

SECOND SUPPLEMENTAL ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF A NOT EXCEEDING \$7,500,000 CITY OF SIMPSONVILLE, SOUTH CAROLINA ACCOMMODATIONS TAX AND HOSPITALITY TAX REVENUE REFUNDING BOND, SERIES 2016, AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED by the City Council of the City of Simpsonville (the “*Council*”), the governing body of the City of Simpsonville, South Carolina (the “*City*”):

Section 1. Findings of Fact.

As an incident to the enactment of this ordinance, and the issuance of the bonds provided for herein, the Council finds that the facts set forth in this **Section 1** exist and the following statements are in all respects true and correct:

(a) On March 27, 2012, the Council enacted a General Bond Ordinance (the “*General Bond Ordinance*”) providing for the issuance of Accommodations Tax and Hospitality Tax Revenue Bonds.

(b) On March 29, 2012, the City issued its \$8,745,000 Accommodations Tax and Hospitality Tax Revenue Refunding Bond, Series 2012A (the “*Series 2012A Bond*”) and its \$2,127,000 Accommodations Tax and Hospitality Tax Revenue Refunding Bond, Series 2012B (the “*Series 2012B Bond*”), which were both issued to currently refund several outstanding certificates of participation previously issued by the City;

(c) The Council has determined that it is in the best interest of the City to issue a Series of Bonds for the purposes of (i) currently refunding (a) the Series 2012A Bond currently outstanding in the principal amount of \$5,874,000; and (b) the Series 2012B Bond currently outstanding in the principal amount of \$1,680,000, (collectively, the “*Refunded Bonds*”) in order to achieve an interest rate savings and (ii) paying Costs of Issuance related thereto.

Section 2. Definitions. The terms defined above and in this **Section 2** and all words and terms defined in the General Bond Ordinance (the General Bond Ordinance, as from time to time amended or supplemented by Supplemental Ordinances, being defined as the “*Ordinance*”) (except as herein otherwise expressly provided or unless the context otherwise requires), shall for all purposes of this Supplemental Ordinance have the respective meanings given to them in the Ordinance and in this **Section 2**.

“*Commitment Letter*” shall mean the commitment letter of the Purchaser dated May 26, 2016, addressed to the City relating to the purchase by the Purchaser of the Series 2016 Bond.

“*Interest Payment Date*” shall mean, January 1, 2017, and any January 1 or July 1 thereafter until the principal of the bond has been paid in full.

“*Purchaser*” shall mean Branch Banking and Trust Company, its successors or assigns.

“*Refunded Bonds*” shall mean, collectively, the Series 2012A Bond and the Series 2012B Bond.

“*Series 2016 Bond*” shall mean the not exceeding City’s \$7,500,000 Accommodations Tax and Hospitality Tax Revenue Refunding Bond, Series 2016 authorized to be issued hereunder.

Section 3. Authorization of Series 2016 Bond, Maturities, Interest Rate, and Mandatory Redemption Provisions.

(a) There is hereby authorized to be issued a Series of Bonds designated “Accommodations Tax and Hospitality Tax Revenue Refunding Bond, Series 2016” (the “*Series 2016 Bond*”) in the total principal amount of not exceeding Seven Million Five Hundred Thousand Dollars (\$7,500,000) for the purpose of (A) currently refunding all or a portion of the Refunded Bonds and (B) paying the Costs of Issuance of the Series 2016 Bond.

(b) The Series 2016 Bond shall be issued as a single fully registered Bond in the denomination of \$7,500,000 or such lesser amount as is actually issued. The Series 2016 Bond shall be dated as of its date of delivery, shall mature on January 1 of such years, beginning not later than January 1, 2017 and ending not later than January 1, 2028 and in such principal amounts as shall be determined by the City Administrator upon advice of the City’s financial advisor. The Series 2016 Bond shall bear interest at the rate of 1.74% per annum as set forth in the Commitment Letter of the Purchaser. The Series 2016 Bond shall be numbered R-1.

(c) Principal of and premium, if any, on the Series 2016 Bond when due, shall be payable at the office of the City. Interest on the Series 2016 Bond shall be payable from the date of initial issuance of the Series 2016 Bond. No accrued interest shall be due. Interest on the Series 2016 Bond (calculated on the basis of a 360-day year of twelve 30-day months) shall be payable on each Interest Payment Date, in each case to the Holders as of the immediately preceding Record Date, interest to be paid by the City by check or draft mailed to each Holder at his address as it appears on the Books of Registry initially maintained by the City.

(d) The Series 2016 Bond shall be in substantially the form attached hereto as *Exhibit A*, with any necessary or appropriate variations, omissions, and insertions as are incidental to the series, numbers, denominations, maturities, interest rate or rates, redemption provisions, the purpose of issuance, and other details thereof or as are otherwise permitted or required by law or by the Ordinance, including this Supplemental Ordinance.

Section 4. Optional Redemption of Series 2016 Bond. The Series 2016 Bond shall be subject to redemption prior to maturity, at the option of the City, on any Interest Payment Date, as a whole but not in part, at the redemption price of 101% of the principal amount to be redeemed, together, in each case, with the interest accrued on the principal amount to the date fixed for redemption.

Section 5. Use and Disposition of Series 2016 Bond Proceeds.

Upon the delivery of the Series 2016 Bond and receipt of the proceeds thereof, such proceeds and other available funds shall be disposed of as follows:

(a) the sum designated in a certificate of the City shall be retained by the Purchaser, as the sole holder of the Refunded Bonds, to be used along with moneys contributed by the City, which will equal the amount necessary to currently refund the Refunded Bonds including redemption premiums and interest accrued thereon, to currently refund the Refunded Bonds on the date of delivery of the Series 2016 Bond;

(b) the remaining sums, shall be deposited into an account maintained by the City to be utilized to pay Costs of Issuance of the Series 2016 Bond and to pay other fees associated with the refunding of the Refunded Bonds; and

(c) any proceeds remaining after currently refunding the Refunded Bonds and the payment of Costs of Issuance of the Series 2016 Bond may be held by the City for payment of principal of and interest on the Series 2016 Bond.

Section 6. Certain Findings and Determinations. The City finds and determines:

(a) This Supplemental Ordinance supplements the Ordinance, constitutes and is a “Supplemental Ordinance” within the meaning of the quoted term as defined and used in the General Bond Ordinance, and is enacted under and pursuant to the Ordinance.

(b) The Series 2016 Bond constitutes and is a “Bond” within the meaning of the quoted word as defined and used in the Ordinance.

(c) The Pledged Fee Revenues pledged under the Ordinance are not encumbered by any lien or charge thereon or pledge thereof, other than the lien and charge thereon and pledge thereof created by the General Bond Ordinance, as amended and supplemented, providing for payment and security of the Bonds.

(d) There does not exist an Event of Default, nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute an Event of Default under the Ordinance.

(e) The Series 2016 Bond is being issued to currently refund all of the outstanding Refunded Bonds.

Section 7. Continuing Disclosure. Pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended, the City has covenanted to file with a central repository for availability in the secondary bond market, when requested, an annual independent audit, within 30 days of its receipt of the audit; and event specific information within 30 days of an event adversely affecting more than five (5%) percent of its revenue or tax base. The only remedy for failure by the City to comply with the covenant in this **Section 7** shall be an action for specific performance of this covenant. The City specifically reserves the right to amend this covenant to reflect any change in or repeal of Section 11-1-85, without the consent of any Bondholder.

Section 8. Award of Series 2016 Bond.

(a) The Series 2016 Bond is authorized to be sold to the Purchaser pursuant to the Commitment Letter, the form of which is presented at this meeting. The City Administrator, on behalf of the City, is hereby authorized to execute the Commitment Letter of the Purchaser, which terms thereof are consistent with **Section 3** of this Second Supplemental Ordinance.

(b) A copy of this Second Supplemental Ordinance shall be filed with the minutes of this meeting.

(c) The Council hereby authorizes and directs all of the officers and employees of the City to carry out or cause to be carried out all obligations of the City under the Ordinance and to perform all other actions as they shall consider necessary or advisable in connection with the issuance, sale, and delivery of the Series 2016 Bond.

Section 9. Tax Exemption of Series 2016 Bond.

(a) The Series 2016 Bond and the interest thereon shall be exempt from all state, county, municipal, school district, and all other taxes or assessments in the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, or transfer taxes.

(b) The City shall not take, or permit or suffer to be taken, any action with respect to the gross proceeds of the Series 2016 Bond which would cause the Series 2016 Bond to be an “arbitrage bond” within the meaning of Section 148(a) of the Code.

(c) The City, including all entities subordinate thereto, does not intend to issue tax-exempt obligations in calendar year 2016, which, when added to the “*Includable Principal Amount*” described in the immediately following sentence, will exceed \$10,000,000 in aggregate principal amount (other than private activity bonds that are not qualified 501(c)(3) bonds as defined in Section 145 of the Code). The Includable Principal Amount referred to above is the portion of the principal amount of the Series 2016 Bond in excess of the principal amount of the Refunded Bonds being refunded as shall not be attributable to the refunding of any prior bonds of the City which were designated as “qualified tax-exempt obligations”; within the meaning of Section 265(b)(3)(B) of the Code by the City at the time of their issuance. The Series 2016 Bond is hereby accordingly designated as a “qualified tax-exempt obligation” in accordance with Section 265(b)(3)(B) of the Code.

Section 10. Interested Parties. To the extent that the Ordinance confers upon or gives or grants to any Person any right, remedy or claim under or by reason of the Ordinance, such Person is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Nothing in the Ordinance expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City and the Registered Holders of the Series 2016 Bond, any right, remedy or claim under or by reason of the Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the Registered Holders of the Series 2016 Bond.

Section 11. Additional Provisions. As supplemented herein, the General Bond Ordinance remains in full force and effect and shall govern the issuance of the Series 2016 Bond.

Section 12. Additional Documents. The Mayor, the City Administrator, the Finance Director and the City Clerk are fully authorized and empowered to take any further action and to execute and deliver any closing documents or agreements as may be necessary and proper to effect the refunding of the Refunded Bonds and the delivery of the Series 2016 Bond in accordance with the terms and conditions hereinabove set forth, and the action of the officers or any one or more of them in executing and delivering any documents, in the form as he, she, or they shall approve, is hereby fully authorized.

Section 13. Section Headings; Table of Contents. The headings and titles of the several sections hereof, and any Table of Contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation, or effect of this Second Supplemental Ordinance.

Section 14. Notices.

(a) All notices, certificates, or other communications hereunder or under the Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the City:

City of Simpsonville
118 North East Main Street
Simpsonville, South Carolina 29681
Attention: City Administrator

If to the Purchaser:

Branch Banking and Trust Company
1201 Main Street, 7th Floor
Columbia, South Carolina 29201
Attention: Andrew G. Smith, Senior Vice President

(b) The City and the Purchaser may, by written notice given to the other party, designate any further or different addresses to which subsequent notice, certificates, or other communications shall be sent.

Section 15. Effective Date. This Second Supplemental Ordinance shall become effective immediately upon its enactment.

Done in meeting duly assembled this 28th day of June, 2016.

CITY OF SIMPSONVILLE, SOUTH CAROLINA

Mayor

ATTEST:

City Clerk

First Reading: June 14, 2016
Second Reading: June 28, 2016

EXHIBIT A

FORM OF BOND

**UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
CITY OF SIMPSONVILLE
ACCOMMODATIONS TAX AND HOSPITALITY TAX REVENUE REFUNDING BOND
SERIES 2016**

NO. R-1 \$ _____

INTEREST RATE MATURITY DATE ORIGINAL DATE OF ISSUE
%

REGISTERED HOLDER: _____

PRINCIPAL SUM: _____ and no/100 (\$ _____) Dollars

KNOW ALL MEN BY THESE PRESENTS, that the City of Simpsonville, South Carolina (hereinafter called the “*City*”), a body politic and corporate and a municipal corporation organized and existing under the laws of the State of South Carolina (the “*State*”), is justly indebted, and, for value received, hereby promises to pay, but only from the Pledged Fee Revenues (as hereinafter defined) pledged to the payment hereof, to the Registered Holder, or registered assigns, hereof on the Maturity Date set forth above, the Principal Sum set forth above pursuant to the principal payment schedule set forth below (unless this bond be subject to redemption and shall have been duly called for previous redemption and payment of the redemption price made or provided for), and to pay interest on the Principal Sum from the date hereof or from the January 1 or July 1 next preceding the date of authentication to which interest shall have been paid, unless the date of authentication is a January 1 or July 1 to which interest shall have been paid, in which case from that date, interest being payable to the maturity hereof on January 1 and July 1 of each year (those dates being hereinafter referred to as the “*Interest Payment Dates*”), commencing January 1, 2017, at the rate per annum specified above (calculated on the basis of a 360-day year of twelve 30-day months), until payment of the Principal Sum.

Principal of this Bond is payable on January 1 in each of the years and in the amounts as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Year</u>	<u>Principal Amount</u>
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The interest so payable and to be punctually paid or duly provided for on any Interest Payment Date will be paid to the person in whose name this bond is registered at the close of business on the fifteenth day

(whether or not a business day) of the calendar month next preceding the Interest Payment Date (the “**Regular Record Date**”), mailed to the Registered Holder hereof by the City at his address as it appears on the registration books (the “**Books of Registry**”) of the City or at any other address as is furnished in writing by the Registered Holder to the City; provided that payment to any Registered Holder of \$1,000,000 or more of the Series 2016 Bond (as hereinafter defined) may be made by wire transfer to an account in the continental United States in accordance with written instructions filed thereto no later than the Record Date. The principal of and premium, if any, of this bond, when due, shall be payable without presentation or surrender of this bond at the office of the City. Both the principal of 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 the payment of public and private debts.

THIS BOND HAS BEEN ISSUED UNDER THE PROVISIONS OF SECTION 6-1-760 UTILIZING THE PROCEDURES OF TITLE 6, CHAPTER 17 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED (COLLECTIVELY, THE “**ENABLING STATUTE**”), AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY STATE CONSTITUTIONAL PROVISIONS (OTHER THAN ARTICLE X, SECTION 14, PARAGRAPH 10 OF THE CONSTITUTION OF THE STATE OF SOUTH CAROLINA, 1895, AS AMENDED, AUTHORIZING OBLIGATIONS PAYABLE SOLELY FROM SPECIAL SOURCES PERMITTED THEREIN) OR STATUTORY LIMITATION AND SHALL NEVER CONSTITUTE NOR GIVE RISE TO A PECUNIARY LIABILITY OF THE CITY OR A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWERS OF THE CITY ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS BOND.

This bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except estate, transfer or certain franchise taxes.

It is hereby certified and recited that all acts, conditions, and things required by the Constitution and Laws of the State to exist, to happen, and to be performed precedent to or in the issuance of this bond exist, have happened, and have been done and performed in regular and due time, form, and manner, and that the amount of this bond does not exceed any constitutional or statutory limitation thereon.

This bond shall not be entitled to any benefit under the Ordinance (as hereinafter defined) or become valid or obligatory for any purpose until it shall have been authenticated by the execution of the Certificate of Authentication which appears hereon by the manual signature of an authorized officer of the City as Bond Registrar.

This bond is in the principal amount of _____ Dollars (\$_____) (the “**Series 2016 Bond**”) and is issued pursuant to a General Bond Ordinance enacted by the City Council of the City on March 27, 2012 and a Second Supplemental Ordinance enacted by the City Council of the City on June 28, 2016 (collectively, the “**Ordinance**”), and under and in full compliance with the Constitution and Statutes of the State, including particularly Section 14, Paragraph 10 of Article X of the Constitution of the State of South Carolina, 1895, as amended, and the Enabling Statute, to obtain funds to currently refund all or a portion of the outstanding Refunded Bonds (as defined in the Ordinance) of the City and to pay related Costs of Issuance.

The Series 2016 Bond is issuable only as a single fully registered bond in the principal amount of \$_____.

The Series 2016 Bond shall be subject to redemption prior to maturity, at the option of the City, on any Interest Payment Date, as a whole but not in part, at the redemption price of 101% of the principal amount to be redeemed, together, in each case, with the interest accrued on the principal amount to the date fixed for redemption.

In the event any portion the Series 2016 Bond shall be called for redemption, notice of redemption shall be given by first-class mail, not less than thirty (30) days and not more than sixty (60) days prior to the redemption date, to the Registered Holder of the Series 2016 Bond to be redeemed in whole or in part at the address shown on the Books of Registry. Interest on the Series 2016 Bond to be redeemed shall cease to accrue from and after the redemption date specified in the notice, unless the City defaults in making due provisions for the payment of the redemption price thereof.

All principal, interest, or other amounts due hereunder shall be payable only to the Registered Holder hereof. The City is the Bond Registrar and as such will maintain the Books of Registry for the registration or transfer of this bond. This bond may not be transferred except by the Registered Holder hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the City as Bond Registrar duly executed by the Registered Holder of this bond or his duly authorized attorney. Any purported assignment in contravention of the foregoing requirements shall be, as to the City, absolutely null and void. The person in whose name this bond shall be registered shall be deemed and regarded as the absolute owner hereof for all purposes, and payment of the principal of and interest on this bond shall be made only to or upon the order of the Registered Holder or his legal representative. All payments made in this manner shall be valid and effective to satisfy and discharge the liability of the City upon this bond to the extent of the sum or sums paid. No person other than the Registered Holder shall have any right to receive payments, pursue remedies, enforce obligations, or exercise or enjoy any other rights under this bond against the City. Notwithstanding the foregoing, nothing herein shall limit the rights of a person having a beneficial interest in this bond as against a person (including the Registered Holder) other than the City, as in the case where the Registered Holder is a trustee or nominee for two or more beneficial owners of an interest in this bond.

The City shall not be required (a) to exchange or transfer the Series 2016 Bond (i) from the Regular Record Date to the next succeeding Interest Payment Date or (ii) for a period of fifteen (15) days following the selection of the Series 2016 Bond to be redeemed or thereafter until after the first publication or mailing of any notice of redemption or (b) to transfer the Series 2016 Bond called for redemption.

The principal of, premium, if any, and interest on the Series 2016 Bond are payable solely from the Pledged Fee Revenues (as defined in the Ordinance). The pledge of Pledged Fee Revenues made to secure the payment of the Series 2016 Bond has priority over all other pledges of Pledged Fee Revenues except the lien in favor of bonds issued or to be issued under the Ordinance on a parity with the Series 2016 Bond.

No recourse shall be had for the payment of the principal of, premium, if any, and interest on the Series 2016 Bond against the several funds of the City, except in the manner and to the extent provided in the Ordinance, nor shall the credit or taxing power of the City be deemed to be pledged to the payment of the Series 2016 Bond. The Series 2016 Bond shall not be a charge, lien, or encumbrance, legal or equitable, upon

any property of the City or upon any income, receipts, or revenues of the City, other than the Pledged Fee Revenues that have been pledged to the payment thereof, and this bond is payable solely from the Pledged Fee Revenues pledged to the payment thereof and the City is not obligated to pay the same except from the Pledged Fee Revenues.

Whenever the terms of this bond require any action be taken on a Saturday, Sunday, or legal holiday or bank holiday in the State or in any state where the corporate trust office of the trustee or custodian, if then appointed, is located, the action shall be taken on the first business day occurring thereafter.

The Ordinance contains provisions defining terms; sets forth the terms and conditions upon which the covenants, agreements, and other obligations of the City made therein may be discharged at or prior to the maturity of this bond with provisions for the payment thereof in the manner set forth in the Ordinance; and sets forth the terms and conditions under which the Ordinance may be amended or modified with or without the consent of the Registered Holder of this bond. Reference is hereby made to the Ordinance, to all the provisions of which any Registered Holder of this bond by the acceptance hereof thereby assents.

IN WITNESS WHEREOF, THE CITY OF SIMPSONVILLE, SOUTH CAROLINA, has caused this bond to be signed in its name by the Mayor and City Administrator, and attested by the City Clerk.

CITY OF SIMPSONVILLE, SOUTH CAROLINA

ATTEST:

Mayor

City Clerk

City Administrator

CERTIFICATE OF AUTHENTICATION

This Bond is the Bond designated herein and issued under the provisions of the within-mentioned Ordinance.

CITY OF SIMPSONVILLE, SOUTH CAROLINA,
as Bond Registrar

City Clerk

Date of Authentication: _____

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

UNIF GIFT MIN ACT - _____
(Cust)

Custodian _____
(Minor)

under Uniform Gifts to Minors Act _____
(State)

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

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ (Social Security No. or other Identifying Number of Assignee _____) the within Bond of the CITY OF SIMPSONVILLE, SOUTH CAROLINA, and does hereby irrevocably constitute and appoint _____ to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATED: _____

Signature Guaranteed: _____

NOTICE: Signature must be guaranteed by an institution who is a participant in the Securities Transfer Agent Medallion Program ("**STAMP**") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

