUISANCES IDENTIFIED.

The creation or maintenance of a public nuisance is prohibited. The following are hereby expressly declared to be public nuisances:

- A. Five or more abandoned or junk vehicles stored on an individual property. If four or fewer abandoned or junk vehicles are stored on an individual property, such vehicles shall be screened from view of the primary public road right-of-way and adjacent property lines by an opaque screen (See §153.183 – Screening). However, on individual properties with single-family residential zoning, one inoperable vehicle shall be allowed unscreened provided that the vehicle is actively under repair and provided that the vehicle is not located in the front yard. Abandoned or junk vehicles shall not be stored on any multi-family residential property. Any abandoned or junk vehicle storage determined to be a primary use of the property shall comply with all regulations provided in §153.146 – Salvage, Scrap and Recycling Operations.
- B. Garbage, trash or refuse, except garbage, trash or refuse stored in authorized sealed receptacles specifically designated for trash collection, in an enclosed building or properly contained in a closed, insect and rodent proof container designed for such purpose, except for the immediate time preceding pick up by a refuse hauler.
- C. Accumulation of carcasses of animals, birds or fish by failing to bury or otherwise dispose of in a sanitary manner within 24 hours after death. This provision shall not apply if the animals, birds, or fish are intended for human consumption.
- D. Accumulation of rubbish as to become dangerous or injurious to the health and safety of any individual or to the public.
- E. Accumulation of junk matter consisting of a total of more than three cubic yards in volume.

- F. Noxious and excessive accumulation of decaying animal or vegetable matter, animal feces, trash, rubbish, litter, debris, rotting, packing materials, scrap metal, pallets fuel storage containers, tools, tires and wheels, farm implements, furnaces, home appliances, furniture, plumbing fixtures, construction materials, metal, pipes, glass, machinery, wood, brick, cement block, or any other substances in which flies, mosquitoes, or other disease carrying insects, rodents or other vermin can harbor.
- G. Any noxious and excessive accumulations of materials or any activity that causes an emission of odorous gases or other odorous matter in such quantities as to be offensive at the property line.
- H. Dead, damaged, diseased trees or limbs of trees that create a hazard by creating a potential for falling onto neighboring public rights-of-way.
- I. Weeds or other rank growths of vegetation upon private or public property, and all other vegetation at any stage of maturity which:
1. Regardless of height, harbors, conceals, or invites rodents, pests, or vermin deposits of refuse;
 2. Gives off noxious odors and/or is poisonous; or
 3. Constitutes a fire, traffic, or safety hazard.
- J. Improper use of indoor or non-weather proofed furniture and appliances, dilapidated or unusable furniture, or upholstered furniture manufactured for indoor use including those which:
1. Harbors, conceals or invites rodents, pests, or vermin refuse deposits;
 2. Gives off noxious odors; or
 3. Constitutes a fire or other safety hazard.
- K. Manufactured items intended for indoor use including but not limited to bedding, cardboard, glass, home goods, building materials, etc.
- L. Lumber, building supplies and plumbing fixtures, including used and discarded building materials, not related to an active permit and not neatly stacked.
- M. Any other item which is either wholly or partially rusted, wrecked, junked, dismantled, discarded, or inoperative, not including agricultural implements or items used for agricultural purposes.
- N. All pools of stagnant water or vessels holding standing water in which mosquitoes can breed excluding required retention ponds.

O. Swimming pools which are either:

1. Empty, excluding such pools that are completely and effectively covered; or
2. Contain liquids and/or debris which are not bacteriological, chemically or physically safe for swimming or other intended uses.

P. All structures determined to be unsafe are hereby classified as public nuisances and shall be abated by alteration, repair, rehabilitation, demolition or removal in accordance with the procedures specified herein. Unsafe dwellings are hereby identified as structures where:

1. It is determined by the Code Enforcement Officer that a structure is in a state of decay, damaged by fire, earthquake, wind or flood, inadequate maintenance, dilapidation, abandonment or partial ruin to such an extent that the structure is a hazard to the health, safety, or welfare of the general public or adjoining property;
2. Defects in the structure increase the hazard risk of fire, accidents or calamities;
3. The structure contains filth or contamination;
4. There is a lack of ventilation, light, sanitary or heating facilities or other essential equipment required by codes adopted by Newberry County;
5. The structure provides a harbor for rodents, pests, stray animals, or persons engaged in controlled substance or sale;
6. A structure has been abandoned so as to make such structure an attractive nuisance or hazard to the public; or
7. Other conditions rendering such dwellings as unsafe or unsanitary, dangerous or detrimental to the health, safety, or morals or otherwise detrimental to the welfare of the residents.

The enumeration of specific nuisances in this Ordinance shall not be deemed to make lawful any other act of condition declared to be a nuisance by any other County ordinance, state or federal law, or court decision.

§ 157.004 GENERAL REQUIREMENTS.

- A. Requirements for Occupied or Unoccupied Property. It is unlawful for any person, firm, or corporation to maintain or to permit to be maintained any premises including vacant lots or land upon which grass, weeds, undergrowth, trash, garbage, stagnant water, or other matter detrimental to good health and public sanitation which is permitted or caused to accumulate in any manner that is or may become a nuisance causing injury or sickness

to the health or welfare of residents or the public in the vicinity of, or causing injury to, any neighboring property.

- B. Requirements for Residential Dwellings. The owner of the property shall maintain the dwelling's interior and exterior in compliance with the requirements of the building code that was adopted at the time of the completion of the dwelling. If any repairs or updates are needed and require a permit, the work must be completed to meet the current adopted building code. The owner shall be responsible for maintaining all inhabited and vacant dwellings in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and/or safety. This includes, but is not limited to, holes in roofs, openings in windows, walls or doors, unsecured structures, and foundational and structural concerns.
- C. Requirements for Owners. Regardless of who created the public nuisance, the property owner and/or the occupant is responsible for taking all corrective actions to remedy the situation.
- D. Requirements for Exterior Structures. For the purposes of this section, these standards apply to any portion of the property that is not within the interior of a dwelling or other enclosed structure. Unless completely enclosed, porches, balconies, decks, carports, or other similar structures shall be included within this standard. Temporary materials cannot be used to enclose a structure.
- E. Requirements for Other Structures. Pools, walls, fences and other accessory structures shall be considered a structure.

§ 157.005 EXCEPTIONS.

- A. This section shall not apply to structures that are actively used for legal agricultural purposes or forestry operations, including but not limited to, barns, sheds, and storage buildings, that are not utilized as a dwelling for human habitation are exempt from these standards. No accumulation of waste, debris, or junk defined in this ordinance is allowed in the setback areas adjacent to a residence as defined in the Newberry County Zoning Ordinance.
- B. This section shall not apply to a business that is a permitted use or legally nonconforming use as allowed by the Newberry County Zoning Ordinance where such activities listed above are a normal and customary associated activity with that business. In the case of outside storage in conjunction with a business, the materials in question must be screened from the public rights-of-way or any adjacent residential property.
- C. Structures related to or designed for agricultural and forestry operations, including but not limited to barns, sheds, and storage buildings, that are not utilized as a dwelling for human habitation are exempt from these standards.

§ 157.006 AUTHORITY.

Any local official designated by the County Administrator is authorized to determine that a structure is unfit for human habitation if found that conditions exist where the structure is dangerous or injurious to the health and safety of the occupants of such structure or the occupants of neighboring structures. Such conditions may include, but are not limited to, defects therein increasing the hazards of fire, accident or other calamities; dilapidation; disrepair; structural defects; uncleanliness; and other standards described herein.

Following a determination that a structure is unfit for human habitation, said official shall inform the Director of Planning and Development Services and the County Administrator, prior to issuing notice of violation.

An aggrieved property owner or occupant may enter into a correction agreement process as outlined in §157.015 or request review of the matter by the Newberry County Building, Fire and Nuisance Codes Board of Appeals in accordance with §157.011.

PROCEDURE

§ 157.007 NUISANCE IDENTIFICATION.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaint stating fully the causes and basis thereof, shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall record the complaint properly, investigate promptly, and take action thereon as provided by this Ordinance. To protect the privacy of individuals, such complaints can be anonymous.

§ 157.008 NOTIFICATION.

Upon investigating a complaint of possible violation, and determination of violation of this Ordinance, the Code Enforcement Officer shall serve a notice of violation. Notices of violations or orders hereunder shall be deemed to be properly served to the owner/occupant if a copy thereof is:

- A. Delivered personally;
- B. Sent by first class mail addressed to the last known address whose address is maintained by Newberry County Tax Assessor; or
- C. A copy thereof posted in a conspicuous place on the lot affected or on or about the structure affected by such notice.

For purposes of notice of violation to properties with more than one owner, notice shall be made to the owner of record whose name and address is maintained by the Newberry County Tax Assessor. Co-owners jointly and severally are liable for the upkeep and maintenance of the property. Such notices of violations shall:

- A. Be in writing;
- B. Include property location by street address and Tax Map Number for the parcel;
- C. Date of inspection where the violation was determined;
- D. Specific orders for abatement or remediation of the violation; and
- E. A date for completion of the abatement not to exceed seven calendar days following notification.

The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this article.

The Building Official or Code Enforcement Officer shall post at each entrance of the designated unsafe structure a notice to read: “DANGER – THIS BUILDING IS DECLARED UNSAFE FOR HUMAN OCCUPANCY.” Such notice shall remain posted until the required repairs, demolition or removal is completed. Such notice shall not be removed without written permission of the Building Official or Code Enforcement Officer except for the purpose of making required repairs or demolition of the building.

Notwithstanding any other provision of this article, any building or structure that has been determined to be an immediate danger to life, health, safety or property shall be abated immediately in order to protect life, health, safety or property. The Building Official or Code Enforcement Officer may take any steps that are necessary to make the structure safe including, but not limited to, demolition of the structure.

§ 157.009 EXTENSION PROCESS.

An extension of time to complete abatement may be granted if justified. Such a request must be in writing and be received by the Code Enforcement Officer within seven calendar days following notification. The request must contain the reasons for which the extension is necessary and contain the specific time requested.

§ 157.010 TIMEFRAME FOR ABATEMENT.

All required work shall be completed within such period of time as the Code Enforcement Officer shall determine to be reasonable to accomplish the work, as stated in the notice. If a building or demolition permit is required, such permit shall be obtained by the owner or their designee within 30 days of written notice.

§ 157.011 APPEALS.

An appeal may be requested by the owner where a demolition is required. Appeals may be made to the Newberry County Building, Fire and Nuisance Codes Board of Appeals by such person. The board will consider the appeal, evaluate the determination made by the Code Enforcement Officer, and then render a decision either sustaining, modifying or reversing the demolition order. The Newberry County Building, Fire and Nuisance Codes Board of Appeals shall not levy fines or penalties on the property or owner/occupant or amend the standards of this Ordinance.

§ 157.012 PENALTIES.

Any person deemed to be in violation of this Ordinance after having received a nuisance notification with an established timeframe for abatement shall be issued a citation charging such person(s) with a misdemeanor. A guilty plea or judgement by the Newberry County Magistrate's Office shall be punishable by a fine of no more than \$500 unless otherwise noted in this ordinance. Each day such violation continues after due notice to discontinue such violations shall be considered a separate offense. In addition, the Code Enforcement Officer or other appropriate administrative official, may in accord with the provisions of Section 56-7-80 of the South Carolina Code of Laws 1976, as amended, issue an ordinance summons, or institute injunction, mandamus, or take any other appropriate actions or proceedings required to enforce this Ordinance.

§ 157.013 PUBLIC ABATEMENT PROCESS.

In the event that any owner or occupant of any lot or premises upon which there is a condition described in this ordinance fails to remedy the condition within the agreed upon timeframe, the County may, in its own discretion, do such work and make improvements, or contract with an authorized third-party, as are necessary to correct, remedy, remove such condition or cause the same to be done, paid therefor and charge the expenses incurred thereby to any and all owners of such lot, in joint and severable liability for any and all expenses incurred. Such work shall not relieve such person from prosecution or failure to comply with such notice. Such expenses shall be assessed against the lot or real estate upon which the work was done, or the improvements made through a lien on property which shall be added to and collected in the same manner as property taxes.

§ 157.014 RECURRENT VIOLATIONS.

Any violation of any provision of this Ordinance or of any ordinance for which proper notice of violation has been provided pursuant to the applicable code section or ordinance which reoccurs, at the same location while under the same ownership, within the same calendar year of the previous notice, shall constitute a repeat violation. The occurrence of a repeat violation shall

waive the county's requirement to provide a notice of violation and an abatement period, if applicable, prior to issuance of an Ordinance Summons.

§ 157.015 CORRECTION AGREEMENT.

Upon determination that an unsafe structure or other nuisance exists and notice of violation is provided to the property owner, such owner(s) may enter into a correction agreement with the County. Such correction agreement shall identify such person(s) responsible for the property and their agreement to promptly take all reasonable actions, which shall be set forth in the agreement, to mitigate the nuisance within a specified time and according to specified conditions. The County may give consideration to many factors when entering a correction agreement with owners including, but not limited to, financial hardship. A correction agreement must be requested by the owner following the issuance of a notice of violation. The county must be in receipt of such request prior to the expiration of the abatement period specified in the notice of violation and prior to the issuance of a summons to appear in court. If the nuisance is not abated within the parameters of the correction agreement, a citation shall be issued as outlined in §157.012.

§ 157.016. CONFLICT/SEVERABILITY.

If any other provision of any other chapter of these ordinances is clearly in conflict with this chapter, this chapter shall apply. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any structure or land is used in violation of this Ordinance, or regulations in furtherance hereof, the County Administrator, County Attorney, Zoning Administrator, Building Official, or any person aggrieved may, in addition to other remedies provided by law, institute injunction, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use. Such violations shall constitute a misdemeanor. The owner of any building, structure, premise, or part thereof, and any occupant, architect, surveyor, builder, engineer, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing in this ordinance shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

NEWBERRY COUNTY COUNCIL

(SEAL)

BY: _____
Todd Johnson, Chairman

ATTEST:

Andrew Wigger, Clerk to Council

Approved as to form:

Joanie Winters, Interim County Attorney

Jeff Shacker, County Administrator

1st Reading: November 1, 2023
2nd Reading: November 15, 2023
Public Hearing: November 15, 2023
3rd Reading: December 6, 2023



**Newberry County
Administration**
1309 College Street
Newberry, SC 29108
803-321-2100

Agenda Briefing

Prepared By:	Crystal Waldrop		Title:	Purchasing Director	
Department:	Administration	Division:	Procurement		
Date Prepared:	11-9-2023	Meeting Date:	11-15-2023		
Legal Review				Date:	
Budget Review				Date:	
Approved for Consideration:					
Committee					
Subject:	2023-20 Whitmire Town Hall Garage Addition				

STAFF'S RECOMMENDED ACTION: Staff recommends accepting the low bid from WE Baker & Sons, Inc. in the amount of \$169,450.

FIDUCIARY: The low bidder is within the remaining funds for this project.

Are Funds allocated in the department's current fiscal year budget?	X	Yes		No
If no, is a budget amendment necessary?		Yes	X	No

ADDITIONAL FISCAL/BUDGETARY MATTERS TO CONSIDER:

SUMMARY DISCUSSION: Staff solicited bids for the remaining funds of the 2016 CPST Referendum for the Whitmire Town Hall Project, to include the renovations of a garage, which ultimately was demolished due to structural issues. In an effort to satisfy the Town of Whitmire's needs, a new garage was considered. The building will be free standing.

ADDITIONAL COMMENTS FOR CONSIDERATION:

ATTACHMENTS: Tabulation sheet for solicitation.

SOUTH CAROLINA)

)

RESOLUTION No. 12-23

NEWBERRY COUNTY)

COMMITTING TO NEGOTIATE A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND BETWEEN NEWBERRY COUNTY AND A COMPANY IDENTIFIED FOR THE TIME BEING AS PROJECT CAVALIER; IDENTIFYING THE PROJECT; AND OTHER MATTERS RELATED THERETO

WHEREAS, Newberry County, South Carolina (“County”), acting by and through its County Council (“County Council”) is authorized pursuant to the provisions of Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (“Act”) to encourage manufacturing and commercial enterprises to locate in the State of South Carolina (“South Carolina” or “State”) or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with a sponsor, as defined in the Act, that provides for the payment of a fee-in-lieu of *ad valorem* tax (“FILOT Payments”) with respect to economic development property, as defined in the Act;

WHEREAS, a company identified for the time being as Project Cavalier, acting for itself, one or more affiliates, and/or other project sponsors (collectively, the “Company”), desires to invest capital in the County in order to establish solar energy facilities in the County (“Project”);

WHEREAS, the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$55,000,000 in the Project; and

WHEREAS, at the request of the Company, and as an inducement to the Company to locate the Project in the County, the County intends to negotiate an agreement (“FILOT Agreement”) which would provide for FILOT Payments with respect to the portion of the Project which constitutes economic development property, as defined in the Act.

NOW, THEREFORE, BE IT RESOLVED by the County Council as follows:

Section 1. This Resolution is an inducement resolution for the Project for purposes of the Act.

Section 2. The County hereby agrees to negotiate a FILOT Agreement with the Company under the Act providing for the FILOT Payments with respect to the portion of the Project which constitutes economic development property. .

Section 3. The further details of the FILOT payments and the FILOT Agreement will be prescribed by subsequent ordinance of the County to be adopted in accordance with South Carolina law and the rules and procedures of the County.

Section 4. County Council identifies and reflects the Project by this Resolution, and intends that this Resolution serve as the inducement resolution, as defined in the Act, with respect to the Project, therefore permitting expenditures made in connection with the Project before the date of this Resolution to qualify as economic development property under the Act, subject to the terms and conditions of the Agreement and the Act.

Section 5. This Resolution is effective after its approval by the County Council.

RESOLVED: November 15, 2023

NEWBERRY COUNTY, SOUTH CAROLINA

By: _____
Todd Johnson, Chairman, County Council,
Newberry County, South Carolina

[SEAL]

ATTEST:

By: _____
Andrew Wigger, Clerk to County Council,
Newberry County, South Carolina

**STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR NEWBERRY COUNTY
ORDINANCE NO. 11-02-2023**

AN ORDINANCE AUTHORIZING (1) THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AND INCENTIVE AGREEMENT BY AND AMONG NEWBERRY COUNTY, SOUTH CAROLINA (THE "COUNTY") AND A COMPANY CURRENTLY IDENTIFIED AS PROJECT CAVALIER, ACTING FOR ITSELF, ONE OR MORE AFFILIATES, AND/OR OTHER PROJECT SPONSORS (COLLECTIVELY, THE "COMPANY"), PURSUANT TO WHICH THE COMPANY SHALL BE ENTITLED TO CERTAIN NEGOTIATED FEES IN LIEU OF AD VALOREM TAXES WITH RESPECT TO THE ESTABLISHMENT OF CERTAIN FACILITIES IN THE COUNTY (THE "PROJECT"); (2) THE ADDITION OF THE PROJECT TO A MULTI-COUNTY INDUSTRIAL OR BUSINESS PARK; AND (4) OTHER MATTERS RELATING THERETO.

WHEREAS, Newberry County, South Carolina ("County"), acting by and through its County Council ("County Council") is authorized pursuant to the provisions of the Code of Laws of South Carolina 1976, as amended ("Code"), and particularly Title 12, Chapter 44 of the Code ("Negotiated FILOT Act"), as well as Title 4, Chapter 1 of the Code together with Article VIII, Section 13 of the South Carolina Constitution (collectively, "Multi-County Park Act"), to encourage manufacturing and commercial enterprises to locate in the State of South Carolina ("South Carolina" or "State") or to encourage manufacturing and commercial enterprises now located in the State to expand their investments and thus make use of and employ the manpower, products, and other resources of the State by entering into an agreement with one or more investors to (i) accept certain fee in lieu of *ad valorem* tax ("FILOT") payments, including, but not limited to, negotiated FILOT payments ("Negotiated FILOT Payments") made pursuant to the Negotiated FILOT Act, with respect to a project; (ii) permit investors to claim special source revenue credits against their FILOT payments ("Special Source Credits") to reimburse such investors for expenditures in connection with infrastructure serving the County and improved or unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing or commercial enterprise in order to enhance the economic development of the County ("Special Source Improvements"); and (iii) create, in conjunction with one or more other counties, a multi-county industrial or business park ("Park") in order to afford certain enhanced income tax credits to such investors and to facilitate the grant of Special Source Credits; and

WHEREAS, a company identified for the time being as Project Cavalier, acting for itself, one or more affiliates, and/or other project sponsors (collectively, the "Company"), is considering the establishment and/or expansion of certain facilities at one or more locations in the County (the "Project"); and

WHEREAS, the Company anticipates that, should its plans proceed as expected, it will invest, or cause to be invested, at least \$55,000,000, in the aggregate, in the Project; and

WHEREAS, on the basis of the information supplied to it by the Company, the County has determined, *inter alia*, that the Project would subserve the purposes of the Act and has made certain findings pertaining thereto in accordance with the Act; and

WHEREAS, in accordance with such findings and determinations and in order to induce the Company to locate the Project in the County, the Council adopted Resolution [●] on [], 2023 (the “Inducement Resolution”), whereby the County agreed to provide the benefits of a negotiated FILOT, a multi-county industrial or business park, and Special Source Credits with respect to the Project; and

WHEREAS, the County and the Company have agreed to the specific terms and conditions of such arrangements as set forth herein and in a Fee in Lieu of Tax and Incentive Agreement by and between the County and the Company with respect to the Project the form of which is attached hereto as Exhibit A (the “Incentive Agreement”) to be dated as of [], 202_, or such other date as the parties thereto may agree; and

WHEREAS, it appears that the Incentive Agreement now before this meeting is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the Council, as follows:

Section 1. As contemplated by Section 12-44-40(I) of the Negotiated FILOT Act, the findings and determinations set forth in the Inducement Resolution are hereby ratified and confirmed. In the event of any disparity or ambiguity between the terms and provisions of the Inducement Resolution and the terms and provisions of this Ordinance and the Incentive Agreement, the terms and provisions of this Ordinance and the Incentive Agreement shall control. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Incentive Agreement. Additionally, based on information provided to the County by the Company with respect to the Project, the County makes the following findings and determinations:

(a) The Project will constitute a “project” within the meaning of the Negotiated FILOT Act; and

(b) The Project, and the County’s actions herein, will subserve the purposes of the Negotiated FILOT Act; and

(c) The Project is anticipated to benefit the general public welfare of the State and the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; and

(d) The Project gives rise to no pecuniary liability of the County or incorporated municipality or a charge against its general credit or taxing power; and

(e) The purposes to be accomplished by the Project are proper governmental and public purposes; and

- (f) The benefits of the Project are greater than the costs.

Section 2. The County hereby agrees to enter into the Incentive Agreement with the Company, which agreement shall be in the form of a fee agreement, pursuant to the Negotiated FILOT Act, and whereby the Company will agree to satisfy, or cause to be satisfied, certain investment requirements with respect to the Project within certain prescribed time periods in accordance with the Negotiated FILOT Act and the County, under certain conditions set forth in the Incentive Agreement, will agree to accept certain negotiated fee in lieu of *ad valorem* tax (“Negotiated FILOT”) payments with respect to the Project, as set forth in Section 2(b) hereof and in accordance with the terms of the Incentive Agreement.

Section 3. The County agrees to designate the Project and the Land as part of a multi-county industrial or business park pursuant to the provisions of the Multi-County Park Act and Article VIII, Section 13(D) of the State Constitution, if not already so designated, and agrees to maintain the Project and the Land within the boundaries of such a multi-county industrial or business park on terms, and for a duration, which facilitate provision by the County, and receipt by the Company, of the Special Source Credits set forth in Section 4 hereof, all in accordance with the terms of the Incentive Agreement.

Section 4. As an additional incentive to induce the Company to locate the Project in the County, and as reimbursement for investment in Special Source Improvements, and subject to the requirements of the Special Source Act, the County does hereby agree that the Company shall be entitled to receive, and the County shall provide, Special Source Credits against each FILOT Payment due from the Company with respect to the Project for the entire Negotiated FILOT payment period as more fully set forth in the Incentive Agreement.

Section 5. The form, provisions, terms, and conditions of the Incentive Agreement presented to this meeting and filed with the Clerk to the Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if the Incentive Agreement was set out in this Ordinance in its entirety. The Chairman of the Council is hereby authorized, empowered, and directed to execute the Incentive Agreement in the name and on behalf of the County; the Clerk to the Council is hereby authorized, empowered and directed to attest the same; and the Chairman of the Council is further authorized, empowered, and directed to deliver the Incentive Agreement to the Company. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 6. The Chairman of the Council, the County Administrator of the County, and the Clerk to the Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to Incentive Agreement.

Section 7. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent

jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 8. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[End of Ordinance]

Enacted and approved, in meeting duly assembled, this [●] day of [●], 2023.

NEWBERRY COUNTY, SOUTH CAROLINA

By: _____

Todd Johnson, Chairman, County Council
Newberry County, South Carolina

[SEAL]

ATTEST:

Andrew Wigger, Clerk to County Council
Newberry County, South Carolina

First Reading: [●], 2023

Second Reading: [●], 2023

Public Hearing: [●], 2023

Third Reading: [●], 202[]