

ORDINANCE NO. 09-13-18

AN ORDINANCE AMENDING AN ORDINANCE ENTITLED “AN ORDINANCE APPROVING A LOAN FROM THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY TO NEWBERRY COUNTY, SOUTH CAROLINA, TO FINANCE A PORTION OF THE COST OF A BUILDING FOR ECONOMIC DEVELOPMENT PURPOSES; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERGOVERNMENTAL LOAN AGREEMENT BETWEEN THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY AND NEWBERRY COUNTY AND A PROMISSORY NOTE FROM NEWBERRY COUNTY TO THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY IN CONNECTION THEREWITH; AUTHORIZING THE PLEDGE OF THE FULL FAITH, CREDIT AND TAXING POWER OF NEWBERRY COUNTY, SOUTH CAROLINA TO SECURE PAYMENT OF THE NOTE; AND OTHER MATTERS RELATING THERETO” SO AS TO PROVIDE FOR THE ADJUSTMENT OF THE MATURITY SCHEDULE AUTHORIZED THEREBY, AND OTHER MATTERS RELATED THERETO.

BE IT ORDAINED by the County Council of Newberry County:

ARTICLE I

FINDINGS

As incident to the adoption of this ordinance, the County Council of Newberry County, after due investigation, has found and determined as follows:

1. Newberry County (the “County”) is a county and political subdivision of the State of South Carolina.
2. The County Council of Newberry County (the “Council”) is the governing body of the County.
3. On December 5, 2012, the Council gave third and final reading to Ordinance 11-22-12 entitled “AN ORDINANCE APPROVING A LOAN FROM THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY TO NEWBERRY COUNTY, SOUTH CAROLINA, TO FINANCE A PORTION OF THE COST OF A BUILDING FOR ECONOMIC DEVELOPMENT PURPOSES; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERGOVERNMENTAL LOAN AGREEMENT BETWEEN THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY AND NEWBERRY COUNTY AND A PROMISSORY NOTE FROM NEWBERRY COUNTY TO THE SOUTH CAROLINA PUBLIC SERVICE AUTHORITY IN CONNECTION THEREWITH; AUTHORIZING THE PLEDGE OF THE FULL FAITH, CREDIT AND TAXING POWER OF NEWBERRY COUNTY, SOUTH CAROLINA TO SECURE PAYMENT OF THE NOTE; AND OTHER MATTERS RELATING THERETO.” (the “Loan Ordinance”).
4. Pursuant to the authority of the Loan Ordinance, the County on August 23, 2013, delivered a Loan Agreement (the “Loan Agreement”) and its \$1,200,000 General Obligation Bond, Series 2013A (Promissory Note to South Carolina Public Service Authority) (the “Note”) to the South Carolina Public Service Authority (“PSA”).

5. The Note is payable pursuant to installments as set forth in Appendix A to the Loan Agreement (the “Payment Schedule”).

6. PSA has offered to modify the Payment Schedule, as shown in a “First Amendment to Loan Agreement”, attached as Exhibit A to this Ordinance. As modified, the County will in the years 2019-2023 be required to pay only interest on the outstanding principal amount of the Note at the rate of 2.00% per annum. Without the modification, the interest rate on the Note would have increased to the Five Year U.S. Treasury Bond yield effective August 23, 2018, which equaled 2.72%.

7. After due deliberation, the Council has determined to accept the offer of PSA and to authorize the execution and delivery of the First Amendment to Loan Agreement attached hereto.

NOW, THEREFORE, BE IT ORDAINED by the County Council of Newberry County:

ARTICLE II

AMENDMENT TO LOAN AGREEMENT

Section 2.01 Acceptance of Offer.

The Council hereby accepts the offer of PSA to adjust the payment schedule applicable to the Note.

Section 2.02 Execution and Delivery of First Amendment to Loan Agreement.

The Chairman of Council and the Clerk to Council are hereby directed to execute and deliver to PSA a First Amendment to Loan Agreement in the form attached hereto as Exhibit A, with such changes, not inconsistent with the purposes of this Ordinance, as the Chairman of Council shall deem necessary or useful. The execution and delivery of the First Amendment to Loan Agreement to PSA shall be conclusive evidence of the approval by the Chairman of Council of any changes thereto.

Section 2.06 Loan Agreement and Note Remain of Full Force and Effect.

As modified by the First Amendment to Loan Agreement, the Loan Agreement and Note shall remain of full force and effect. Upon its execution and delivery, the First Amendment to Loan Agreement together with the Loan Agreement shall constitute for all purposes the Loan Agreement authorized by the Loan Ordinance, and shall be the valid and binding obligation of the County in accordance with its terms and the terms of the Loan Ordinance.

ARTICLE III

EFFECTIVE DATE

Section 3.01 Effective Date of Ordinance.

The provisions of this Ordinance shall become effective upon its adoption.

DONE IN MEETING DULY ASSEMBLED this ____ day of October, 2018.

NEWBERRY COUNTY, SOUTH CAROLINA

Chairman of Council, Newberry County

[SEAL]

Attest:

Clerk to Council, Newberry County.

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

I, the undersigned, Clerk to the County Council of Newberry County, South Carolina **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct and verbatim copy of an ordinance duly enacted by the County Council of Newberry County (the "Council") pursuant to readings of the same held at meetings of the Council duly held on _____, 2018, _____, 2018, and _____, 2018, the original of which ordinance is duly entered in the permanent records of minutes of meetings of the Council, in my custody as such Clerk.

That said meetings were duly called, and all members of Council were notified of the same, and all/a majority of the members were present at each of said meetings and remained throughout the proceedings incident to the readings of said ordinance.

Each of such meetings were held in full compliance with the South Carolina Freedom of Information Act, Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended. Written notice of said meetings was provided to local news media and the agenda for each such meeting was prominently posted in the administrative office of Newberry County and on the County's public website, in each case at least twenty-four hours prior to the commencement of such meeting.

IN WITNESS WHEREOF, I have hereunto set my Hand this ___ day of _____, 2018.

Clerk to the County Council of
Newberry County, South Carolina

First Reading: September 5, 2018
Second Reading: September 19, 2018
Third Reading: _____, 2018

**FIRST AMENDMENT TO
LOAN AGREEMENT**

This First Amendment to Loan Agreement (this “First Amendment”) is made and entered into as of the ____ day of October, 2018, by and between **NEWBERRY COUNTY, SOUTH CAROLINA** (“Newberry”) and **SOUTH CAROLINA PUBLIC SERVICE AUTHORITY** (the “Authority”).

WHEREAS, the Authority has previously agreed to make an \$1,200,000 economic development loan (the “Loan”) to Newberry pursuant to the terms of that certain Intergovernmental Loan Agreement (the “Loan Agreement”) between the Authority and Newberry dated on or about August 23, 2013; and

WHEREAS, the parties desire to modify the Loan Agreement to amend the repayment schedule.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. **Recitals Are True and Correct.** The above-stated recitals are true and correct and incorporated herein as part of this First Amendment.
2. **Modification of Loan Agreement.** Appendix A of the Loan Agreement is hereby deleted in its entirety and replaced with the attached Appendix A.
3. **No Other Changes.** All other terms and conditions of the Loan Agreement shall remain unchanged and in full force and effect. All capitalized terms herein shall have the meaning ascribed to them in the Loan Agreement unless otherwise defined herein. It is the intention of the parties hereto that the modification of the Loan Agreement authorized hereby shall constitute modification of an existing and continuing obligation between the parties and not a novation.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date set forth above.

LENDER:
**SOUTH CAROLINA PUBLIC
SERVICE AUTHORITY**

By: _____
Pamela J. Williams
Its: Sr. Vice President Corporate Services

BORROWER:
**NEWBERRY COUNTY,
SOUTH CAROLINA**

By: _____
In his capacity as Chairman of
County Council of Newberry County
The Governing Body of Newberry
County

APPENDIX A
LOAN REPAYMENT SCHEDULE
Newberry County/Spec Building
Effective Date: August 23, 2013
Adjusted Effective Date: August 23, 2018

Principal: \$1,200,000

Payment Date	Principal	Interest Rate	Interest	Total
August 23, 2014	0.00		\$24,000.00	\$24,000.00
August 23, 2015	0.00		24,000.00	24,000.00
August 23, 2016	0.00		24,000.00	24,000.00
August 23, 2017	0.00		24,000.00	24,000.00
August 23, 2018	\$ 10,000		24,000.00	34,000.00
August 23, 2019	0.00		23,800.00	23,800.00
August 23, 2020	0.00		23,800.00	23,800.00
August 23, 2021	0.00		23,800.00	23,800.00
August 23, 2022	0.00		23,800.00	23,800.00
August 23, 2023	0.00		23,800.00	23,800.00
August 23, 2024	228,668.49	2.00%	23,800.00	252,468.49
August 23, 2025	233,241.86	2.00%	19,226.63	252,468.49
August 23, 2026	237,906.70	2.00%	14,561.79	252,468.49
August 23, 2027	242,664.83	2.00%	9,803.66	252,468.49
August 23, 2028	247,518.12	2.00%	4,950.37	252,468.49
TOTAL	\$ 1,200,000.00		\$311,342.45	\$1,511,342.45

The interest rate applicable to principal payments in years 2023 to 2028 is subject to adjustment as of August 23, 2023 to a rate equal to the five year U.S. Treasury Bond then obtaining. In the event of such adjustments, the principal and interest payments shown shall be adjusted to produce equal amortized installments of principal and interest through final maturity.