

STATE OF SOUTH CAROLINA}
COUNTY OF PICKENS}
CITY OF LIBERTY}

ORDINANCE NO. 2020-05

ORDINANCE NO. 2020-05 _____

AUTHORIZING THE ISSUANCE AND SALE OF A NOT EXCEEDING \$400,000 GENERAL OBLIGATION BOND, SERIES 2020, OF THE CITY OF LIBERTY, SOUTH CAROLINA; FIXING THE FORM AND DETAILS OF THE BOND; AUTHORIZING THE MAYOR OR CITY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE BOND; PROVIDING FOR THE PAYMENT OF THE BOND AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

Enacted: August 10, 2020

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LIBERTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Definitions. Unless the context shall clearly indicate some other meaning, the terms defined in this Section shall have, for all purposes of this Ordinance, the meanings hereinafter specified, with the definitions equally applicable to both the singular and plural forms and vice versa. The term:

“2020 Projects” shall mean, collectively, one or more of the following projects: (a) repairs at the City’s Rosewood Center; (b) acquisition of vehicles, machinery and equipment for the City’s police, public works, utility and recreation departments; (c) culvert repair; and (d) stormwater system replacement at the Mills Avenue Gym.

“Bond” shall mean the General Obligation Bond, Series 2020, of the City of Liberty, South Carolina, in the principal amount of not exceeding \$400,000 authorized to be issued pursuant to Section 3 hereof.

“Bondholders” or the term “Holders” or any similar term shall mean the registered owner or owners of the Bond while the Bond remains outstanding.

“City” shall mean the City of Liberty, South Carolina.

“Code” shall mean the Internal Revenue Code of 1986 as amended.

“Constitution” shall mean the Constitution of the State of South Carolina, 1895, as amended.

“Council” shall mean the City Council of the City of Liberty, South Carolina.

“Government Obligations” shall mean, to the extent permitted by Section 6-5-10 of the South Carolina Code or any other authorization relating to the investment of funds by the City, any of the following: (1) cash; (2) United States Treasury Obligations – State and Local Government Series; (3) United States Treasury bills, notes, bonds or zero coupon treasury bonds all as traded on the open market; (4) direct obligations of the U.S. Treasury which have been stripped by the Treasury itself, including CATS, TIGRS and similar securities; (5) obligations of any agencies or instrumentalities which are backed by the full faith and credit of the United States of America; (6) bonds or debentures issued by any Federal Home Loan Bank or consolidated bonds or debentures issued by the Federal Home Loan Bank Board; (7) obligations of the Federal National Mortgage Association; or (8) general obligations of the State or any of its political units which, at the time of purchase, carry an AAA rating from Standard & Poor’s or an Aaa rating from Moody’s Investors Service; or (8) any legally permissible combination of any of the foregoing. Government Obligations must be redeemable only at the option of the holder thereof.

“Interest Payment Dates” shall mean June 1 of each year commencing June 1, 2021, or such other date or dates as determined by the Mayor or City Administrator.

“Municipal Bond Act” shall mean Title 5, Chapter 21, Article 5, Code of Laws of South Carolina 1976, as amended.

“Ordinance” shall mean this Ordinance.

“Paying Agent” shall mean the Treasurer of the City.

“Purchaser” shall mean the initial purchaser of the Bond.

“Record Date” shall mean the fifteenth (15th) day of the month immediately preceding each Interest Payment Date on the Bond or the date of notice of any proposed redemption, if any, of the Bond.

“Registrar” shall mean the City Administrator of the City.

“South Carolina Code” shall mean South Carolina Code of Laws 1976, as amended.

“State” shall mean the State of South Carolina.

SECTION 2. Findings and Determinations. The Council of the City hereby finds and determines:

(a) The City is an incorporated municipality located in Pickens County, South Carolina and as such possesses all powers granted to municipalities by the Constitution and general law of this State.

(b) Pursuant to Section 5-5-10 of the South Carolina Code, the City has selected the Mayor-Council form of government and is governed by a City Council composed of a Mayor and six (6) council members which constitute the governing body of the City.

(c) Article X, Section 14 of the Constitution provides that general obligation debt may be incurred by the governing body of each incorporated municipality of the State for a purpose which is a public purpose and which is a corporate purpose in an amount not exceeding eight percent (8%) of the assessed value of all taxable property of such incorporated municipality.

(d) Pursuant to the Municipal Bond Act, the municipal council of any municipality may issue general obligation bonds of such municipality for any corporate purpose of such municipality to any amount not exceeding the State constitutional debt limitation.

(e) The Municipal Bond Act requires that an election be held prior to the issuance of general obligation bonds. Title 11, Chapter 27 of the South Carolina Code provides that if an election be prescribed by the provisions of the Municipal Bond Act but is not required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor), and the remaining provisions of the Municipal Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions. Title 11, Chapter 27 of the South Carolina Code further provides that any municipality of the State may issue bonds in fully registered form.

(f) The assessed value of all taxable property in the City as of June 30, 2019, was not less than \$9,600,516. Eight percent (8%) of such sum is \$768,041. As of the date hereof, the outstanding general obligation debt of the City subject to the limitation imposed by Article X,

Section 14(7)(a) of the Constitution is \$-0-. Accordingly, the City may incur \$768,041 of general obligation debt within its applicable constitutional debt limitation.

(g) The proceeds of the Bond shall be applied to defray all or a portion of the costs of the 2020 Projects and the costs of issuance of the Bond.

(h) The undertaking of the 2020 Projects is necessary and in the best interest of the City. The issuance of the Bond authorized by this Ordinance for such purposes is necessary and such Bond will be issued for a corporate purpose and a public purpose of the City.

(i) It is now in the best interest of the City to provide for the issuance and sale of a not exceeding \$400,000 principal amount General Obligation Bond of the City for any or all of the purposes set forth in Section 1(g) above.

SECTION 3. Sale of the Bond. The Mayor or City Administrator are authorized to either (a) negotiate the sale of the Bond with Truist Bank, or (b) receive proposals for the purchase of the Bond on behalf of the City, determine the interest rate on the Bond, and either reject all bids or award the sale of the Bond to the bidder which provides the most advantageous proposal therefor in accordance with the terms of a Notice of Sale for the Bond.

SECTION 4. Authorization and Details of Bond. Pursuant to the aforesaid provisions of the Constitution, the Municipal Bond Act and Section 11-27-40 and Section 11-27-90 of the South Carolina Code, there is hereby authorized to be issued a general obligation bond of the City (the "Bond") to obtain funds for any or all of the purposes set forth in Section 1(g) above, including any financial and legal fees relating thereto and other incidental costs of issuing the Bond. The Bond shall be designated "[principal amount issued] General Obligation Bond, Series 2020, of the City of Liberty, South Carolina."

The Bond shall be issued as a single, fully registered Bond; shall be registered as to principal and interest in the name of the Purchaser; shall be dated as of the date of its initial delivery or such other date as the Mayor or City Administrator determines; shall be in the denomination of not exceeding \$400,000; shall bear interest from its date payable on each Interest Payment Date; and shall be payable as to principal and interest on Interest Payment Date in each of the years 2021 to and including 2026. Interest on the Bond shall be calculated on the basis of a 360-day year comprised of twelve 30-day months, unless otherwise agreed upon by the Mayor or City Administrator.

Both the principal of and interest on the Bond shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

SECTION 5. Redemption Provisions. The Mayor or City Administrator are authorized to determine the terms of optional redemption applicable to the Bond.

SECTION 6. Authority to Determine Certain Matters. The Council hereby authorizes the Mayor or City Administrator to (a) determine the original issue date of the Bond; (b) determine the principal amount of the Bond to be issued if less than authorized by this Ordinance; (c) determine the Interest Payment Dates, including the initial Interest Payment Date, and maturity dates and principal amounts maturing on such dates; (d) determine the terms and conditions of redemption of the Bond; (e) negotiate the sale of the Bond to Truist Bank or, alternatively, approve the form of a Notice of

Sale for the sale of the Bond, distribute such Notice of Sale to potential bidders, receive bids for the purchase of the Bond pursuant to the Notice of Sale, and award the sale of the Bond to the bidder which provides the most advantageous proposal for the purchase of the Bond; and (f) negotiate and execute all other contracts and approve any other matters necessary to effect the issuance of the Bond. After the sale of the Bond, the Mayor or City Administrator shall submit a written report to the Council setting forth the results of the sale of the Bond.

SECTION 7. Registration of the Bond. The Bond shall be registered in the name of the initial Purchaser thereof, as the registered owner, at the office of the City Administrator on registration books (the "Books of Registry") to be kept for that purpose, and such registration shall be noted on the registration attached to the Bond, after which no transfer of such Bond shall be effective unless made on such Books of Registry by the registered owner in person or its duly authorized legal representative and similarly noted on the Bond. The Bond shall be in substantially the form set forth below, with such necessary or appropriate variations, omissions and insertions as are incidental to the issuance of the Bond or as are otherwise permitted or required by law or by this Ordinance. The Bond shall be executed in the name and on behalf of the City by the manual or facsimile signatures of the Mayor (or in his absence, the Mayor Pro Tempore) and the City Administrator, as applicable, of the City. After execution of the Bond by the City, the Registrar is hereby directed to authenticate the Bond and deliver the Bond to the Purchaser.

With the consent of the initial Purchaser of the Bond, and notwithstanding any provision to the contrary contained in this Ordinance or in the Bond, the Bond may be sold or transferred by the initial Purchaser thereof only to purchasers ("Qualified Investors") who execute an investment letter delivered to the City, in form satisfactory to the City (the "Investment Letter"), containing certain representations, warranties and covenants as to the suitability of such purchasers to purchase and hold the Bond. Such restrictions shall be set forth on the face of the Bond and shall be complied with by each transferee of the Bond.

SECTION 8. Execution of Bond. The Bond shall be executed in the name of the City with the manual or facsimile signature of the Mayor of the City (or in his absence the Mayor Pro Tempore) attested by the manual or facsimile signature of the City Administrator, under a facsimile of the seal of the City which shall be impressed or affixed thereon.

SECTION 9. Form of Bond. The Bond shall be in substantially the following form:

(FORM OF BOND)

THIS BOND MAY BE SOLD OR TRANSFERRED IN WHOLE OR IN PART ONLY TO A PURCHASER OR TRANSFEREE CONSTITUTING A QUALIFIED INVESTOR (AS SUCH TERM IS DEFINED IN THE HEREAFTER DEFINED ORDINANCE UNDER WHICH THIS BOND IS ISSUED), AND ONLY UPON SUCH QUALIFIED INVESTOR DELIVERING TO THE CITY AN INVESTMENT LETTER IN THE FORM REQUIRED UNDER THE ORDINANCE.

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
CITY OF LIBERTY
GENERAL OBLIGATION BOND, SERIES 2020

KNOW ALL MEN BY THESE PRESENTS, that the City of Liberty, South Carolina (the “City”), is justly indebted and, for value received, hereby promises to pay to [Truist Bank, in Charlotte, North Carolina] (the “Bank”), its successors or registered assigns, the principal sum of \$_____ together with interest thereon at the rate of ____% per annum. This Bond is payable in annual installments of principal and interest on [June 1] of each of the years 2021 to and including 2026 in the amount of \$_____. Interest on this Bond shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Both the principal of and interest on this Bond are payable at the office of the Treasurer of the City, as paying agent (the “Paying Agent”), without presentation and surrender of this Bond in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, the Purchaser agrees to surrender this Bond before or within a reasonable time after its final maturity.

This Bond is issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Title 5, Chapter 21, Article 5, Code of Laws of South Carolina, 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No. _____ duly enacted on August 10, 2020, by the City Council of the City (the “Ordinance”).

For the payment of the principal and interest of this Bond as they respectively mature and for the creation of a sinking fund to aid in the retirement and payment thereof, the full faith, credit and taxing power of the City are hereby irrevocably pledged, and there shall be levied and collected annually upon all taxable property in the City an *ad valorem* tax, without limitation as to rate or amount, sufficient for such purposes.

This Bond is subject to redemption at the option of the City, [in whole, at any time prior to its final maturity at the principal amount thereof to be redeemed, together with interest accrued thereon to the date fixed for redemption, without payment of any premium or penalty].

This Bond is transferable as provided in the Ordinance, only upon the registration books of the City kept for that purpose at the office of the City Administrator, as Registrar, in Liberty, South Carolina, by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer reasonably satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully registered Bond in the same aggregate principal amount, interest rate, and maturity date shall be issued to the transferee in exchange therefor as provided in the Ordinance. The City, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner thereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina, this Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise. This Bond has been designated by the City a "qualified tax-exempt obligation" pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986, as amended.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the City, does not exceed the applicable limitation of indebtedness under the laws of the State of South Carolina; and that provision has been made for the levy and collection annually upon all taxable property of the City of an *ad valorem* tax, without limitation as to rate or amount, sufficient for the payment of the principal and interest of this Bond as it matures and for the creation of such sinking fund to aid in the retirement and payment thereof.

IN WITNESS WHEREOF, THE CITY OF LIBERTY, SOUTH CAROLINA, has caused this Bond to be signed with the manual signature of the Mayor of the City, attested by the manual signature of the City Administrator, under the seal of the City impressed or affixed hereon and this Bond to be dated the ____ day of _____, 2020.

CITY OF LIBERTY, SOUTH CAROLINA

(SEAL)

ATTEST:

Mayor

City Administrator

REGISTRATION

This Bond has been registered in the name of [Truist Bank in Charlotte, North Carolina], on the registration books kept by the City Administrator of the City of Liberty, South Carolina.

City Administrator, City of Liberty, South Carolina

SECTION 10. Defeasance. The obligations of the City under this Ordinance and the pledges, covenants and agreements of the City herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bond, and such Bond shall no longer be deemed to be outstanding hereunder when:

(a) such Bond shall have been purchased by the City and surrendered to the City for cancellation or otherwise surrendered to the City or the Paying Agent and is canceled or subject to cancellation by the City or the Paying Agent; or

(b) payment of the principal of and interest on such Bond either (1) shall have been made or caused to be made in accordance with the terms thereof, or (2) shall have been provided for by irrevocably depositing with the Paying Agent in trust and irrevocably setting aside exclusively for such payment, (a) moneys sufficient to make such payment, or (b) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the Paying Agent. At such time as the Bond shall no longer be deemed to be outstanding hereunder, such Bond shall cease to draw interest from the maturity date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

SECTION 11. Security for Bond. The full faith, credit and taxing power of the City are hereby irrevocably pledged for the payment of the principal and interest of the Bond as they respectively mature and for the creation of a sinking fund to aid in the retirement and payment thereof. There shall be levied and collected annually upon all taxable property in the City an *ad valorem* tax, without limitation as to rate or amount, sufficient for such purposes. The appropriate official of the City shall be notified as to the delivery of and payment for the Bond and is hereby directed to levy and collect annually upon all taxable property in the City an *ad valorem* tax, without limitation as to rate or amount, sufficient for the payment of the principal and interest of the Bonds as they respectively mature and for the creation of a sinking fund to aid in the retirement and payment thereof. Notwithstanding the foregoing, to the extent moneys derived from other sources (including, but not limited to, revenues of the City's water and sewer system (the "Additional Funds")) have been deposited in the aforementioned sinking fund, or the Mayor or City Administrator has certified that Additional Funds will be available to pay the principal of and interest on the Bond on the next annual principal and interest payment date, the annual *ad valorem* tax to be levied for the payment of the principal of and interest on the Bond may be reduced or eliminated in each year by the amount of such Additional Funds deposited in the sinking fund or certified to be available on or before the annual principal and interest payment date.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bond shall be exempt, in accordance with the provisions of Section 12-2-50 of the South Carolina Code, from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Notice of Private Sale. Not less than seven (7) days prior to the delivery of the Bond, notice of intention to sell the Bond at a private sale shall be given by publication in a newspaper of general circulation in the City. The Notice shall be in substantially the form as attached Exhibit A.

SECTION 14. Deposit and Use of Proceeds. The proceeds of the Bond shall be deposited in a special fund, separate and distinct from all other funds, and applied solely to the purpose for which the Bond is issued except that the premium, if any, shall be placed in the sinking fund established for the Bond, and the accrued interest, if any, must be used to discharge in part the first interest to become due on the Bond.

SECTION 15. Tax Covenants. The City hereby covenants and agrees with the holders of the Bond that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bond to become includable in the gross income of the bondholders for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Bond and that no use of the proceeds of the Bond shall be made which, if such use had been reasonably expected on the date of issue of the Bond would have caused the Bond to be an “arbitrage bond”, as defined in Section 148 of the Code, and to that end the City hereby shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bond is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the time and places required by the Code.

The City Administrator is hereby authorized to adopt written procedures to ensure the City’s compliance with federal tax matters relating to the Bond.

SECTION 16. Designation of Bond. The City covenants that, in accordance with the provisions of the Code, the Bond is designated as a “qualified tax-exempt obligation” as defined in Section 265(b)(3) the Code. The City and all subordinate entities thereof do not anticipate to issue more than \$10,000,000 in tax-exempt bonds or other tax-exempt obligations in 2020 (other than private activity bonds that are not qualified Section 501(c)(3) bonds). The City represents that the sum of all tax-exempt obligations (other than private activity bonds) issued by the City and all subordinate entities thereof during calendar year 2020 is not reasonably expected to exceed \$10,000,000.

SECTION 17. Reimbursement. This Ordinance shall constitute the City’s declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the City from a portion of the proceeds of the Bond for expenditures it anticipates incurring with respect to the 2020 Projects prior to the issuance of the Bond. Expenditures which are reimbursed are limited to Expenditures which are: (a) properly chargeable to capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the Code) under general federal income tax principals; or (2) certain *de minimis* or preliminary

Expenditures satisfying the requirements of Regulation §1.150-2(f) of the Code. The source of funds for the Expenditures with respect to the 2020 Projects will be the City's general funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such 2020 Projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 18. Filings with Central Repository. In compliance with Section 11-1-85 of the South Carolina Code, the City covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the City within thirty (30) days of the City's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five percent (5%) of the City's revenue or its tax base.

SECTION 19. Miscellaneous. The Council hereby authorizes the Mayor, City Administrator, City Clerk, and Treasurer to execute such documents and instruments as may be necessary to effect the issuance of the Bond or to make modifications in any documents including but not limited to the form of Bond. The Council hereby authorizes the City Administrator to retain the law firm of Burr & Forman LLP, as bond counsel in connection with the issuance of the Bond.

SECTION 20. Notice of Initiative and Referendum. The Council hereby authorizes the City Administrator to determine whether to publish the notice prescribed under the provisions of Section 11-27-40(8) of the S.C. Code, relating to the initiative and referendum provisions contained in Title 5, Chapter 17, of the S.C. Code with respect to this Ordinance in a newspaper of general circulation in the City.

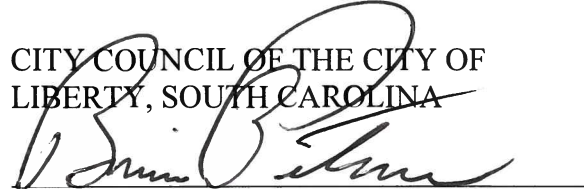
SECTION 21. Repeal of Conflicting Ordinances. All orders, resolutions, ordinances and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bond are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its passage and approval.

SECTION 22. Codification. This Ordinance shall be forthwith codified in the Code of City Ordinances in the manner required by law.

[Signature Page Follows]


SECTION 23. Effective Date. This Ordinance shall be effective upon its enactment on August 10, 2020.

CITY COUNCIL OF THE CITY OF
LIBERTY, SOUTH CAROLINA



Mayor

ATTEST:



City Administrator

Date of First Reading: July 13, 2020

Date of Second Reading: August 10, 2020

Exhibit A

NOTICE REGARDING SALE OF \$ _____
GENERAL OBLIGATION BOND, SERIES 2020, OF THE
CITY OF LIBERTY, SOUTH CAROLINA

NOTICE IS HEREBY GIVEN that pursuant to the provisions of the S.C. Code § 11-27-40(4), the City Council for the City of Liberty, South Carolina, by Ordinance No. _____ enacted on August 10, 2020, approved the sale of a \$ _____ General Obligation Bond, Series 2020 (the "Bond"), of the City of Liberty, South Carolina. The Bond will be sold to [_____] at a purchase price of \$ _____; will bear interest at the rate of _____% per annum; will be dated as of the date of delivery; and will mature in annual installments of principal and interest on June 1, 20____, to and including June 1, 20____, in the amount of \$ _____.

City of Liberty, South Carolina