

ORDINANCE NO. 2022- 08-02-04

AN ORDINANCE OF COUNTY OF SHELBY, KENTUCKY, AUTHORIZING THE ISSUANCE OF TWO SERIES OF INDUSTRIAL REVENUE BONDS HAVING AN AGGREGATE PRINCIPAL AMOUNT OF UP TO \$36,000,000 AND DESIGNATED THE COUNTY OF SHELBY, KENTUCKY, INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2022A (RFC LLC PROJECT), AND THE COUNTY OF SHELBY, KENTUCKY, INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2022B (RFC LLC PROJECT), FOR THE PURPOSE OF FINANCING AN INDUSTRIAL BUILDING PROJECT; APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF (A) TWO LEASE AGREEMENTS BETWEEN THE COUNTY, AS LESSOR, AND RFC LLC, AS LESSEE, (B) SEPARATE BOND PURCHASE AGREEMENTS PROVIDING FOR THE ISSUANCE, SALE, AND DELIVERY OF EACH SERIES OF THE BONDS AND PROVIDING FOR THEIR NEGOTIATED SALE, AND (C) OTHER RELATED DOCUMENTS; AND TAKING OTHER RELATED ACTIONS

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COUNTY: SHELBY COUNTY  
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WHEREAS, County of Shelby, Kentucky (the "*Issuer*"), pursuant to the provisions of Sections 103.200 to 103.285, inclusive, of the Kentucky Revised Statutes, as amended (the "*Act*"), is authorized to issue its revenue bonds and to make the proceeds from the sale thereof available to a company to finance industrial building facilities as defined in the Act, such bonds being payable from rental payments made by such company; and, under the Act, the financing of industrial buildings constitutes a valid public purpose; and

WHEREAS, RFC LLC, a Kentucky limited liability company (the "*Company*"), proposes that the Issuer, pursuant to the Act, assist the Company in financing the acquisition of new industrial building facilities to be acquired, constructed, installed, improved, commissioned and equipped by the Company within the Brooks Industrial Park, such facilities to be utilized in the manufacture of metals products, including without limitation up to approximately twelve acres of land, an approximately 125,000 square foot manufacturing plant and fixtures, machinery, equipment and other personal property (collectively as the "*Project*" (which is more particularly described in the Lease Agreements hereinafter identified and approved)); and the Project qualifies for financing as an "industrial building" within the meaning of the Act; and

WHEREAS, the acquisition, construction, installation, and equipping of the Project is expected to promote economic development and to encourage the increase of industry within the environs of the Issuer and the Commonwealth of Kentucky; and

WHEREAS, on December 20, 2021 the Fiscal Court of the Issuer adopted a resolution (the "*Inducement Resolution*") approving the industrial revenue bond financing for the Company's

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benefit, reaffirming the Issuer's agreement in prior correspondence and discussions to undertake such financing at the appropriate time; and

**WHEREAS**, at the Company's request the Issuer is prepared, pursuant to the Act, to issue two series of its industrial revenue bonds for the purposes of financing the acquisition, construction, installation, improvement, commissioning and equipping of the Project and paying costs of issuance of each series of the industrial revenue bonds, upon terms that are to be set forth in the two Lease Agreements hereinafter identified and approved; and

**WHEREAS**, pursuant to the provisions of Section 103.220 of the Act, the Company has made a request in writing, that the sale of the industrial revenue bonds hereinafter identified and authorized, bearing interest as set out in two Bond Purchase Agreements hereinafter identified and approved, shall be made upon a negotiated basis; and

**WHEREAS**, it is necessary and proper in the interests of the health, safety, convenience, and general welfare of the citizens, residents, and inhabitants of the Issuer and its environs that the Issuer (a) authorize the issuance of the two series of industrial revenue bonds in order to finance, for the Company's benefit, the acquisition, construction, installation, improvement, commissioning and equipping of the Project and to pay certain costs of issuance of each series of the industrial revenue bonds; (b) authorize the execution of two Lease Agreements between the Issuer, as lessor, and the Company, as lessee; (c) authorize the execution of two Bond Purchase Agreements among the Issuer, the Company, the Purchaser (hereinafter defined), and the Servicing Agent (hereinafter defined) providing for the issuance, sale, and delivery of the industrial revenue bonds by the Issuer to the Purchaser identified below; and (d) authorize the execution of other necessary or related documents and related actions.

**NOW, THEREFORE, COUNTY OF SHELBY, KENTUCKY, ACTING BY AND THROUGH ITS FISCAL COURT, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** For the purposes set forth in the preamble, which is incorporated as a part hereof, the Issuer, acting by and through its Fiscal Court, hereby:

(a) Confirms and ratifies the Inducement Resolution and the prior discussions, correspondence, and agreements, whereby the Issuer agreed to authorize and issue bonds for the Company in order to finance the Project;

(b) Accepts from the Company the conveyance of the Project, including the associated land, subject to the terms and conditions contained in the instruments of conveyance and in the Lease Agreements hereinafter identified and approved;

(c) Authorizes the sale, issuance, execution, and delivery of the County of Shelby, Kentucky, Industrial Building Revenue Bonds, Series 2022A (RFC LLC Project) (the "*Series 2022A Bonds*"), which shall be issued in the form and subject to the terms and specifications set forth in the Bond Purchase Agreement identified below governing the issuance and delivery of the Series 2022A Bonds;

(d) Authorizes the sale, issuance, execution, and delivery of the County of Shelby, Kentucky, Industrial Building Revenue Bonds, Series 2022B (RFC LLC Project) (the "*Series 2022B Bonds*") and together with the Series 2022A, the "*Series 2022 Bonds*"), which shall be issued in the form and subject to the terms and specifications set forth in the Bond Purchase Agreement identified below governing the issuance and delivery of the Series 2022A Bonds;

(e) Authorizes the issuance of the Series 2022 Bonds in an aggregate maximum principal amount of up to \$36,000,000; and

(f) Authorizes the use of the proceeds of the Series 2022 Bonds, as provided in the Bond Purchase Agreements and the Lease Agreements, to pay a portion of the costs of acquisition, construction, installation, improvement, commissioning and equipping of the Project and to pay certain costs of issuance of the Series 2022 Bonds.

**Section 2.** The Judge/Executive of the Issuer is hereby authorized, empowered, and directed to execute, acknowledge, and deliver on behalf of the Issuer certain Lease Agreements between the Issuer, as lessor of the Project, and the Company, as lessee (the "*Lease Agreements*"), which Lease Agreements are hereby approved, authorized, and adopted in substantially the form submitted herewith, with such changes therein as the official executing the same may require or approve on behalf of the Issuer, such approval to be conclusively evidenced by the execution and delivery thereof. Each Lease Agreement may be amended, as required by the Company, with approval from the Judge/Executive and Bond Counsel, without further action of the Fiscal Court, provided such amendments are not inconsistent with the provisions of this Ordinance and comply with the provisions of the Act. Such amendments shall be conclusively evidenced by execution by the Judge/Executive, which execution and approval are hereby authorized without further action of the Fiscal Court.

**Section 3.** To provide for the authorization of the Series 2022 Bonds and to prescribe the terms and conditions upon which the Series 2022 Bonds are to be issued, outstanding, secured, executed, accepted, and held, the Judge/Executive is hereby authorized, empowered, and directed to execute and acknowledge on behalf of the Issuer certain Bond Purchase Agreements (the "*Bond Purchase Agreements*") among the Issuer, the Company, RFC Investments LLC, a Kentucky limited liability company, as Servicing Agent (the "*Servicing Agent*"), and RFC Investments LLC, a Kentucky limited liability company, as the Purchaser of the Series 2022 Bonds (the "*Purchaser*"), and the Judge/Executive is hereby authorized, empowered, and directed to cause the Bond Purchase Agreements to be accepted and executed by the Servicing Agent, hereby so appointed. The Bond Purchase Agreements are hereby approved, authorized, and adopted in substantially the form submitted herewith, with such changes as the officer executing the same may require or approve on behalf of the Issuer, such approval to be conclusively evidenced by the execution and delivery thereof. Each Bond Purchase Agreement may be amended, as required by the Company, with approval from the Judge/Executive and Bond Counsel, without further action of the Fiscal Court, provided such amendments are not inconsistent with the provisions of this Ordinance and comply with the provisions of the Act. Such amendments shall be conclusively evidenced by execution by the Judge/Executive, which execution and approval

are hereby authorized without further action of the Fiscal Court. Upon the conveyance of title to the Project to the Issuer, the Bonds will be secured by a nonforecloseable statutory mortgage lien on the Project as provided by Section 103.250 of the Act. The Series 2022 Bonds will mature as to principal no later than forty years after their date of issuance, will be subject to optional redemption and, as to the Series 2022A Bonds, termination, will bear interest payable periodically at a fixed rate, all as provided in the Bond Purchase Agreements, reference to which is hereby made. The interest rate on the Series 2022 Bonds shall in no event exceed 7.0% per annum. The sale of the Series 2022 Bonds pursuant to the terms of the Bond Purchase Agreements is hereby authorized, approved, and directed.

**Section 4.** With respect to the sale of the Series 2022 Bonds, and upon the recommendation of the Company, the Issuer further approves, and the Judge/Executive is authorized and directed to execute and deliver on behalf of the Issuer, certain Assignments of Lease Agreement between the Issuer and the Purchaser (the "*Assignments*"), being in substantially the form submitted herewith, with such changes as the officer executing the same may require or approve on the Issuer's behalf, such approval to be conclusively evidenced by the execution and delivery thereof. Each Assignment may be amended, as required by the Company, with approval from the Judge/Executive and Bond Counsel, without further action of the Fiscal Court, provided such amendments are not inconsistent with the provisions of this Ordinance and comply with the provisions of the Act. Such amendments shall be conclusively evidenced by execution by the Judge/Executive, which execution and approval are hereby authorized without further action of the Fiscal Court.

**Section 5.** The Judge/Executive, the Fiscal Court Clerk, the County Attorney, and other appropriate officials of the Issuer, and each of them, for and on behalf of the Issuer, are hereby authorized, empowered, and directed to do and perform any and all things necessary to effect the execution and delivery of the Bond Purchase Agreements, the Lease Agreements, the Assignments, and all related documents, the performance of all obligations and the preservation of all rights of the Issuer thereunder, the execution and delivery of the Series 2022 Bonds and the performance from time to time of all other actions of whatever nature necessary to carry out the authority conferred or contemplated by and the purposes of this Ordinance, the Bond Purchase Agreements, the Lease Agreements, the Assignments, and related documents, and further to approve and to execute all papers, documents, certificates, or other instruments that may be required for the carrying out and effectuation from time to time of the authority conferred by and the purpose of this Ordinance, the Bond Purchase Agreements, the Lease Agreements, the Assignments, the Series 2022 Bonds, and all related documents, or to evidence said authority and purposes.

**Section 6.** For the acquisition, construction, installation, improvement, commissioning and equipping of the Project, and the financing thereof, the Issuer at Company's request shall execute, acknowledge, and deliver on behalf of the Issuer any mortgage(s) or other financing statements or agreements authorized and approved by the Company and the owner of the bonds (the "*Bondholder*"), including any collateral sharing or subordination agreements, as may be required by the Company and the Bondholder, without further action of the Fiscal Court, provided

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that the terms of such mortgage(s), financing statements or agreements, or collateral sharing or subordination agreements are not inconsistent with the provisions of the Act or this Ordinance and do not create a liability of the County. The approval of such mortgage(s), financing statements or agreements, or collateral sharing or subordination agreements, for either series of the Series 2022 Bonds, shall be conclusively evidenced by their execution by the Judge/Executive, which execution and approval are hereby authorized without further action of the Fiscal Court.

**Section 7.** The Issuer hereby finds and affirms that the Project is an “industrial building” within the meaning of KRS 103.200(1)(a).

**Section 8.** The Issuer shall never be required to pay from its own funds any obligations deriving from the issuance of the Series 2022 Bonds, and the Series 2022 Bonds are declared to be special and limited obligations payable solely and only from the receipts derived under the Lease Agreement and the “*Pledged Receipts*” pledged under and defined by the Bond Purchase Agreement, as provided in the documents herein approved.

**Section 9.** The provisions of this Ordinance may be supplemented from time to time by resolution of the Fiscal Court.

**Section 10.** The provisions of this Ordinance are hereby declared to be severable and, if any section or provision shall, for any reason, be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

**Section 11.** Upon any conflict between the provisions of this Ordinance and of any prior ordinance, resolution, or parts thereof, the provisions of this Ordinance shall prevail.

**Section 12.** This Ordinance shall be in full force and effect from and after its adoption as provided by law. The summary of this Ordinance read at the meetings of the Fiscal Court described below is approved for such purposes and for the purpose of publication as provided by law, and the accuracy of such summary is hereby certified.

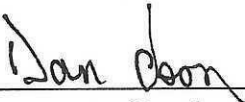
*[Signature Page Follows]*


SIGNATURE PAGE TO SERIES 2022 BOND ORDINANCE

INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened meeting of the Fiscal Court of County of Shelby, Kentucky, held on July 19, 2022.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of County of Shelby, Kentucky, held on August 2, 2022, signed by the Judge/Executive, ordered published in summary form, and duly enrolled as required by law.

Attest:

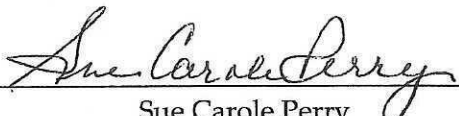
  
\_\_\_\_\_  
Dan Ison  
County Judge/Executive

  
\_\_\_\_\_  
Sue Carole Perry  
Fiscal Court Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the duly qualified and acting Fiscal Court Clerk of County of Shelby, Kentucky (the "Issuer"), and as such Clerk I further certify that the foregoing is a true, correct, and complete copy of an Ordinance duly adopted by the Fiscal Court of the Issuer upon second reading at a duly convened meeting held on August 2, 2022, signed by the Judge/Executive and now in full force and effect, all as appears from the official records of said Issuer in my possession and under my control.

IN WITNESS WHEREOF, I have hereunto set my hand this 8/2, 2022.

  
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Sue Carole Perry  
Fiscal Court Clerk  
County of Shelby, Kentucky