

CLARENDON COUNTY ORDINANCE NO. 2023-02

AN ORDINANCE TO AMEND ORDINANCE 2008-09, AS AMENDED BY ORDINANCE 2009-14, AND ORDINANCE 2010-05, TO AUTHORIZE THE COUNTY TO ENTER INTO AN ENTERPRISE FINANCING AGREEMENT AND/OR ISSUE REVENUE BONDS, IN ONE OR MORE SERIES, TAXABLE OR TAX-EXEMPT, IN AN AGGREGATE AMOUNT NOT TO EXCEED \$5,000,000 TO BE PAID FROM AND SECURED BY A PLEDGE OF AN ENTERPRISE CHARGE AND/OR HOSPITALITY FEES COLLECTED BY THE COUNTY; APPROVING THE FORM AND TERMS OF CERTAIN DOCUMENTS IN CONNECTION WITH THE SAME; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE FINANCING; PROVIDING FOR THE PAYMENT OF THE FINANCING AND THE DISPOSITION OF THE FINANCING'S PROCEEDS; AND PROVIDING FOR OTHER RELATED MATTERS.

WHEREAS, the Clarendon County Council ("County Council") enacted (a) Ordinance 2008-09, on October 13, 2008, a copy of which is attached as Exhibit A ("2008 Ordinance"), (b) Ordinance 2009-14, on May 18, 2009, a copy of which is attached as Exhibit B ("2009 Ordinance"), and (c) Ordinance 2010-05, on April 12, 2010, a copy of which is attached as Exhibit C ("2010 Ordinance," with 2008 Ordinance and 2009 Ordinance, collectively, "Existing Ordinances");

WHEREAS, the County desires to amend the Existing Ordinances to provide for an updated definition of "Projects," so as to provide for continued capital expenditures for funding Weldon Auditorium, and other related amendments.

NOW, THEREFORE the County Council ordains as follows:

Section 1. *Amendments.* The Existing Ordinances are amended:

- (a) by replacing each instance of the term "2010 Financing" with the term "2023 Financing."
- (b) by deleting the definition of "Projects" in Section 1 of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

"'Projects' means the construction, acquisition, ownership, equipping, operating, maintaining, enlarging, extending, or increasing Weldon Auditorium together with all appurtenances necessary, useful, or convenient for the maintenance and operation of Weldon Auditorium, and redeeming, defeasing, refunding, and/or discharging any prior financings and/or other financial obligations arising out of or relating to Weldon Auditorium";

- (c) by deleting Section 2.E. of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

"E. County Council estimates the total cost for the Projects to be approximately \$5,000,000, of which the County Council approves the issuance of obligations under this Ordinance in a principal amount not exceeding \$5,000,000 for the Projects.";

CERTIFIED TRUE COPY
 OF ORIGINAL FILED IN THIS OFFICE
 DATE 6/15/23
 Beulah H. Roberts
 CLERK OF COURT
 CLARENDON COUNTY, SC

Beulah Roberts, Clerk-Clarendon S.C.
 2023 JUN 15 AM 11:55

(d) by deleting Section 2.J. of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

“J. It is now in the best interest of the County for the Council to approve the Financing, and the execution and delivery of documents related to the Financing, in the aggregate, principal amount not exceeding \$5,000,000. The proceeds of the Financing shall be used for the purposes of (a) defraying the costs of the Projects; and (b) paying the costs associated with the Financing, which may include costs associated with municipal bond insurance and/or reserve fund surety.”;

(e) by deleting Section 3.A. of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

“A. County Council hereby authorizes the County to enter into the Financing for the purpose of borrowing not exceeding the principal amount of \$5,000,000 for the purposes set forth above.”;

(f) by deleting Section 4 of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

“The County Council hereby approves the establishment of the funds and accounts as may be set forth in a Financing Agreement or other similar document (which, along with the other documentation to be prepared by the County’s Bond Counsel, shall constitute the “Financing Documents”) and hereby authorizes the establishment of whatever other funds, to be held by a trustee or custodian, separate from all other funds in the custody of the County, as may be required by law, or otherwise expedient to carry out the intent of this Ordinance.”;

(g) in Section 5.A. of the 2010 Ordinance by striking “, provided however, in no event shall the aggregate amount of the Enterprise Charge pledged for Payments in any fiscal year exceed \$225,000.00 (“Pledge Cap”), except that for the 2010 Financing the County pledges \$450,000.00 of its Hospitality Fee revenue on account, as a Debt Service Reserve Fund”;

(h) by deleting Section 5.C. of the 2010 Ordinance in its entirety and replacing it with the language contained inside the quotation marks:

“Upon payment of all Payments under the Financing Documents required in a fiscal year or transfer of the required payment amounts in a fiscal year into the Payment Fund, all revenue collected from the Enterprise Charge or otherwise pledged hereunder either not needed to make Payments required in that fiscal year may be utilized as directed by the County Council.”;

(i) in Section 6 of the 2010 Ordinance by adding a final, unlettered paragraph with the language contained inside the quotation marks:

“In addition to each other authority granted according to this Ordinance, according to South Carolina Code Annotated section 6-1-760, the County is authorized to issue bonds, pursuant to Section 14(10), Article X of the Constitution of this State, utilizing the procedures of Section 4-29-68,

Section 6-17-10, and related sections, or Section 6-21-10, and related sections, for the purposes enumerated in Section 6-1-530, to pledge as security for such bonds and to retire such bonds with the proceeds of accommodations fees imposed under Article 5 of this chapter, hospitality fees imposed under this chapter, state accommodations fees allocated pursuant to Section 6-4-10(1), (2), and (4), or any combination thereof, and the pledge of such other nontax revenues as may be available for those purposes for capital projects used to attract and support tourists, based on such further action, including the designation of funds and other aspects of the issuance of debt instruments, as the County may take by and through its County Administrator”; and

(j) in Section 15 of the 2010 Ordinance by striking “Parker Poe Adams & Bernstein LLP” and “Merchant Capital, L.L.C. as the Bank,” and replacing each, respectively, with “King Kozlarek Law LLC” and Stifel, Nicolaus & Company, Incorporated, as placement agent”.

Section 2. *General Repealer.* Any ordinance, resolution, or order, the terms of which are in conflict with this Ordinance, is, only to the extent of that conflict, repealed.

Section 3. *Savings Clause.* Any actions taken or authorized to be taken under the Existing Ordinances are treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, and/or outstanding debt, as of the effective date of this Ordinance, and for the enforcement of rights, duties, and liabilities as they stood under any repealed or amended portion of the Existing Ordinances.

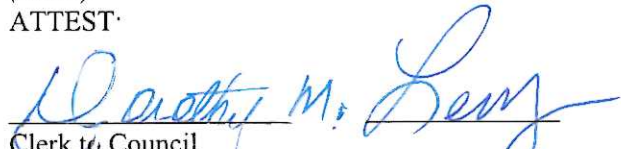
Section 4. *Effective Date.* Except as otherwise provided in this Ordinance, this Ordinance is effective after its third reading and public hearing.

[ONE SIGNATURE PAGE AND THREE EXHIBITS FOLLOW]
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CLARENDON COUNTY, SOUTH CAROLINA


Chairman
Clarendon County Council

(SEAL)
ATTEST


Clerk of Council

First Reading:	April 10, 2023
Public Hearing:	May 8, 2023
Second Reading:	May 8, 2023
Third Reading:	June 12, 2023

EXHIBIT A
2008 ORDINANCE

EXHIBIT B
2009 ORDINANCE

EXHIBIT C
2010 ORDINANCE