

ORIGINAL
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ORDINANCE NO. 2021-048

AUTHORIZING AN APPROPRIATION OR THE ISSUANCE BY THE CITY OF A TAX ANTICIPATION NOTE FOR THE FISCAL YEAR 2021-2022 PAYMENTS DUE UNDER THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE SOUTH CAROLINA JOBS-ECONOMIC DEVELOPMENT AUTHORITY AND THE CITY OF COLUMBIA, SOUTH CAROLINA, UNDER THE RECOVERSC LOCAL GOVERNMENT LIQUIDITY PROGRAM; AND OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Findings and Determinations. The City Council (the “*Council*”) of the City of Columbia, South Carolina (the “*City*”) hereby finds and determines:

A. The City is an incorporated municipality located in Richland County and Lexington County and as such possesses all powers granted to municipalities by the Constitution and laws of this State.

B. Pursuant to Section 5-5-10, Code of Laws of South Carolina 1976, as amended (the “*South Carolina Code*”), the City has selected the Council-Manager form of government and is governed by a City Council composed of a Mayor and six council members which constitute the governing body of the City.

C. Section 5-7-30 of the South Carolina Code provides, in part, that municipalities may enact ordinances, not inconsistent with the Constitution and general law of the State, respecting any subject which appears necessary and proper for the security, general welfare, and convenience of the municipality and for the preservation of the general health, peace, order and good government in the municipality, and further, under the case of Williams v. Town of Hilton Head, 429 S.E.2d 802 (1993), a municipality may enact regulations (ordinances) without the requirement for further specific statutory authorization so long as such regulations are not inconsistent with the Constitution and general law of the State.

D. The South Carolina Jobs-Economic Development Authority (“*Authority*”) has developed and implemented the RecoverSC Local Government Liquidity Program (“*Program*”) to provide a vehicle for South Carolina local governments to bridge potential financial gaps resulting from lost revenues or delayed collections and other financial impacts arising from the COVID-19 pandemic.

E. In November 2020, the City received an advance of funds under the Program in an amount not exceeding \$10,000,000 (“*Advance*”) in order to secure funds to continue to provide services to the citizens of the City and foster and promote their security and general welfare, and to preserve health, peace, order and good government, and entered into an Intergovernmental Agreement (“*Agreement*”) with the Authority, setting forth the terms and conditions of the City’s receipt of the Advance and providing for, among other things, semi-annual repayments (collectively, the “*Payments*,” and each, a “*Payment*”), subject to the City’s right to annually not appropriate funds therefor.

F. Under the terms of the Agreement, two Payments are scheduled to be made during the fiscal year ending June 30, 2022 (the “*FY 2022 Payments*”), and the City desires to authorize an appropriation of funds and, as an alternative, the issuance a tax anticipation note of the City (“*TAN*”) to provide funds for the FY 2022 Payments.

Section 2. FY 2022 Payments; Appropriation of Funds and Approval of Issuance of TAN. The City acknowledges that its obligation to pay the Payments under the Agreement is a current expense of the City and is dependent upon lawful appropriations of funds being made by the Council to pay the Payments in each fiscal year under the Agreement; provided, that the Agreement shall not in any way be construed to be a debt of the City in contravention of any applicable constitution or statutory limitations or requirements concerning the creation of indebtedness by the City, nor shall anything contained in this Ordinance or the Agreement constitute a pledge of the full faith, credit or taxing power of the City or a pledge of general tax revenues, funds moneys or credit of the City. Further, the City may make the Payments from any legally available source of revenues, subject to City’s right to not appropriate funds to make Payments in any fiscal year.

For the FY 2022 Payments, which will be due and payable in the fiscal year ending June 30, 2022 in the amounts of \$241,000 (September 30, 2021) and \$237,500 (March 16, 2022), respectively, the Council hereby appropriates funds sufficient therefor, and as an alternate source of funds for the FY 2022 Payments, authorizes the issuance of the TAN pursuant to Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended, and Title 11, Chapter 27 of the Code of Laws of the State of South Carolina, 1976, as amended, in an amount not exceeding the respective amounts of the FY 2022 Payments plus the amounts necessary to pay for the costs incurred in the issuance of the TAN.

If the Authorized Representative determines that the issuance of a TAN is in the best interest of the City to make the FY 2022 Payments, then the TAN shall be issued as a single fully-registered note at that time as may be determined by the Authorized Representative. Council delegates to the Authorized Representative the power to make all determinations with respect to the details of the TAN, including the form, maturity date, manner and time of sale and award, and redemption provisions, and authorizes the Mayor and the City Manager, or either of them acting alone, to execute the TAN in the name of and on behalf of the City and deliver it to the purchaser thereof.

For the payment of the principal of and interest on the TAN when and if issued, the City hereby pledges (i) the full faith, credit and taxing power of the City; and (ii) the ad valorem taxes in anticipation of which the TAN is issued.

The Authorized Representative may consult with the City’s bond counsel and financial advisor in making any determinations with respect to the TAN.

Section 3. Further Acts. The Authorized Representative is further authorized to take such actions and make such other determinations as may be necessary or appropriate (a) to facilitate the City’s participation in the Program and repayment of all or a portion of the Advance and (b) to carry out the transactions contemplated by this Ordinance and the Agreement, and is directed and empowered to consult with such counsel as the Authorized Representative determines, in his or her sole discretion, may be necessary or advisable regarding the Program and repayment of all or a portion of the Advance.

Section 4. Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Inconsistent Ordinances and Resolutions. All ordinances and resolutions of the City, and any part of any ordinance or resolution, inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings, to the extent of such conflict, are hereby repealed.

Section 6. Effective Date. This Ordinance shall be effective upon its enactment by the City Council for the City of Columbia, South Carolina.

Enacted by the City Council of the City of Columbia, South Carolina, this 15th day of June, 2021.



CITY COUNCIL OF THE CITY OF COLUMBIA,
SOUTH CAROLINA



Mayor

(SEAL)

ATTEST:

Crika D. M. Hammond

Clerk

First Reading: 6/1/2021
Second Reading: 6/15/2021