ORDINANCE NO. 517

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A BOND ANTICIPATION NOTE BY THE CITY OF BELTON, SOUTH CAROLINA IN ANTICIPATION OF THE RECEIPT OF THE PROCEEDS OF THE SALE OF A WATERWORKS AND SEWER SYSTEM REVENUE BOND OF THE CITY OF BELTON, SOUTH CAROLINA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELTON, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED, AS FOLLOWS:

ARTICLE I

FINDINGS

As an incident to the adoption of this Ordinance, the City Council of the City of Belton (the "Council"), the governing body of the City of Belton, South Carolina (the "City"), has made the following findings of fact:

Section 1.01 Findings of Fact

(1) The City is a municipal corporation of the State of South Carolina (the "State"), located in Anderson County, South Carolina, and as such, possesses all general powers granted by the Constitution and laws of the State to municipal corporations, including the power to own and operate a waterworks and sewer system.

(2) Pursuant to election duly held on May 12, 1908, the City was duly authorized to, among other things, construct a waterworks plant and related extensions constituting a water system. Thereafter, the City did issue certain indebtedness to defray the cost of said construction, and has continued to operate a waterworks system since that time. Thereafter, and beginning well prior to March 7, 1973, the City has continually operated a sewage collection and treatment system. Said waterworks system and sewage system are hereinafter collectively referred to as the "System."

(3) The System is currently operated on a July 1 through June 30 fiscal year basis.

(4) The revenues of the System are now currently pledged to the payment of the South Carolina Infrastructure Revolving Fund Loan, dated August 23, 2000 (otherwise known as the City of Belton, South Carolina, Combined Utility System Revenue Bond, Series 2000), which the City Council has determined to pay in full prior to the issuance of the Note authorized herein.

(5) The City has determined that it is necessary to improve the System by making certain upgrades to its Breazeale, Marshall and Ductworth wastewater treatment plants in order to comply with the terms of its current NPDES permit and avoid considerable penalties thereunder (the "Project").

(6) On December 14, 2012, the United States Department of Agriculture, Rural Development ("USDARD") issued a commitment letter to the City (the "Commitment Letter") pursuant to which it agreed, under certain conditions, to provide its loan, to be evidenced by the issuance of the City's

Waterworks and Sewer System Revenue Bond (the "Bond"), in the principal amount of $4,687,000, and to provide its grant not to exceed $2,221,000, to defray the costs of construction of the Project.

(7) Accordingly, the Council has determined to raise a portion of the required sums to construct and provide permanent financing for the Project through the issuance of the Bond pursuant to the provisions of Chapter 21 of Title 6 of the Code of Laws of South Carolina 1976, as amended (the "Bond Act").

(8) The Council expects that the Bond will be purchased by USDARD pursuant to the terms set forth in the Commitment Letter. In the event USDARD determines for any reason not to purchase the Bond, the Council has determined that it will secure an alternative lender in order to raise the funds necessary to defray the cost of the Project.

(9) The procedures of USDARD require that, pending disbursement by USDARD of proceeds of the Bond, the City shall provide for interim financing of construction of the Project through the issuance of a bond anticipation note of the City.

Section 1.02 Intent of Ordinance

Accordingly, the Council has determined to authorize the execution and delivery of a bond anticipation note pursuant to the provisions of Chapter 17 of Title 11, Code of Laws of South Carolina 1976, as amended (the "BAN Act"), for the above-described purposes and to make provision for the payment of the principal and interest thereon. Further, the Council has determined to sell the bond anticipation note authorized hereby upon the terms and conditions more fully set forth in Article II hereof.

ARTICLE II

BOND ANTICIPATION BORROWING

Section 2.01 Determination to Issue the Note

Pursuant to the BAN Act, and for the purpose of raising the interim moneys necessary to commence construction of the Project, the Council directs that there shall be issued a bond anticipation note of the City in the principal amount of not exceeding $4,687,000 (the "Note").

Section 2.02 Sale of Note

The City Council has determined to accept the offer of Commercial Bank to purchase the Note at the price of the par amount thereof, at an interest rate of not exceeding 3.19% per annum.

Section 2.03 Terms, Redemption and Maturity

The Note shall be dated the date of its delivery and shall be in "draw-down" form such that interest will accrue only on the principal drawn from the date of each withdrawal thereunder to pay costs of the Project. The Note will be in the principal amount of $4,687,000 or such lesser amount as may be drawn down, in the aggregate, thereunder. Interest on the Note shall be payable at the maturity or the earlier redemption thereof, and shall be computed on a 365-day year, based on the actual number of days elapsed. The Note shall be subject to the right of redemption at the option of the City at any time upon seven (7) days

prior notice by payment of the principal sum due thereon, plus interest due thereon calculated in the manner prescribed by Section 2.08 below. The Note shall mature eighteen (18) months from the date of issue.

Section 2.04 Assignability of Note

The Note shall be not be subject to assignment by the named payee thereof without the prior written consent of the City, which consent may be withheld or granted in the sole discretion of the City.

Section 2.05 Covenant to Issue Bond

The City irrevocably covenants and agrees to effect the issuance of the Bond, the issuance of which will be duly authorized by a bond ordinance to be enacted by the Council pursuant to the Bond Act, on an occasion prior to the maturity of the Note and in ample time that the proceeds of the Bond shall be sufficient and available to effect the payment of the Note.

Section 2.06 Redemption of the Note

In the event that the City shall hereafter determine to issue the Bond at a date which would result in delivery thereof prior to maturity of the Note, then in such event the City shall exercise its option to effect the redemption of the Note upon payment of the principal sum due thereon, plus interest calculated in the manner prescribed by Section 2.08 below, on the occasion of the delivery of the Bond, and shall be obligated to give notice of its intention to exercise such right to the payee thereof, not less than seven (7) days prior to the date fixed for the redemption thereof.

Section 2.07 Medium of Payment

Both the principal of and interest on the Note shall be payable only in such coin or currency of the United States of America as shall be on the occasion of such payments legal tender for the payment of public and private debts at the designated office of the payee thereof.

Section 2.08 Provision for Payment of the Note

The Note shall be dated as of the date of its delivery. The principal sum of the Note or so much thereof as shall from time to time be due thereon shall bear interest from the respective dates on which withdrawals have been made at the rate of interest determined pursuant to Section 2.02 above, such interest to be paid upon maturity of the Note or, if the Note is redeemed prior to maturity, the dates of such redemption, and shall be paid to the payee thereof.

Section 2.09 Execution of Note

The Note shall be executed in the name of the City by the manual signature of the Mayor or, in the absence or inability of the Mayor to sign, then by the Mayor Pro Tempore of the City, under the Seal of the City, which shall be impressed or reproduced thereon, and attested by the manual signature of the Clerk/Treasurer of the City. The Note shall be executed by the persons holding office when the Note is ready for delivery or are presented for transfer.

Section 2.10 Tax Exemption in South Carolina

The Note and the interest thereon shall be exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, 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 included in certain franchise fees or taxes. This provision shall be deemed a part of the contract inuring to the benefit of the payee of the Note.

Section 2.11 Form of Note

The Note shall be issued in substantially the form set forth in Exhibit "A" attached hereto, with such variations, omissions, and insertions as may be required to complete the Note properly and as may be approved by the officers executing the Note, which approval shall be conclusively evidenced by such execution.

Section 2.12 Pledges Securing the Note

For the payment of the principal of and interest on the Note there shall be, and there is hereby irrevocably pledged, a sufficient amount of the proceeds of the Bond to effect the payment thereof, and to that end the City irrevocably obligates and binds itself:

(a) to effect the issuance of the Bond on such occasion that the proceeds from the sale and issue thereof shall be available to effect the payment of the principal and interest of the Note on the date of its stated maturity; or

(b) if the Bond shall be issued on an occasion earlier than now anticipated, the delivery of such Bond shall occur on the date prescribed by the City for the earlier redemption of the Note as authorized by Section 2.06 hereof; and

(c) if the Note is to be redeemed prior to maturity, the City shall exercise its option to redeem and give not less than seven (7) days notice thereof to the payee of the Note.

The full faith, credit and taxing power of the City are not pledged to the payment of the Note.

Section 2.13 Withdrawal of and Use of Proceeds of the Note

Hereafter, as construction progresses, any one of the following officials of the City, to wit: the Mayor, in combination with the Clerk/Treasurer of the City, are authorized to withdraw from the purchaser of the Note such moneys applicable to progress payments on aspects of the Project to be funded by proceeds of the Bonds. Each such withdrawal shall be in writing and shall be accompanied with a certificate of the Mayor and the Clerk/Treasurer of the City certifying that the sums about to be obtained are to pay costs incident to the construction of the Project, that such costs have been duly incurred by reason of work performed or material furnished, and that no part of the items to be paid have been previously paid.

Section 2.14 Authorization of Officers

The proper officers of the City are fully authorized and empowered to take the actions required to implement this Article II and to furnish such certificates and other proofs as may be required of them.

Section 2.15 Effective Date of Ordinance

This Ordinance shall become effective as of the date of its enactment.

ARTICLE III

CERTAIN TAX MATTERS

Section 3.01 Federal Tax Exemption and Covenants

The City hereby represents and covenants that it will comply with all requirements of the Internal Revenue Code of 1986, as amended (the "Code"), and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information report 8038-G with the Internal Revenue Service) which failure will, cause interest on the Note to become includable in the gross income of the holder thereof for federal income tax purposes pursuant to the provisions of the Code and the Treasury Regulations promulgated thereunder in effect on the date of original issuance of the Note.

Without limiting the generality of the foregoing, the City represents and covenants that:

(a) All property provided by the net proceeds of the Note will be owned by the City in accordance with the rules governing the ownership of property for federal income tax purposes.

(b) The City shall not permit the proceeds of the Note or any facility financed with the proceeds thereof to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code as construed pursuant to Section 1.148-3 of the Treasury Regulations, or (b) five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(c) The City is not a party to nor will it enter into any contracts with any person for the use or management of any facility provided with the proceeds of the Note that do not conform to the guidelines set forth in Rev. Proc. 97-13, as modified by the Code.

(d) The City will not sell or lease the facilities to be improved by the Project or any property provided by the notes to any person unless it obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the Note.

(e) The Note will not be federally guaranteed within the meaning of Section 149(b) of the Code. The City is not a party to any leases or sales or service contracts with any federal government agency with respect to the System's facilities and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of the Note.

Careful consideration has been given to the time in which the expenditures for the purposes cited herein will be made, and it has been ascertained that all of the money received from the proceeds for the Note applicable therefor will be expended within the limitations imposed by Section 148 of the Code and applicable Treasury Regulations. Accordingly, the Council will be able to certify upon reasonable grounds that the Note is not an "arbitrage bond" within the meaning of Section 148 of the Code.

The City reasonably expects that it will not issue tax exempt obligations in calendar year 2014, including the Note, in an aggregate principal amount exceeding $5,000,000. The City has general taxing power within the meaning of Section 148(f)(4)(D)(i)(I) of the Code. The Council covenants that least 95%

of the proceeds of the Note will be applied to the governmental purposes of the City. Therefore, proceeds of the Note will be exempt from the arbitrage rebate requirement of Section 148(f)(4)(D) of the Code pursuant to the "small issuer exemption" set forth in Section 1.148-9 of the Treasury Regulations promulgated thereunder.

DONE IN MEETING DULY ASSEMBLED this 6th day of February, 2014.

CITY OF BELTON, SOUTH CAROLINA

[SEAL]

Attest:

Laurie Kennedy, City Clerk

Pickens Rufus Callaham, Mayor

James Bright, Council Member Ward 1

Hattie S. Green, Council Member Ward 2

Jay West, Council Member Ward 3

Kelli M. Hembree, Council Member Ward 4

Wendell Page, Council Member Ward 5

John R. Campbell, Jr., Council Member Ward 6

APPROVED TO FORM:

William N. Epps, Jr.
City Attorney

First Reading: January 28, 2014
Second & Final Reading: February 6, 2014