

ORDINANCE NO. 2020-091

AUTHORIZING THE PARTICIPATION BY THE CITY OF COLUMBIA, SOUTH CAROLINA, IN THE RECOVERSC LOCAL GOVERNMENT LIQUIDITY PROGRAM; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERGOVERNMENTAL AGREEMENT WITH THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY AND SUCH OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION WITH THE SALE OF REVENUE BONDS ISSUED BY THE AUTHORITY TO FUND THE RECOVERSC LOCAL GOVERNMENT LIQUIDITY PROGRAM; AUTHORIZING AN APPROPRIATION OR THE ISSUANCE BY THE CITY OF A TAX ANTICIPATION NOTE FOR THE INITIAL PAYMENT THEREUNDER; AND OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Findings and Determinations. The City Council (the “*Council*”) of the City of Columbia, South Carolina (the “*City*”) hereby finds and determines:

A. The City is an incorporated municipality located in Richland County and Lexington County and as such possesses all powers granted to municipalities by the Constitution and laws of this State.

B. Pursuant to Section 5-5-10, Code of Laws of South Carolina 1976, as amended (the “*South Carolina Code*”), the City has selected the Council-Manager form of government and is governed by a City Council composed of a Mayor and six council members which constitute the governing body of the City.

C. Section 5-7-30 of the South Carolina Code provides, in part, that municipalities may enact ordinances, not inconsistent with the Constitution and general law of the State, respecting any subject which appears necessary and proper for the security, general welfare, and convenience of the municipality and for the preservation of the general health, peace, order and good government in the municipality, and further, under the case of Williams v. Town of Hilton Head, 429 S.E.2d 802 (1993), a municipality may enact regulations (ordinances) without the requirement for further specific statutory authorization so long as such regulations are not inconsistent with the Constitution and general law of the State.

D. The South Carolina Jobs-Economic Development Authority (“*Authority*”) has developed and implemented the RecoverSC Local Government Liquidity Program (“*Program*”) to provide a vehicle for South Carolina local governments to bridge potential financial gaps resulting from lost revenues or delayed collections and other financial impacts arising from the COVID-19 pandemic.

E. The City has determined that it has already experienced or may in the future experience a financial gap as described above arising directly or indirectly from the COVID-19 pandemic, and previously submitted an application (“*Application*”) and its expression of intent to the Authority to participate in and receive an advance of funds under the Program in an amount not exceeding \$10,000,000 (“*Advance*”) in order to secure funds to continue to provide services to the citizens of the City and foster and promote their security and general welfare, and to preserve health, peace, order and good government.

F. The Authority has determined to issue its Economic Development Revenue Bonds, in one or more series (the “*Bonds*”), to fund the Program and the Advance (the portion of the Bonds allocable to the Advance, the “*2020A Bonds*”).

G. The Authority and the City desire to enter into an Intergovernmental Agreement (“*Agreement*”) setting forth the terms and conditions of the City’s receipt of the Advance and providing for, among other things, semi-annual repayments (collectively, the “*Payments*,” and each, a “*Payment*”), subject to the City’s right to annually not appropriate funds therefor.

H. The Authority will pledge as security for the payment of the principal of, and premium, if any, and interest on the 2020A Bonds when due, all of its right, title and interest in the Agreement (except for certain reserved rights), including specifically the right to receive revenues and receipts under the Agreement.

I. In connection with the sale of the 2020A Bonds, the purchaser thereof (“*Purchaser*”) has requested the City, as a participant in the Program and party to the Agreement, provide certain financial and operating information about the City to the Purchaser for use in connection with the sale of the Bonds, and to execute and deliver certain certificates and other documents containing certain representations, warranties and covenants of the City to the Purchaser.

J. Under the terms of the Agreement, the first Payment is scheduled to be made in April, 2021 (the “*First Payment*”) of the current fiscal year (e.g, the fiscal year ending June 30, 2021) and the City desires to authorize an appropriation of funds and, as an alternative, the issuance a tax anticipation note of the City (“*TAN*”) to provide funds for the First Payment.

Section 2. Authorization to Participate in the Program; Determination of Public Purpose. The City is hereby authorized and directed to participate in the Program and receive the Advance. The City’s participation in the Program and receipt of the Advance are proper and valid public purposes and will enable the City to continue to provide services to the citizens of the City and foster and promote their security and general welfare, and to preserve health, peace, order and good government. All actions previously taken by the City and its representatives in connection with the Program (including the City’s application related thereto) are hereby ratified, confirmed and approved.

Section 3. Approval of Agreement; Authorization to Execute, Deliver and Perform Obligations Under the Agreement. The City is authorized to enter into and carry out its obligations under the Agreement, the substantially final form of which is attached to this Ordinance as Exhibit A, and the form, terms and provisions of the Agreement are approved and authorized as if set forth in this Ordinance in their entirety with such changes as may be approved by any of the Mayor, the City Manager and the Assistant City Manager for Finance and Economic Services, or any one of them acting alone (each, an “*Authorized Representative*”).

Each Authorized Representative is authorized to execute and deliver the Agreement to the Authority. The final terms of the Agreement shall not be inconsistent with or contrary to purposes to be accomplished by the Program. The execution of the Agreement and delivery to the Authority shall constitute conclusive evidence of the approval by the Authorized Representative of the final terms of the Agreement on behalf of the City.

Section 4. Payments; Appropriation of Funds and Approval of Issuance of TAN. The City acknowledges that its obligation to pay the Payments under the Agreement is a current expense of the City and is dependent upon lawful appropriations of funds being made by the Council to pay the Payments in each fiscal year under the Agreement; provided, that the Agreement shall not in any way be construed to be a debt of the City in contravention of any applicable constitution or statutory limitations or requirements concerning the creation of indebtedness by the City, nor shall anything contained in this Ordinance or the Agreement constitute a pledge of the full faith, credit or taxing power of the City or a pledge of general tax revenues, funds moneys or credit of the City. Further, the City may make the Payments from any legally available source of revenues, subject to City’s right to not appropriate funds to make Payments in any fiscal year.

For the First Payment, which will be due and payable in the current fiscal year (e.g., the fiscal year ending June 30, 2021) and the anticipated amount of which is shown in Exhibit A of the Agreement, the Council hereby appropriates funds sufficient therefor, and as an alternate source of funds for the First Payment, authorizes the issuance of the TAN pursuant to Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, and Title 11, Chapter 27 of the Code of Laws of the State of South Carolina, 1976, as amended, in an amount not exceeding the amount of the First Payment (as shown on the final, executed Agreement) plus the amounts necessary to pay for the costs incurred in the issuance of the TAN.

If the Authorized Representative determines that the issuance of a TAN is in the best interest of the City to make the First Payment, then the TAN shall be issued as a single fully-registered note at that time as may be determined by the Authorized Representative. Council delegates to the Authorized Representative the power to make all determinations with respect to the details of the TAN, including the form, maturity date, manner and time of sale and award, and redemption provisions, and authorizes the Mayor and the City Manager, or either of them acting alone, to execute the TAN in the name of and on behalf of the City and deliver it to the purchaser thereof.

For the payment of the principal of and interest on the TAN when and if issued, the City hereby pledges (i) the full faith, credit and taxing power of the City; and (ii) the ad valorem taxes in anticipation of which the TAN is issued.

The Authorized Representative may consult with the City's bond counsel and financial advisor in making any determinations with respect to the TAN.

Section 5. Authorization to Prepare and Execute Documents in Connection with Sale of the 2020A Bonds. The Council acknowledges that the Authority intends to issue and sell the 2020A Bonds to the Purchaser to fund the Advance. The Authorized Representative is authorized to prepare and provide such information as may be requested by the Purchaser about the City in connection with the purchase of the 2020A Bonds and to deem such information "final" as may be required under any applicable securities laws. The City, by and through the Authorized Representative, is further authorized to execute and deliver such other certificates, documents and agreements (including without limitation letters of representations, offering statements and a continuing disclosure or reporting agreement) as may be requested by the Authority, the Purchaser or other participants, the use of any or all of which is hereby authorized in connection with the issuance and sale of the Bonds or the Program.

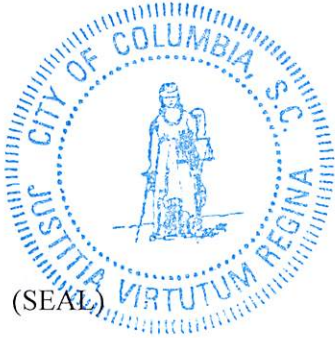
Section 6. Further Acts. The Authorized Representative is further authorized to take such actions and make such other determinations as may be necessary or appropriate (a) to facilitate the City's participation in the Program and receipt of the Advance and (b) to carry out the transactions contemplated by this Ordinance and the Agreement and is directed and empowered to consult with such counsel as the Authorized Representative determines, in his or her sole discretion, may be necessary or advisable regarding the Program.

Section 7. Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 8. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the City, and any part of any ordinance or resolution, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings, to the extent of such conflict, are hereby repealed.

Section 9. Effective Date. This Ordinance shall be effective upon its enactment by the City Council for the City of Columbia, South Carolina.

Enacted by the City Council of the City of Columbia, South Carolina, this 20th day of October, 2020.



(SEAL)

ATTEST:

Erika D. Hammond
Clerk

CITY COUNCIL OF THE CITY OF COLUMBIA,
SOUTH CAROLINA

[Signature]
Mayor

First Reading: October 6, 2020
Second Reading: October 20, 2020

Exhibit A
Form of Intergovernmental Agreement
(Attached)

INTERGOVERNMENTAL AGREEMENT

between

**SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY
As Liquidity Provider**

and

**CITY OF COLUMBIA, SOUTH CAROLINA
As Participant**

RECOVERSC LIQUIDITY PROGRAM

Dated as of October 1, 2020

ALL RIGHTS, TITLE AND INTEREST OF THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY IN THIS INTERGOVERNMENTAL AGREEMENT (WITH CERTAIN EXCEPTIONS) HAVE BEEN ASSIGNED TO U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE (“TRUSTEE”), UNDER A MASTER INDENTURE DATED AS OF OCTOBER 1, 2020, AS SUPPLEMENTED, AND ARE SUBJECT TO THE LIEN IN FAVOR OF THE TRUSTEE.

TABLE OF CONTEXNTS

[TO COME]

INTERGOVERNMENTAL AGREEMENT

This **INTERGOVERNMENTAL AGREEMENT**, dated as of October 1, 2020 (“Agreement”), is between South Carolina Jobs-Economic Development Authority (together with its successors and assigns, “Authority”), a public body corporate and politic and an agency of the State of South Carolina (“State” or “South Carolina”), as liquidity provider, and the City of Columbia, South Carolina (“Participant”), a body politic and corporate and a political subdivision organized under the laws of the State, as participant.

WITNESSETH

WHEREAS, the Authority is authorized and empowered under and pursuant to the provisions of the South Carolina Jobs-Economic Development Fund Act, Chapter 43 of Title 41 (“Act”) of the Code of Laws of South Carolina 1976, as amended (“SC Code”), to promote and develop the business and economic welfare of the State, and thus provide maximum opportunities for creation and retention of jobs and improvement of the standard of living of the citizens of the State, and act in conjunction with other persons and organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural, and recreational development in the State; and

WHEREAS, the Authority is further authorized and empowered to make loans to entities, whether public or private, to carry out its purpose and may issue its revenue bonds to provide funds for any authorized purposed under the Act; and

WHEREAS, pursuant to the foregoing authority, the Authority created RecoverSC, a municipal liquidity program (“Program”), for local governments of the State to alleviate liquidity constraints of such local governments caused by unexpected expenditures related to the COVID-19 pandemic and delays or decreases of certain tax and other revenues as a result of the COVID-19 pandemic; and

WHEREAS, to provide funds for the Program, the Authority has authorized the issuance of its revenue bonds, in one or more series (“Bonds”), in an aggregate principal amount of not exceeding \$100,000,000 under that certain Master Indenture dated as of October 1, 2020 (as amended and supplemented from time to time, “Master Indenture”) between the Authority and U.S. Bank National Association, as trustee (“Trustee”); and

WHEREAS, the proceeds of the Bonds will be advanced to qualifying local governments pursuant to one or more intergovernmental agreements, between the Authority and each such local governments; and

WHEREAS, the Participant has applied to participate in the Program in order to bridge potential financial gaps resulting from lost revenues or delayed collections and other financial impacts arising from the COVID-19 pandemic (“Recovery Purposes”); and

WHEREAS, in accordance with the terms of the Constitution of the State of South Carolina and the Home Rule Act codified at Section 5, Chapter 5 of the SC Code, Participant may take such actions as it deems necessary and proper to preserve health, peace, order and good government for the citizens of Participant; and

WHEREAS, the Participant is a body politic and corporate and a political subdivision of the State and is authorized under the provisions of Title 5, Chapter 7 of the SC Code to participate in the Program and enter into this Agreement; and

WHEREAS, the Participant has requested an advance under the Program in the amount of \$10,000,000 (“Advance”) in order to fund the costs of its Recovery Purposes; and

WHEREAS, the Participant has been provided information regarding the fees and costs of issuance associated with the Program and understands that costs of issuance shall be deducted from the Advance and ongoing fees associated with the Program, referred to herein as Additional Payments, will be due in addition to the semi-annual payments to be paid by Participant to the Authority under the terms of this Agreement (“Payments” and, together with the Additional Payments, “Program Payments”); and

WHEREAS, to fund the Advance, the Authority and the Trustee have entered into the Master Indenture and that certain Series 2020A Supplemental Trust Indenture dated the date hereof (“Supplemental Indenture,” and, together with the Master Indenture, “Indenture”) pursuant to which the Authority will issue its South Carolina Jobs-Economic Development Authority Economic Development Revenue Bonds (RecoverSC Program) Taxable Series 2020A (“Series 2020A Bond”).

NOW, THEREFORE, for and in consideration of the undertaking of the Authority to provide the Advance, the undertaking of the Participant to pay the Program Payments hereunder, the mutual covenants and agreements of the parties, and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Authority and the Participant, intending to be legally bound, do hereby agree as follows:

ARTICLE I DEFINITIONS

Section 1.1 Definitions. Capitalized terms not otherwise defined herein shall have the meanings provided therefor in the Indenture or as set forth below: “Council” means the governing body of the Participant and any successor body.

“Event of Default” means any of the events set forth in Section 5.1 hereof.

“Event of Nonappropriation” means the Participant’s failure, for any reason, to specifically budget and appropriate moneys to pay, or adopt an ordinance authorizing the issuance of a tax anticipation note for the purpose of paying, all Program Payments (as shown on Exhibit A, as adjusted pursuant to Sections 3.1(c) or 3.3 hereof) due under this Agreement for the next succeeding Fiscal Year, by June 30 of each year beginning with June 30, 2021. The existence or nonexistence of an Event of Nonappropriation shall be deemed to occur on (a) June 30 of a year in which no such budget or ordinance shall have been adopted for the next succeeding Fiscal Year, or (b) any earlier date on which the Participant gives written notice to the Authority, the Holder and the Trustee that the Participant will not appropriate funds in the next succeeding Fiscal Year for the Program Payments; provided, however, that an Event of Nonappropriation may be waived as provided for in Section 3.7 hereof.

“Fiscal Year” means the fiscal year of the Participant, currently beginning on each July 1 and ending on the succeeding June 30.

“Moody’s” means Moody’s Investors Service, Inc., as securities rating agency, a corporation organized and existing under the laws of the State of Delaware, together with its successors and assigns.

“S&P” means S&P Global Ratings, as securities rating agency, a corporation organized and existing under the laws of the State of New York, together with its successors and assigns.

Section 1.2 Terms Defined in the Indenture. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Indenture unless the context clearly indicates to the contrary.

Section 1.3 Participant Representations, Warranties and Covenants. The Participant makes the following representations, warranties and covenants:

(a) The Participant is a body politic and corporate, and a political subdivision of the State and has full power and legal right to enter into this Agreement and to perform its obligations hereunder. The Participant's actions in making and performing its obligations under this Agreement have been duly authorized by all necessary governmental action and will not violate or conflict with any law or governmental rule or regulation, or any mortgage, agreement, instrument or other document by which the Participant or its properties are bound.

(b) The Participant will take such action as is necessary to ensure that proceeds of the Advance are applied solely for the Recovery Purposes.

(c) [Except as set forth in [Schedule I], Participant has no knowledge of any fact that has not been disclosed to the Holder or the Authority which will materially and adversely affect the properties, activities, operations, revenues, prospects or condition (financial or otherwise) of the Participant, its status as a political subdivision, its ability to perform its obligations under this Agreement.]

(d) There are no proceedings pending or, to the knowledge of the Participant, threatened against or affecting the Participant, except as disclosed to the Holder and the Authority, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the properties, operations, prospects or condition (financial or otherwise) of the Participant, or the corporate existence or powers or ability of the Participant to enter into and perform its obligations under this Agreement.

(e) The execution and delivery of this Agreement [and associated certificates] (collectively, "Participant Agreements"), and the consummation of the transactions provided for herein and therein, and compliance by the Participant with the provisions of the Participant Agreements:

(i) are within the governmental powers and have been duly and validly authorized by all necessary governmental and other action on the part of the Participant, subject to Section 3.1(a) hereof;

(ii) do not and will not conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under, any indenture, loan agreement or other agreement or instrument, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Participant except as otherwise provided in this Agreement or any governmental restriction to which the Participant is a party or by which the Participant, its properties or operations may be bound or with the giving of notice or the passage of time or both would constitute such a breach or default or result in the creation or imposition of any such lien, charge or encumbrance, which breach, default, lien, charge or encumbrance could materially and adversely affect the validity or the enforceability of the Participant Agreements or the Participant's ability to perform fully its obligations under the Participant Agreements subject to Section 3.1(a) hereof; nor will such action result in any violation of any laws, governmental rules or regulations or court or other governmental orders to which the Participant, its properties or operations are subject.

(f) No event has occurred and no condition exists that constitutes an Event of Default or which, upon the execution and delivery of this Agreement, and/or the passage of time or giving of notice or both, would

constitute an Event of Default. The Participant is not in violation in any respect, and has not received notice of any claimed violation (except such violations as do not, and shall not, have any material adverse effect on the transactions herein contemplated and the compliance by the Participant with the terms hereof of any terms of any court order, statute, regulation, agreement, or other instrument to which it is a party or by which it, its properties or its operations may be bound.

(g) This Agreement is a legal, valid and binding obligation and agreement of the Participant, enforceable against the Participant in accordance with its terms except as such enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and by general principles of equity; anything herein to the contrary notwithstanding, this Agreement is subject in its entirety to the right of the Participant to terminate this Agreement and all the terms and provisions hereof by failing to budget and appropriate moneys specifically to make Program Payments to the Authority, as provided herein.

(h) Not later than February 1, commencing with February 1, 2021, the Participant shall provide to the Holder or post to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system: (i) a copy of the audited financial statements of the Participant (provided, that in the event the Participant's audited financial statements are not then available, the Participant shall provide its unaudited annual financial statements no later than such February 1 and provide its audited annual financial statements promptly after the availability thereof), [(ii) a copy of the Annual Budget, as defined herein, of the Participant, (iii) a certificate of an authorized representative of the Participant stating whether (A) the approved budget of the Participant includes an appropriation necessary to make the Program Payments and (B) the Participant has authorized the issuance of a tax anticipation note, and (iv) additional reasonable disclosure items as may be determined by the Holder.]

(i) The Trustee shall have the right to receive such additional information as it may reasonably request.

(j) The Participant will allow the Trustee to discuss the affairs, finances and accounts of the Participant or any information which the Trustee may reasonably request with appropriate officers of the Participant, and will grant the Trustee access to the facilities, books and records of the Participant on any business day upon reasonable prior notice.

(l) During the term of this Agreement, the Participant shall, prior to the end of each Fiscal Year (commencing with current Fiscal Year ending June 30, 2021), (i) adopt an operating budget for the following Fiscal Year (the "Annual Budget"); (ii) include in each Annual Budget proposal for consideration by the Council (A) an appropriation for the Program Payments (as shown on Exhibit A, as adjusted pursuant to Sections 3.1(c) or 3.3 hereof) due under this Agreement for such Fiscal Year, and (B) an authorization for the issuance of a tax anticipation note in an amount sufficient to make the Program Payments (as shown on Exhibit A, as adjusted pursuant to Sections 3.1(c) or 3.3 hereof) due under this Agreement for such Fiscal Year; and (iii) provide a copy of the adopted Annual Budget to the Trustee, together with a certificate of an authorized representative of the Participant stating whether the adopted Annual Budget includes the appropriations and authorizations described in (ii)(A) and (B) above]. With respect to the Program Payments (as shown on Exhibit A, as adjusted pursuant to Sections 3.1(c) or 3.3 hereof) due in the Fiscal Year ending June 30, 2021, the Council has, as of the date hereof, authorized an appropriation for such Program Payments and the issuance of a tax anticipation note in a sufficient amount to make such Program Payments.

Section 1.4 Authority Representations, Warranties and Covenants. The Authority makes the following representations, warranties and covenants:

(a) The Authority is a duly organized and validly existing body politic and corporate and an agency of the State, has the requisite power to carry on its present and proposed activities, and has full power, right and authority to enter into this Agreement, the Master Indenture and Supplemental Indenture to perform each and all of the obligations of the Authority provided therein.

(b) The Authority has taken or caused to be taken all requisite action to authorize the execution and delivery of, and the performance of its obligations under, this Agreement, the Master Indenture and Supplemental Indenture and each of the additional documents to which it is or will be a party, if any.

(c) By proper action, the officers of the Authority have been duly authorized to execute and deliver this Agreement, the Master Indenture and Supplemental Indenture.

(d) The execution and delivery by the Authority of this Agreement, the Master Indenture and Supplemental Indenture and the consummation by the Authority of the transactions contemplated hereby and thereby have not and will not conflict with or constitute a breach of or default under the Authority's bylaws or any bond, debenture, note or other evidence of indebtedness of the Authority, or any contract, agreement, or instrument to which the Authority is a party or by which it is bound.

(e) Each of this Agreement, the Master Indenture and Supplemental Indenture and each additional document to which the Authority is or will be a party, if any, has been or will be duly executed and delivered by the Authority and constitutes or will constitute a legal and valid obligation of the Authority, enforceable against the Authority in accordance with its terms, except as enforcement may be limited by laws affecting creditors' rights generally and except as equitable remedies may be limited by judicial discretion.

(f) Other than as disclosed to the Holder and the Participant, there is no litigation pending and served on the Authority that challenges the Authority's authority to execute, deliver or perform its obligations under this Agreement and the Authority has disclosed any threatened litigation with respect to such matters of which the Authority is aware.

(g) The Authority is in material compliance with all applicable laws, regulations and ordinances, including but not limited to those applicable to the Authority's activities in connection with this Agreement.

(h) To finance the Advance, the Authority will issue the Series 2020A Bond which is payable solely from and secured by the Program Payments receivable by the Authority under this Agreement.

ARTICLE II TERM

Section 2.1 Termination. This Agreement shall terminate upon the earliest of any of the following events:

(a) The occurrence of an Event of Nonappropriation, such occurrence to be determined in accordance with the definition of such term given in this Agreement, which Event of Nonappropriation is not thereafter duly waived;

(b) The repayment in full of all Program Payments due under this Agreement;

(c) The occurrence of an Event of Default under and termination of this Agreement by the Authority or Trustee under the terms of this Agreement; or

(d) Such date as all Program Payments due hereunder shall be paid in full to the Authority.

Termination of this Agreement shall terminate all obligations of the Participant under this Agreement, including its obligations to pay future Program Payments and other amounts that have not been

appropriated; but all other provisions of this Agreement, including all obligations of the Authority with respect to the Holders of the Series 2020A Bond and the receipt and disbursement of funds and all rights and remedies of the Authority specifically provided herein, shall be continuing until the Master Indenture is discharged as provided therein.

ARTICLE III PAYMENTS; ASSIGNMENT TO TRUSTEE

Section 3.1 Program Payments.

(a) Program Payments to Constitute a Current Expense of the Participant. The Authority and the Participant understand and intend that the obligation of the Participant to make Program Payments hereunder shall constitute a current expense of the Participant and is dependent upon lawful appropriations of funds being made by the Council in each Fiscal Year hereunder, and shall not in any way be construed to be a debt of the Participant in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Participant, nor shall anything contained herein constitute a pledge of the general tax revenues, funds, moneys or credit of the Participant.

(b) Payment Dates. Subject to an Event of Nonappropriation, on or before the 15th day prior to each Bond Payment Date during the term of this Agreement, the Participant shall pay to the Trustee as assignee of the Authority, Program Payments exclusively from moneys specifically budgeted and appropriated for such purpose, including proceeds of any tax anticipation note issued by the Participant for such purpose, in lawful money of the United States of America, which payments shall be made to the Trustee as assignee of this Agreement, in the amounts set forth on Exhibit A.

(c) Additional Payments. The following amounts shall constitute additional payments due under this Agreement (“Additional Payments”), all as shown on Exhibit A, which may be updated from time to time as set forth in Section 6.4[b], to provide for the payment of such Additional Payments, as such Additional Payments are incurred or become due and payable.

- (i) All reasonable costs and expenses incurred or to be paid by the Trustee and the Authority under the terms of this Agreement or the Indenture;
- (ii) Amounts owed to the Trustee and Authority as provided for in the Indenture; and
- (iii) All Administrative Expenses (as defined in Section 3.4 hereof) provided that for the avoidance of doubt, the Participant shall not be responsible for the payment of any amounts owed under the Master Indenture which are related to a series of Bonds other than the Series 2020[] Bonds or other expenses of the Program which are chargeable or allocable to participants other than the Participant.

(d) Continuation of Term by the Participant. The Participant has no reason to believe, as of the date hereof, that it will not continue making Program Payments through the entire term of this Agreement, and reasonably believes that it will pay the Program Payments due or coming due hereunder and presently has legal authority to budget and appropriate such amounts in its annual budget, as limited by applicable law.

Section 3.2 Program Payments Not Subject to Reduction, Offset or Other Credits.

(a) The Participant and the Authority intend that this Agreement shall yield amounts sufficient to pay all Program Payments set forth in Exhibit A. Notwithstanding any dispute involving the Participant and the Authority or any other person, the Participant shall make all Program Payments (as shown on Exhibit A, as adjusted pursuant to Sections 3.1(c) or 3.3 hereof) when due and shall not withhold any Program

Payments pending final resolution of such dispute, nor shall the Participant assert any defense or right of set-off, recoupment, or counterclaim against its obligation to make such Program Payments required under this Agreement. The Participant's obligation to make Program Payments during the term of this Agreement shall not be abated through accident or unforeseen circumstances. The Participant agrees not to suspend, reduce, abrogate, diminish, postpone, modify, discontinue, withhold, or abate any portion of the Program Payments required pursuant to this Agreement and such amounts shall be subject to reduction offset or other credits of any kind.

(b) [All payments of Additional Payments referred to above shall be made by the Participant in immediately available funds on a timely basis directly to the person or entity to which such payments are owed.]

Section 3.3 Prepayment of Program Payments. The Participant may prepay any Payments in whole on any date that is a Bond Payment Date, which prepayment shall be used to redeem all or a portion of the Series 2020[] Bonds, plus accrued interest, on such Bond Payment Date. The Participant shall notify the Trustee and the Authority in writing at least 45 Business Days in advance of its intent to prepay any Payments. Upon such prepayment, the schedule of Program Payments shown in Exhibit A shall be updated as set forth in Section 6.4.

Section 3.4 Administrative Expenses. The Participant shall also be responsible to pay (i) the periodic fees and reasonable expenses, if any, from time to time of the Trustee and [the Program Administrator], and (ii) any reasonable expenses, including reasonable attorneys' fees, incurred by the Authority, the Holder, [the Program Administrator] or the Trustee to compel full and punctual performance of this Agreement in accordance with the terms hereof ((i) and (ii) collectively, "Administrative Expenses").

Section 3.5 Assignment of Agreement, Manner of Payment. As security for and the source of payment of the Series 2020A Bond, pursuant to the Indenture, the Authority has assigned to the Trustee all of its right, title and interest in and to this Agreement, except for the right of the Authority to receive indemnity against claims and payment of its fees and expenses. The Participant consents and agrees to the assignment of this Agreement as provided herein. The Participant covenants to fully perform, in timely fashion, all of its covenants, agreements and obligations under this Agreement, and to make all Program Payments required by the Participant under this Agreement (other than payment for indemnity and fees and expenses of the Authority) directly to the Trustee, all without offset, defense or counterclaim by reason of any dispute which the Participant may have with the Authority or the Trustee.

Section 3.6 Limited and Special Obligation of the Participant. UPON THE OCCURRENCE OF AN EVENT OF NONAPPROPRIATION, THIS AGREEMENT MAY BE TERMINATED AS OF THE END OF THE LAST FISCAL YEAR WHICH IS NOT AFFECTED BY SUCH EVENT OF NONAPPROPRIATION, AND THE PARTICIPANT SHALL NOT BE OBLIGATED TO MAKE THE PROGRAM PAYMENTS PROVIDED FOR IN THIS AGREEMENT BEYOND THE END OF SUCH FISCAL YEAR (EXCEPT AS OTHERWISE PROVIDED HEREIN).

THE OBLIGATIONS OF THE PARTICIPANT TO MAKE PROGRAM PAYMENTS REQUIRED UNDER THIS ARTICLE III AND OTHER SECTIONS HEREOF, AND TO PERFORM AND OBSERVE THE COVENANTS AND AGREEMENTS CONTAINED HEREIN, SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS, EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT. It is the intention of the parties that the Program Payments required by this Agreement will be paid in full when due without any delay or diminution whatsoever, subject only to the special and limited nature of the Participant's obligation to pay Program Payments hereunder as set forth above.

THE OBLIGATIONS OF THE PARTICIPANT UNDER THIS AGREEMENT SHALL NOT CONSTITUTE A PLEDGE OF THE FULL FAITH, CREDIT OR TAXING POWER OF THE PARTICIPANT WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL OR STATUTORY PROVISION NOR THE PLEDGE OF A REVENUE-PRODUCING PROJECT OR SPECIAL SOURCE.

Section 3.7 Event of Nonappropriation. Upon the occurrence of an Event of Nonappropriation, the following provisions shall apply:

(a) If an Event of Nonappropriation occurs and is not waived, the Participant shall not be deemed to be in default under this Agreement and shall not be obligated to make payment of any future Program Payments due hereunder or any other Program Payments provided for herein which accrue after the beginning of the Fiscal Year with respect to which there has occurred an Event of Nonappropriation; provided, however, that, subject to the foregoing limitations, the Participant shall continue to be liable for Program Payments accrued prior to the beginning of such Fiscal Year, and due hereunder.

(b) If the Participant delivers written notice to the Trustee that it will not appropriate funds in the next succeeding Fiscal Year to make the Program Payments, the Trustee shall promptly give written notice to the Authority and the Holder stating that an Event of Nonappropriation has occurred; but any failure of the Trustee to give such written notice shall not prevent the Trustee from declaring an Event of Nonappropriation or from taking any remedial action which would otherwise be available to the Trustee.

(c) Subject to the terms hereof, the Holder may waive any Event of Nonappropriation.

The Trustee shall, upon the occurrence of an Event of Nonappropriation, be entitled to all moneys then on hand and being held in all funds and accounts created under the Indenture for the benefit of the Holders, and the Trustee may or shall, as the case may be, proceed to exercise its remedies. All property, funds and rights acquired by the Trustee by reason of an Event of Nonappropriation as provided herein, less any moneys due and owing to the Trustee for services performed as Trustee, shall be held by the Trustee for the benefit of the Holders as provided in the Indenture.

ARTICLE IV COVENANTS OF THE PARTICIPANT

Section 4.1 Immunity of Authority, the Holder and Trustee. In the exercise of the powers of the Authority, the Holder and the Trustee and their members, directors, officers, employees and agents under the Indenture or this Agreement, including (without limiting the foregoing) the application of moneys and the investment of funds, neither the Authority nor the Trustee shall be accountable to the Participant for any action taken or omitted with respect to this Agreement by either of them or their members, directors, officers, employees and agents in good faith and believed by it or them to be authorized or within the discretion or rights or powers conferred under this Agreement. The Authority, the Holder and the Trustee and their members, officers, employees and agents shall be protected in its or their acting upon any paper or documents believed by it or them to be genuine, and it or they may conclusively rely upon the advice of counsel and may (but need not) require further evidence of any fact or matter before taking any action. No recourse shall be had by the Participant for any claims based on the Master Indenture or this Agreement against any member, director, officer, employee or agent of the Authority or the Trustee alleging personal liability on the part of such person.

ARTICLE V DEFAULTS AND REMEDIES

Section 5.1 Events of Default. Each of the following events is hereby defined as, and declared to be and shall constitute, an “Event of Default”:

(a) failure by the Participant to make any Payment hereunder within five days after the same is due (provided, however, that an Event of Nonappropriation shall not result in an Event of Default under this provision);

(b) failure by the Participant to make any Additional Payment required hereunder [within 30 days of the later of (i) the date such Additional Payment is due and payable, or (ii) receipt of notice from the Trustee that such Additional Payment is due and payable, which notice shall be deemed given on receipt by the Participant of an updated Exhibit A pursuant to Section 6.4];

(c) failure by the Participant to observe and perform any other covenant, condition or agreement on its part to be observed or performed under this Agreement for a period of 20 days after written notice specifying such failure and requesting that it be remedied is given to the Participant by the Trustee;

(d) if any of the representations and warranties of the Participant hereunder shall prove to be false or misleading in any material respect as of the date such representations and warranties were made; or

(e) if the Participant shall (i) apply for or consent to the appointment of a receiver, trustee, or the like of the Participant or of property of the Participant, or (ii) admit in writing the inability of the Participant to pay its debts generally as they become due, or (iii) make a general assignment for the benefit of creditors, or (iv) be adjudicated as bankrupt or insolvent, or (v) commence a voluntary case under the United States Bankruptcy Code or file a voluntary petition seeking reorganization, an arrangement with creditors or an order for relief or seeking to take advantage of any insolvency law or (vi) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the United States Bankruptcy Code.

Any event of default that may occur with respect to another series of Bonds issued pursuant to the Master Indenture shall not constitute an Event of Default under the Indenture or this Agreement with respect to the Section 2020A Bond.

Section 5.2 Remedies. Subject to Section 5.1 hereof, whenever any Event of Default referred to in this Agreement shall have happened and be continuing, the Holder (with written notice promptly given to the Trustee) may terminate the term of this Agreement and shall give notice to the Participant. The Trustee may also take whatever action at law or in equity which may appear necessary or desirable.

Section 5.3 Cumulative Rights. No remedy conferred upon or reserved to the Authority, the Holder or the Trustee by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No waiver by the Authority, the Holder or the Trustee of any breach by the Participant of any of its obligations, agreements or covenants hereunder shall be deemed a waiver of any subsequent breach, or a waiver of any other obligation, agreement or covenant, and no delay or failure by the Authority, the Holder or the Trustee to exercise any right or power shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised by the Authority, the Holder or the Trustee from time to time and as often as may be deemed expedient.

Section 5.4 Discontinuance of Proceedings. In case the Authority or the Trustee shall have proceeded to enforce any right under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Authority or the Trustee, then and

in every such case the Participant, the Authority, the Holder and the Trustee shall be restored respectively to their several positions and rights hereunder and all rights, remedies and powers of the Participant, the Authority, the Holder and the Trustee shall continue as though no such proceeding had been taken.

ARTICLE VI MISCELLANEOUS

Section 6.1 Notices. Notices hereunder shall be given to the addresses shown below or to such other address as shall be filed in writing with the parties as follows:

If to the Participant:

City of Columbia, South Carolina
Attention: City Manager
1737 Main Street
Columbia, South Carolina 29201

(with a copy to, which does not constitute notice)

Michael J. Seezen
Burr & Forman LLP
1221 Main Street, 17th Floor
Columbia, SC 29201

If to the Holder:

□

If to the Authority:

South Carolina Jobs-Economic Development Authority
Attention: Executive Director
1201 Main Street, Suite 1600
Columbia, South Carolina 29201

(with copy to the Participant as described above, which does not constitute notice)

(and with a copy to, which does not constitute notice)

Emily S. Luther and Ray E. Jones
Parker Poe Adams & Bernstein LLP
1221 Main Street, Suite 1100
Columbia, South Carolina 29201

If to the Trustee:

U.S. Bank National Association
Attention: Global Corporate Trust
1441 Main Street, Suite 775
Columbia, South Carolina 29201

Duplicate copies of each notice, request, complaint, demand or other instrument or document given hereunder by the Authority, the Holder or the Participant to one or more of the others also shall be given to

the others. The foregoing parties may designate, by notice given hereunder, any further or different addresses to which any subsequent notice, request, complaint, demand or other instrument or document shall be sent.

Section 6.2 Assignments. Except as expressly provided in the Indenture, this Agreement may not be assigned by any party without the written consent of the other party and the written consent of the Trustee.

Section 6.3 Severability. In case any provision of this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, by any court or administrative body of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof and this Agreement shall be construed as if such provision had never been contained herein.

Section 6.4 Amendments.

(a) The Participant and the Authority may, with the prior consent of the Holder, enter into any amendments at any time for any of the following purposes:

- (i) To cure any ambiguity, defect or omission herein or in any amendment; or
- (ii) To grant to or confer upon the Authority or the Holder any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon it; or
- (iii) To add to the covenants and agreements of the Participant herein contained, or to surrender any right or power herein reserved to or conferred upon the Participant; or
- (iv) To reflect a change in applicable law; or
- (v) To make any amendments required by Moody's or S&P as a condition to rating the Series 2020A Bond.

The Trustee shall receive written notice of all such amendments.

(b) Exhibit A may be amended from time to time (i) to reflect prepayment by the Participant pursuant to Section 3.3 hereof or (ii) to provide for the payment of Additional Payments described Section 3.1(c). Exhibit A may be amended, with notice but without the prior consent of the Trustee, the Authority, or the Holder, in the case of subsection (i) above, by delivery of an updated Exhibit A by the Participant to the Authority (which updated Exhibit A shall be acknowledged by the [Program Administrator]), and in the case of subsection (ii) above, by delivery of an updated Exhibit A by the [Program Administrator] to the Participant, with copies to the Trustee, the Authority and the Holder, together with invoices which support the updates to the Additional Payments set forth in the updated Exhibit A.

Section 6.5 Successors and Assigns. All covenants, promises and agreements contained in this Agreement by or on behalf of or for the benefit of the Participant or the Authority, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not. To the extent that this Agreement confers upon, gives or grants to the Trustee any right, remedy or claim under or by reason of this Agreement, the Trustee is explicitly recognized as being a third party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 6.6 Applicable Law. This Agreement shall be governed by, and interpreted under, the laws of the State of South Carolina.

Section 6.7 Execution in Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

[ONE SIGNATURE PAGE FOLLOWS]
[REMAINDER OF PAGE INTENTIONALLY BLANK]

WITNESS the due execution of this Agreement, effective, as of the day and the year first mentioned above.

CITY OF COLUMBIA, SOUTH CAROLINA

By: _____
Mayor

SOUTH CAROLINA JOBS-ECONOMIC
DEVELOPMENT AUTHORITY

By: _____

EXHIBIT A
PROGRAM PAYMENTS SCHEDULE

Subject to an Event of Nonappropriation, the Participant shall pay to the Trustee, as assignee of the Authority, the total Program Payments on or before the 15th day prior to each Bond Payment Date during the period this Agreement is in effect, in the amounts set forth below.

<u>Bond</u>			
<u>Payment Date</u>	<u>Payment</u>	<u>Additional Payment</u>	<u>Program Payment</u>

SCHEDULE I
DISCLOSURE UNDER SECTION 1.3(C)