



STATE OF SOUTH CAROLINA
COUNTY COUNCIL FOR FAIRFIELD COUNTY, SOUTH CAROLINA
ORDINANCE NO. 777

**AN ORDINANCE MODIFYING THE INSTALLMENT PLAN OF
FINANCE; AUTHORIZING THE EXECUTION OF CERTAIN
DOCUMENTS WITH THE FAIRFIELD FACILITIES CORPORATION;
AND OTHER RELATED MATTERS**

ADOPTED: [OCTOBER 11], 2021

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AN ORDINANCE MODIFYING THE INSTALLMENT PLAN OF FINANCE; AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS WITH THE FAIRFIELD FACILITIES CORPORATION; AND OTHER RELATED MATTERS.

WHEREAS, the County Council ("County Council") of Fairfield County, South Carolina ("County") previously undertook an installment purchase plan of finance ("Plan") in cooperation with Fairfield Facilities Corporation, a South Carolina nonprofit corporation formed solely for the purposes of supporting the governmental mission and activities of the County, to fund the construction of certain projects within the County;

WHEREAS, in furtherance of the Plan:

(i) the Corporation previously issued its Installment Purchase Revenue Bonds (Fairfield County Projects) Taxable Series 2013A, in the aggregate principal amount of \$3,710,000 ("2013A Bonds") and its Installment Purchase Revenue Bonds (Fairfield County Projects) Series 2013B, in the aggregate principal amount of \$20,980,000 ("2013B Bonds" and together with the 2013A Bonds, "2013 Bonds") pursuant to a Trust Agreement dated April 29, 2013, by and between the Corporation and Regions Bank, as trustee ("Trustee") as supplemented or amended ("Trust Agreement");

(ii) the County and the Corporation entered into certain agreements pursuant to which (A) the County is leasing certain real property ("Real Property") and conveyed the improvements thereon ("Conveyed Improvements") to the Corporation; (ii) the Corporation provided funds for the acquisition, improvement and equipping of certain capital projects in the County ("Projects"); and (iii) the County is making installment payments ("Installment Payments") to the Corporation to acquire incremental, undivided interests in the Facilities, as defined in the Installment Purchase and Use Agreement dated April 29, 2013, by and between the County and the Corporation, as supplemented or amended, ("Installment Purchase Agreement"); and

(iii) as security for the payment of the principal and interest on the Original Bonds, the Corporation assigned to the Trustee and granted a security interest in, among other things, all right, title and interest of the Corporation in and to revenues (with certain exceptions) including, without limitation, all Installment Payments and other amounts receivable by or on behalf of the Issuer under the Installment Purchase Agreement ("Revenues"), all of the Corporation's right, title and interest in and to the Facilities;

WHEREAS, by settlement of certain legal proceedings, the County has received and deposited into escrow the amount of \$7,500,000 ("Settlement Payment"), which is intended to enable the County to reduce the financial burden associated with the 2013 Bonds;

WHEREAS, the County has sought the advice of its public finance professionals to determine the most effective use of the Settlement Payment;

WHEREAS, the County and the Corporation have been informed that the Corporation may achieve substantial debt service savings by prepaying a portion of the 2013 Bonds with the Settlement Payment and refinancing the remainder of the 2013 Bonds ("Refunding") and will pass those savings to the County by reducing the County's Installment Payments due to the Corporation for the Facilities; and

WHEREAS, the Corporation and the County have further determined to partition the Facilities and

allocate to the County, to the extent possible, full components of Facilities which are equal to the percentage of the undivided interest in the Facilities so purchased by the County as of the date of the Refunding ("Partition"); and

WHEREAS, to effect the Refunding and the Partition, the Corporation has requested the County (i) enter into amendments, supplements or restatements ("Financing Documents") to the Installment Purchase Agreement and the Base Lease Agreement dated April 29, 2013, by and between the County and the Corporation ("Base Lease"); (ii) consent to the Corporation entering into a trust agreement with the Trustee ("Trust Agreement") pursuant to which the Corporation will issue its installment purchase revenue refunding bonds ("Refunding Bonds"), in one or more taxable or tax-exempt series; and (iii) authorize such other actions as may be necessary to effect the Refunding or the Partition.

NOW THEREFORE, THE FAIRFIELD COUNTY, SOUTH CAROLINA, COUNTY COUNCIL HEREBY ORDAINS:

SECTION 1. *Modification of the Plan and Execution of Documents.*

(a) The County is authorized to pursue the Refunding and the Partition. The County affirms and ratifies that the Refunding and Partition is necessary and desirable for the County to carry out its governmental purpose and is for the benefit and well-being of the citizens of the County. The County is authorized to enter into and carry out its obligations under the Financing Documents, the form, terms and provisions of which shall be negotiated, approved and executed on behalf of the County by the Chairman of the County Council ("Chair"), the County Administrator or their designees (collectively, the "Authorized Representative"). The execution of the Financing Documents by the Authorized Representative shall constitute conclusive evidence of the approval by the Authorized Representative of the final terms of the Financing Documents.

(b) County Council acknowledges that the Installment Payments due to the Corporation under the Installment Purchase Agreement, as may be further amended, supplemented or restated as a result of the Refunding and the Partition, are a current expense of the County and County Council ratifies the use of any available revenue source to make the Installment Payments to the Corporation including, but not limited to, proceeds of general obligation bonds issued by the County from time to time;

(c) The Authorized Representative is further authorized to take such actions and make such other determinations as may be necessary or appropriate to carry out the Refunding and the Partition, including the execution of such documents as may be necessary to accept title to the Facilities components which are allocated to the County in the Partition or confirm title is vested in the Corporation of the Facilities components which are allocated to the Corporation in the Partition, and is directed and empowered to consult with the County Attorney, Bond Counsel (as defined herein) or the Financial Advisor (as defined herein) as the Authorized Representative determines, in his or her sole discretion, may be necessary or advisable regarding the Refunding and the Partition.

SECTION 2. *Approval of the Issuance and Sale of the Corporation's Refunding Bonds.*

(a) County Council acknowledges, approves, ratifies and consents, as applicable, to:

(i) the Corporation's creation, existence, governance, purposes and activities;

(ii) the Corporation's issuance, sale and delivery of its Refunding Bonds in one or more series, taxable or tax-exempt, in an amount or amounts to be set pursuant to a resolution to be adopted by the board of directors of the Corporation, to provide funds for, among other things, (A) refund all

of the outstanding principal amount of the 2013 Bonds remaining after application of the Settlement Payment, (B) paying costs of issuance of the Refunding Bonds;

(iii) the issuance of the Refunding Bonds pursuant to a Trust Agreement and the pledge of, among other things, the Installment Payments, for the payment of the debt service on the Refunding Bonds; and

(iv) the hiring by the Corporation of certain professionals as may be necessary to facilitate the Refunding and the Partition and the issuance of the Refunding Bonds.

(b) In connection with the issuance and sale of the Refunding Bonds, County Council authorizes the County to, and acknowledges the Corporation will, if the Refunding Bonds are publicly sold:

(i) prepare and distribute, or cause to be prepared and distributed, a preliminary Official Statement in connection with the offer and sale of the Refunding Bonds, which will include financial and operating data regarding the County and information regarding the Refunding and the Plan;

(ii) negotiate and execute a bond purchase agreement ("Bond Purchase Agreement") with the investment bank selected to underwrite the Refunding Bonds in order to evidence the terms and conditions of the sale of the Refunding Bonds;

(iii) deliver such documents, certificates, and other items as may be requested pursuant to the terms of the Bond Purchase Agreement; and

(iv) prepare, distribute and execute a final Official Statement.

SECTION 3. *Further Authorization for Authorized Representatives; Ratification of Prior Acts.* County Council authorizes each Authorized Representative to negotiate, execute and deliver such other documents, agreements, certificates and instruments and to take such further actions as may be necessary to effect the modification of the Plan as described herein, including specifically undertaking the Refunding and the Partition, and subject to nonappropriation, the continued payment of Installment Payments to the Corporation pursuant to the Installment Purchase Agreement, including the issuance of the general obligation bonds therefor, as may be necessary or desirable. Any actions taken by the Authorized Representative prior to the date of this Ordinance in furtherance of the transactions described in this Resolution, including the expenditure of funds and the execution of documents, are hereby approved, ratified and confirmed in all respects.

SECTION 4. *Publication of Notice of Adoption of Ordinance.* Pursuant to the provisions of Section 11-27-40 of the Code of Laws of South Carolina, 1976, as amended, the County Administrator, at his option, is authorized to arrange to publish a notice of adoption of this Ordinance.

SECTION 5 *General Repealer.* All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bond are, to the extent of such conflict, repealed and this Ordinance shall take effect and be in full force from and after its adoption.

FAIRFIELD COUNTY, SOUTH CAROLINA

Moses W Bell

Moses W. Bell, Chairman
Fairfield County Council

(SEAL)
ATTEST:

Kimberly Williams-Roberts

Kimberly Williams-Roberts, Clerk of Council
Fairfield County, South Carolina

First Reading: August 23, 2021
Second Reading: September 27, 2021
Third Reading: October 11, 2021
Public Hearing: September 27, 2021