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**LEXINGTON COUNTY, SOUTH CAROLINA**

**ORDINANCE NO. 12-12**

**AN ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS OF LEXINGTON COUNTY, SOUTH CAROLINA; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR AND THE FINANCE DIRECTOR TO DETERMINE CERTAIN MATTERS RELATING THERETO; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.**

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**BE IT ORDAINED BY THE COUNTY COUNCIL OF LEXINGTON COUNTY,  
SOUTH CAROLINA, AS FOLLOWS:**

**ARTICLE I – FINDINGS**

Section 1.01 Findings

The County Council of Lexington County (the “County Council”), the governing body of Lexington County, South Carolina (the “County”), hereby finds and determines:

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “Constitution”), provides that counties may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose for a county, and (ii) unless excepted therefrom, such debt may be issued in an amount not exceeding eight percent (8%) of the assessed value of all taxable property of such county (the “Bonded Debt Limit”).

(b) Pursuant to Title 4, Chapter 15 of the South Carolina Code (the same being and hereinafter referred to as the “County Bond Act”), the governing body of any of the counties of the State of South Carolina (the “State”) may issue general obligation bonds to defray the cost of any authorized purpose and for any amount not exceeding such county’s applicable Bonded Debt Limit.

(c) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held with results favorable thereto. Title 11, Chapter 27 of the South Carolina Code provides that if an election be prescribed by the provisions of the County Bond Act, but is not required by the provisions of Article X, Section 14 of the Constitution, then in every such instance, no election need be held and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(d) Title 11, Chapter 15, Article 5 of the South Carolina Code (the “Refunding Act”) provides that the governing body of any issuer, including any county, may issue refunding bonds to such extent as such issuer shall be indebted by way of principal, interest and redemption premium upon any outstanding general obligation bonds, maturing or called for redemption, less all sinking funds and other moneys on hand applicable thereto at any time, but not sooner than one year from the date the outstanding bonds fall due or have been called for redemption.

(e) Under present market conditions, the County has determined that it will achieve interest cost savings by the issuance of refunding bonds and using the proceeds therefrom to redeem all or a portion of the County’s originally issued \$7,575,000 General Obligation Bonds, Series 2006B (Taxable Series) (the “Series 2006B Bonds”), which mature on the first day of February in the years 2013 through 2021 and which have an aggregate outstanding principal amount of \$5,575,000 (the “Refunded Bonds”).

(f) In order to provide emergency services throughout the County, the County Council has determined, at this time, to finance a portion of the costs of an emergency 911 operations center (the “EOC Project”) through the issuance of general obligation bonds. The total amount of general obligation bonds to be issued to finance such portion of the EOC Project is estimated to be \$3,000,000.

(g) In order to promote economic development within the County, the County Council has determined to finance the cost of (i) constructing certain transportation infrastructure and (ii) completing and developing certain industrial and technology parks in the County, which may include, but is not limited to, the acquisition of land and the construction of public improvements, as well as certain site work, engineering, and design services related thereto (the “Economic Development Projects” and together with the EOC Project, the “Projects”) through the issuance of general obligation bonds. The County Council hereby specifically finds and determines in connection with the accomplishment of the Economic Development Projects that:

- (i) the ultimate goal of the Economic Development Projects is to promote industrial development and thereby provide job opportunities for the citizens of the County;
- (ii) the primary beneficiaries of the Economic Development Projects will be the citizens of the County, who will enjoy an increase in job opportunities; and
- (iii) the Economic Development Projects are in the public interest and well-suited to spurring industrial development in the completed industrial and technology parks and are highly likely to provide benefits to the citizens of the County within a reasonable period.

The total amount of funds required to finance the Economic Development Projects is estimated to be \$17,000,000.

(h) The assessed value of the County for 2011, which is the last completed assessment thereof, is a sum not less than \$1,084,897,526, which produces for the County a Bonded Debt Limit of \$86,791,801. The present outstanding principal amount of general obligation debt of the County is the sum of \$37,273,176 and thus the County may issue additional general obligation debt, in the principal sum of \$49,518,626 without a referendum. Moreover, under the decision of the South Carolina Supreme Court in *Williams v. Rock Hill*, 177 S.C. 82, 180 S.E. 799 (1935), debt issued by the County for the purpose of refunding general obligation debt, and which reduces the annual debt service payments as compared to the refunded debt, does not create additional debt subject to the Bonded Debt Limit. However, the sum borrowed by the County in order to defray the costs of the Projects does count against the Bonded Debt Limit. At the closing of any Series of Bonds issued to refund the Refunded Bonds pursuant to the provisions of this Ordinance, the Finance Director shall certify as to the principal sum used to effect the redemption of the Refunded Bonds as well as the principal sum issued to defray the cost of any of the Projects.

(i) It is in the best interest of the County for the County Council to authorize and provide for the issuance and sale of general obligation refunding and improvement bonds of the County pursuant to the aforesaid provisions of the Constitution and laws of the State of South Carolina for the purposes of refunding the Refunded Bonds and raising sufficient moneys to defray the cost of the Projects.

## ARTICLE II – DEFINITIONS AND CONSTRUCTION

### Section 2.01 Definitions

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

“*Authorized Investments*” mean and include any securities which at the time of determination are legal investments for political subdivisions in the State as provided by the South Carolina Code.

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

“*Bond Counsel*” shall mean an attorney or firm of attorneys of recognized standing in the field of law relating to municipal, state and public agency financing.

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

“*Bond Payment*” means the periodic payment of principal of and interest on the Bonds.

“*Bond Payment Date*” means the date upon which the principal of and interest on the Bonds authorized by this Ordinance are due and payable.

“*Chairman*” means the Chairman of County Council.

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

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

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

“*County Administrator*” shall mean the County Administrator of the County.

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

“*County Council*” means the County Council of the County.

“*County Treasurer*” shall mean the Treasurer of the County.

“*Enabling Act*” means Article X, Section 14 of the Constitution of the State of South Carolina, 1895, and Title 4, Chapter 15 and Title 11, Chapter 27 of the South Carolina Code. To the extent refunding bonds are issued, such term also includes Title 11, Chapter 15, Article 5 of the South Carolina Code.

**“Escrow Agent”** means a financial institution appointed by the County to hold funds for the purpose of defeasing the Bonds in accordance with Article VII of this Ordinance.

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

**“Finance Director”** shall mean the Finance Director of the County.

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

(i) any Bond cancelled or delivered to the Registrar for cancellation on or before such date;

(ii) any Bond (or any portion thereof) deemed to have been paid in accordance with the provisions of Section 7.01 hereof; and

(iii) any Bond in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to Section 3.09 hereof.

**“Paying Agent”** means any bank, trust company or national banking association which is authorized to pay the Principal Installments of or interest on any Bonds and has the duties, responsibilities and rights provided for in this Ordinance, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Ordinance. The entity named as Paying Agent may also act as Registrar. Notwithstanding the above definition of Paying Agent, if the Bonds are delivered in physical form, the Paying Agent may be the County Treasurer.

**“Person”** means an individual, a partnership, a corporation, a trust, a trustee, an unincorporated organization, or a government or an agency or political subdivision thereof.

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

**“Projects”** has that meaning described in Section 1.01 herein.

**“Purchaser”** means a purchaser of the Bond or Bonds.

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

**“Refunded Bonds”** shall mean the Series 2006B Bonds which mature on the first day of February in the years 2013 through 2021 and which have an aggregate outstanding principal amount of \$5,575,000.

**“Registrar”** means any bank, trust company, or national banking association which is authorized to maintain an accurate list of those who from time to time shall be the Holders of the

Bonds and shall effect the exchange and transfer of Bonds in accordance with the provisions of this Ordinance and having the duties, responsibilities, and rights provided for in this Ordinance and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to this Ordinance. The institution named as Registrar may also act as Paying Agent. Notwithstanding the above definition of Registrar, if the Bonds are delivered in physical form, the Registrar may be the County Treasurer.

“**Registry Books**” means the books to be kept at the offices of the Registrar for the registration and transfer of the Bonds.

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

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

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

“**Series 2006B Bonds**” shall mean the County’s originally issued \$7,575,000 General Obligation Bonds, Series 2006B (Taxable Series).

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

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

“**Taxable Bonds**” shall mean any Bonds that have been designated as such by the County Administrator and the Finance Director pursuant to Section 8.01(d) of this Ordinance.

## Section 2.02 Construction

In this Ordinance, unless context otherwise requires:

(a) Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Ordinance.

(b) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder,” and any similar terms refer to this Ordinance, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before the date of adoption of this Ordinance.

(c) Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.

(d) Any Fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

## **ARTICLE III – THE BONDS**

### Section 3.01 Authorization

The issuance of not exceeding \$26,000,000 of general obligation bonds of the County (the “Bonds”) is hereby authorized pursuant to the Enabling Act in order to: (i) provide for the refunding of the Refunded Bonds, (ii) defray costs associated with the Projects, and (iii) provide for the costs of issuance thereof. The actual amount of the Bonds to be issued hereunder shall be determined by the County Administrator and the Finance Director.

### Section 3.02 Public Hearing

Prior to third reading of this Ordinance, a public hearing shall be conducted. Notice of such hearing shall be given in accordance with the provisions of Section 4-9-130 or Section 15-29-40 of the South Carolina Code. The notice shall be in the form approved by the County Administrator and the Finance Director.

### Section 3.03 Details of the Bonds

The Bonds will be issued in fully registered form registered in the name of the Purchaser thereof or under a book-entry-only system, registered in the name of Cede & Co. as the registered owner and nominee of The Depository Trust Company, New York, New York (“DTC”), which in such instance will act as securities depository for the Bonds. The Bonds shall be dated as of the first day of the month in which the Bonds are delivered to the initial Purchaser(s) thereof, the date of delivery thereof, or such other date as shall be selected by the County Administrator and the Finance Director; shall be in such denominations as determined by the County Administrator and the Finance Director; shall bear interest from such date as may be accepted by the County Administrator and the Finance Director at the time of the sale thereof; and shall mature in such Principal Installments as the County Administrator and the Finance Director may determine.

The Bonds may be issued in a single Series, or from time to time in multiple Series as determined by the County Administrator and the Finance Director.

### Section 3.04 Medium and Place of Payment

(a) Both the Principal Installments of and interest on the Bonds 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.

(b) If the Bonds are issued in book-entry form, the Bond Payments shall be payable at the Corporate Trust Office of the Paying Agent and payment of the interest on each Bond shall be made by the Paying Agent to the Person appearing as the registered owner thereof on each Record Date on the registration books of the Registrar (the “Registry Books”), which Registry Books shall be held by the Registrar, by check or draft mailed to such registered owner at its address as it appears on such Registry Books in sufficient time to reach such registered owner on

the Bond Payment Date. Payment of the Principal Installment of all Bonds shall be made upon the presentation and surrender for cancellation of such Bonds as the same shall become due and payable.

### Section 3.05 Agreement to Maintain Registrar and Paying Agent

Subject to the last paragraph of this Section 3.05, as long as any of the Bonds remain Outstanding there shall be a Registrar and a Paying Agent which shall be a financial institution maintaining Corporate Trust Offices where: (i) Bonds may be presented for registration of transfers and exchanges, (ii) notices and demands to or upon the District in respect of the Bonds may be served, and (iii) the Bonds may be presented for payment, exchange and transfer. Initially, the financial institution designated by one or more of the County Administrator and the Finance Director shall act as both Registrar and Paying Agent. The single institution so chosen shall exercise both the functions of the Registrar and the Paying Agent.

If any Series of Bonds are issued in the form of a single bond in physical form, the Finance Director or the County Treasurer's office may serve as the Registrar and Paying Agent for the Bonds and shall fulfill all functions of the Registrar and Paying Agent enumerated herein. It shall also serve as Registrar and Paying Agent should the Bonds initially be held in a book-entry system and such system is subsequently discontinued.

### Section 3.06 Registration and Transfer

The County shall cause the Registry Books to be kept at the offices of the Registrar, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose, the Registrar shall register or transfer, or cause to be registered or transferred, on such Registry Books, the Bonds under such reasonable regulations as the Registrar may prescribe.

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

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

County nor the Registrar shall be obliged to make any such transfer of Bonds during the period beginning on the day after the 15th calendar day of the month next preceding an interest payment date on such Bonds and ending on such interest payment date.

### Section 3.07 Lost, Stolen, Destroyed or Defaced Bonds

In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in such amount as may be required by the laws of the State or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

### Section 3.08 Book-Entry Only System

(a) Notwithstanding anything to the contrary herein, so long as the Bonds are being held under a book-entry system of a securities depository, transfers of beneficial ownership of the Bonds will be effected pursuant to rules and procedures established by such securities depository. If held under a book-entry system, the initial securities depository for the Bonds will be DTC. DTC and any-successor securities depositories are hereinafter referred to as the "Securities Depository" and "Securities Depository Nominees" respectively.

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

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

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

(e) In the event that the County determines that it is in the best interest of the County to discontinue the book-entry system of transfer for the Bonds, or that the interests of the beneficial owners of the Bonds may be adversely affected if the book-entry system is continued, then the County shall notify the Securities Depository of such determination. In such event, the Registrar shall authenticate, register and deliver physical certificates for the Bonds in exchange for the Bonds registered in the name of the Securities Depository Nominee.

(f) In the event that the Securities Depository for the Bonds discontinues providing its services, the County shall either engage the services of another Securities Depository or arrange with a Registrar for the delivery of physical certificates in the manner described in subparagraph (e) above.

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

(h) At the closing of any Series of Bonds and the delivery of the same to the Purchaser thereof through the facilities of DTC, the Registrar may maintain custody of Bond certificates on behalf of DTC in accordance with DTC's "FAST" closing procedures.

### Section 3.09 Execution and Authentication of Bonds

The Bonds shall be executed in the name of the County, with the manual or facsimile signature of the Chairman attested to by the manual or facsimile signature of the Clerk to County Council under a facsimile of the seal of the County, which shall be impressed, imprinted or reproduced thereon. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

Section 3.10 Form of Bonds

The Bonds shall be in substantially the form to that attached hereto as Exhibit A.

Section 3.11 Security for Bonds

The full faith, credit and taxing power of the County is hereby irrevocably pledged for the payment of the Principal Installments of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Auditor and the County Treasurer shall be notified as to the delivery of and payment for the Bonds and are hereby directed to levy and collect, respectively, a tax, without limit, on all taxable property in the County sufficient to pay the Principal Installments of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Section 3.12 Exemption from Taxation

Both the Principal Installments of and interest on the Bonds 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, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest thereon may be includable in certain franchise fees or taxes.

Section 3.13 Payments Due on Saturdays, Sundays, and Holidays

In any case where a Bond Payment Date for a Series of Bonds shall be a Saturday or Sunday, or, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then any Bond Payment due shall be payable on the next succeeding business day with the same force and effect as if made on the Bond Payment Date and no interest shall accrue during such period.

## **ARTICLE IV – SALE OF THE BONDS**

### **Section 4.01 Sale and Award of Bonds**

The Bonds shall be sold at public sale, at not less than par and accrued interest to the date of delivery. Bids shall be received at such time and date and in such manner as is selected by the County Administrator and the Finance Director. Unless all bids are rejected, the award of Bonds of a Series may be made by the County Administrator or the Finance Director to the bidder offering the lowest interest cost therefor, computed on the basis set forth in a notice of sale used in providing for the sale of the Bonds (the “Notice of Sale”).

### **Section 4.02 Official Statement and Official Notice of Sale**

The County Council hereby authorizes the County Administrator and the Finance Director to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective Purchasers of the Bonds. The County Council authorizes the County Administrator to designate the Preliminary Official Statement as “final” for purposes of Rule 15c2-12 of the United States Securities Exchange Commission. The County Administrator is further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the Purchasers of the Bonds.

Should the County Administrator and the Finance Director determine to employ an Official Statement in connection with the issuance of the Bonds, the County Council authorizes an official Notice of Sale to be distributed coincident with and in like manner as the Preliminary Official Statement.

### **Section 4.03 Summary Notice of Sale**

In lieu of publishing the official Notice of Sale in its entirety, the Finance Director and the County Administrator may elect to publish an abbreviated form of notice and provide the full text of the foregoing official Notice of Sale only to those persons who request the same or who are identified as prospective bidders for the Bonds. A summary of the official Notice of Sale shall be published not less than 7 days prior to the date fixed for sale, in a newspaper having general circulation in the State and, if deemed appropriate by the County Administrator, in a financial publication published in the City of New York, State of New York.

## **ARTICLE V – CERTAIN DELEGATIONS AND AUTHORIZATIONS**

### **Section 5.01 Certain Delegations**

The County Council hereby expressly delegates to the County Administrator and the Finance Director the authority, with respect to the Bonds, to determine: (a) the date of sale, the date of issuance, the maturity schedule and the Bond Payment Dates with respect to the Bonds; (b) the redemption provisions, if any; (c) whether to use bond insurance, and if so, to make appropriate arrangements therefor; (d) whether to retain a financial advisor; (e) whether to award the Bonds on the basis of net interest cost or true interest cost; (f) whether the Bonds will be designated as “qualified tax-exempt obligations”; (g) whether to utilize the provisions of Section 11-27-40(8) of the South Carolina Code with respect to this Ordinance; (h) whether to issue all or a portion of the Bonds as Taxable Bonds; (i) whether to create and distribute preliminary and final Official Statements in connection with the issuance of any Series of Bonds; and (j) such other matters regarding the Bonds as are necessary or appropriate. In making such determinations, the County Administrator and the Finance Director are directed to take into account the amounts available in the County’s debt service fund. The County Council may, by resolution, authorize the County Administrator and the Finance Director to alter any of the conditions specified above or elsewhere herein.

The County Administrator and the Finance Director are hereby authorized and directed to conduct the sale of the Bonds pursuant to the provisions of Article IV hereof. The County Council hereby expressly delegates to the County Administrator and the Finance Director the authority to award the sale of any Bonds in accordance with the Notice of Sale contemplated in Article IV hereof.

### **Section 5.02 Authorization to Call the Series 2006B Bonds; Notice of Redemption**

The County Administrator and the Finance Director are authorized to call the Series 2006B Bonds and provide for the notice of redemption thereof, in such manner, form and time as required by the proceedings authorizing the issuance of the Refunded Bonds. The County Administrator and the Finance Director are further authorized to effect the redemption of the Refunded Bonds and to invest the proceeds pending the use thereof for the purposes provided herein.

## ARTICLE VI – APPLICATION OF PROCEEDS

### Section 6.01 Deposit and Use of Proceeds

The proceeds derived from each sale of the Bonds issued pursuant to this Ordinance shall be paid to the County Treasurer, to be deposited in a special fund to the credit of the County, and shall be expended and made use of by the County as follows:

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

(b) Any premium shall be applied to the payment of the first Principal Installment of such Bonds. Notwithstanding the foregoing, in the case of refunding Bonds, any premium generated from the sale of such Bonds shall be first applied to effect the redemption of the Refunded Bonds; and

(c) The remaining proceeds shall be expended and made use of by the County to defray the cost of issuing the Bonds and to either (i) effect the refunding of the Refunded Bonds, or (ii) defray the costs of the Projects, or (iii) both.

Pending the use of the proceeds of the Bonds, the same shall be invested and reinvested in Authorized Investments; provided, that neither the Purchaser nor any Holder of the Bonds shall be liable for the proper application of the proceeds thereof.

## ARTICLE VII – DEFEASANCE

### Section 7.01 Defeasance

(a) If all of the Bonds issued pursuant to this Ordinance shall have been paid and discharged, then the obligations of this Ordinance hereunder, and all other rights granted thereby shall cease and determine. Bonds shall be deemed to have been paid and discharged within the meaning of this section under any of the following circumstances:

(i) If a bank or other financial institution (the “Escrow Agent”) shall hold, at the stated maturities of the Bonds, in trust and irrevocably appropriated thereto, moneys for the full payment thereof; or

(ii) If default in the payment of the Principal Installments of the Bonds or the interest thereon shall have occurred, and thereafter tender of payment shall have been made, and the Escrow Agent shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of payment; or

(iii) If the County shall have deposited with the Escrow Agent, in an irrevocable trust, either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America, which are not subject to redemption by the issuer prior to the date of maturity thereof, as the case may be, the Principal Installments of and interest on which, when due, and without reinvestment thereof, will provide moneys, which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the Principal Installments, interest, and redemption premium or premiums, if any, due and to become due on the Bonds and prior to the maturity date or dates of the Bonds, or, if the County shall elect to redeem the Bonds prior to their stated maturities and shall have irrevocably bound and obligated itself to give notice of redemption thereof in the manner provided in the form of the Bonds herein, on and prior to the redemption date or dates of the Bonds, as the case may be; or

(iv) If there shall have been deposited with the Escrow Agent either moneys in an amount which shall be sufficient, or direct general obligations of the United States of America the principal of and interest on which, when due, will provide moneys, which, together with the moneys, if any, deposited with the Escrow Agent at the same time, shall be sufficient to pay, when due, the principal and interest due and to become due on the Bonds on the maturity thereof.

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

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

(d) Any release under this Section shall be without prejudice to the rights of the Escrow Agent to be paid reasonable compensation for all services rendered under this Ordinance and all reasonable expenses, charges, and other disbursements and those of their respective attorneys, agents, and employees, incurred on and about the performance of the powers and duties under this ordinance.

(e) Any moneys which at any time shall be deposited with the Escrow Agent by or on behalf of the County for the purpose of paying and discharging any Bonds shall be and are hereby assigned, transferred, and set over to the Escrow Agent in trust for the respective Holders of the Bonds, and the moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. If, through lapse of time or otherwise, the Holders of such Bonds shall no longer be entitled to enforce payment of their obligations, then, in that event, it shall be the duty of the Escrow Agent to transfer the funds to the County.

(f) In the event any Bonds are not to be redeemed within the 60 days next succeeding the date the deposit required by Sections 7.01(a)(iii) or (iv) hereof is made, the County shall give the Escrow Agent irrevocable instructions to mail, as soon as practicable by registered or certified mail, a notice to the owners of the Bonds at the addresses shown on the Registry Books that (i) the deposit required by subparagraphs (a)(iii) or (a)(iv) of this Section 7.01 has been made with the Escrow Agent, (ii) the Bonds are deemed to have been paid in accordance with this Section and stating the maturity or redemption dates upon which moneys are to be available for the payment of the principal of, and premium, if any, and interest on, the Bonds, and (iii) stating whether the County has irrevocably waived any rights to redeem the Bonds, or any of them, prior to the maturity or redemption dates set forth in the preceding clause (ii).

(g) The County covenants and agrees that any moneys which it shall deposit with the Escrow Agent shall be deemed to be deposited in accordance with, and subject to, the applicable provisions of this Section, and whenever it shall have elected to redeem Bonds, it will irrevocably bind and obligate itself to give notice of redemption thereof and will further authorize and empower the Escrow Agent to cause notice of redemption to be given in its name and on its behalf.

## **ARTICLE VIII – MISCELLANEOUS**

### Section 8.01 Tax Covenants

(a) Except with regard to Bonds designated as “Taxable Bonds,” the County covenants that no use of the proceeds of the sale of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of such Bonds would have caused the Bonds to be “arbitrage bonds” as defined in the Code, and to that end the County shall comply with the applicable regulations of the Treasury Department previously promulgated under Section 103 of the Internal Revenue Code of 1954, as amended, and any regulations promulgated under the Code, so long as the Bonds are outstanding.

(b) The County further covenants to take all action necessary, including the payment of any rebate amount, to comply with Section 148(f) of the Code and any regulations promulgated thereunder.

(c) The County covenants to file IRS form 8038 at the time and in the place required therefor under the Code.

(d) Prior to the issuance of a Series of Bonds, the County Administrator and the Finance Director may, in consultation with Bond Counsel, designate a Series of Bonds as taxable under the Code. The election to issue a Series of Taxable Bonds shall be clearly indicated by including the phrase “Taxable Series,” or words to that effect, in the series designation of such Taxable Bonds.

### Section 8.02 Securities Law Covenants

The County hereby covenants and agrees that it will comply with and carry out all of the provisions of a continuing disclosure certificate, executed by the Chairman and dated the date of delivery of the Bonds, which will meet the requirements of: (i) Rule 15c2-12 promulgated by the Securities and Exchange Commission and (ii) Section 11-1-85 of the South Carolina Code, as amended, which requires, among other things, that the County file with the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access (EMMA) system, a copy of its annual independent audit within 30 days of its receipt and acceptance and event-specific information, within 30 days of an event adversely affecting more than 5% of its revenues or 5% of its tax base.

### Section 8.03 Notice Pursuant to Section 11-27-40

In order that the County may proceed as expeditiously as possible to issue and deliver the Bonds authorized hereby, the County Administrator, together with the Finance Director, may determine that the County avail itself of the provisions of paragraph 8 of Section 11-27-40 of the South Carolina Code.

Section 8.04 Professional Services

The County Council hereby authorizes the County Administrator and the Finance Director, if, upon the advice of Bond Counsel, they deems it necessary to retain a financial advisor to advise Bond Counsel and the County in connection with the issuance of the Bonds.

The County Council hereby further authorizes the County Administrator to enter into such contractual arrangements with printers and the suppliers of other goods and services in connection with the sale, execution and delivery of the Bonds, as is necessary and desirable.

Section 8.05 Authorization to Execute Documents

The County Council hereby authorizes the Chairman, Clerk of County Council, the Finance Director and the County Administrator to execute such documents and instruments as may be necessary to effect the issuance of the Bonds.

Section 8.06 Ordinance to Constitute Contract

In consideration of the purchase and acceptance of Bonds, the provisions of this Ordinance shall constitute a contract between the County and such Holders from time to time of the Bonds.

Section 8.07 General Repealer

All rules, regulations, resolutions and parts thereof, procedural or otherwise in conflict herewith or the proceedings authorizing the issuance of the Bonds are to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its adoption.

ENACTED AT LEXINGTON, SOUTH CAROLINA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2012.

**LEXINGTON COUNTY, SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Chairman, Lexington County Council

Attest:

\_\_\_\_\_  
Clerk to Lexington County Council

First Reading:       September 25, 2012  
Public Hearing:       October 23, 2012  
Second Reading:     \_\_\_\_\_, 2012  
Third Reading:      \_\_\_\_\_, 2012

**EXHIBIT A – FORM OF BOND**

**UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
GENERAL OBLIGATION  
REFUNDING AND IMPROVEMENT  
BONDS, SERIES 2012  
OF LEXINGTON COUNTY**

No. R-\_\_\_\_

INTEREST RATE      MATURITY      ORIGINAL ISSUE DATE      CUSIP

REGISTERED OWNER:      CEDE & CO.

PRINCIPAL AMOUNT: \$\_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that Lexington County, South Carolina (the “County”), is justly indebted and, for value received, hereby promises to pay to the registered owner named above, or registered assigns, the principal amount shown above on the maturity date shown above, upon presentation and surrender of this Bond at the principal office of \_\_\_\_\_ (the “Registrar and Paying Agent”), and to pay interest on such principal sum from the date hereof at the interest rate per annum shown above until the County’s obligation with respect to the payment of such principal sum shall be discharged. Interest on this Bond is payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ of each year commencing \_\_\_\_\_, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the County maintained by the Registrar/Paying Agent, at the close of business on the 15th day of the calendar month next preceding each semiannual interest payment date. The principal and interest on this Bond are 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, provided, however, that interest on this fully registered Bond shall be paid by check or draft as set forth above.

This Bond is one of an issue of Bonds (the “Bonds”) of like date of original issue, tenor and effect, except as to number, date of maturity, denomination and rate of interest, issued in an original aggregate principal amount of \$\_\_\_\_\_, 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; Chapter 15, Title 4 Code of Laws of South Carolina, 1976, as amended, Chapter 27, Title 11, Code of Laws of South Carolina, 1976, as amended; Title 11, Chapter 15, Code of Laws of South Carolina, 1976, as amended; and an ordinance duly enacted by the County Council of Lexington County, on \_\_\_\_\_, 2012 (the “Ordinance”).

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

## **EXHIBIT A – FORM OF BOND**

For the payment of the principal and interest on this Bond as it respectively matures and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, resources and taxing power of the County are hereby irrevocably pledged, and there shall be levied annually by the County Auditor and collected by the County Treasurer in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

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

[INSERT REDEMPTION PROVISIONS, IF ANY]

This Bond is transferable only upon the books of the County kept for that purpose at the principal office of the Registrar/Paying Agent by the registered owner hereof in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same series, aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange herefor as provided in the Ordinance. The County and the Registrar/Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of

**EXHIBIT A – FORM OF BOND**

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 other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest hereon may be included for certain franchise fees or taxes.

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 general obligation and bonded indebtedness of the County, 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 of a tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of this Bond as they respectively become due and to create such sinking fund as may be necessary therefor.

**IN WITNESS WHEREOF, LEXINGTON COUNTY, SOUTH CAROLINA**, has caused this Bond to be signed by the manual signature of the Chairman of the County Council, attested by the manual signature of the Clerk to County Council and the seal of the County impressed hereon.

**LEXINGTON COUNTY, SOUTH CAROLINA**

(SEAL)

\_\_\_\_\_  
Chairman, Lexington County Council

Attest:

\_\_\_\_\_  
Clerk to Lexington County Council

**EXHIBIT A – FORM OF BOND**

**CERTIFICATE OF AUTHENTICATION**

This is the Bond described in the within mentioned Ordinance of Lexington County, South Carolina dated \_\_\_\_\_, 2012.

[NAME OF REGISTRAR],  
as Registrar

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

Date of Authentication: \_\_\_\_\_

**EXHIBIT A – FORM OF BOND**

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

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the  
entireties

\_\_\_\_\_Custodian\_\_\_\_\_  
(Cust) (Minor)

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

under Uniform Gifts to Minors  
Act \_\_\_\_\_  
(state)

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

**EXHIBIT A – FORM OF BOND**

[FORM OF ASSIGNMENT]

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

\_\_\_\_\_

(Name and Address of Transferee)

\_\_\_\_\_ the within bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

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

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

\_\_\_\_\_  
(Authorized Officer)

\_\_\_\_\_  
(Signature must be guaranteed by participant in the Securities Transfer Medallions Program (STAMP))

\_\_\_\_\_  
Notice: The signature to the assignment must correspond with the name of the Agent registered owner as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.