

AN ORDINANCE

CONSENTING TO THE ISSUANCE BY THE GREENVILLE ARENA DISTRICT, SOUTH CAROLINA OF ONE OR MORE SERIES OF ACCOMMODATIONS FEE REVENUE BONDS; APPROVING AN INTERGOVERNMENTAL AGREEMENT AMONG GREENVILLE COUNTY, GREENVILLE ARENA DISTRICT, THE CITY OF GREENVILLE AND AN ESCROW AGENT; APPROVING AN ESCROW AGREEMENT AMONG GREENVILLE COUNTY, THE CITY OF GREENVILLE AND AN ESCROW AGENT; AMENDING ORDINANCE NO. 2594, AS AMENDED, WHICH ESTABLISHED THE IMPLEMENTATION AND COLLECTION OF A LOCAL ACCOMMODATIONS FEE; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the County Council (the "**Council**") of Greenville County, South Carolina (the "**County**"), a body corporate and politic and a political subdivision of the State of South Carolina (the "**State**"), by Ordinance No. 2594, enacted on June 21, 1994, as subsequently amended, established the implementation and collection of a local accommodations fee (the "**County Accommodations Fee**") equal to 2.3% of the gross receipts of businesses engaged in providing accommodations for transients within the unincorporated area of the County; and

WHEREAS, the City Council of the City of Greenville, South Carolina (the "**City**"), a body corporate and politic and a municipal corporation of the State, by Ordinance No. 94-27, enacted on June 13, 1994, as subsequently amended, established the implementation and collection of a local accommodations fee (the "**City Accommodations Fee**" and together with the County Accommodations Fee, the "**Accommodations Fees**") equal to 2.3% of the gross receipts of businesses engaged in providing accommodations for transients within the City; and

WHEREAS, the Accommodations Fees were originally established to be used solely to defray a portion of the costs of financing the construction of an arena and ancillary facilities to be owned and operated by the Greenville Arena District, South Carolina formerly known as the Greenville Memorial Auditorium District, South Carolina (the "**District**"), a body corporate and politic and a political subdivision of the State; and

WHEREAS, the County, the City, the District and U.S. Bank National Association (the "**2009 Escrow Agent**") entered into an Intergovernmental Agreement dated as of July 1, 2009, whereby the County and the City agreed to deposit the Accommodation Fees into an escrow fund held by the 2009 Escrow Agent for the payment of the District's \$14,985,000 original principal amount Greenville Arena District Public Facilities Corporation Refunding Certificate of Participation, Series 2009 (the "**Series 2009 Certificate**"); and

WHEREAS, the County, the City and the District now intend to enter into a new Intergovernmental Agreement (the "**Intergovernmental Agreement**") concerning this relationship to be among the County, the City, the District and The Bank of New York Mellon Trust Company, N.A., as the escrow agent (the "**2012 Escrow Agent**"); and

WHEREAS, the County, the City and the 2009 Escrow Agent entered into an Escrow Agreement dated as of July 1, 2009, for the purpose of establishing an escrow fund whereby the County and the City would deposit the receipts of the Accommodations Fees with the 2009 Escrow Agent for the payment of the Series 2009 Certificate; and

WHEREAS, as a result of the proposed refunding of the Series 2009 Certificate by the District, the County and the City now intend to enter into a new Escrow Agreement (the “*Escrow Agreement*”) concerning this relationship to be among the County, the City and the 2012 Escrow Agent; and

WHEREAS, the District has informed the Council that the District is prepared to issue one or more series of Accommodations Fee Revenue Bonds, for purposes of (i) refunding all or a portion of the Series 2009 Certificate, (ii) financing (a) the acquisition, construction, renovation, installation, furnishing and equipping of capital improvements to the Arena and related facilities and (b) the acquisition of various items of equipment related thereto (collectively, the “*Improvements*”) and (iii) paying for related costs of issuance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF GREENVILLE COUNTY, SOUTH CAROLINA:

Section 1. *Consent to issue Bonds.* The Council consents to the District’s issuance of not exceeding \$25,000,000 of Accommodations Fee Revenue Bonds (the “*Bonds*”) in one or more series, for the purposes of (i) refunding all or a portion of the Series 2009 Certificate, (ii) financing the Improvements and (iii) paying for related costs of issuance.

Section 2. *Intergovernmental Agreement and Escrow Agreement.* The forms, terms and provisions of the Intergovernmental Agreement and the Escrow Agreement presented to this meeting are hereby approved and all of the terms and provisions thereof are hereby incorporated herein by reference as if the Intergovernmental Agreement and the Escrow Agreement were set out in this Ordinance in their entirety. The Chairman of County Council and the County Administrator are hereby jointly authorized, empowered and directed to execute, acknowledge and deliver to the City, the District and the 2012 Escrow Agent, and the Clerk to Council is hereby authorized, empowered and directed to attest, the Intergovernmental Agreement and the Escrow Agreement. The Intergovernmental Agreement and the Escrow Agreement are to be in substantially the forms now before this meeting and hereby approved, or with such changes therein as may be deemed necessary by the persons executing the same, upon advice of counsel, to accomplish the purposes of the transactions contemplated therein and in this Ordinance and as shall not be inconsistent with or contrary to such purposes. The execution of the Intergovernmental Agreement and the Escrow Agreement shall constitute conclusive evidence of the persons executing the same of their approval of any and all such changes.

Section 3. *Amendment to Ordinance No. 2594, as amended.* Section 6 of Ordinance No. 2594, as amended, is hereby further amended to read as follows:

Section 6. *Disposition of Fee.* Fees collected under this Ordinance shall be used (i) first to pay debt service on obligations issued from time to time by the Greenville Arena District, South Carolina and (ii) secondly as further provided in an Intergovernmental Agreement among the County, the City of Greenville, South Carolina and the Greenville Arena District, South Carolina.

Section 4. *Authorization.* The Chairman of County Council, the County Administrator, the Deputy County Administrator, and the Clerk to Council and the officials of the County are each hereby authorized to execute and deliver such documents and take such actions as are required under the Intergovernmental Agreement and the Escrow Agreement to comply with the terms thereof.

Section 5. *Additional Documents.* The Council further authorizes the Chairman of County Council and the County Administrator, upon advice of the County’s Financial Advisor, to execute and deliver any amendment, modification or termination of leases or investment agreements related to any of the Bonds or the Series 2009 Certificate or funds related to the Bonds or the Series 2009 Certificate in

conjunction with either the defeasance and refunding of the Series 2009 Certificate or the issuance of the Bonds, which amendment, modification or termination may occur prior to, on, or subsequent to the closing date of the Bonds. The Council further authorizes the Chairman of County Council and the County Administrator, upon advice of the County's Financial Advisor, from time to time to execute and deliver (i) any amendment, modification or termination of leases or investment agreements or (ii) any new investment agreements related to any of the Bonds or the Series 2009 Certificate where such amendment, modification or termination or such new investment agreement would be in the County's best interest.

Section 6. Severability. The provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereunder.

Section 7. Repeal of Conflicting Ordinances, Resolutions, etc.; Effective Date. All ordinances, resolutions, orders, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval at third reading and no further authorization is required to execute and deliver all documents and certificates related to the transaction contemplated by this Ordinance. This Ordinance shall be construed liberally to effect the intent of the Council.

DONE IN MEETING DULY ASSEMBLED THIS 4TH DAY OF DECEMBER, 2012.

GREENVILLE COUNTY, SOUTH CAROLINA

Chairman, County Council

County Administrator

ATTEST:

Clerk to County Council

First Reading: November 6, 2012
Second Reading: November 20, 2012
Third Reading: December 4, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

CERTIFICATE OF ORDINANCE

I, the undersigned, Clerk to the Greenville County Council, **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an Ordinance which was given three readings on three separate days, with an interval of not less than seven days between the second and third readings. The original of this Ordinance is duly entered in the permanent records of minutes of meetings of the County Council, in my custody as such Clerk.

That each of said meetings was duly called, and all members of the County Council were notified of the same; that a quorum of the membership remained throughout the proceedings incident to the enactment of this Ordinance.

IN WITNESS WHEREOF, I have hereunto set my Hand this 4th day of December, 2012.

Clerk to Greenville County Council

First reading: November 6, 2012
Second reading: November 20, 2012
Third reading: December 4, 2012