

AN ORDINANCE AMENDING AND SUPPLEMENTING ORDINANCE NO. 2594 OF 1995 OF THE COUNTY COUNCIL OF GREENVILLE COUNTY, SOUTH CAROLINA, THAT ESTABLISHED THE LEVY AND COLLECTION OF AN ACCOMMODATIONS FEE FOR TRANSIENTS WITHIN THE UNINCORPORATED AREAS OF GREENVILLE COUNTY; PROVIDING FOR THE PAYMENT OF A PORTION OF THE ACCOMMODATIONS FEES COLLECTED TO THE PAYMENT OF THE FINANCING OF A NEW ARENA TO BE CONSTRUCTED BY THE GREENVILLE MEMORIAL AUDITORIUM DISTRICT; AMENDING ORDINANCE NO. 2708 OF 1995 OF THE COUNTY COUNCIL THAT AUTHORIZED THE ISSUANCE OF GENERAL OBLIGATION BONDS OF GREENVILLE MEMORIAL AUDITORIUM DISTRICT; PROVIDING FOR THE EXECUTION AND DELIVERY BY GREENVILLE COUNTY OF AN INTERGOVERNMENTAL AGREEMENT WITH THE GREENVILLE MEMORIAL AUDITORIUM DISTRICT, AND THE CITY OF GREENVILLE; THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT WITH THE CITY OF GREENVILLE AND FIRST UNION NATIONAL BANK OF SOUTH CAROLINA AS TRUSTEE WITH RESPECT TO CERTAIN FINANCING OF THE ARENA; THE EXECUTION AND DELIVERY OF A PARKING AGREEMENT WITH THE GREENVILLE MEMORIAL AUDITORIUM DISTRICT; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the County Council of Greenville County (the "County Council"), the governing body of Greenville County, South Carolina (the "County"), has previously enacted Ordinance No. 2594 of 1995 ("Ordinance No. 2594") which provided for the establishment and collection of an accommodations fee of 2.3% of gross receipts (the "Accommodations Fee") of businesses engaged in providing accommodations for transients within Greenville County (exclusive of the incorporated municipalities), and other matters related thereto; and

WHEREAS, the Accommodations Fees have been levied and collected by the appropriate County personnel pursuant to Ordinance No. 2594 since January 1, 1996; and

WHEREAS, it is the intention of the County Council that the Accommodations Fees shall be used solely, to defray a portion of the costs of financing the construction of a new arena/family entertainment facility and ancillary facilities to be located on the real estate generally bounded by Church Street, East North Street, and Academy Street in the City of Greenville (the "1996 Project"), and to be used for a public purpose, including use in connection with tourism industry or economic development; and

WHEREAS, Ordinance No. 2594 provides that Accommodations Fees collected thereunder will be made available for the purposes of financing a portion of the cost of the 1996 Project pursuant to annual appropriations by County Council; and

WHEREAS, in exercising its business and proprietary powers, County Council has determined that it is necessary and advantageous to the citizens of Greenville County, that the County Council agree with the Greenville Memorial Auditorium District (the "District") and First Union National Bank of South Carolina (the "Trustee"), the trustee with respect to the financing of the 1996 Project, that the Accommodations Fees shall be made available and pledged to pay a portion of the cost of the 1996 Project during the entire term of the financing of the 1996 Project without the need for annual appropriations by the County Council; and

WHEREAS, the acquisition, construction, operation, and financing of the 1996 Project is necessary and proper for the general welfare and convenience of Greenville County and the security, general welfare, or convenience of the citizens thereof by promoting increased commerce in Greenville County, enhancing educational and cultural opportunities, and providing an increase in employment for the citizens of Greenville County ; and

WHEREAS, pursuant to Article VIII, Section 13(A) of the South Carolina Constitution and Section 4-9-41(A) of the Code of Laws of South Carolina 1976, as amended, County Council may provide for the joint administration of any function in the exercise of any powers and sharing the costs thereof with any other incorporated municipality or other political subdivision of the State of South Carolina; and

WHEREAS, the County Council has determined to enter into an intergovernmental agreement (the "Intergovernmental Agreement") with the City of Greenville (the "City") and the District to provide for the sharing of financing and related costs of the 1996 Project; and

WHEREAS, the County Council has determined to enter into an escrow agreement (the "Escrow Agreement") with the City and the Trustee to provide for the pledge and application of Accommodation Fees to the financing of the 1996 Project; and

WHEREAS, the County Council has determined to enter into a parking agreement (the "Parking Agreement") with the District to provide for the leasing of parking facilities or spaces in the vicinity of the 1996 Project by the County, as lessor, to the District, as lessee; and

WHEREAS, the County Council has previously enacted Ordinance No. 2708 of 1995 ("Ordinance No. 2708") which authorizes the District to issue not exceeding \$12,000,000 of general obligation bonds to finance a portion of the costs of the 1996 Project; and

WHEREAS, Ordinance No. 2708 provides that prior to the issuance of the bonds there shall be filed with the Clerk of the County Council an opinion of McNair & Sanford, P.A. as bond counsel as to certain matters and a copy of a use agreement with Furman University; and

WHEREAS, Furman University has declined to participate in the 1996 Project and the District has changed its bond counsel, and consequently County Council is minded to amend Ordinance No. 2708 to reflect those facts;

NOW THEREFORE, BE IT ORDAINED by the County Council of Greenville County in meeting duly assembled as follows:

Section 1. Amendment of Ordinance No. 2594.

Section 6 of Ordinance No. 2594 is hereby amended to read as follows:

Section 6. Disposition of Fee. All fees collected under this Ordinance shall be used solely to defray a portion of the cost of constructing the Arena and related ancillary facilities to be used for a public purpose including use in connection with the tourism industry or economic development, in accordance with the terms of the Intergovernmental Agreement and the Escrow Agreement.

Section 2. Confirmation of Approval of Joint Financing of 1996 Project; Approval of Intergovernmental Agreement; Execution of Intergovernmental Agreement.

In order to facilitate the joint financing of the 1996 Project, the Intergovernmental Agreement as submitted herewith is hereby approved and the joint financing of the 1996 Project authorized in Ordinance No. 2594 is hereby confirmed and ratified. The Chairman of the County Council and the County Administrator are hereby authorized and directed to execute and deliver the Intergovernmental Agreement, with any changes, insertions, and omissions as may be approved by the Chairman of County Council and the County Administrator, with the advice of the County Attorney, their execution being conclusive evidence of their approval; and the Clerk of the County Council is hereby authorized and directed to affix the corporate seal of the County to the Intergovernmental Agreement and to attest the same.

Section 3. Pledge and Application of Accommodation Fees; Approval of Escrow Agreement; Execution of Escrow Agreement.

The pledge and application of the Accommodation Fees to the Trustee for the benefit of the holders of the Greenville Memorial Auditorium District Public Facilities Corporation, Certificates of Participation (BI-LO Center Project) Series 1996 B and Certificates of Participation (BI-LO Center Project) Series 1996 B Junior Lien (collectively, the "Certificates") is hereby authorized and directed. To facilitate the pledge and application of the Accommodation Fees, the Escrow Agreement as submitted herewith is hereby approved. The Chairman of the County Council and County Administrator are hereby authorized and directed to execute and deliver the Escrow Agreement, with any changes, insertions, and omissions as may be approved by the Chairman of County Council and the County Administrator, with the advice of the County Attorney, their execution being conclusive evidence of his approval; and the Clerk of the County Council is hereby authorized and directed to affix the corporate seal of the County to the Escrow Agreement and to attest the same.

Section 4. Authorization of Parking Arrangement; Approval of Parking Agreement; Execution of Parking Agreement.

The provision by the County of parking facilities or spaces owned or otherwise made available by the County in the vicinity of the 1996 Project as provided in the Arena Development Agreement defined below, by the County to the District is hereby authorized. The Chairman of the County Council and the County Administrator are hereby authorized and directed to execute and deliver a Parking Agreement, in the form as may be approved by the Chairman of the County Council and the County Administrator, with the advice of the County Attorney, their execution being conclusive evidence of his approval; and the Clerk of the County Council is hereby authorized and directed to affix the corporate seal of the County to the Parking Agreement and to attest the same.

Section 5. Amendment of Ordinance No. 2708.

Section 6 of Ordinance No. 2708 is hereby amended by modifying paragraphs (e) and (f) to read as follows:

(e) an opinion of Haynsworth, Marion, McKay & Guérard L.L.P. as bond counsel to the District that the bonds or certificates of participation secured by accommodations fee revenue or other revenues approved by the County and the City of Greenville, respectively, are duly authorized and are valid and binding obligations under the laws of the State of South Carolina.

(f) copies of all contracts required under the Arena Development Agreement dated March 9, 1995 (the "Arena Development Agreement") by and among the County, the City, the District and Scheersports, Inc. which includes the concessionaire contract(s), naming rights contract, and hockey agreement.

Section 6. Authorization.

The Chairman of County Council and the County Administrator shall be authorized to enter into any other agreements necessary or required, upon advise of the County Attorney, to carry out the County's interests and intent under the Arena Development Agreement.

Section 7. Miscellaneous.

(a) Except as expressly amended herein, all the terms and provisions of Ordinance No. 2594 and Ordinance No. 2708 are hereby confirmed and ratified in their entirety.

(b) Ordinance No. 2594, as amended by this Ordinance, may not be further amended without the written consent of the Trustee, or its successors and assigns in trust.

(c) Ordinance No. 2594, as amended by this Ordinance, may not be amended in any manner which would impair the collection of Accommodation Fees to the detriment of the holders of the Certificates. This paragraph does not prohibit the amendment of Ordinance No. 2594 in connection with the issuance of additional certificates of participation or revenue bonds as permitted by the terms of the Certificates and related documents.

(d) The provisions of Ordinance No. 2594, as amended by this Ordinance, and of this Ordinance shall inure to the benefit of the Trustee, its successors and assigns in trust, and the holders of the Certificates.

(e) This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina.

(f) This Ordinance shall become effective immediately upon its receiving third reading by the County Council without any need for publication.

(g) This Ordinance shall be codified in the Code of Ordinances of Greenville County.

## GREENVILLE COUNTY, SOUTH CAROLINA

(SEAL)

By: C. Wade Cleveland  
Chairman, County Council of  
Greenville County

By: John G. Peeler  
County Administrator

ATTEST:

Elizabeth M. Haney  
Clerk County Council of  
Greenville County

First Reading: February 20, 1996  
Second Reading: April 2, 1996  
Third Reading: June 18, 1996