
SIXTH SUPPLEMENTAL RESOLUTION

SUPPLEMENTAL RESOLUTION APPROVING THE FINANCING OF SEWER SYSTEM IMPROVEMENTS, THROUGH THE BORROWING OF NOT EXCEEDING ONE MILLION SIXTY-SEVEN THOUSAND SEVEN HUNDRED FIFTY-SEVEN DOLLARS (\$1,067,757), PLUS CAPITALIZED INTEREST, IF ANY, FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND, BY AGREEMENT WITH THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, PURSUANT TO TITLE 48, CHAPTER 5, CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED; PROVIDING FOR THE AGREEMENT TO MAKE AND TO ACCEPT A LOAN, THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT BETWEEN JAMES ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA AND THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, THE EXECUTION AND DELIVERY OF A PROMISSORY NOTE FROM JAMES ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA TO THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY; AND OTHER MATTERS RELATING THERETO.

JAMES ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA

Adopted: May 18, 2020

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Exhibit A – Form of Loan Agreement A-1

BE IT RESOLVED BY THE JAMES ISLAND PUBLIC SERVICE DISTRICT COMMISSION, IN A MEETING DULY ASSEMBLED, AS FOLLOWS:

ARTICLE I - FINDINGS OF FACT

Section 1.1. Findings of Fact. Incident to the adoption of this Sixth Supplemental Resolution (this “*Sixth Supplemental Resolution*”), the James Island Public Service District Commission (the “*Commission*”), the governing body of James Island Public Service District, South Carolina (the “*District*”), has made the following findings:

(a) The District is a special purpose district created by Act No. 498 of the Acts and Joint Resolutions of the General Assembly of the State of South Carolina for the year 1961, as amended and is empowered by the provisions of Title 48, Chapter 5, Code of Laws of South Carolina 1976, as amended (the “*Authority Act*”) to: (i) undertake a wastewater treatment and disposal project as defined and approved pursuant to the Federal Clean Water Act, 33 U.S.C. §§1381 *et seq.*; (ii) make application for and to receive assistance from the South Carolina Water Quality Revolving Fund Authority (the “*State Authority*”); (iii) comply with regulations relating to the receipt and disposition of money of the State Water Pollution Control Revolving Fund (the “*Fund*”) created by the Authority Act; (iv) apply for and receive state grants; (v) enter into loan agreements; and (vi) comply with all terms and conditions of any loan agreement.

(b) Title 6, Chapter 17 of the Code of Laws of South Carolina 1976, as amended, permits the incurrence of debt for the purpose of financing facilities for the furnishing of sewer treatment services and permits the securing of such indebtedness with a pledge of the revenues upon the system from which such revenues are derived.

(c) The Commission previously adopted a general bond resolution on April 18, 1989 (the “*1989 Resolution*”), which provided for the issuance of revenue bonds thereunder secured by a lien on the revenues derived from its sewer and sewage disposal system (the “*System*”). The District previously issued and there is now outstanding under the terms of the 1989 Resolution its (i) Sewer System Revenue Bond, Series 1992 (the “*Series 1992 Bond*”), and (ii) Sewer System Revenue Bond, Series 1996 (the “*Series 1996 Bond*” and together with the Series 1992 Bond, the “*Prior Lien Bonds*”).

(d) The Commission has subsequently adopted a general bond resolution entitled “A RESOLUTION AUTHORIZING AND PROVIDING FOR THE ISSUANCE OF SEWER SYSTEM REVENUE BONDS OF JAMES ISLAND PUBLIC SERVICE DISTRICT TO FINANCE OR REFINANCE IMPROVEMENTS TO THE SEWER SYSTEM; PRESCRIBING THE FORM OF REVENUE BONDS ISSUED HEREUNDER; COVENANTING AS TO THE REVENUES AND THE FIXING, ESTABLISHMENT, AND COLLECTION OF RATES AND CHARGES FOR THE USE OF THE SEWER SYSTEM; PLEDGING THE REVENUES AND OTHER FUNDS TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS; AND MAKING OTHER COVENANTS AND AGREEMENTS RELATING TO THE FOREGOING,” dated August 11, 2014 (the “*General Bond Resolution*”). The General Bond Resolution provides for the issuance of sewer system revenue bonds (the “*Bonds*”) thereunder secured by a lien on the revenues derived from the System. The General Bond Resolution closed the liens provided by the 1989 Resolution. Under the

General Bond Resolution, the District shall not issue any “Prior Lien Bonds,” “Bonds,” “Special Facilities Bonds,” or any other “Indebtedness” (as such terms are defined in the 1989 Resolution), on a parity lien basis with the Prior Lien Bonds. The intention of this action is that at the time that the Prior Lien Bonds are no longer outstanding (within the meaning of the 1989 Resolution), the Parity Bonds (as defined below) and any other Bonds issued pursuant to the General Bond Resolution shall then have an irrevocable and nonexclusive first lien on the “Net Earnings” as such term is defined in the General Bond Resolution. Terms used herein and not otherwise defined shall have the meanings ascribed thereto in the General Bond Resolution.

(e) There are currently outstanding under the General Bond Resolution the following Bonds, each issued on a parity and subordinate and junior in all respects to the Prior Lien Bonds (the “*Parity Bonds*”):

1. the outstanding principal amount of the originally issued \$717,520 Sewer System Revenue Bond, Series 2009 dated February 26, 2010 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-133-09-543-02);

2. the outstanding principal amount of the originally issued \$586,757 Sewer System Revenue Bond, Series 2011A dated June 23, 2011 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-137-10-543-03);

3. the outstanding principal amount of the originally issued \$1,250,352 Sewer System Revenue Bond, Series 2011B dated June 23, 2011 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-140-10-543-04);

4. the outstanding principal amount of the originally issued \$1,870,339 Sewer System Revenue Bond, Series 2013 dated June 28, 2013 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-154-12-543-05);

5. the outstanding principal amount of the originally issued \$3,980,322 Sewer System Revenue Bond, Series 2014B dated October 31, 2014 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-167-14-543-06);

6. the outstanding principal amount of the originally issued \$2,018,823 Sewer System Revenue Bond, Series 2016 dated June 28, 2016 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-179-16-543-13);

7. the outstanding principal amount of the originally issued \$5,643,506 Sewer System Revenue Bond, Series 2019A dated June 7, 2019 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-209-18-543-15); and

8. the outstanding principal amount of the originally issued \$1,793,128 Sewer System Revenue Bond, Series 2019B dated December 5, 2019 (South Carolina Water Pollution Control Revolving Fund, Loan Number X1-220-19-543-16).

(f) In the General Bond Resolution, the Commission reserved the right to issue additional Bonds on a parity with the Parity Bonds. The Commission has established that the Loan

(as hereinafter defined) authorized hereunder, as evidenced by the Loan Agreement and the Note (as each such terms are defined below), shall constitute a “Series of Bonds” under the General Bond Resolution and shall be on a parity with the lien securing the Parity Bonds and other parity Bonds that may be issued under the General Bond Resolution in the future.¹

(g) The Commission has determined that, in order for the District to adequately serve its customers, it is necessary to undertake certain improvements to its System. The project consists of upgrades to Pump Stations 22 and 34 and related sewer infrastructure (the “**Project**”). Upon completion, the Project will be a part of and will constitute a portion of the System.

(h) The Commission previously adopted a resolution authorizing an application to the State Authority for a loan from the Fund (the “**Loan**”).

(i) On March 11, 2020, the State Authority, upon review of the District’s loan application, conditionally approved the Loan.

(j) The Loan is to be made and secured pursuant to a loan agreement between the District and the State Authority (the “**Loan Agreement**”), the form of which is attached hereto as **Exhibit A** and a promissory note executed and delivered by the District, registered in the name of the State Authority (the “**Note**”), the form of which is attached as Appendix E to the Loan Agreement. Pursuant to the Loan Agreement, the District will agree to use the proceeds of the Loan only to pay the actual eligible costs of the Project, and, if deemed prudent by the District, capitalized interest on the Note pursuant to the terms of the Loan Agreement; the District will also agree to pay to the State Authority such amounts as shall be required to provide for the payment of all amounts due with respect to the repayment of the Loan. To secure its obligations, the District will grant to the State Authority a pledge of, and a lien upon, (a) in all respects junior and subordinate to the lien securing the Prior Lien Bonds, and (b) on a parity with the lien securing the Parity Bonds, and any additional Bonds to be issued under the General Bond Resolution, that portion of the Revenues which shall remain after paying the Expenses of Operating and Maintaining the System and all funds and accounts of the District derived from such Revenues (the “**Pledged Revenues**”). Upon any failure of the District to make any payments to the State Authority pursuant to the Loan Agreement or the Note, the State Authority shall require the State Treasurer to pay to the State Authority, subject to provisions of the Authority Act, such amount from the State appropriations to which the District may be or become entitled as may be necessary to provide for the payment of all amounts due with respect to the Note.

(k) Consistent with Section 2.02 of the General Bond Resolution, the Commission further finds and determines that:

(i) this Sixth Supplemental Resolution supplements the General Bond Resolution, constitutes and is a “Supplemental Resolution” within the meaning of the quoted term as defined and used in the General Bond Resolution, and is adopted under and pursuant to the Resolution;

¹ It is anticipated that at the time of the Date of Issue of the Note, the District will also have issued its not exceeding \$933,771 Sewer System Revenue Bond, Series 2020B (State Water Pollution Control Revolving Fund, Loan Number X1-228-20-543-18) (Pump Station #1 Downgrade and Conversion) (the “**2020B Bond**”); the 2020B Bond shall also be issued on a parity with the Note and the Parity Bonds.

(ii) the Note shall be designated “Sewer System Revenue Bond, Series 2020A of James Island Public Service District, South Carolina”; such designation may further include the loan number provided the State Authority and a description of the purpose of the Loan;

(iii) the principal amount of the Note shall not exceed One Million Sixty-Seven Thousand Seven Hundred Fifty-Seven Dollars (\$1,067,757), plus capitalized interest, if any; the exact principal amount (exclusive of capitalized interest) to be determined at the final disbursement of the Loan by the State Authority and Section 4.1 herein;

(iv) the Note is to be issued for the purpose of providing funds to defray all or a portion of the costs of the Project;

(v) the estimate of the Costs of Acquisition and Construction of the Project is set forth in the Loan Agreement;

(vi) the date of issue of the Note shall be its date of delivery to the State Authority;

(vii) the dates for payment of principal and interest on the Note, and the dates of maturity and the amounts thereof, shall be as set forth in the Loan Agreement;

(viii) the Note shall bear interest at the rate set forth in the Loan Agreement per annum;

(ix) the redemption or prepayment prices and dates shall be as set forth in the Loan Agreement;

(x) the Note shall not be subject to mandatory redemption or sinking fund installment payments;

(xi) the Note, the form of which is attached as Appendix E to the Loan Agreement, shall be issued as a single term bond, payable by way of equal, amortized payments as set forth in the Loan Agreement;

(xii) the Note shall not be issued in book-entry form;

(xiii) the Note shall be sold to the State Authority in accordance with the Authority Act;

(xiv) the 2020A Debt Service Account shall be established within the Debt Service Fund under the Bond Resolution as set forth in Section 2.3 of this 2020A Series Resolution, but because the State Authority will hold the proceeds of the Note until such time as they are requisitioned for costs, no construction fund shall be established;

(xv) the 2020A Debt Service Reserve Fund shall be established as a Series Debt Service Reserve Fund under the General Bond Resolution as set forth in Section 2.3 of this 2020A Series Resolution;

(xvi) the Debt Service Reserve Fund Requirement for the Note shall be as set forth in Section 3.2 hereof;

(xvii) there does not exist an Event of Default in the payment of the principal of or interest on any Prior Lien Bonds, Bonds or Subordinate Obligations now Outstanding;

(xviii) the period of usefulness of the System is over 30 years;

(xix) the Trustee (as defined in Section 2.3 herein) shall serve as Trustee, Paying Agent and Registrar for the Note and the Note may be transferred as provided in the Loan Agreement; and

(xx) the Commission expects that Net Earnings for the twelve-month period ended June 30, 2019, is not less than the sum of (i) one hundred twenty percent (120%) of the Maximum Debt Service for any subsequent Fiscal Year of the District of (1) Bonds Outstanding and (2) the Note, and (ii) one hundred percent (100%) of the debt service requirements due on the Prior Lien Bonds during the current fiscal year of the District.

(l) The Commission is adopting this Sixth Supplemental Resolution in order to:

(i) authorize the execution and delivery of, on behalf of the District, the Loan Agreement and the Note;

(ii) evidence the approval of the Project and the Loan by the Commission; and

(iii) authorize the execution and delivery by, and on behalf of, the District of such other agreements and certificates and the taking of such other action by the District and its officers as shall be necessary or desirable in connection with the financing of the Project in order to carry out the intent of this Sixth Supplemental Resolution.

[END OF ARTICLE I]

ARTICLE II – AUTHORIZATION OF THE LOAN AND ESTABLISHMENT OF FUNDS

Section 2.1. Authorization of Loan. The Commission hereby authorizes the District's acceptance of the Loan from the State Authority in an amount not exceeding \$1,067,757, plus capitalized interest, if any, pursuant to and in accordance with the provisions of the Loan Agreement.

Section 2.2. Repayment of Loan by District. The Commission hereby authorizes the repayment of the Loan by the District to the State Authority from the Pledged Revenues, or if said revenue are not sufficient, from state appropriations as the District may become entitled to, pursuant to and in accordance with the provisions of the Loan Agreement and the Note.

Section 2.3. Establishment of Funds. There shall be established by an Authorised Representative of the District a 2020A Debt Service Account (within the Debt Service Fund) and a 2020A Debt Service Reserve Fund, each to be held by U.S. Bank National Association, as Trustee (the "***Trustee***"), and maintained in accordance with the provisions of the General Bond Resolution and the Loan Agreement. Further, the District, acting through an Authorised Representative of the District, may negotiate, execute and deliver the Debt Service Fund and Debt Service Reserve Fund Agreement with the Trustee relating to the 2020A Debt Service Account and the 2020A Debt Service Reserve Fund.

[END OF ARTICLE II]

**ARTICLE III- LOAN AGREEMENT AND NOTE; FUNDING THE 2020A DEBT
SERVICE RESERVE FUND**

Section 3.1. Authorization of Loan Agreement and the Note. The Loan Agreement and the Note, in substantially the forms attached hereto as **Exhibit A**, with such changes as an Authorized Representative of the District shall approve (any such execution to be conclusive evidence of such approval) are hereby approved, and the execution and delivery of the Loan Agreement and the Note on behalf of the District are hereby authorized and directed. The Loan Agreement and the Note shall be dated as of their date of delivery, which is expected to be June 1, 2020; however, such date may be subject to change in the sole discretion of an Authorized Representative of the District. The Loan Agreement and the Note shall be executed on behalf of the District by an Authorized Representative of the District and attested by the Secretary of the Commission (the “*Secretary*”) or an Authorized Representative of the District (so long as such Authorized Representative of the District is not the same person that executed the Note).

Section 3.2. Provision for Funding of the 2020A Debt Service Reserve Fund. An Authorized Representative of the District is hereby authorized to cause the satisfaction of the Reserve Requirement (as defined in the Loan Agreement, such term conforming to the defined term “Debt Service Reserve Fund Requirement” under the General Bond Resolution) by funding the 2020A Debt Service Reserve Fund with cash or cash equivalents as authorized by the General Bond Resolution and as further provided for in the Loan Agreement. If required to be funded, the District, acting through the Trustee, will maintain the 2020A Reserve Requirement in accordance with the provisions of the General Bond Resolution and the Loan Agreement.

[END OF ARTICLE III]

ARTICLE IV - MISCELLANEOUS

Section 4.1. Other Instruments and Actions.

A. In order to implement the Loan pursuant to the Loan Agreement and Note and to give full effect to the intent and meaning of this 2020A Series Resolution and the agreements and actions herein authorized, each Authorized Representative of the District and the Secretary are hereby authorized to execute and deliver such certificates, showings, instruments and agreements and to take such further action as may be necessary or desirable. Additionally, an Authorized Representative of the District is authorized to cause satisfaction of any such fees or expenses as may be required to close the Note.

B. The alphanumeric Series designation for the Note, any funds, including the 2020A Debt Service Account and the 2020A Debt Service Reserve Fund created hereunder, and any other alphanumerically designated term shall be subject to change or adjustment in the discretion of an Authorized Representative of the District.

Section 4.2. Resolution a Contract. This Sixth Supplemental Resolution shall constitute a contract between the District and the State Authority, and shall be enforceable as such against the District.

Section 4.3. Effective Date. This Sixth Supplemental Resolution shall become effective upon adoption by the Commission.

Section 4.4. Continuing Disclosure. The District covenants to file with the State Authority and with a central repository for availability in the secondary bond market when requested:

- (a) an annual independent audit, within thirty days of the District's receipt of the audit;
and
- (b) event specific information within thirty (30) days of an event adversely affecting more than five percent of the District's customer base.

In the event the District fails to comply with the requirements of this Section 4.4, the only remedy shall be an action of specific performance.

[END OF ARTICLE IV]

DONE, RATIFIED AND ADOPTED this 18th day of May, 2020.



**JAMES ISLAND PUBLIC SERVICE DISTRICT,
SOUTH CAROLINA**

By: Betty Sandra Egejman
Chairman
James Island Public Service District Commission

Attest:

Inez Brown Couch
Secretary
James Island Public Service District Commission

EXHIBIT A

FORM OF THE LOAN AGREEMENT