

DORCHESTER COUNTY, SOUTH CAROLINA

FIFTH SUPPLEMENTAL ORDINANCE NO. 11-17

A FIFTH SUPPLEMENTAL ORDINANCE MAKING PROVISION FOR THE TERMS AND CONDITIONS OF WATERWORKS AND SEWER SYSTEM REVENUE BORROWING BY DORCHESTER COUNTY, SOUTH CAROLINA, AUTHORIZED BY GENERAL BOND ORDINANCE NO. 03-06 ENACTED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY, SOUTH CAROLINA ON SEPTEMBER 2, 2003; APPROVING THE FINANCING OF SYSTEM IMPROVEMENTS IN DORCHESTER COUNTY, SOUTH CAROLINA, THROUGH THE BORROWING OF NOT EXCEEDING \$1,481,830 PLUS CAPITALIZED INTEREST, IF ANY, FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND, BY AGREEMENT WITH THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, PURSUANT TO TITLE 48, CHAPTER 5 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; PROVIDING FOR THE AGREEMENT TO MAKE AND TO ACCEPT A LOAN, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN DORCHESTER COUNTY AND THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE FROM DORCHESTER COUNTY TO THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED:

ARTICLE I

FINDINGS OF FACT

SECTION 1.1. Findings of Fact. As an incident to the enactment of this Fifth Supplemental Ordinance, the County Council of Dorchester County, South Carolina (the "County Council"), the governing body of Dorchester County, South Carolina (the "County"), has made the following findings:

(a) The County is a political subdivision created pursuant to the laws of the State of South Carolina and empowered by the provisions of Title 48, Chapter 5 of the Code of Laws of South Carolina 1976, as amended (the "Act"), (i) to undertake construction of, among other things, publicly owned water and wastewater treatment works as defined in the Federal Water Pollution Control Act, Chapter 26, Title 33 of the United States Code, as amended; (ii) to make application for and to receive assistance; (iii) to comply with regulations relating to the receipt and disposition of money of the State Water Pollution Control Revolving Fund created by the Act; (iv) to apply for and receive state grants; (v) to enter into loan agreements; and (vi) to comply with all terms and conditions of any loan agreement.

(b) Title 6, Chapter 17 of the Code of Laws of South Carolina 1976, as amended, permits the incurring of debt for the purpose of financing facilities for the furnishing of water

and wastewater treatment services and permits the securing of such indebtedness with a pledge of revenues derived from the operation of the Waterworks and Sewer System (the "System") of the County.

(c) By ordinance entitled "GENERAL BOND ORDINANCE NO. 03-06 AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF DORCHESTER COUNTY, SOUTH CAROLINA; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY TO THE NET REVENUES DERIVED FROM THE OPERATION OF THE SYSTEM AND PLEDGING THE REVENUES TO SUCH PAYMENT; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH FUNDS; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING", enacted on September 2, 2003 (the "Bond Ordinance"), County Council made provision for the issuance from time to time of Waterworks and Sewer System Revenue Bonds of the County payable from Net Revenues (as such term is defined in the Bond Ordinance) derived from the operation of the System.

(d) The Net Revenues derived from the System are now hypothecated and pledged to the payment of the following:

- (i) the outstanding \$25,370,000 of an original issue of \$32,500,000 Waterworks and Sewer System Revenue Refunding and Improvement Bonds, Series 2003, dated September 15, 2003;
- (ii) the outstanding \$30,030,000 of an original issue of \$34,240,000 Waterworks and Sewer System Revenue Bonds, Series 2006, dated December 20, 2006;
- (iii) the outstanding \$3,820,530.29 of an original issue of not exceeding \$4,034,983 Waterworks and Sewer System Revenue Bond, Series 2009A, dated September 11, 2009; and
- (iv) the outstanding \$10,050,000 of an original issue of \$11,280,000 Waterworks and Sewer System Revenue Bonds, Series 2009, dated November 5, 2009.

The above-described borrowings in this paragraph (d) are hereinafter referred to as the "Parity Bonds."

(e) The County has determined to defray a portion of the cost of the acquisition and installation of a reclaimed water storage, treatment and distribution system (the "Project") through the borrowing authorized herein. The Project will be part of the System.

(f) On November 15, 2010, County Council adopted Resolution No. 10-17 authorizing application to the South Carolina Water Quality Revolving Fund Authority (the

"State Authority") for a loan from the State Water Pollution Control Revolving Fund created by the Act (the "Loan"), to provide for the financing of a portion of the Project.

(g) On May 16, 2011, the State Authority upon review of the County's loan application conditionally approved the Loan.

(h) The Bond Ordinance provides that a Supplemental Ordinance shall be enacted by County Council with respect to each Series of Bonds which Supplemental Ordinance shall designate the Bonds provided thereby with an appropriate Series designation and with such further particular designations, if any, as the County Council deems appropriate. Each Supplemental Ordinance shall also specify:

- (1) the authorized principal amount of such Series of Bonds;
- (2) the purpose or purposes for which the Bonds of such Series are being issued, which shall be one or more of the purposes set forth in Sections 3.3 or 3.4 of the Bond Ordinance;
- (3) if the Bonds of the Series are being issued for a purpose specified in Section 3.3 of the Bond Ordinance, the Project for which such Bonds are being issued;
- (4) an estimate of the Costs of Acquisition and Construction for any Project to be financed by such Series of Bonds, and, in the event of the acquisition by purchase or condemnation of any facilities already constructed, a determination of what repairs, replacements, additions and betterments will be necessary in order that such facilities may be effective for their purpose and an estimate of the cost required therefor;
- (5) the date or dates of the Bonds of the Series;
- (6) the maturity date or dates of the Bonds of the Series and the sinking fund installment amounts and due dates for the Term Bonds of the Series, if any;
- (7) the interest rate or rates of the Bonds of such Series, or the manner of determining such rate or rates, the initial Interest Payment Date therefor, and the subsequent Interest Payment Dates;
- (8) the denominations of (if other than as provided in the Bond Ordinance), and manner of numbering and lettering, the Bonds of such Series;
- (9) the redemption premium or premiums, if any, or the redemption price or prices to be paid upon the redemption of the Bonds of such Series, the period or periods, if any, during which such premiums or prices shall be payable, and the terms and conditions, if any, of such redemption;

(10) the place or places of payment of the Bonds of the Series and interest thereon, and the Paying Agent and Registrar therefor and any Custodian of the funds and accounts created with respect thereto;

(11) the provisions for the sale or other disposition of the Bonds of the Series and the use, application and investment, if any, of the proceeds of such sale or other disposition, which use, application and investment shall not be inconsistent or in conflict with the provisions of the Bond Ordinance;

(12) whether such Series of Bonds will be subject to a Reserve Fund Requirement and the manner of satisfaction of such Reserve Fund Requirement;

(13) any other provisions which may be required to be inserted therein by other provisions of the Bond Ordinance; and

(14) any other necessary or desirable provisions not inconsistent or in conflict with the provisions of the Bond Ordinance.

(i) The Loan is to be made and secured pursuant to a loan agreement (the "Loan Agreement") between the County and the State Authority, and a promissory note executed and delivered by the County registered in the name of the State Authority (the "Note" or the "Bond"). Pursuant to the Loan Agreement, the County will agree to use the Loan proceeds only to pay the actual eligible costs of the Project, and the County will agree to pay to the State Authority such amounts as shall be required to provide for the payment of all amounts due with respect to the repayment of the Loan. To secure its obligations, the County will grant to the State Authority a pledge of, and lien upon, all Net Revenues derived from the operation of the System and all funds and accounts of the County derived from such Net Revenues, which pledge is on a parity with the pledge securing the Parity Bonds and any additional bonds issued on a parity therewith.

Upon any failure of the County to make any payments to the State Authority pursuant to the Loan Agreement or the Note, the State Authority shall require the State Treasurer to pay to the State Authority, subject to the provisions of the Act, such amount from State appropriations to which the County may be or may become entitled as may be necessary to provide for the payment of all amounts due with respect to the Note.

(j) The Bond Ordinance permits the issuance of further bonds on a parity with the Parity Bonds for the purpose of paying all or part of the Costs of Acquisition and Construction of one or more Projects upon compliance with the following conditions. Capitalized terms used herein shall have the meanings ascribed thereto in the Bond Ordinance.

(1) There shall be executed a certificate of the Chairman of County Council or the County Administrator stating (i) either (a) that no Default exists in the payment of the principal of, premium, if any, or interest on any Bonds or Junior Bonds and all mandatory sinking fund redemptions, if any, required to have been made shall have been made, or (b) that the application of the proceeds of sale of the Series of Bonds to be issued as required by the Supplemental Ordinance authorizing their issuance will cure any such

Default or permit such redemptions; and (ii) either (a) that to the best of his or her knowledge, the County is not in Default in the performance of any other of its covenants and agreements contained in the Bond Ordinance, or (b) setting forth the circumstances of each such Default known to him or her.

(2) If a certificate filed pursuant to the foregoing paragraph should disclose a Default or Defaults under the Bond Ordinance, there shall be filed with the County an opinion of Bond Counsel that, in the case of any Default disclosed in a certificate filed pursuant to the foregoing paragraph, each such Default does not deprive the Bondholders of the security afforded by the Bond Ordinance in any material aspect.

(3) For the issuance of Bonds to finance the Cost of Acquisition and Construction, or a portion thereof, of any Project, there shall be delivered either (i) a report, based upon the latest available audit of the System, from the County Administrator, the Finance Director of the County, the Director of Public Works of the County, an Accountant or a Consulting Engineer stating that the amount of the Net Revenues of the System is not less than 120% of the Maximum Debt Service on Bonds then Outstanding and the Bonds then proposed to be issued, or (ii) a certificate from an Accountant or Consulting Engineer stating that the amount of the Net Revenues of the System, as shall have been forecasted by such Accountant or Consulting Engineer, is not less than 120% of the actual Debt Service on all Bonds then Outstanding and the Bonds then proposed to be issued for each of the three Fiscal Years following the later of the date of the delivery of the Bonds of such Series or the period (if any) for which interest is funded from the proceeds of such Bonds; provided the amount of Net Revenues for the periods referred to above may be adjusted by adding the following:

(A) in case the rates and charges for the services furnished by the System shall have been revised and such revised rates and charges shall have been adopted prior to the delivery of the Bonds proposed to be issued, the additional amount of Net Revenues which would have been realized during the periods referred to above if such rates and charges had been in effect during such periods as determined by a Consulting Engineer, an Accountant, the County Administrator, the Finance Director of the County or the Director of Public Works of the County; and

(B) in case an existing sewer system, existing water system, existing electric system, existing natural gas system, or any other public utility system is to be acquired and combined or made a part of the System from the proceeds of the Bonds proposed to be issued, the additional amount of Net Revenues which would have been realized during the periods referred to above if such existing system or systems to be acquired had been a part of the System during such periods (which computation of the additional amount of Net Revenues shall be based upon the method of computing Net Revenues under the Bond Ordinance and approved by a Consulting Engineer or an Accountant).

(4) Such Bonds shall be issued to secure funds to defray the Cost of Acquisition and Construction of a Project, including any acquisition or construction of any existing or proposed system which shall be combined with or consolidated into the System pursuant to law; or to refund Junior Bonds, or any notes, bonds, or other obligations issued to finance or to aid in financing the acquisition, construction, improvement, enlargement or repair of the System or another public utility system combined with the System.

(5) The Supplemental Ordinance may provide for a deposit into the Debt Service Reserve Fund of cash or securities or an insurance policy, surety bond or letter of credit, as provided in the Bond Ordinance (inclusive of any proceeds of such Series of Bonds to be deposited in the applicable Debt Service Reserve Fund) having an aggregate value not less than the Reserve Fund Requirement, if any, with respect to the applicable Series of Bonds then proposed to be issued.

It is further specifically found that the Note, whose issuance is herewith provided for, is issued for purposes permitted by and in full compliance with all of the provisions set forth in the Bond Ordinance and that the Note will be on a parity with the Parity Bonds. It is further found that the commitment from the State Authority to purchase the Note is for an amount not to exceed \$1,481,830 plus capitalized interest, if any. The final amount of the borrowing as well as the dates on which principal and interest payments will be made and the amount of such payments are subject to revision as construction proceeds. The final terms and conditions of the borrowing will be set forth in the Loan Agreement attached hereto as Exhibit A which terms and conditions are incorporated herein.

(k) The County is enacting this Fifth Supplemental Ordinance in order to:

- (1) authorize the execution and delivery on behalf of the County of the Loan Agreement and the Note;
- (2) evidence the approval of the Project and the Loan by the County; and
- (3) authorize the execution and delivery by, and on behalf of, the County of such other agreements and certificates and the taking of such other action by the County and its officers as shall be necessary or desirable in connection with the financing of the Project in order to carry out the intent of this Fifth Supplemental Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE COUNTY COUNCIL OF DORCHESTER COUNTY IN MEETING DULY ASSEMBLED:

(1) The Note shall be in the original principal amount of not exceeding \$1,481,830 plus capitalized interest, if any, and the actual principal amount of the Note will be as set forth in the Loan Agreement.

(2) The proceeds of the Note shall be used to defray a portion of the Costs of Acquisition and Construction of the Project and costs associated therewith as set forth in Appendix A to the Loan Agreement.

(3) The Project consists of the acquisition and installation of a reclaimed water storage, treatment and distribution system.

(4) The Costs of Acquisition and Construction of the Project are estimated to be \$3,140,000.

(5) The Note shall be dated the date of delivery thereof.

(6) The date of maturity and payment amounts shall be as set forth in the Loan Agreement. Inasmuch as the final principal amount may be reduced to reflect lower than anticipated construction costs, any changes to the principal amount to provide for a reduction in the amount borrowed shall be permitted and shall be evidenced by the County's execution of the Loan Agreement, as it may be amended from time to time.

(7) The interest rate on the Note and the dates for payment of interest shall be as set forth in the Loan Agreement.

(8) The Note shall be designated Dorchester County, South Carolina, Waterworks and Sewer System Revenue Bond, Series 2011 (or such other appropriate designation to reflect the year in which the Note is issued), and shall be issued in the denomination of the final principal amount borrowed and shall be numbered 1.

(9) The Note is subject to prepayment in whole or in part, together with any accrued interest thereon, at any time without penalty or premium; all such prepayments shall be applied against principal installments due on the Note in inverse order of maturity.

(10) The Paying Agent and Registrar for the Note shall be the Trustee under the Bond Ordinance. The Note and the interest thereon shall be payable as stated in the Loan Agreement.

(11) The Note shall be sold to the State Authority pursuant to the State Authority's final approval of the Loan, and the proceeds of the Note shall be disbursed in accordance with the requirements of the Loan Agreement.

(12) The Note shall be subject to a Reserve Fund Requirement and satisfaction of such Reserve Fund Requirement shall be made by the deposit in the Series 2011 Debt Service Reserve Fund established pursuant to the provisions of Article V of this Fifth Supplemental Ordinance of an amount necessary to satisfy the Reserve Fund Requirement as set forth in the Loan Agreement.

ARTICLE II

THE LOAN

SECTION 2.1. Authorization of Loan. The County Council hereby authorizes the County's acceptance of the Loan from the State Authority in the amount of not exceeding \$1,481,830 plus capitalized interest, if any, pursuant to and in accordance with the provisions of the Loan Agreement.

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

ARTICLE III

LOAN AGREEMENT AND NOTE

SECTION 3.1. Authorization of Loan Agreement and the Note. The Loan Agreement and the Note in substantially the forms attached hereto as Exhibit "A" with such changes as the executing officers shall approve (their execution to be conclusive evidence of such approval) are hereby approved and the execution and delivery of the Loan Agreement and the Note, on behalf of the County, are hereby authorized and directed. The Loan Agreement and the Note shall be executed on behalf of the County by the Chairman of the County Council and attested by the Clerk of County Council (the "Clerk").

ARTICLE IV

ESTABLISHMENT OF SERIES 2011 DEBT SERVICE FUND

SECTION 4.1. In accordance with Section 6.7 of the Bond Ordinance, the Series 2011 Debt Service Fund is hereby directed to be established by the Trustee on the date of the original delivery of the Note.

ARTICLE V

ESTABLISHMENT OF THE SERIES 2011 RESERVE FUND REQUIREMENT  
AND SERIES 2011 DEBT SERVICE RESERVE FUND

SECTION 5.1. In accordance with Section 6.8 of the Bond Ordinance, the Series 2011 Debt Service Reserve Fund is hereby directed to be established by the Trustee on the date of the original delivery of the Note. In this connection, in accordance with Section 6.8 of the Bond Ordinance, the Series 2011 Debt Service Reserve Fund shall be satisfied by the County on the date of original delivery of the Note, and thereafter maintained in an amount equal to one-half of the maximum amount due on the Note during any full calendar year (the "Series 2011 Reserve



Fund Requirement"), all as provided in the Bond Ordinance; provided, however, that in the event that the Series 2011 Reserve Fund Requirement shall increase due to an increase in the Loan Amount (as defined in the Loan Agreement) pursuant to the terms of the Loan Agreement, the County shall deposit funds in an amount equal to the increase in the Series 2011 Reserve Fund Requirement in the Series 2011 Debt Service Reserve Fund as provided in the Loan Agreement.

ARTICLE VI

MISCELLANEOUS

SECTION 6.1. Other Instruments and Actions. In order to implement the Loan pursuant to the Loan Agreement and Note and to give full effect to the intent and meaning of this Fifth Supplemental Ordinance and the agreements and actions herein authorized, the Chairman of County Council, the County Administrator, the County Budget and Finance Director and the Clerk are hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as the shall deem necessary or desirable.

SECTION 6.2. Ordinance a Contract. This Fifth Supplemental Ordinance shall be a contract between the County and the State Authority, and shall be enforceable as such against the County.

SECTION 6.3. Effective Date. This Fifth Supplemental Ordinance shall become effective upon receiving approval on third reading by County Council.

DONE, RATIFIED AND ENACTED THIS 7<sup>th</sup> day of November, 2011.

(SEAL)



\_\_\_\_\_  
Chairman, County Council of Dorchester  
County, South Carolina

Attest:



\_\_\_\_\_  
Clerk, County Council of Dorchester  
County, South Carolina

First Reading: July 18, 2011  
Second Reading: August 15, 2011  
Third Reading: November 7, 2011

EXHIBIT A

Form of Loan Agreement and Note

**LOAN AGREEMENT**

**between**

**SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY**

**and**

**DORCHESTER COUNTY**

Dated

\_\_\_\_\_, 2011

relating to

Lower County Reclaimed Water Storage and Supply

South Carolina Water Pollution Control Revolving Fund

Loan Number: X1-143-11-542-03

No. \_\_\_\_ of Two Executed Original Counterparts

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## LOAN AGREEMENT

THIS LOAN AGREEMENT is entered into as of the \_\_\_ day of \_\_\_\_\_, 2011, between the SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, a public instrumentality of the State of South Carolina (the "*Authority*") and the DORCHESTER COUNTY, a body politic and corporate and a political subdivision of the State of South Carolina (the "*Project Sponsor*").

### WITNESSETH:

WHEREAS, the Authority is authorized by Title 48, Chapter 5, Code of Laws of South Carolina, 1976, as amended (the "*Act*") to administer the South Carolina Water Pollution Control Revolving Fund (the "*Fund*") for the purpose of assisting Project Sponsors (as defined in the Act) in the construction of, among other things, publicly owned treatment works as defined in the Federal Water Pollution Control Act, Chapter 26, Title 33, United States Code, as amended; and

WHEREAS, the South Carolina Department of Health and Environmental Control (the "*Department*") is authorized by the Act to, among other things, develop a priority system and prepare an annual plan to insure compliance with the Federal Water Pollution Control Act; and

WHEREAS, the Authority is authorized by the Act to enter into Loan Agreements (as defined in the Act) with Project Sponsors in order to finance Projects (as defined in the Act); and

WHEREAS, the Act authorizes Project Sponsors, among other things, to undertake Projects, to receive assistance in the financing of such Projects by way of loans made from the Fund and to enter into loan agreements providing for the repayment of amounts received from the Fund, together with interest thereon; and

WHEREAS, the Project Sponsor proposes to acquire and construct the facilities described in Appendix "A" hereto (the "*Project*"), which Project will be part of the Project Sponsor's combined waterworks and sewer system (the "*System*"); and

WHEREAS, the Project Sponsor proposes to finance the Project with a loan made from the Fund, such loan to be pursuant to, and on a parity with debt previously issued under, an ordinance enacted by the Project Sponsor on September 2, 2003 entitled "GENERAL BOND ORDINANCE NO. 03-06 AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF WATERWORKS AND SEWER SYSTEM REVENUE BONDS OF DORCHESTER COUNTY, SOUTH CAROLINA; PRESCRIBING THE FORM OF BONDS; LIMITING THE PAYMENT OF THE BONDS SOLELY TO THE NET REVENUES DERIVED FROM THE OPERATION OF THE SYSTEM AND PLEDGING THE REVENUES TO SUCH PAYMENT; CREATING CERTAIN FUNDS AND PROVIDING FOR PAYMENTS INTO SUCH

FUNDS; AND MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE FOREGOING" (the "*General Bond Ordinance*");

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:



## ARTICLE I

### LOAN

SECTION 1.1. Loan Made and Accepted; Repayment. In consideration of the mutual promises of this Agreement, and upon and subject to its terms and conditions, the Authority agrees to make, and the Project Sponsor agrees to accept, the loan herein provided for (the "*Loan*"). The obligation of the Project Sponsor to repay the Loan and interest thereon is evidenced by this Agreement and a promissory note (the "*Note*") registered in the name of the Authority. The amount of the Loan (the "*Loan Amount*"), the interest rate on the Loan and the repayment schedule with respect to the Loan (the "*Repayment Schedule*") shall be as set forth in Appendix "B" hereto, as may be changed or modified pursuant to Section 1.4 hereof; the terms and form of the Note are set out in Appendix "E". The Project Sponsor shall make payments with respect to the Loan at the times and in the amounts set forth in Appendix "B", as modified, on the due date of any such payment.

SECTION 1.2. Purpose Limited to Project. The Project Sponsor shall use the proceeds of the Loan only to pay the actual eligible costs of the Project. The Project is described in Appendix "A" and more specifically as approved in the Project files of the Department. Except to the extent otherwise approved in writing by the Authority, only the costs shown in the Project budget set forth in Appendix "A" shall be allowed and only in the amounts provided for each category. Costs of construction shall be allowed only for work called for in plans and specifications approved by the Department. Proceeds may not be used to pay for labor performed by employees of the Project Sponsor but may be used to pay for materials installed by them.

#### SECTION 1.3. Disbursements.

1.3.1. The Authority shall make and the Project Sponsor shall accept full or partial disbursements only against incurred, actual eligible costs up to the Loan Amount and by category as provided in this Agreement.

1.3.2. For purposes of making requests for disbursement and representing the Project Sponsor in all administrative matters pertaining to administration of this Agreement, the Project Sponsor shall designate a single officer or employee (the "*Sponsor Representative*") prior to the first disbursement request.

1.3.3. In those cases when the Project Sponsor has paid the incurred Project costs and is seeking reimbursement for payment of such costs theretofore paid by the Project Sponsor, any check for disbursement from the Fund for reimbursement to the Project Sponsor shall be drawn and mailed to the Project Sponsor. In those cases when the Project Sponsor is seeking funds with which to pay incurred Project costs, any check for disbursement from the Fund to pay such costs may, at the option of the Authority, be drawn to the Project Sponsor alone or jointly to the Project Sponsor and contractor engaged by the Project Sponsor for the Project. Such check will be mailed to the Project Sponsor.

1.3.4. Before any disbursement, the Project Sponsor shall execute any documents requested by the Authority reasonably necessary or convenient to the foregoing and shall have satisfied all conditions of Section 1.6 hereof.

1.3.5. Requests for disbursement may be made only after the costs for which the draw is requested have been incurred. The Project Sponsor may not request a disbursement until all construction contracts are signed. The first request for disbursement submitted by the Project Sponsor pursuant to this Agreement shall include an amount for incurred construction costs and all amounts requested by the Project Sponsor for payment or reimbursement of amounts set forth in any of the categories "Planning and Design Engineering", "Land Acquisition", and "Legal and Appraisal Fees" which appear in the Project Budget in Appendix "A" hereto. The Project Sponsor shall not request disbursement against retainage until retainage is paid and shall not request disbursement for change orders unless such change orders have been approved by the Department. Unless the Authority otherwise approves, when the Project budget indicates that the Loan shall bear only a portion of the eligible costs of the Project, or a portion of certain itemized costs, any draw shall not exceed the same proportion of such costs reported for disbursement.

1.3.6. Requests for disbursement shall be made on forms of the Department unless the Authority or Department otherwise directs, and shall be accompanied by such invoices and other proofs as the Authority and Department may reasonably require. The final disbursement shall not be released until the Department issues its approval to place the Project into operation (the "*Permit to Operate*"). No disbursement requests will be accepted more than one hundred twenty (120) days after the date of such Permit to Operate.

1.3.7. The Authority may require that each draw request shall be submitted to the Authority and Department at least twenty-one (21) days before the day disbursement is needed and may limit draw requests to one per month. The Authority will exert its best efforts to mail its check in response to a disbursement request within twenty-one (21) days of receiving such request, but no assurance is given by the Authority that such schedule will be met and the Authority shall incur no liability to any Project Sponsor. Processing on shorter notice or faster schedule shall not amend this provision.

#### SECTION 1.4. Changes in Payment Initiation Date, the Loan Amount and Repayment Schedule.

1.4.1. The Loan Amount has been determined, in part, upon the basis of the projected cost of the Project as shown in Appendix "A". The Payment Initiation Date shown in Appendix "B" (the "*Payment Initiation Date*") is determined by a combination of factors, including, but not limited to the expected Project schedule shown in Appendix "A". Appendix "B" shows the Repayment Schedule anticipated by the parties on this basis and provides for repayment of the Loan, including interest thereon, in eighty (80) equal, or approximately equal, quarterly payments beginning on the first day of the third month after the month of the Payment Initiation Date. The Loan Amount, the Payment Initiation Date and the Repayment Schedule may be changed but only as provided in paragraph 1.4.2, below. The Interest Rate is fixed for the term of the Loan and may not be changed from the rate originally established in Appendix "B" hereof.

1.4.2. (a) At the written request of the Project Sponsor, submitted to the Authority no later than sixty (60) days prior to the original Payment Initiation Date in Appendix "B", the Payment Initiation Date may be extended once by the Authority to any date not later than the earlier to occur of (i) six (6) months from the original Payment Initiation Date in Appendix "B", or (ii) thirty (30) months from the first day of the month following the date of this Agreement, or (iii) the first day of the month following the date of the Permit to Operate issued by the Department for the operation of the Project.

(b) In the event the Permit to Operate the Project is issued by the Department more than one (1) month prior to the Payment Initiation Date stated in Appendix "B", the Authority shall require that either the Payment Initiation Date be accelerated to the first day of the month following the date of the Permit to Operate, or the term of the Loan be shortened by a minimum of three (3) months.

(c) The Project Sponsor may request that the Loan Amount be increased by including in principal on the Payment Initiation Date the interest which has accrued on amounts theretofore advanced from the Fund. Any such request shall be submitted in writing to the Authority by the Project Sponsor not less than thirty (30) days prior to the Payment Initiation Date.

(d) The Authority or the Project Sponsor may initiate a reduction to the Loan Amount at any time there is a determination that a lesser amount is required for completion of the Project.

(e) The initial Repayment Schedule with respect to the Loan set forth in Appendix "B" shall be modified to reflect (i) changes in the Loan Amount, (ii) extension or acceleration of the Payment Initiation Date, and (iii) any other modification thereto agreed to by the Authority and the Project Sponsor.

(f) Modification of the Repayment Schedule resulting from a change in the Loan Amount subsequent to the Payment Initiation Date shall be made such that:

(i) at the time of final disbursement pursuant to Section 1.3 the Authority shall determine the final Loan Amount;

(ii) a revised Repayment Schedule shall be calculated by the Authority based on the final Loan Amount, the interest rate set forth in Appendix "B" and payment in eighty (80) equal, or substantially equal, quarterly installments beginning on the first day of the third month after the month of the Payment Initiation Date; and

(iii) any difference between the amount theretofore paid by the Project Sponsor prior to the revision of the Repayment Schedule and the amount which would have been paid had the revised schedule been in effect from and after the Payment Initiation Date shall be credited against the next payment, or payments, due under the revised Repayment Schedule

(g) For purposes of the Repayment Schedule, any amounts disbursed subsequent to the Payment Initiation Date shall be considered to have been advanced on the Payment Initiation Date.

1.4.3. Any change in the Loan Amount, extension or acceleration of the Payment Initiation Date or modification of the Repayment Schedule shall be documented administratively by notice under this Agreement and shall be reflected in the substitution of a revised Appendix "B" hereto reflecting any such change or modification. In connection with any such change or modification, the Authority may, but need not, impose new terms and conditions, including cancellation of the Note and execution of a new Note.

SECTION 1.5. Deadline for Borrowing and Termination of Promise to Lend. The Authority, in its sole discretion, may terminate its promise to lend all of, or any unadvanced portion of, the Loan Amount which has not been advanced if:

1.5.1. The Project Sponsor has not entered into all construction contracts applicable to the Project within six (6) months of the date of this Agreement; or

1.5.2. The Project Sponsor does not request disbursement of the unborrowed balance of the Loan Amount on or before the one hundred twentieth (120th) day following the date of the Permit to Operate issued by the Department for the Project; or

1.5.3. An Event of Default (as defined in Section 5.1 hereof) occurs (in which event the remedies for default likewise shall be available); or

1.5.4. A circumstance arises or becomes known which, in the Authority's sole discretion and opinion, (a) substantially impairs the ability of the Project Sponsor to complete the Project, to operate the Project or to repay the Loan, or (b) substantially impairs the merit of the Project.

SECTION 1.6. Conditions Precedent to Disbursement of Loan Proceeds. In addition to any other conditions herein provided, the Authority's obligation hereunder to make disbursements from the Fund for advances on the Loan shall be subject to satisfaction of the following conditions:

1.6.1. The Project Sponsor's representations and warranties shall remain true and correct;

1.6.2. No Event of Default shall have occurred under this Agreement or the Note;

1.6.3. The Project Sponsor has complied with the requirements of Sections 1.3, 1.4 and 1.5; and

1.6.4. There shall be on deposit in any debt service reserve fund required by this Agreement the amount required at such time to be on deposit therein.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

The Project Sponsor represents and warrants to the Authority as follows:

SECTION 2.1. Status of Project Sponsor. The Project Sponsor is a body politic and corporate and a political subdivision of the State of South Carolina (the "*State*"), authorized to acquire and construct the Project and to operate the Project and provide wastewater treatment services.

SECTION 2.2. Financial Statements. The financial statements of the Project Sponsor delivered to the Authority are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles for units of government, consistently applied, and fairly present the respective financial condition of the subjects thereof as of the respective dates thereof. No material adverse change has occurred in the financial conditions reflected in the statements since their date and no additional borrowing has been made by the Project Sponsor since then other than borrowing specifically disclosed and approved by the Authority. All other information submitted by the Project Sponsor in support of its application for this Loan is true and correct as of the date of this Agreement, and no material adverse change with respect to the Project Sponsor has occurred.

SECTION 2.3. Pending Litigation. There are no actions, suits or proceedings, at law or in equity, in court or before any governmental or administrative agency, either pending or to the knowledge of the Project Sponsor reasonably to be considered threatened, which may impair the validity or enforceability of the Note or this Agreement or the Project Sponsor's ability to repay the Loan or to construct and operate the Project for revenue.

SECTION 2.4. No Conflicting Transactions. Consummation of the transactions hereby contemplated and performance of this Agreement will not result in any breach of, or constitute a default under, any deed to secure debt, mortgage, deed of trust, indenture, security agreement, lease, bank loan or credit agreement, municipal charter, ordinances, contracts or other instruments to which the Project Sponsor is a party or by which it may be bound or affected.

SECTION 2.5. Ownership of Premises. The Project Sponsor owns in fee simple the real property which presently constitutes or which will constitute the main operating facilities of the Project and of the System as a whole, and further owns in fee simple or by sufficient easement the real property upon, across or under which the Project Sponsor has or will have its collection or trunk lines, manholes, pump stations and the like including those to be a part of the Project and otherwise. Property of which the Project Sponsor has taken possession pursuant to Section 28-2-90 of the South Carolina Eminent Domain Procedure Act (Title 28, Chapter 2, Code of Laws of South Carolina, 1976, as amended), and in connection with which no action pursuant to Section 28-2-470 of such Act has been instituted within thirty (30) days of the

Condemnation Notice with respect to such property, shall be deemed owned in fee simple by the Project Sponsor pursuant to this Section 2.5. The Project Sponsor has good record title to the real property described above (or has possession pursuant to the Eminent Domain Procedure Act, as described above) with only such exceptions of record as do not limit the fee simple ownership and do not and will not interfere with the full use and enjoyment of the premises by the Project Sponsor. With respect to the personal property and fixtures of the Project Sponsor necessary or convenient to the System and its operation, there are no liens or other claims of record against such property or other evidence of adverse ownership, and the Project Sponsor owns such personal property and fixtures in fee simple without conflicting claim of ownership.

SECTION 2.6. Other Project Arrangements. The Project Sponsor has secured the utilities, access, governmental approvals and other arrangements reasonably to be considered necessary for the undertaking of the Project.

SECTION 2.7. No Construction Default. Neither the Project Sponsor nor its contractor, architect or engineer for the Project or any related project is in default of any agreement respecting the Project or a related project.

SECTION 2.8. No Default. There is no default on the part of the Project Sponsor under this Agreement or the Note, and no event has occurred and is continuing, which, with notice or the passage of time would constitute a default under any part of this Agreement or the Note.

SECTION 2.9. Effect of Draw Request. Each request for and acceptance of disbursement by the Project Sponsor shall be affirmation that the representations and warranties of this Agreement remain true and correct as of the date of the request and acceptance, that no breach of other provisions hereof has occurred, and that no adverse developments affecting the financial condition of the Project Sponsor or its ability to complete the Project or to repay the Loan plus interest have occurred since the date of this Agreement unless specifically disclosed in writing by the Project Sponsor in the request for disbursement. Unless the Authority is notified to the contrary, such affirmations shall continue thereafter.

## ARTICLE III

### COVENANTS

#### SECTION 3.1. Contract Award, Construction Inspection and Completion.

3.1.1 The Project Sponsor should not execute construction contracts or issue the notice to proceed with respect to the Project prior to receiving written approval from the Department to award construction contracts.

3.1.2 The Project Sponsor shall provide and maintain competent and adequate engineering supervision and continuous inspection of the Project to insure that the construction conforms with the plans and specifications approved by the Department. A monthly inspection report shall accompany each disbursement request.

3.1.3 The Project Sponsor shall cause the Scope of Work identified in Appendix "A" to be completed pursuant to the Project Schedule also defined in Appendix "A" hereto. The Project Sponsor shall require all contractors to satisfactorily complete all work within the time stated in the executed construction contract. Extension of any contract completion date requires the Department's approval. Any costs incurred as a result of a time extension which has not received approval by the Department shall not be eligible for Loan participation.

3.1.4 The Project Sponsor shall pay all costs to complete the Project not covered by the Loan and commits itself to complete the construction of the operable treatment works and to complete the treatment system of which this Project is a part.

SECTION 3.2. Disbursements. The Project Sponsor shall receive and promptly disburse the funds to be provided hereunder as trust funds for the purpose of paying the eligible costs of the Project and for no other purpose.

SECTION 3.3. Release of Responsibility. The Project Sponsor shall undertake the Project on its own responsibility and shall release and hold harmless the Authority, the Department, the State and their officers, members and employees from any claim arising in connection with the design, construction or operation of the Project or any other aspect of the System including any matter due solely to their negligence.

SECTION 3.4. Other Agreements. The Project Sponsor shall comply with all terms and conditions of any construction contracts, architectural or engineering agreements, trust indentures, security deeds, promissory notes, loan agreements, or the like affecting the Project, the premises of the System and its operation. The Project Sponsor shall require its construction contractor to furnish both a performance bond and payment bond in the full amount of the construction contract. The requirement of such bonds shall be for the convenience of the Authority only and shall not be an undertaking by the Authority to the Project Sponsor or any third party.

SECTION 3.5. Accounting and Auditing.

3.5.1. Accounting. The Project Sponsor shall account for the Project and the System according to Generally Accepted Governmental Accounting Principles (GAAP), applying all relevant Government Accounting Standards Board (GASB) pronouncements, as well as, when applicable, Financial Accounting Standards Board (FASB) pronouncements and Accounting Principle Board (APB) opinions issued on or before November 30, 1989, unless those pronouncements conflict with, or contradict, subsequent GASB pronouncements.

3.5.2. Audit. Within six (6) months of the end of each fiscal year of the Project Sponsor, the Project Sponsor shall tender to the Authority an annual financial audit by a certified public accountant. The conduct of the audit and the audit shall be in accordance with Generally Accepted Auditing Standards as defined in Government Auditing Standards, Comptroller General of the United States, July 27, 2007, and revisions, updates or successors thereto.

SECTION 3.6. Insurance. The Project Sponsor covenants and agrees that so long as any amount remains unpaid on the Note:

(A) It will insure and at all times keep the Project insured against physical loss or damage with a responsible insurance company or companies, authorized and qualified under the laws of the State, to assume the risks insured against, in an amount equal to the replacement cost of the Project;

(B) It will secure adequate fidelity bonds (blanket or individual) of a surety company doing business in the State, indemnifying the Project Sponsor against defalcation of all persons handling money derived from the System or signing checks on any bank accounts relating to the System;

(C) All insurance policies shall be open to the inspection of the Authority at any reasonable time; and

(D) All money received by the Project Sponsor as a consequence of any defalcation, covered by any fidelity bond, shall be used to restore the fund depleted by the defalcation. All sums received by the Project Sponsor from insurance policies covering the Project may, to the extent necessary, be applied to the repair and replacement of the damaged or destroyed property, but, in the event that such money is not used for such purposes, then the same shall be applied to payment of the Note.

SECTION 3.7. Compliance with Governmental Authority. The Project Sponsor shall comply with all environmental laws, rules and other provisions of legal force and effect and all such other provisions which govern the construction or operation of the Project or the System.

SECTION 3.8. Adequate Rates. The Project Sponsor shall at all times establish and maintain in effect rates and charges for the services provided by, or made available by, the Project and the System as shall be sufficient to meet the requirements of this Agreement, and the Project Sponsor specifically



covenants and agrees to maintain rates and charges for all services furnished by the System which shall at all times be sufficient:

3.8.1. To provide for the punctual payment of the principal of and interest on the Note and any other indebtedness of the Project Sponsor payable from revenues of the System that may from time to time hereafter be outstanding;

3.8.2. To maintain any Debt Service Reserve Fund required by this Agreement in accordance with the provisions hereof;

3.8.3. To provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as may be necessary to preserve the same in good repair and working order;

3.8.4. To build and maintain a reserve for depreciation of the System, for contingencies and for improvements, betterments and extensions to the System other than those necessary to maintain the same in good repair and working order; and

3.8.5. To discharge all other obligations imposed by the Act and by this Agreement.

The Project Sponsor further covenants and agrees that it shall at all times establish and maintain in effect rates and charges for the services provided by, or made available by, the Project and the System which, together with other income, are reasonably expected to yield annual Net Revenues, as defined in the General Bond Ordinance, in any fiscal year equal to the greater of (i) one hundred ten percent (110%) of the annual principal and interest on all debt paid from or secured by revenues of the System; or (ii) such other percentage of the annual principal and interest on all debt paid from or secured by revenues of the System as the Project Sponsor shall have covenanted that its Net Revenues would meet with respect to other outstanding indebtedness of the System.

SECTION 3.9. Review of Rates. The Project Sponsor covenants that, so long as any amount remains unpaid on the Note, it will review the adequacy of its rates and charges to comply with the requirements of this Agreement promptly upon any material changes in circumstances, but not less frequently than once in each fiscal year of the Project Sponsor. The Project Sponsor shall submit any adjustments to its rates and charges to the Authority immediately upon adoption.

SECTION 3.10. Disclosure of Events to Authority. The Project Sponsor covenants that, so long as any amount remains unpaid on the Note, it will submit to the Authority event specific information within thirty (30) days of an event adversely affecting more than five (5) percent of revenues of the System and any other information which is released to a municipal bond information repository service.

SECTION 3.11. Procurement Requirements. The Project Sponsor shall comply with all procurement requirements of law and, to the extent compliance therewith does not contravene any provision of law applicable to the Project Sponsor, shall comply with the procurement requirements set forth in Appendix "C" hereto.

SECTION 3.12. Inspection and Information. On reasonable notice, the Authority or the Department shall have for its own convenience and benefit, and without obligation to the Project Sponsor or any third party, the right to audit the books and records of the Project Sponsor as they may pertain to or affect the System and this Agreement and to enter upon the premises to inspect the Project. The Project Sponsor shall cause its architects, engineers, contractors, and auditors to cooperate during such inspections including making available any documents, records, reports or other materials pertinent to the Project and the inspection. The Project Sponsor shall comply with all reasonable requests by the Authority or the Department for information pertaining to the Project Sponsor's compliance with this Agreement.

SECTION 3.13. Consent to Changes. Without consent of the Authority and Department, the Project Sponsor shall make no modifications or changes to the Project, or allow to continue any defect, which would damage or reduce the value of the Project or the System. The Project Sponsor shall not divide the Project into component projects in order or in effect, so as to defeat the provisions of this Agreement. The Project Sponsor covenants that it shall remain the owner of the Project and agrees that it will not convey, transfer, mortgage or otherwise encumber the Project, the System or the revenues derived therefrom during the term of this Agreement without the express prior written approval of the Authority.

SECTION 3.14. Additional Covenants. The Project Sponsor further covenants and agrees that:

3.14.1. Neither the System, nor any part thereof, nor any of the revenues derived from the System, have been or will be hypothecated, mortgaged, otherwise pledged or encumbered, save and except as herein disclosed and provided for;

3.14.2. It will permit no free service to be rendered, or use to be made of the services and facilities of the System and for the services and facilities of the System used by the Project Sponsor, the reasonable cost and value of such services and facilities shall be paid as such services accrue. The revenue so received from the Project Sponsor shall be deemed revenue derived from the operation of the System, and shall be accounted for in the same manner as other revenues of the System;

3.14.3. It will permit no customer to be connected to the System, or to receive any service afforded by the System, unless such customer shall become obligated to pay for the service rendered at the appropriate rate according to the rate schedule then in force; and

3.14.4. So long as any amount due with respect to the Note is unpaid, it will perform all duties with reference to the System required by the Constitution and statutes of the State, and the Project Sponsor

hereby irrevocably covenants, binds and obligates itself not to pledge, mortgage or otherwise encumber the System or any part thereof, or any revenues therefrom, except in the manner herein authorized, and it will not sell, lease or dispose of any portion of the System, necessary or useful, and the Project Sponsor further obligates itself and covenants and agrees with the Authority to maintain in good condition and to operate said System, and to collect and charge such rates for the services and facilities of the System so that the income and revenues of the System will be sufficient at all times to meet the requirements of this Agreement.

ARTICLE IV  
ESTABLISHMENT OF FUNDS AND  
DISPOSITION OF REVENUES

SECTION 4.1. Establishment of Gross Revenue Fund, Debt Service Fund, Operation and Maintenance Fund, and Depreciation and Contingency Fund. Beginning on the first day of the month following the delivery of the Note, except with respect to the Debt Service Fund, and continuing until all amounts due with respect to the Note have been paid in full, the following funds shall be established and maintained:

4.1.1. The Project Sponsor shall establish a Gross Revenue Fund, into which shall be placed all receipts, income and revenue that the Project Sponsor shall derive, directly or indirectly, from the ownership of the System. Moneys in the Gross Revenue Fund may be withdrawn on order of the Project Sponsor, but shall be made use of only in the manner and in the order of priority specified in Section 4.3 hereof.

4.1.2. Beginning in the month of the Payment Initiation Date, the Project Sponsor shall provide for the establishment of a Series 2011 Debt Service Fund (the "*Debt Service Fund*") as a means of providing for the payment of the principal and interest on the Note as the same shall fall due. Moneys in the Debt Service Fund shall be used solely to pay the principal of and interest on the Note, and for no other purpose. The Debt Service Fund shall be kept in the complete custody and control of the Trustee, as defined in Section 4.4 herein and as established under the General Bond Ordinance. Withdrawals from the Debt Service Fund shall be made only by the Trustee who shall transmit to the Authority the sums required to pay principal and interest on the Note.

4.1.3. The Project Sponsor shall establish an Operation and Maintenance Fund in order to provide for the payment of all expenses incurred in connection with the administration and operation of the System, and such expenses as may be reasonably necessary to preserve the System in good repair and working order.

4.1.4. The Project Sponsor shall establish a Depreciation and Contingency Fund in order to build up a reserve for the depreciation of the System, for improvements, and for contingencies of the System. Moneys in this fund shall be used solely for the purpose of restoring or replacing depreciated or obsolete items of the System and to build up a reasonable reserve for improvements, betterments and extensions to the System, other than those expenses necessary to maintain the System in good repair and working order, and whenever necessary to prevent a default in the payment of principal or interest on the Note or Parity Debt (as defined in Section 4.3.2 herein) transferred to the applicable debt service fund.

4.1.5. In the event the Project Sponsor shall have established funds analogous to, or serving the purpose of, the funds required to be established by this Article IV, such funds may be continued and

employed for the purposes of this Agreement, and the Project Sponsor shall not be required to establish duplicate funds.

SECTION 4.2. Establishment and Funding of Debt Service Reserve Fund.

4.2.1. Prior to delivery of this Agreement to the Authority, the Project Sponsor shall establish, and there shall be maintained until payment in full of the Note, a Series 2011 Debt Service Reserve Fund (the "*Debt Service Reserve Fund*") to provide a reserve for payment of principal of and interest on the Note. The Debt Service Reserve Fund Requirement (the "*Reserve Requirement*") shall equal at least one-half of the maximum amount due on the Note during any full calendar year.

4.2.2. The Debt Service Reserve Fund is intended to insure the timely payment of the principal of and interest on the Note. Money in the Debt Service Reserve Fund shall be used only to prevent a default in the payment of the Note, by reason of the fact that money in the Debt Service Fund is insufficient for such purposes.

4.2.3. Prior to the delivery of this Agreement to the Authority, the Project Sponsor shall deposit, or cause to be deposited, in the Debt Service Reserve Fund funds in an amount, or investments permitted by subsection 4.4.3 having a value, equal to the Reserve Requirement. In the event that the Reserve Requirement shall increase due to an increase in the Loan Amount pursuant to subsection 1.4.2(c), the Project Sponsor shall immediately deposit, or cause to be deposited, in the Debt Service Reserve Fund funds in an amount equal to such increase in the Reserve Requirement.

SECTION 4.3. Disposition of Revenues. All revenues derived from the operation of the System shall be deposited in the Gross Revenue Fund. Beginning in the month following the delivery of this Agreement with respect to payments pursuant to subsections 4.3.1 and 4.3.3 to 4.3.6, inclusive, and beginning in the month of the Payment Initiation Date with respect to payments pursuant to subsection 4.3.2, withdrawals from the Gross Revenue Fund shall be made in the following order of priority, and on or before the fifth (5<sup>th</sup>) Business Day, as defined in the General Bond Ordinance, preceding the end of each month with respect to Section 4.3.2.

4.3.1. There shall be deposited into the Operation and Maintenance Fund amounts which are in accordance with the Project Sponsor's Annual Budget, as defined in the General Bond Ordinance, for operating and maintaining the System.

4.3.2. The monthly fraction of the next payment of principal and interest to become due on the Note on the next succeeding payment date shall be deposited in the Debt Service Fund. Simultaneously with making the monthly deposit in the Debt Service Fund required by this Section 4.3.2, the Project Sponsor shall deposit, to the extent required by the General Bond Ordinance, (a) in a fund for the payment of amounts due with respect to the Project Sponsor's Waterworks and Sewer System Revenue Refunding and Improvement Bonds, Series 2003 (the "*2003 Revenue Bonds*"), the amount of the next payment of principal

and interest to become due on the 2003 Revenue Bonds; (b) in a fund for the payment of amounts due with respect to the Project Sponsor's Waterworks and Sewer System Revenue Bonds, Series 2006 (the "**2006 Revenue Bonds**"), the amount of the next payment of principal and interest to become due on the 2006 Revenue Bonds; (c) in a fund for the payment of amounts due with respect to the Project Sponsor's Waterworks and Sewer System Revenue Bonds, Series 2009 (the "**2009 Revenue Bonds**"), the amount of the next payment of principal and interest to become due on the 2009 Revenue Bonds; (d) in a fund for the payment of amounts due with respect to the Project Sponsor's Waterworks and Sewer System Revenue Bond, Series 2009A (the "**2009A Revenue Bond**"), the amount of the next payment of principal and interest to become due on the 2009A Revenue Bond; and (e) into a fund or funds for the payment of amounts due with respect to any obligations of the Project Sponsor (the "**Obligations**") secured by a pledge of revenues on a parity with the pledge securing the Note, the 2003 Revenue Bonds, the 2006 Revenue Bonds, the 2009 Revenue Bonds and the 2009A Revenue Bond, the monthly fraction or fractions of the next payment or payments due on any such Obligation or Obligations. The 2003 Revenue Bonds, the 2006 Revenue Bonds, the 2009 Revenue Bonds, the 2009A Revenue Bond, and the Obligations are hereinafter sometimes referred to as "**Parity Debt**". In the event amounts available for payments into the funds with respect to the Note and all Parity Debt are not sufficient to make all payments then required to be made, such available amounts shall be deposited into such funds on a pro rata basis.

4.3.3. (a) In the event any amounts shall be withdrawn from the Debt Service Reserve Fund in order to provide for payment of any amounts due with respect to the Note, there shall be deposited in the Debt Service Reserve Fund not less than one-twelfth (1/12) of the amount of any such withdrawal and such deposits with respect to any such withdrawal shall begin in the month following such withdrawal and shall continue in each month thereafter until the amount on deposit in the Debt Service Reserve Fund shall equal at least the Reserve Requirement.

(b) If the value of the Debt Service Reserve Fund is ever less than the Reserve Requirement, other than as provided in (a) above, or as provided in subsection 4.2.3 with respect to any increase in the Loan Amount, there shall be deposited in the Debt Service Reserve Fund not less than one-fourth (1/4) of an amount equal to the total Reserve Requirement deficiency, beginning in the month following such a determination. Such deposits shall continue to be made until the amount on deposit in the Debt Service Reserve Fund shall equal at least the Reserve Requirement.

4.3.4. If, in any month, for any reason, the Project Sponsor shall fail to pay all or any part of the money it has herein agreed to pay into said Debt Service Fund or Debt Service Reserve Fund, the amount of any such deficiency shall be added to and shall become a part of the amount due and payable into said Debt Service Fund or Debt Service Reserve Fund in the next succeeding month.

4.3.5. Provision shall be made for the payment of principal and interest on any Junior Bonds, as defined in the General Bond Ordinance.

4.3.6. There shall be deposited from time to time in the Depreciation and Contingency Fund the amounts determined in the Annual Budget for the System.

4.3.7. Any revenues remaining after the foregoing deposits have been made shall be disposed of as the Project Sponsor shall determine to be for any lawful purposes of the System.

SECTION 4.4. Concerning the Debt Service Fund and the Debt Service Reserve Fund. The Debt Service Fund established pursuant to Section 4.1.2 hereof and the Debt Service Reserve Fund established pursuant to Section 4.2 hereof shall be established with a bank whose deposits are insured by the Federal Deposit Insurance Corporation (the "*Trustee*") chosen by the Project Sponsor with the written approval of the Authority. The Debt Service Fund and the Debt Service Reserve Fund shall be held and administered by the Trustee in accordance with the provisions of the General Bond Ordinance and the following provisions of this Section 4.4. The Trustee shall acknowledge and accept its duties and responsibilities with respect to the Debt Service Fund and the Debt Service Reserve Fund in a written instrument delivered to the Authority with this Agreement.

4.4.1. The Trustee shall notify the Authority in writing of the date of the establishment of the Debt Service Fund and the Debt Service Reserve Fund, the account number and the initial amount of the deposit for each of these two funds. If the Project Sponsor fails to deposit the amount required by this Agreement in either fund at the time required for such deposit, the Trustee, no later than the fifth day after the date on which such deposit is to be made, shall provide written notification to the Project Sponsor, with a copy to the Authority, of the amount required for deposit into the Debt Service Fund or the Debt Service Reserve Fund pursuant to the provisions of this Agreement. The Trustee shall also verify balances in the Debt Service Reserve Fund, as requested by the Authority, but no less often than semiannually during any period of monthly deposits and no less often than annually when the full Reserve Requirement is met and maintained.

4.4.2. From sums deposited in the Debt Service Fund by the Project Sponsor, the Trustee shall transmit to the Authority a check made payable to "Office of Local Government - SRF" in the amount, and at the times, required by the Agreement and Note. If insufficient sums exist in the Debt Service Fund for any payment then due, the Trustee shall transfer the amount needed for payment from the Debt Service Reserve Fund and the Trustee shall notify the Project Sponsor of the amounts required to be deposited in the Debt Service Reserve Fund in order to replenish such a withdrawal and have on deposit therein the amount required by this Agreement. A copy of any such notice shall be provided to the Authority by the Trustee.

4.4.3. Pending disbursement pursuant to this Section 4.4, money in the Debt Service Reserve Fund shall be invested and reinvested in Permitted Investments, as defined in the General Bond Ordinance. Subject to the remaining provisions of this subsection 4.4.3, the earnings from such investments shall be added to and become a part of the Debt Service Reserve Fund. Whenever, and as of any date of calculation,

the value of the securities and money in the Debt Service Reserve Fund shall exceed the Reserve Requirement, such excess shall, at the direction of the Project Sponsor, either be used to effect partial prepayment of the Note, or shall be removed from the Debt Service Reserve Fund and transferred into the Gross Revenue Fund.

4.4.4. Upon payment in full of all amounts due with respect to the Note, which payment shall be evidenced to the Trustee in writing by the Authority, the Trustee shall pay over all amounts remaining in the Debt Service Fund and Debt Service Reserve Fund to the Project Sponsor upon the receipt of written directions from the Project Sponsor and the Trustee shall thereafter have no further responsibilities under this Agreement.



ARTICLE V  
EVENTS OF DEFAULT

SECTION 5.1. Events of Default. The following occurrences shall constitute Events of Default hereunder:

(A) The Project Sponsor fails to comply with any of the covenants, terms and conditions made in this Agreement;

(B) The Project Sponsor fails to pay any amount due on the Note at the time and in the manner provided in the Note and this Agreement;

(C) Any representation, warranty or statement made by the Project Sponsor in this Agreement or in connection with it or the Loan shall be or become untrue, incorrect or misleading in any material respect;

(D) The Project Sponsor makes an assignment for benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions for appointment of a receiver or trustee for any substantial part of its property or is the subject of such a petition or commences or has commenced against it or its property (a) any similar proceeding under any bankruptcy law or other debtor-relief or similar law or (b) any foreclosure of any mortgage or similar implementation of a trust indenture or like instrument;

(E) Dissolution of the existence of the Project Sponsor;

(F) Any legal or equitable action is commenced against the Project Sponsor which, if adversely determined, could reasonably be expected to impair substantially the ability of the Project Sponsor to perform each and every obligation under this Agreement;

(G) Construction of the Project is not carried out with reasonable dispatch, ceases and is not resumed for forty-five (45) days or is abandoned; and

(H) The Authority reasonably suspects the occurrence of any default or Event of Default by the Project Sponsor, and following request by the Authority, the Project Sponsor fails to provide evidence reasonably satisfactory to the Authority that such default or Event of Default has not in fact occurred.

## ARTICLE VI

### REMEDIES

SECTION 6.1. Acceleration. Upon the occurrence of an Event of Default, the Authority may, by notice in writing to the Project Sponsor, declare the principal balance of the Note immediately due and payable; and such amount and all interest accrued thereon shall become and be immediately due and payable, anything in the Note or in this Agreement to the contrary notwithstanding. In such event, there shall be due and payable on the Note an amount equal to the total principal amount disbursed on the Note, plus all interest accrued thereon and which will accrue thereon to the date of payment.

SECTION 6.2. Additional Remedies and Enforcement of Remedies. Upon the occurrence and continuance of any Event of Default, the Authority may proceed forthwith to protect and enforce its rights by such suits, actions or proceedings as the Authority shall deem expedient, including but not limited to:

(A) Requiring the Project Sponsor to carry out its duties and obligations under the terms of this Agreement and under the Act;

(B) Suit upon all or any part of the Note;

(C) Civil action to require the Project Sponsor to account as if it were the trustee of an express trust for the Authority;

(D) Civil action to enjoin any acts or things which may be unlawful or in violation of the rights of the Authority; and

(E) Enforcement of any other right of the Authority including the right to make application for the appointment of a receiver to administer and operate the System.

SECTION 6.3. Remedies Not Exclusive. No remedy by the terms of this Agreement conferred upon or reserved to the Authority is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or existing at law or in equity or by statute (including the Act) on or after the date hereof.

SECTION 6.4. Termination of Proceedings. In case any proceeding taken by the Authority on account of any Event of Default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Authority, the Authority and the Project Sponsor shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Authority shall continue as if no such proceeding had been taken.

## ARTICLE VII

### SECURITY

SECTION 7.1. Pledge of Revenues. For the payment of the Note and as security for its other obligations under this Agreement, the Project Sponsor hereby grants to the Authority a pledge of, and lien upon, the Net Revenues of the System, as defined in the General Bond Ordinance. Such pledge and lien upon the Net Revenues shall be on a parity in all respects to the pledge and lien securing any Parity Debt (as defined in Section 4.3.2) and shall at all times and in all respects be and remain superior to any pledges made to secure any other obligations of the Project Sponsor payable from the Net Revenues of the System except to the extent otherwise agreed to in writing by the Authority. Parity Debt may be issued only in compliance with Article III of the General Bond Ordinance or, if the General Bond Ordinance is no longer in effect, only with the prior written approval of the Authority.

SECTION 7.2. Additional Security. Upon any failure of the Project Sponsor to make any payment to the Authority in accordance with the provisions of the Note and this Agreement, the Authority shall, without further action, require the State Treasurer to pay to the Authority, subject to the provisions of the Act, the amount of state appropriations as the Project Sponsor may become entitled to until all delinquent payments under the Note have been paid.

## ARTICLE VIII

### SPECIAL REVOLVING FUND PROVISIONS

SECTION 8.1. Compliance. The Project Sponsor agrees that no date reflected in this Agreement, or in the project completion schedule, or extension of any such date, shall modify any compliance date established in an NPDES permit. It is the Project Sponsor's obligation to request any required modification of applicable permit terms or other enforceable requirements.

SECTION 8.2. Standard Conditions. The Project Sponsor acknowledges and agrees to comply with the following Federal and/or State requirements:

(A) The Project Sponsor shall provide access to the Project work whenever it is in preparation or progress and provide proper facilities for access and inspection. The Project Sponsor shall allow the Regional Administrator of the Environmental Protection Agency, the Comptroller General of the United States, the Department and the Authority, or any authorized representative, to have access to any books, documents, plans, reports, papers, and other records of the contractor which are pertinent to the Project for the purpose of making audit, examination, excerpts, copies, and transcriptions.

(B) Pursuant to requirements of the Fiscal Year 2010 Federal Appropriations Act (PL 111-88) and the Fiscal Year 2011 Federal Appropriations Act (PL 112-10), the Project Sponsor shall comply with the Davis-Bacon Act and certify that all laborers and mechanics employed by prime contractors and subcontractors are paid wages at rates not less than those listed on the prevailing wage rate contained in the Project's contract documents and that all applicable provisions of the Davis-Bacon Act have been met. The Project Sponsor shall require the prime contractor to comply with the Davis-Bacon Act.

ARTICLE IX

GENERAL CONDITIONS

SECTION 9.1. No Waiver. No disbursements shall waive any provision of this Agreement or the Note or preclude the Authority from declaring a default if the Project Sponsor is unable to satisfy any such provisions or perform hereunder.

SECTION 9.2. Satisfactory Proceedings. All proceedings taken in connection with transactions provided for in this Agreement shall be satisfactory to the Authority.

SECTION 9.3. Evidence. Any condition of this Agreement which requires a submission of evidence of the existence or nonexistence of facts shall imply as a condition the existence or nonexistence, as the case may be, of such fact or facts, and the Authority shall, at all times, be free independently to establish to its satisfaction and in its absolute discretion such existence or nonexistence.

SECTION 9.4. No Beneficiaries. All conditions of the obligations of the Authority to make disbursements are imposed solely and exclusively for its benefit, its successors and assigns, and no other person shall have standing to require satisfaction of such conditions or to assume that the Authority will refuse to make disbursements in the absence of strict compliance. No person shall be deemed the beneficiary of any such conditions or any other provisions of this Agreement.

SECTION 9.5. Review and Inspection of Work. Any audit or review of plans and specifications and any inspection of the work shall be for the convenience of the Authority and Department only in order to determine that they are within the approved scope of the Project. No such review and inspection, approvals and disapprovals shall be an undertaking by the Authority or Department of responsibility for design or construction.

SECTION 9.6. Notices. All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified mail to the other party hereto, with instruction to show to whom delivered and return receipt requested addressed as follows:

If to the Project Sponsor:

Dorchester County  
201 Johnson Street  
St. George, South Carolina 29477

Attention: County Administrator

If to the Authority:

South Carolina Water Quality Revolving Fund  
Authority  
c/o Office of Local Government - SRF  
South Carolina Budget and Control Board  
1200 Senate Street  
406 Wade Hampton Building  
Columbia, South Carolina 29201

Attention: Patricia A. Comp

Each party may notify the other by the same process of any change of such address. Loan requests and disbursements and other routine loan administration may be conducted by regular mail.

SECTION 9.7. No Joint Venture, Etc. The Authority is not a partner, joint venturer, or in any other way a party to the Project or the operation of the System of the Project Sponsor. The Authority shall not be in any way liable or responsible by reason of the provisions hereof, to the Project Sponsor or any third party, for the payment of any claims in connection therewith.

SECTION 9.8. Assignment. This Agreement may not be assigned by the Project Sponsor without the prior written consent of the Authority. The Authority may assign the Note and this Agreement, and any such holder and assignee of same shall succeed to and be possessed of the same rights as the Authority under both to the extent so transferred or assigned.

SECTION 9.9. Entire Agreement. This Agreement and the Note contain the entire terms of this Agreement and transaction. They may not be changed, waived or discharged in whole or in part, except by written instrument executed by the party sought to be charged therewith.

SECTION 9.10. Continuity. This Agreement shall be binding upon the legal representatives, successors and assigns of each party and shall inure to their benefit; provided, however, that nothing herein said shall be deemed to limit any restriction on assignment impressed upon the Project Sponsor.

SECTION 9.11. South Carolina Contract. This Agreement shall be governed by and construed in accordance with the laws of the State.

SECTION 9.12. Limitations on Actions by Project Sponsor. No action shall be commenced by the Project Sponsor against the Authority for any claim under this Agreement unless notice thereof specifically setting forth the claim shall have been given to the Authority within thirty (30) days after the occurrence of the event or omission which the Project Sponsor alleges gave rise to such claim. Failure to give such notice shall constitute a waiver of any such claim. Liability of the Authority to the Project Sponsor for any breach of the terms of this Agreement shall not exceed a sum equal to the amount which the Authority shall have failed to disburse in consequence of a breach by the Authority of its obligations under this Agreement. Upon the making of any such payment by the Authority to the Project Sponsor, it shall be treated as a disbursement under this Agreement.

SECTION 9.13. Counterparts. This Agreement is executed in two counterparts, which are separately numbered, but each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

SECTION 9.14. Appendices. The appendices attached to this Agreement are a part of it.

SECTION 9.15. Special Conditions. The Statements of Special Conditions in Appendix "D" shall govern the matters they address.

**SECTION 9.16. Time of Essence.** Time is of the essence of this Agreement.

**SECTION 9.17. Severability.** If any provision of this Agreement, or any portion thereof, should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, any remaining provisions of this Agreement shall survive and be applied, and together with the invalid or unenforceable portion shall be construed or reformed to preserve as much of the original words, terms, purpose and intent as shall be permitted by law.

IN WITNESS WHEREOF, the Project Sponsor and the Authority have caused these presents to be signed, sealed and delivered all as of the date hereof.

DORCHESTER COUNTY

(SEAL)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_

Its \_\_\_\_\_

SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY

By: \_\_\_\_\_

Ashlie Lancaster, Interim Director  
Office of Local Government,  
South Carolina Budget and Control Board



SCOPE OF WORK

Project Sponsor:   Dorchester County

Project Name:       Lower County Reclaimed Water Storage and Supply

Loan Number:       X1-143-11-542-03

Modifications at the Lower Dorchester County Wastewater Treatment Plant including addition of a 2 million gallon reclaimed water storage tank, storage tank supply pumps, high service pumps, post-chlorination system, and upgrades to the existing emergency power facilities, plus installation of approximately 4,700 linear feet of 16-inch and 5,000 linear feet of 8-inch water main to deliver the reclaimed water.

PROJECT BUDGET

Project Sponsor: Dorchester County

Project Name: Lower County Reclaimed Water Storage and Supply

Loan Number: X1-143-11-542-03

<u>ITEM</u>	<u>CWSRF LOAN</u>	<u>EDA GRANT</u>	<u>TOTAL ELIGIBLE COSTS</u>
Legal and Appraisal Fees	\$ 16,000		\$ 16,000
Planning and Design Engineering	182,300		182,300
Construction	832,900	1,357,500	2,190,400
Construction Contingency	219,040		219,040
Construction Inspection and Engineering	<u>148,300</u>	<u>          </u>	<u>148,300</u>
Total	\$1,398,540	\$1,357,500	\$2,756,040

SUBJECT TO REVISION PRIOR TO CLOSING

PROJECT SCHEDULE

Project Sponsor:   Dorchester County  
Project Name:       Lower County Reclaimed Water Storage and Supply  
Loan Number:       X1-143-11-542-03

<u>ACTION</u>	<u>DATE</u>
Bid Opening	July 13, 2011
Contract Execution	September 14, 2011
Notice to Proceed	September 28, 2011
Start of Construction	October 5, 2011
DHEC Permit to Operate	July 11, 2012

SUBJECT TO REVISION PRIOR TO CLOSING

REPAYMENT SCHEDULE

Project Sponsor: Dorchester County

Project Name: Lower County Reclaimed Water Storage and Supply

Loan Number: X1-143-11-542-03

Loan Amount: \$1,398,540

Payment Initiation Date: August 1, 2012

Interest Rate: 1.00% per annum

First Payment Due Date: November 1, 2012

- (1) Prior to the Payment Initiation Date, amounts disbursed shall bear interest from the date of the Authority's check for each disbursement and accrued interest only shall be due on the Payment Initiation Date.
- (2) Repayment of the principal and interest shall be due in 80 installments, commencing on the first day of the third month after the month of the Payment Initiation Date and continuing quarterly on the first day of each third month thereafter.
- (3) Repayment shall be in 79 equal installments in the amount of Nineteen Thousand Three Hundred Nine and 93/100 Dollars (\$19,309.93) each, and one final installment in the amount of Nineteen Thousand Three Hundred Nine and 84/100 Dollars (\$19,309.84).

SUBJECT TO REVISION PRIOR TO CLOSING

LOAN CLOSING FEE

Project Sponsor: Dorchester County

Project Name: Lower County Reclaimed Water Storage and Supply

Loan Number: X1-143-11-542-03

Loan Amount: \$1,398,540

.5% Loan Closing Fee: \$6,933

The Loan Closing Fee identified above shall be due and paid at the time of delivery of the Loan Agreement, Note and other required Loan closing documents. Such fee is not reimbursable through the Loan.

SUBJECT TO REVISION PRIOR TO CLOSING

Project Sponsor: Dorchester County

Loan Number: X1-143-11-542-03

PROCUREMENT REQUIREMENTS

Recycled Funds with FY10 and FY11 DB Requirement

- I. Prior to construction contract award, the Project Sponsor shall:
  - A. Advertise the Project for a minimum of thirty (30) days in advance of bid opening using at least one of the following methods:
    1. Local newspapers of general circulation.
    2. MBE/WBE publications.
    3. Statewide or regional newspapers of general circulation.
    4. South Carolina Business Opportunities (SCBO).
  - B. Modify bid documents only by written addenda, which require prior Department approval.
  - C. Hold a public bid opening.
  - D. Utilize competitive sealed construction bids.
  - E. Require at least a five percent (5%) bid bond or certified check.
  - F. Require one hundred percent (100%) payment and performance bonds.
  - G. Require the contractor, during construction, to provide fire, extended coverage, vandalism and malicious mischief insurance equal to the actual value of the insured property.
  - H. Comply with the Davis-Bacon Act which requires that all laborers and mechanics employed by contractors and subcontractors be paid wages at rates not less than those listed on the prevailing wage rate contained in the contract documents and that all applicable provisions of the Davis-Bacon Act be met. The Project Sponsor's Davis-Bacon Certification must accompany all draw requests. Require the prime contractor to follow the Davis-Bacon provisions.
  - I. If other funding sources are included which have stricter bidding requirements or if applicable Federal, State or local laws or ordinances have stricter requirements, these stricter requirements govern.
  - J. After bid opening, provide the Department with the following:
    1. Project Construction Summary Form (DHEC Form #3589)
    2. A certified copy of the advertisement with date(s) of publication.
    3. Detailed bid tabulation certified by Project Sponsor's engineer.
    4. Proposal of successful bidder(s).
    5. Bid bond with associated Power of Attorney.
    6. A copy of the Davis-Bacon Wage Rate used in bidding the Project.
    7. Engineer's award recommendation of low bidder(s) to Project Sponsor. If the award is recommended to other than the low bidder(s), provide justification for decision.
    8. Certified copy of Project Sponsor's tentative award resolution listing the proposed contractor(s) and contractor amount(s).

9. Project Inspection Designation Form (DHEC Form #2324), with all required attachments, indicating the selected method of providing continuous inspection during construction.
- K. Receive Department approval to award the construction contract(s).
- II. Subsequent to construction contract award, the Project Sponsor shall submit the following to the Department as proof of compliance with procurement requirements:
- A. Executed contract documents.
  - B. Notice to Proceed.
  - C. Monthly Construction Inspection Reports.
  - D. Project Sponsor's Davis-Bacon Certification (DHEC Form) which must accompany all draw requests.
- III. Subsequent to contract award, the Project Sponsor shall submit the following, for Department review and approval, on any proposed change orders:
- A. Need for the change.
  - B. Clear description of the change.
  - C. Cost and pricing data.
  - D. Documentation of negotiation.
  - E. For claims, information showing the claim did not result from the Project Sponsor's or contractor's mismanagement.

SPECIAL CONDITIONS

Project Sponsor:       Dorchester County  
Project Name:         Lower County Reclaimed Water Storage and Supply  
Loan Number:         X1-143-11-542-03

None



STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

**PROMISSORY NOTE TO SOUTH CAROLINA  
WATER QUALITY REVOLVING FUND AUTHORITY FOR  
SOUTH CAROLINA WATER POLLUTION CONTROL  
REVOLVING FUND LOAN**

**DORCHESTER COUNTY, SOUTH CAROLINA  
WATERWORKS AND SEWER SYSTEM REVENUE BOND, SERIES 2011**

FOR VALUE RECEIVED, Dorchester County (the "*Project Sponsor*") promises to pay to the order of the South Carolina Water Quality Revolving Fund Authority (the "*Authority*") the principal sum owing from time to time by the Project Sponsor pursuant to, and in accordance with, the Loan Agreement (the "*Agreement*"), the terms of which are incorporated herein by reference, between the Project Sponsor and the Authority relating to Loan Number X1-143-11-542-03, Lower County Reclaimed Water Storage and Supply, principal sum, rate of interest and amount and due date of payments thereunder being set forth in Appendix "B" to the Loan Agreement. The records of the Authority with respect to the date and amount of payments on this Note shall be conclusive as to such matters. Interest shall be computed on a three hundred sixty-five-day year basis and compounded annually; the principal of this Note and any installment thereof shall bear interest until paid in full.

Time is of the essence of this Note.

The Project Sponsor may prepay the outstanding principal balance of this Note in whole or in part, together with any accrued interest thereon, at any time without penalty or premium; all such prepayments shall be applied against principal installments due on this Note in the inverse order of the maturity dates thereof.

All payments of principal and interest shall be made in money of the United States at the office of the Authority in Columbia, South Carolina, or at such place as the Authority may designate in writing, and shall be made in funds immediately available in Columbia, South Carolina.

The Project Sponsor agrees to pay at the time any such late payment hereunder is made a late charge of three percent (3%) of any payment not made on or before the tenth day of the month in which such payment is due. Interest which accrues after maturity of this Note or after its earlier acceleration shall be due and payable upon demand.

Payments shall be applied first to any late charge, then to interest, then to principal. There is no intent for any payment to exceed any legal limit on interest, if any such legal limit applies. If an excess sum occurs, it shall be applied to principal unless the Project Sponsor elects its return in writing.

If the Project Sponsor fails to make any payment of principal or interest within thirty (30) days of the date when due, or if the Project Sponsor defaults in the performance of any of the terms, covenants or conditions of any agreement or other documents concerning this Note, including without limitation the Agreement, the Authority may declare the principal of this Note and all unpaid interest accrued on it to be due and payable immediately, without prior notice or demand to the Project Sponsor.

The failure of the Project Sponsor to make any payment of principal or interest or both shall not constitute a default until thirty (30) days following the due date but the Authority shall have no obligation to give the Project Sponsor notice of any failure to make such payments. Upon any such payment default, the Authority shall immediately avail itself of the provisions of Section 7.2 of the Agreement relating to additional security for payment of amounts due on this Note.

The Project Sponsor waives presentment for payment, demand, protest, and notice of non-payment. Neither a failure to accelerate for default nor acceptance of a past due installment shall be a novation of this Note or constitute a waiver of the right to insist upon strict compliance with it and any related agreements and documents.

The Project Sponsor shall pay all costs of collection, including but not limited to reasonable attorney's fees if the Authority endeavors to collect this Note in any manner through an attorney at law. The rights and remedies of the Authority provided in this Note are cumulative and not exclusive of any other rights and remedies afforded the Authority by law or by any other document.

This Note shall be governed by and construed and interpreted in accordance with the laws of the State of South Carolina.

IN WITNESS WHEREOF, the Project Sponsor has caused this Note to be executed under its seal and to be registered in the name of the South Carolina Water Quality Revolving Fund Authority as of this \_\_\_\_ day of \_\_\_\_\_, 2011.

DORCHESTER COUNTY

[SEAL]

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

\_\_\_\_\_

Its \_\_\_\_\_

**CERTIFICATE OF AUTHENTICATION**

This Promissory Note is the obligation issued pursuant to the Project Sponsor's General Bond Ordinance No. 03-06 enacted on September 2, 2003, as authorized by the Project Sponsor's Fifth Supplemental Ordinance No. \_\_\_\_\_ enacted on \_\_\_\_\_, 2011.

REGIONS BANK, REGISTRAR

By: \_\_\_\_\_, Authorized Officer

Typed Name: \_\_\_\_\_