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AN ORDINANCE

AUTHORISING THE EXECUTION AND DELIVERY OF CERTAIN INSTRUMENTS RELATING TO THE REFUNDING OF CERTAIN LEASE-PURCHASE FINANCINGS OF ESSENTIAL COUNTY FACILITIES AND CONSENTING TO THE ISSUANCE OF CHARLESTON PUBLIC FACILITIES CORPORATION REFUNDING CERTIFICATES OF PARTICIPATION; CONSENTING TO THE FORM OF A SUPPLEMENTAL TRUST AGREEMENT BETWEEN CHARLESTON PUBLIC FACILITIES CORPORATION AND THE CORPORATE TRUSTEE; AUTHORISING THE EXECUTION AND DELIVERY OF AN AMENDATORY PROJECT LEASE AGREEMENT BETWEEN CHARLESTON COUNTY AND CHARLESTON PUBLIC FACILITIES CORPORATION; AUTHORISING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AMONG CHARLESTON COUNTY, CHARLESTON PUBLIC FACILITIES CORPORATION, AND THE UNDERWRITER; AUTHORISING THE EXECUTION AND DELIVERY OF ESCROW DEPOSIT AGREEMENTS BETWEEN CHARLESTON COUNTY AND THE ESCROW AGENT; AND AUTHORISING A PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT OF CHARLESTON COUNTY; AND OTHER MATTERS RELATING THERETO.

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## AN ORDINANCE

AUTHORISING THE EXECUTION AND DELIVERY OF CERTAIN INSTRUMENTS RELATING TO THE REFUNDING OF CERTAIN LEASE-PURCHASE FINANCINGS OF ESSENTIAL COUNTY FACILITIES AND CONSENTING TO THE ISSUANCE OF CHARLESTON PUBLIC FACILITIES CORPORATION REFUNDING CERTIFICATES OF PARTICIPATION; CONSENTING TO THE FORM OF A SUPPLEMENTAL TRUST AGREEMENT BETWEEN CHARLESTON PUBLIC FACILITIES CORPORATION AND THE CORPORATE TRUSTEE; AUTHORISING THE EXECUTION AND DELIVERY OF AN AMENDATORY PROJECT LEASE AGREEMENT, BETWEEN CHARLESTON COUNTY AND CHARLESTON PUBLIC FACILITIES CORPORATION; AUTHORISING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AMONG CHARLESTON COUNTY, CHARLESTON PUBLIC FACILITIES CORPORATION, AND THE UNDERWRITER; AUTHORISING THE EXECUTION AND DELIVERY OF ESCROW DEPOSIT AGREEMENTS BETWEEN CHARLESTON COUNTY AND THE ESCROW AGENT; AND AUTHORISING A PRELIMINARY OFFICIAL STATEMENT AND OFFICIAL STATEMENT OF CHARLESTON COUNTY; AND OTHER MATTERS RELATING THERETO.

WHEREAS, Charleston County, South Carolina (the “County”), acting by and through its County Council (the “County Council”), has previously caused to be refinanced through the issuance by Charleston Public Facilities Corporation, a South Carolina non-profit corporation (the “Corporation”) of the Refunding Certificates of Participation, Series 2004, dated May 1, 2004 (the “Series 2004 Certificates”) and the Refunding Certificates of Participation, Series 2005, dated March 3, 2005 (the “Series 2005 Certificates,” and with the Series 2004 Certificates, the “Prior Certificates”), the construction or renovation and expansion of the County Detention Facility; the construction of a parking garage at Charleston Memorial Hospital; the construction and equipping of an EMS Medic One station; the construction of the County’s public services building; the upgrading of the County’s Health Center and other related capital improvements; the refunding of the County’s Hospital Revenue Bonds (Substance Abuse Commission Project) Series 1993; and the renovation and expansion of the County Detention Facility, the O.T. Wallace County Office Building, the Lonnie Hamilton III Public Services Building, and the County Judicial Center (collectively referred to herein as the Projects”); and

WHEREAS, the County Council, in order to refinance the Projects, has previously caused the County, as lessor, to enter into a Fourth Amendatory and Restated Master Base Lease Agreement, dated as of May 1, 2004 (the “Base Lease Agreement”), with the Corporation, as lessee; and

WHEREAS, as further incident to the refinancing of the Projects, County Council has previously caused the County, as lessee, to enter into a Fourth Amendatory and Restated Master Project Lease Agreement, dated as of May 1, 2004 (the “Project Lease Agreement”), with the Corporation, as lessor; and

WHEREAS, in order to obtain funds with which to defray the costs of refinancing the Projects, County Council approved the issuance of the Prior Certificates by the Corporation

pursuant to the terms of a Fourth Supplemental and Restated Trust Agreement, dated as of May 1, 2004 (the "Trust Agreement"), between the Corporation and The Bank of New York Trust Company, N.A., as predecessor trustee to The Bank of New York Mellon Trust Company, N.A. (the "Trustee"), which Prior Certificates are payable from rental payments made by the County pursuant to the Project Lease Agreement (the Base Lease Agreement, the Project Lease Agreement, the Trust Agreement, and other documents entered into by the County with respect to the Prior Certificates are collectively referred to herein as the "Lease-Purchase Agreements"); and

WHEREAS, the County Council is further advised by its Financial Advisor, Davenport & Company LLC (the "Financial Advisor"), that a substantial savings in the rental payments payable under the Project Lease Agreement may be achieved through the refunding of the Series 2004 Certificates and the Series 2005 Certificates, or portions thereof (the Series 2004 Certificates and the Series 2005 Certificates to be refunded are herein collectively referred to as the "Refunded COPS"); and

WHEREAS, the County Council has determined that the interests of the County will best be promoted by refunding the Refunded COPS; and

WHEREAS, (i) the Lease-Purchase Agreements were entered into prior to January 1, 1996 and, (ii) the sum of all payments to be made under the Refunding Agreements (as defined below) is less than the sum of the payments under the Lease-Purchase Agreements with respect to the Refunded COPS, and consequently, by the terms of Section 11-27-110 of the Code of Laws of South Carolina 1976, as amended (the "Code"), the Refunding Agreements constitute "refinancing agreements" which are not subject to the limitations imposed under Section 11-27-110(B) of the Code; and

WHEREAS, in order to accomplish the refunding, County Council has determined to enter into an Amendatory Project Lease Agreement (the "Amendatory Project Lease Agreement;" the Project Lease Agreement as amended by the Amendatory Project Lease Agreement is referred to herein as the "Master Project Lease Agreement") whereby the Corporation will lease back the Facilities (as defined therein) to the County; and

WHEREAS, the Corporation will enter into a Supplemental Trust Agreement (the "Supplemental Trust Agreement") by supplementing the Trust Agreement, in order to enable the Corporation to issue Refunding Certificates of Participation, Series 2013, in the original principal amount of not exceeding \$31,900,000 (the "Series 2013 Certificates") to obtain financing for the refunding of all or a portion of the remaining outstanding Series 2004 Certificates and all or a portion of the remaining outstanding Series 2005 Certificates; and

WHEREAS, MBIA as bond insurer for the Prior Certificates has consented to the amendments to the Project Lease Agreement and the Trust Agreement effected by the Amendatory Project Lease Agreement and the Supplemental Trust Agreement; and

WHEREAS, the County will enter into Escrow Deposit Agreements with The Bank of New York Mellon Trust Company, N.A., as Escrow Agent, whereby the Escrow Agent will hold and invest certain proceeds of the Series 2013 Certificates and other funds pending disbursement of

the same to pay the principal components and interest components of rental payments due pursuant to the Refunded Certificates and such premiums as are due upon the redemption of the Refunded Certificates; and

WHEREAS, the Series 2013 Certificates will be sold to an underwriting firm or firms (collectively, the "Underwriters") as designated by the Chairman pursuant to the terms of a Purchase Contract (the "Purchase Contract") to be entered into among the County, the Corporation, and the Underwriters; and

WHEREAS, there have been prepared for review and consideration by the County Council the forms of: (a) the Amendatory Project Lease Agreement; (b) the Purchase Contract; (c) the Supplemental Trust Agreement; (d) the Preliminary Official Statements of the County (collectively, the "Preliminary Official Statement") to be used in the sale of the Series 2013 Certificates; and (e) the Escrow Deposit Agreement (collectively, the "Refunding Agreements");

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CHARLESTON COUNTY, SOUTH CAROLINA, as follows:

Section 1. Approval and Execution of Amendatory Project Lease Agreement. The lease of the Facilities by the County from the Corporation and the amendment of the Project Lease Agreement pursuant to the terms set forth in the Amendatory Project Lease Agreement are hereby approved, and the form of the Amendatory Project Lease Agreement as submitted herewith is hereby approved. The Chairman is hereby authorized and directed to execute and deliver the Amendatory Project Lease Agreement, with any changes, insertions, and omissions as may be approved by the Chairman, with the advice of counsel, his execution being conclusive evidence of his approval.

Section 2. Consent to Supplemental Trust Agreement. The County Council hereby consents to the amendment of the Trust Agreement and to the form of the Supplemental Trust Agreement now before this meeting, with any changes as may be thereafter made as shall be in furtherance of the transactions contemplated therein and in this Ordinance and as shall not be inconsistent with or contrary to the matters contemplated herein. The County Council hereby further consents to the execution and delivery of the Supplemental Trust Agreement by the parties thereto. The County Council covenants to observe and comply with all provisions pertaining to the County in the Trust Agreement as supplemented by the Supplemental Trust Agreement, including without limitation provisions concerning the use of proceeds of the Series 2013 Certificates.

Section 3. Consent to Series 2013 Certificates. (a) The County Council hereby consents to the execution and delivery of the Series 2013 Certificates, in the aggregate principal amount not to exceed \$31,900,000, evidencing proportionate interests in the Base Rent to be paid by the County under the Master Project Lease Agreement. The Series 2013 Certificates represent proportionate interests in the payments of Base Rent under the Master Project Lease Agreement and are divided and have been divided so as to provide for the allocation of \$5,000 principal components of Base Rent together with the corresponding interest components with respect thereto. The Series 2013 Certificates shall be executed and delivered only in fully registered form; shall be numbered R-1 and upward; and shall be in the denominations of \$5,000 (principal

component of Base Rent) and any integral multiple thereof. The Series 2013 Certificates shall be dated the date of original delivery to the Underwriters; shall carry with them the right to receive interest components of Base Rent on each May 1 and November 1, beginning November 1, 2013, from the most recent date to which such interest component of Base Rent has been paid or duly provided for, or, prior to the first such payment from the date of original delivery to the Underwriters. All other terms of the Series 2013 Certificates shall be approved by the Chief Financial Officer of the County (the "Chief Financial Officer") within the following parameters:

- (i) the Series 2013 Certificates shall bear interest at rates such that they result in a net present value savings for the Refunded COPs of not less than 2.5%;
- (ii) the principal amount of the Series 2013 Certificates shall not exceed \$31,900,000; and
- (iii) the final maturity of the Series 2013 Certificates shall be not later than December 1, 2021.

The Series 2013 Certificates shall be subject to redemption prior to maturity upon the terms and conditions approved by the Chief Financial Officer.

(b) Payments of Base Rent under the Master Project Lease Agreement with respect to the Series 2013 Certificates consist of (i) principal components or mandatory sinking fund redemptions, as the case may be, in amounts payable to the Holders of the Series 2013 Certificates on the dates as approved by the Chief Financial Officer subject to the provisions hereof; and (ii) interest components in amounts payable to the Holders of the Series 2013 Certificates for specific principal components at the rates per annum as approved by the Chief Financial Officer subject to the provisions hereof.

Section 4. Use of Proceeds of the Series 2013 Certificates. The proceeds of the Series 2013 Certificates, net of Underwriter's discount as provided in the Series 2013 Purchase Contract, shall be applied, as provided in the Supplemental Trust Agreement, (a) to fund the Escrow Deposit Agreement for the purpose of refunding the Refunded Certificates, (b) to satisfy the debt service reserve fund requirement for the Series 2013 Certificates, if any (c) to pay the premium of the municipal bond insurance policy, if any and (d) to pay costs of issuance of the Series 2013 Certificates.

Section 5. Sale of Series 2013 Certificates; Approval and Execution of Series 2013 Purchase Contract. The Series 2013 Certificates shall be sold to the Underwriters pursuant to the Purchase Contract for a price of par, as approved by the Chief Financial Officer. The Chief Financial Officer is hereby authorized and directed to execute and deliver the Purchase Contract, with any changes, insertions, and omissions as may be approved by the Chief Financial Officer subject to the provisions hereof, with the advice of counsel and the Financial Advisor, his execution being conclusive evidence of her approval.

Section 6. Approval of Preliminary Official Statement. A Preliminary Official Statement and its use in the offering and sale of the Series 2013 is hereby confirmed and ratified.

The County Council hereby authorize the certification of the Chief Financial Officer that the Preliminary Official Statement be deemed final within the meaning of S.E.C. Rule 15(c)(2)-12.

Section 7. Approval of Official Statement. The Official Statement of the County (the “Official Statement”) as approved by the Chief Financial Officer, upon the advice of counsel and the Financial Advisor, are hereby approved. The Chief Financial Officer is hereby authorised and directed to execute and deliver the Official Statement.

Section 8. Confirmation of the Appointment of Trustee. The County Council hereby confirms the appointment of The Bank of New York Mellon Trust Company, N.A., as Trustee, Registrar, and Paying Agent under the terms and conditions provided in the Trust Agreement.

Section 9. Approval and Execution of Escrow Deposit Agreement. The County Council hereby approves the Escrow Deposit Agreement. The Chief Financial Officer is hereby authorised and directed to execute and deliver the Escrow Deposit Agreement, with any changes, insertions, and omissions as may be approved by the Chief Financial Officer, with the advice of counsel and the Financial Advisor, his execution being conclusive evidence of her approval. The County hereby consents to the appointment of The Bank of New York Mellon Trust Company, N.A., as Escrow Agent under the terms and conditions provided in the Escrow Deposit Agreement.

Section 10. Execution of Closing Documents and Certificates. (a) The consummation of all transactions contemplated by the Refunding Agreements is hereby approved. The Chairman and all other appropriate officials and employees of the County, including the Clerk of County Council, the County Administrator, and the Chief Financial Officer, are hereby authorised to execute, deliver, and receive any other agreements and documents as may be required by the County in order to carry out, give effect to, and consummate the transactions contemplated by the Refunding Agreements.

(b) In the absence of the Chief Financial Officer of the County, the County Administrator may designate in writing any other officer or employee of the County to perform the duties of the Chief Financial Officer under this Ordinance.

Section 11. Law and Place of Enforcement of the Ordinance. This Ordinance shall be construed and interpreted in accordance with the laws of the State of South Carolina and all suits and actions arising out of this Ordinance shall be instituted in a court of competent jurisdiction in the State of South Carolina.

Section 12. Effective Date. This Ordinance shall become effective immediately upon approval after receiving third reading by the County Council.

Section 13. 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, that declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereof.

Section 14. Repeal of Inconsistent Ordinances. All ordinances, resolutions, and parts thereof in conflict herewith are, to the extent of the conflict, hereby repealed.

Section 15. No Personal Liability. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the County contained in this Ordinance, the Refunding Agreements, and the Series 2013 Certificates, against any member of the County Council, any officer or employee, as such, in his or her individual capacity, past, present, or future, of the County, either directly or through the County, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Ordinance, the Refunding Agreements, and the Series 2013 Certificates are solely corporate obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer, or employee as such, past, present, or future, of the County, either directly or by reason of any of the obligations, covenants, promises, or agreements, entered into between the County and the owners of the Series 2013 Certificates or to be implied therefrom as being supplemental hereto or thereto; and that all personal liability of that character against every such member, officer, and employee is, by the enactment of this Ordinance and the execution of the Refunding Agreements, and the Series 2013 Certificates, and as a condition of, and as a part of the consideration for, the enactment of this Ordinance and the execution of the Refunding Agreements, and the Series 2013 Certificates, expressly waived and released. The immunity of the members, officers, and employees, of the County under the provision contained in this Section shall survive the termination of this Ordinance.

Section 16. Effect of Article and Section Headings and Table of Contents. The heading or titles of the several Articles and Sections hereof, and any table of contents appended hereto or to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation, or effect of this Ordinance.

CHARLESTON COUNTY, SOUTH CAROLINA

(SEAL)

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Chairman, County Council of Charleston County

ATTEST:

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Clerk, County Council of Charleston County

First Reading: March 12, 2013  
Second Reading: March 26, 2013  
Public Hearing: March 26, 2013  
Third Reading: April 9, 2013