

Ordinance

4-1006

AN ORDINANCE 4-1006

MAKING PROVISION FOR TAX ANTICIPATION BORROWING BY THE TOWN OF EASTOVER, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$50,000, IN ANTICIPATION OF THE COLLECTION OF AD VALOREM TAXES FOR THE FISCAL YEAR BEGINNING THE FIRST DAY OF JULY, 2004 AND ENDING THE 30TH DAY OF JUNE, 2005; TO PRESCRIBE THE TERMS AND CONDITIONS OF SUCH BORROWING AND THE FORM OF NOTE TO BE EXECUTED EVIDENCING THE SAME; AND TO MAKE PROVISION FOR THE PAYMENT THEREOF.

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

ARTICLE I

FINDINGS OF FACT

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

Section 1.01

Pursuant to action taken on August 2, 2004, the Council duly adopted the operating budget for the Town for the fiscal year beginning July 1, 2004, and ending June 30, 2005 ("*Fiscal Year 2004-05*"), which budget sets forth the expenditures necessary for the operations of the Town. Such estimated expenditures for Fiscal Year 2004-05 total approximately \$150,340, which expenses will be paid from the receipt of ad valorem taxes, as well as from other available Town sources, and state and Federal moneys.

Section 1.02

Pursuant to the provisions of said budget duly adopted by the Council on August 2, 2004, the Council has determined that funds to the extent of approximately \$134,000 must be raised by the receipt of ad valorem taxes in order to defray a portion of the operational budget adopted for Fiscal Year 2004-05. In order to meet the costs of the operational budget for Fiscal Year 2004-05, it is necessary to levy 121.2 mills. Such millage has been previously approved by ordinance of Council and has been reported to the Richland County Auditor.

Section 1.03

The assessed value of all taxable property in the Town for 2003 is presently estimated to amount to \$1,121,450.00. The tax levy (excluding delinquent taxes to be received during the Fiscal Year 2004-05) as more fully described in Section 1.02 hereof will produce an amount of revenue which, together with other revenues available to the Town, will enable the Town to pay all appropriations made in said operating budget.

Section 1.04

Much of the cost of conducting the activities of the Town must be met prior to the last occasion when the aforesaid ad valorem taxes are payable without penalty, that being January 15, 2005. It is therefore necessary that the Town borrow in anticipation of the receipt of the moneys to be collected from such ad valorem tax levy. It has been determined that the Town may require approximately \$50,000 to meet the cost of conducting its corporate activity until such time as payment of taxes is received.

Section 2.05

All taxes collected in excess of such sums as are necessary for operation and maintenance of the Town from July 1, 2004 to January 15, 2005, less all other funds available therefore, shall be impounded by the Finance Director of the Town and shall be used to meet the payment of the principal of and interest on the Note hereby authorized and for no other purposes, until the principal and interest of the Note have been fully paid, whereupon such pledge shall be deemed discharged.

Section 2.06

A certified copy of this Ordinance shall be delivered to the Finance Director of the Town for the purpose of notifying said Finance Director to withhold from the taxes levied and collected for corporate purposes in said Town for Fiscal Year 2004-05 a sum sufficient to pay the principal of and interest on the Note at maturity, the payment of which shall, subject to the provisions of Section 2.05 hereof, be a first charge and lien upon said taxes, and upon the maturity of the Note, the Finance Director of the Town shall cause the same to be fully paid and discharged.

Section 2.07

Heretofore, the Town Administrator has, for the purchase of the Note, negotiated with First Citizens Bank ("*First Citizens*"). First Citizens has agreed to purchase the Note at an interest rate of 2.87% per annum. The sale of the Note to First Citizens at an interest rate of 2.87% per annum is hereby ratified, approved and confirmed.

Section 2.08

No part of the proceeds of the Note issued pursuant hereto shall be invested in such manner as to cause the Note to become an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1996, as amended, and the applicable Treasury Regulations issued thereunder (collectively, the "Code"). The Town hereby covenants that the sums to be borrowed by way of the Note are required for the operation and maintenance of the Town for Fiscal Year 2004-05, and that said sum represents the amounts so required above all other sums available therefore. The proper officers of the Town are hereby authorized to render such certifications as may be required to establish that such Note is not and will not become an arbitrage bond. In addition, the Council covenants to comply as may be necessary with the rebate provisions of Section 148(f) of the Code and the information reporting requirements of Section 149(e) of the Code, and the applicable Treasury Regulations thereunder.

The Note represents the first tax-exempt borrowing by the Town in calendar year 2004. It is expected that no further tax-exempt borrowings will be made by the Town in calendar year 2004 which, together with the Note and such prior borrowings, will aggregate more than \$10,000,000. The Note is hereby accordingly designated as a "qualified tax-exempt obligation" in accordance with Section 265(b)(3)(B) of the Code.

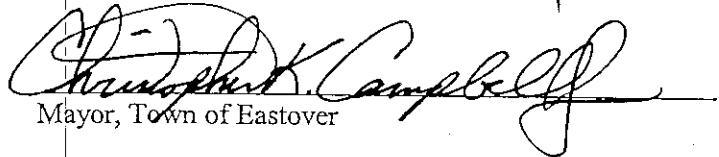
Section 2.09

This Ordinance shall become effective upon adoption.

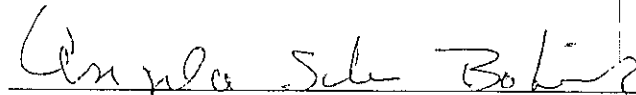
DONE IN MEETING DULY ASSEMBLED on December 13, 2004.

TOWN OF EASTOVER, SOUTH CAROLINA

(SEAL)


Mayor, Town of Eastover

Attest:


Town Clerk, Town of Eastover

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
THE TOWN OF EASTOVER
TAX ANTICIPATION NOTE OF 2004

NO. R-1

\$50,000

THE TOWN OF EASTOVER, SOUTH CAROLINA, hereby acknowledges itself indebted and, for value received, promises to pay to First Citizens Bank ("FIRST CITIZENS") the sum of Fifty Thousand Dollars (\$50,000) on the 15th day of April, 2005, and to pay interest on said principal sum (on the basis of a 360-day year consisting of twelve 30 day months at the rate of Two and eighty-seven hundredths per centum (2.87%) per annum, payable upon the stated maturity hereof. This Note is prepayable in whole (but not in part) at any time without penalty.

Both the principal of and interest on this Note are payable in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, at the principal office of First Citizens in the City of Columbia, State of South Carolina.

This Note is issued by the Town of Eastover, South Carolina (the "Town"), in anticipation of the collection of ad valorem taxes levied to defray the cost of conducting the corporate activities of the Town for the fiscal year commencing July 1, 2004 and ending June 30, 2005. This Note is issued pursuant to the authorization of Section 11-27-40(5) of the Code of Laws of South Carolina, 1976, as amended, and an Ordinance duly adopted by the Town Council of the Town, its governing body.

For the payment of the principal and interest of this Note as the same shall fall due, the full faith, credit and taxing power of the Town are hereby irrevocably pledged, and in addition all ad valorem taxes so levied for the Town for the fiscal year beginning July 1, 2004 and ending June 30, 2005, except such sums as are necessary for operation and maintenance of the Town from July 1, 2004 to January 15, 2005, less all other funds available therefor, are hereby irrevocably pledged.

This Note and the interest hereon are 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, transfer and certain franchise 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, or to be performed precedent to or in the issuance of this Note, do exist, have happened and have been performed in regular and due time, form and manner, and that provision has been made for the levy and collection of ad valorem taxes sufficient in amount to pay the principal of and interest on this Note at the maturity thereof.

IN WITNESS WHEREOF, the Town of Eastover, South Carolina, has caused this Note to be signed in its name by the Mayor of the Town, attested by the Town Clerk, its Corporate Seal to be impressed hereon, and this Note to be dated this _____ day of _____, 2004.

TOWN OF EASTOVER, SOUTH CAROLINA

(SEAL)

Mayor, Town of Eastover

Attest:

Town Clerk, Town of Eastover

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

I, the undersigned, Clerk of the Town of Eastover, South Carolina (the "Town"), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance adopted by the Town Council of the Town (the "**Town Council**") on December 6, 2004. The Ordinance was read at two public meetings of the Town Council on two separate days, December 6, 2004, and December 13, 2004. An interval of at least six days occurred between each reading of the Ordinance. At each such meeting, a quorum of the Town Council was present and remained present throughout the meeting.

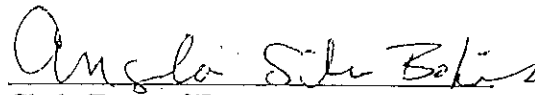
The meetings held on December 6, 2004, and December 13, 2004, were duly called regular and special meetings of the Town Council. As required by Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended, a notice of said meetings (including the date, time, and place thereof, as well as an agenda) were posted prominently in the Town Hall of the Town at least twenty-four hours prior to said meeting. In addition, the local news media and all persons requesting notification of meetings of the Town Council were notified of the time, date, and place of such meeting, and were provided with a copy of the agenda therefor at least twenty-four hours in advance of such meeting.

The original of the Ordinance is duly entered in the permanent records of the Town, in my custody as Town Clerk.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the Town of Eastover, South Carolina, this 30th day of December, 2004.

(SEAL)


Clerk, Town of Eastover, South Carolina