



Ordinance No. 2022-005

Board of County Commissioners

AN ORDINANCE OF THE COUNTY OF SALEM, STATE OF NEW JERSEY APPROVING AND AUTHORIZING THE ENTERING INTO, EXECUTION AND DELIVERY OF A LEASE AND AGREEMENT WITH THE SALEM COUNTY IMPROVEMENT AUTHORITY RELATING TO THE ISSUANCE OF COUNTY GUARANTEED LEASE REVENUE BONDS (COUNTY RADIO SYSTEM UPGRADE PROJECT), SERIES 2023, OF THE SALEM COUNTY IMPROVEMENT AUTHORITY AND AUTHORIZING A PUBLIC HEARING THEREON AND AUTHORIZING PUBLICATION THEREOF

WHEREAS, the Salem County Improvement Authority (the "Authority") is authorized by the County Improvement Authorities Law, chapter 183 of the Laws of 1960 of the State of New Jersey, as amended and supplemented (*N.J.S.A. § 40:37A-44 et seq.*) (the "Act"), to provide within the County of Salem, in the State of New Jersey (the "County"), public facilities (as defined in the Act) for use by the State of New Jersey (the "State"), the County or any municipality in the County, or any two (2) or more thereof or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes; and

WHEREAS, the Authority is authorized by the Act, specifically *N.J.S.A. 40:37A-78*, to enter into and perform any lease or other agreement with a county, municipality, governmental unit or person for the lease to or use by such county, municipality, governmental unit or person of all or any part of any public facility or facilities; and

WHEREAS, the County has determined to undertake a capital project consisting of the acquisition and installation of a new County-wide radio replacement system to upgrade existing communications by and among the County 911 Center and Municipal public safety entities (the "Communications Upgrade Project"); and

WHEREAS, the County has requested assistance from the Authority for purposes of providing funding to pay: (i) the costs associated with the Communications Upgrade Project; (ii) all other costs and expenses necessary for or related to the development, construction and equipping of the Communications Upgrade Project; (iii) capitalized interest on any bonds, notes or other debt obligations issued by the Authority to finance the costs thereof, including the Bonds (as hereinafter defined); and (iv) the costs of issuance with respect to the proposed financing, all as further set forth in the information submitted to the Authority in connection therewith or as previously discussed among the parties (collectively, the "2023 Project"); and

WHEREAS, the Authority, in recognition of the importance of the Communications Upgrade Project for the County, has offered to provide support and assistance to the County with respect to facilitating the financing of the 2023 Project;

WHEREAS, the Authority desires to permanently finance the cost of the 2023 Project, and has determined to issue and sell up to \$17,000,000 aggregate principal amount of its County Guaranteed Lease Revenue Bonds (County Radio System Upgrade Project), Series 2023, or a series of revenue notes in anticipation thereof or in addition thereto (collectively, the "Bonds") to finance certain costs of the 2023 Project; and

WHEREAS, the Authority will issue the Bonds pursuant to the Act, a bond resolution or note resolution to be duly adopted by the Authority (collectively, the "Bond Resolution") and either an Indenture of Trust or Bond Agreement, as shall be determined by the Authority, Bond Counsel and the County (collectively, the "Indenture"), to be entered between the Authority and a banking or trust company having trust powers in the State and, if necessary, the Purchaser (as hereinafter defined), which Bonds will constitute initial bonds under the Authority's Indenture and shall be on parity with any bonds issued or to be issued from time to time pursuant to such Indenture, and will offer and sell such Bonds through the placement or public sale thereof with a purchaser, an investment banking firm or investment bank to be selected by the Chairman, Vice Chairman, or Executive Director of the Authority in accordance with the Authority's procurement procedures (the "Purchaser") and the Bond Resolution, pursuant to a bond placement agreement, bond purchase agreement, or other similar document, as applicable; and

WHEREAS, the proposed financing structure for the 2023 Project entails the leasing of the Communications Upgrade Project from the Authority to the County in exchange for certain lease payments to be made by the County to the Authority ("Lease Payments") pursuant to a Lease and Agreement to be entered into by and between the County and the Authority (the "Lease"); and

WHEREAS, under the terms of the Lease, the Lease Payments shall be sufficient to pay the annual debt service on the Bonds; and

WHEREAS, there has been prepared and submitted to the County the form of the Lease, which is attached hereto as Exhibit A, which Lease may be subject to any changes, insertions or omissions as may be approved by the Chairman, Vice-Chairman or Executive Director of the Authority. All terms used herein and not otherwise defined shall have the same meanings ascribed to such terms under the Lease.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SALEM, STATE OF NEW JERSEY (not less than a majority of all members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. Pursuant to section 78 of the County Improvement Authorities Law and *N.J.S.A. 40:23-1 et seq.*, the County is hereby authorized and directed to enter into and perform the Lease, which Lease provides for the leasing of the Communications Upgrade Project to be acquired with the proceeds of County Guaranteed Lease Revenue Bonds (County Radio System Upgrade Project), Series 2023 (the "Bonds") and/or a series of revenue notes to be issues in addition thereto in anticipation thereof, to be issued by the Authority pursuant to the Bond Resolution and the Indenture. The Lease, in the form submitted herewith as Exhibit A (a copy of which is on file in the office of the Clerk of the Board of County Commissioners of the County), is hereby approved with such changes, amendments or modifications as may be approved by the Authority, the County and their professional advisors.

Section 2. The obligation of the County to make Lease Payments and Additional Lease Payments, including Authority Administrative Expenses (collectively, the "Lease Payment Obligation") under the Lease is subject to annual appropriation, payable solely from available revenues. The obligation of the County to pay such Lease Payment Obligation does not constitute a debt or liability of the County, or of any other agency, department or political subdivision of the State. The County's liability for Lease Payment Obligations under the Lease is limited solely to payments of sums appropriated as current expenses therefor and to the application of other Available Revenues thereto and neither the State nor any agency, department or political subdivision thereof, shall have additional liability except to the extent of any sums lawfully payable by them in respect of the Lease Payment Obligations as an approved current expense of the County.

An Authorized County Representative (as defined in the Lease) is hereby authorized and directed to execute the Lease on behalf of the County in substantially such form as attached hereto as Exhibit A and the Clerk of the Board of County Commissioners of the County is hereby authorized to attest to such signature and affix the seal of the County thereto and the Lease is authorized to be delivered to the Authority. All representatives, officials and employees of the County are hereby authorized and directed to enforce and to implement provisions of the Lease.

Section 3. The following additional matters are hereby determined, declared, recited and stated:

(a) The maximum Lease Payment Obligation for which the County shall be obligated hereunder, which, *inter alia*, will be used for the payment of principal of and interest on the Bonds of the Authority, shall not exceed the sum necessary to: (i) pay the debt service on the Bonds issued to finance the 2023 Project; and (ii) pay the County's share of the costs of issuance, Authority Administrative Expenses, Additional Lease Payments, County Guaranty Costs and all other amounts required to be paid by the County under the Lease, as and if applicable.

(b) The Lease Payment Obligation, and the term of the Lease, shall not exceed twenty (20) years from the effective date of the Lease.

(c) The Communications Upgrade Project is hereby approved to be leased from the Authority in accordance with the terms of the Lease, with such changes, amendments or modifications as may be approved by the County, the Authority and their professional advisors.

Section 4. As an "Obligated Person" (as defined under the Rule (as hereinafter defined)), the County hereby agrees to comply with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended and supplemented, including the secondary market disclosure requirements contained therein, and agrees to covenant to such compliance in the Lease. The Director, the Deputy Director, the County Administrator, the Clerk of the Board of County Commissioners, the Chief Financial Officer/Treasurer of the County or any other Authorized County Representative are each hereby authorized and directed to execute and deliver a Continuing Disclosure Agreement, approve and "deem final" the Preliminary and Final Official Statements of the Authority to the extent the information contained therein relates to the County and to execute and deliver all certificates, documents and agreements to the Authority in connection therewith and to file budgetary, financial and operating data on an annual basis and notices of certain enumerated events as required to comply with, and in accordance with, the provisions of the Rule.


Section 5. The Director, Deputy Director, Clerk of the Board of County Commissioners, Chief Financial Officer/Treasurer of the County or other Authorized County Representative are each hereby authorized and directed to execute and deliver any and all certificates, documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the execution and delivery of the Lease, the leasing of the Communications Upgrade Project which is to be the subject of the Lease, and all related transactions contemplated by this ordinance.

Section 6. The provisions of this ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue to be in full force and effect.

Section 7. The Clerk of the Board of County Commissioners is hereby authorized and directed to cause the publication of the text of this ordinance in full or in summary after introduction and final adoption in accordance with applicable law and to arrange for the public hearing hereon and final adoption hereof, which public hearing shall be held at a public meeting of the Board of County Commissioners.


Section 8. This ordinance shall take effect twenty (20) days after final adoption and publication in accordance with applicable law.

I, Stacy L. Pennington, Clerk of the Board of County Commissioners of the County of Salem, State of New Jersey, do hereby certify that the above is a true copy of the original ordinance introduced by the Salem County Board of County Commissioners on December 7, 2022.



STACY L. PENNINGTON,
Clerk of the Board of County Commissioners

I, Stacy L. Pennington, Clerk of the Board of County Commissioners of the County of Salem, State of New Jersey, do hereby certify that the above is a true copy of the original ordinance finally adopted by the Salem County Board of County Commissioners on December 21, 2022.



STACY L. PENNINGTON,
Clerk of the Board of County Commissioners