



Legislation Details (With Text)

**File #:** O-365-22      **Version:** 1      **Name:**

**Type:** Ordinance      **Status:** Approved

**File created:** 7/7/2022      **In control:** Finance Department

**On agenda:** 7/19/2022      **Final action:** 7/19/2022

**Title:** Authorizing the issuance and sale of Water System Revenue Refunding Obligations of the City in an aggregate principal amount not to exceed \$225,000,000 for the purpose of paying costs of refunding outstanding water system revenue bonds of the City; authorizing the execution of one or more Supplemental Indentures to supplement the Amended and Restated Trust Indenture securing outstanding water system revenue bonds of the City; authorizing the execution of a Loan and Refinancing Agreement to provide a loan to the City evidenced by such Water System Revenue Refunding Bonds; authorizing and approving related matters; and declaring an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
7/19/2022	1	City Council		
7/19/2022	1	City Council		
7/19/2022	1	City Council		

DPU041113 WATER BONDS (REFUNDING ISSUE)  
 Utilities Administration  
 Ed Moore (x1845)

**Authorizing the issuance and sale of Water System Revenue Refunding Obligations of the City in an aggregate principal amount not to exceed \$225,000,000 for the purpose of paying costs of refunding outstanding water system revenue bonds of the City; authorizing the execution of one or more Supplemental Indentures to supplement the Amended and Restated Trust Indenture securing outstanding water system revenue bonds of the City; authorizing the execution of a Loan and Refinancing Agreement to provide a loan to the City evidenced by such Water System Revenue Refunding Bonds; authorizing and approving related matters; and declaring an emergency.**

**SUMMARY & BACKGROUND:**

The City is authorized under Article XVIII of the Constitution of the State of Ohio and the Charter of the City to: (a) own and operate the public utility referred to as the Water System (the “Utility”); (b) borrow money for the purpose of paying costs of improvements to the Utility and refunding outstanding bonds previously issued for that purpose; and (c) issue bonds or other obligations secured by a pledge of and lien on the Net Revenues of the Utility. By Ordinance No. 345-84, passed May 15, 1984, this Council authorized an Indenture of Mortgage dated as of June 1, 1984 (the “Original Indenture”) to secure water system revenue bonds issued by the City. The Original Indenture was amended and restated effective as of June 1, 2003 as provided in the Amended and Restated Indenture (Fifth Supplemental Indenture), under authority of Ordinance No. 250-03

passed by this Council on April 15, 2003 (the Original Indenture, as amended by the Amended and Restated Indenture and as further amended to date, is referred to herein as the “**Indenture**”). As of July 1, 2022, the aggregate amount of bonds that the Utility has issued under the Indenture that remains outstanding is \$380,300,000 (the “**Outstanding Bonds**”).

The Department of Finance and Department of Public Utilities have advised that, if interest rates available on the sale date will provide satisfactory savings to the City, the City should issue revenue bonds in one or more series in the maximum aggregate principal amount of \$225,000,000 (the “**Refunding Obligations**”) under the Indenture and, if requested, enter in to a loan agreement with a lender to make a loan to the City evidenced by the Refunding Obligations to (i) pay costs of refunding all or a portion of the Outstanding Bonds, (ii) make any required deposits to the Debt Service Reserve Fund, (iii) pay interest on the Refunding Obligations, and (iv) pay costs of issuance of the Refunding Obligations.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

Section 1. Definitions. In addition to the words and terms elsewhere defined in this Ordinance, the following words and terms as used in this Ordinance shall have the following meanings:

“**Bond Counsel**” means Squire Patton Boggs (US) LLP.

“**Bond Fund**” means the Bond Fund created by the Indenture.

“**Bond Service Charges**” means, for any period of time, the principal of and interest and any redemption premium due on the Refunding Obligations for that period or payable at that time (whether on a principal or interest payment date or pursuant to or upon redemption or otherwise), as the case may be.

“**Certificate of Award**” means one or more certificates executed by the Director of Finance providing for the final terms of the Refunding Obligations pursuant to and in accordance with this Ordinance, including, without limitation, Section 3 of this Ordinance.

“**Clerk**” means the Clerk of Council of the City.

“**Closing Date**” means the date of physical delivery of the Refunding Obligations.

“**Code**” means the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section of the Code includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to that Section.

“**Debt Service Reserve Fund**” means the Debt Service Reserve Fund created by the Indenture.

“**Depository**” means any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a book-entry system to record ownership of book-entry interests in bonds, and to effect transfers of book-entry interests in bonds, and includes and means initially DTC.

“**Director of Finance**” means the person at the time performing the duties of the chief financial officer and fiscal officer of the City.

“**Director of Law**” means the person at the time performing the duties of the chief legal officer of the City.

“**Director of Public Utilities**” means the person at the time performing the duties of the chief officer of the Department of Public Utilities.

“**DTC**” means The Depository Trust Company (a limited purpose trust company), New York, New York.

“**Escrow Agent**” means the Trustee in its capacity as Escrow Agent under the Escrow Agreement.

“**Escrow Agreement**” means one or more agreements between the City and the Escrow Agent, authorized by Section 6 of this Ordinance.

“**Holders**” means the persons in whose name the Bonds are registered on the Register maintained by the Registrar.

“**Interest Payment Date**” or “**Interest Payment Dates**” means the dates established as such in the Certificate of Award.

“**Lender**” means the entity, if any, entering into the Loan and Refinancing Agreement, as identified in the Certificate of Award.

“**Loan and Refinancing Agreement**” means the Loan and Refinancing Agreement entered into by the City and the Lender to provide for the Taxable Loan and the Tax-Exempt Loan, and pursuant to which the obligation of the City to repay the Taxable Loan and the Tax-Exempt Loan is evidenced by the Taxable Refunding Obligations and the Tax-Exempt Refunding Obligations, respectively.

“**Loans**” means, collectively, the Taxable Loan and the Tax-Exempt Loan.

“**Mayor**” means the person at the time performing the duties of the chief executive and administrative officer of the City.

“**Municipal Advisor**” means with respect to the Refunding Obligations, PFM Financial Advisors LLC, together with any other municipal advisor identified in the Certificate of Award.

“**Net Revenues**” means the Net Revenues as defined in the Indenture.

“**Original Purchaser**” means, as to the Refunding Obligations, the original purchaser or purchasers identified in the Certificate of Award.

“**Refunded Bonds**” means those Outstanding Bonds designated in the Certificate of Award as the Bonds to be refunded with proceeds of the Refunding Obligations.

“**Supplemental Indenture**” means one or more supplemental indentures between the City and the Trustee securing the Refunding Obligations and authorized under Section 6 of this Ordinance.

“**Taxable Loan**” means the Taxable Loan extended by the Lender to the City under the Loan and

Refinancing Agreement, where the obligation of the City to repay such Taxable Loan is evidenced by the Taxable Refunding Obligations.

“**Taxable Refunding Obligations**” means those Refunding Obligations not issued as Tax-Exempt Refunding Obligations.

“**Tax-Exempt Loan**” means the Tax-Exempt Loan extended by the Lender to the City under the Loan and Refinancing Agreement, where the obligation of the City to repay such Tax-Exempt Loan is evidenced by the Tax-Exempt Refunding Obligations.

“**Tax-Exempt Refunding Obligations**” means those Refunding Obligations to be issued in such a manner that the interest on which will be excluded from gross income for federal tax purposes.

“**Trustee**” means The Bank of New York Mellon Trust Company, N.A.

The captions and headings in this Ordinance are solely for convenience of reference and do not define, limit or describe the scope or intent of any provisions or Sections of this Ordinance.

Section 2. Authorization of the Refunding Obligations. This Council finds and determines it is necessary and proper and in the best interest of the City to issue the Refunding Obligations and, if requested by the Lender, enter into the Loan and Refinancing Agreement with the Lender for the purpose of refunding the Refunded Bonds, making any required deposit to the Debt Service Reserve Fund, paying interest on the Refunding Obligations and paying costs of issuing the Refunding Obligations. The principal amount of the Refunding Obligations is to be the amount set forth in the Certificate of Award authorized in Section 3. The aggregate principal amount of Refunding Obligations shall not exceed \$225,000,000, subject to Section 3(a) herein, and shall be the amount determined by the Director of Finance, based on the advice of the Municipal Advisor, to be necessary to refund the Refunded Bonds and to obtain a net present value debt service savings with respect to the Refunded Bonds. The proceeds from the sale of the Refunding Obligations shall be allocated, deposited and applied as provided in Section 4 of this Ordinance.

The Refunding Obligations may be issued in one or more separate series, each bearing a distinctive designation, provided that the Refunding Obligations of each series satisfy the requirements of this Ordinance. Separate series of Refunding Obligations may be issued at the same or different times. The Refunding Obligations of each series shall be designated as provided in the applicable Certificate of Award. A separate Certificate of Award and a separate Supplemental Indenture may be, but is not required to be, delivered for each series of Refunding Obligations.

The Refunded Bonds shall be designated by the Director of Finance in the Certificate of Award and shall consist of those Outstanding Bonds that can be refunded with the proceeds of the Refunding Obligations, the refunding of which Outstanding Bonds will enable the City, in the judgment of the Director of Finance, based on the advice of the Municipal Advisor, to obtain net present value debt service savings with respect to the Bonds so refunded. The Refunded Bonds shall be called for redemption or retired on the date or dates specified in the Certificate of Award. The redemption dates so specified shall be the dates required under the Code for compliance with Section 149(d) of the Code.

Section 3. Sale of Refunding Obligations. The Refunding Obligations shall be sold to the Original Purchaser or delivered to the Lender, as applicable, pursuant to the Certificate of Award. The Mayor and Director of Finance shall sign and deliver the Certificate of Award for the Refunding Obligations of each series, one or more of which shall specify and set forth the following details with respect to the Refunding

Obligations:

- (a) the aggregate principal amount, assuming that the Refunding Obligations are to be initially sold at a price at least equal to their aggregate principal amount, but, if any of the Refunding Obligations are to be initially sold at an original issue discount, the maximum aggregate principal amount of Refunding Obligations may be increased over that amount by an amount equal to the aggregate original issue discount net of the aggregate original issue premium;
- (b) The dated date or dates of the Refunding Obligations;
- (c) the purchase price to be paid to the City by the Original Purchaser or the amount of the Taxable Loan extended to the City by the Lender, as applicable, which amount shall be not less than: (i) 97% of the amount determined by subtracting from the aggregate principal amount of the Refunding Obligations any aggregate original issue discount net of any aggregate original issue premium with respect to the Refunding Obligations, plus (ii) any accrued interest on the Refunding Obligations from their date to the date of their delivery to the Original Purchaser;
- (d) whether any Refunding Obligations or related Loans are subject to optional redemption or prepayment prior to maturity, the earliest optional redemption date or prepayment date for those Refunding Obligations or related Loans subject to prior redemption or prepayment, which shall be not later than ten years from the first interest payment date of the applicable series, and the applicable redemption price or prepayment price, which shall be not greater than 102% of the principal amount redeemed or prepaid;
- (e) the circumstances under which the Refunding Obligations and related Loans may be subject to mandatory redemption (other than mandatory sinking fund redemption) or mandatory prepayment prior to maturity;
- (f) the dates on which the principal of Refunding Obligations is to be paid, which final payment shall be not later than November 15, 2052, with an identification of whether the payment is due by stated maturity or by mandatory sinking fund redemption of Refunding Obligations of a particular maturity;
- (g) the interest rates to be borne by Refunding Obligations and related Loans, which shall not exceed 7.0% per year as to Refunding Obligations and Loans of any maturity. The Refunding Obligations of the same series and same maturity may bear interest at different interest rates;
- (h) the Interest Payment Dates;
- (i) the particular Outstanding Bonds or portions thereof to be Refunded Bonds;
- (j) any deposit required to be made to the Debt Service Reserve Fund;
- (k) those Refunding Obligations to be issued as Tax-Exempt Refunding Obligations and those Refunding Obligations to be issued as Taxable Refunding Obligations, in each corresponding to the related Tax-Exempt Loans and Taxable Loans, respectively;
- (l) the amount of proceeds of the Refunding Obligations and related Loans, if any, to be used to pay interest on the Refunding Obligations and related Loans; and
- (m) the title and series designation for the Refunding Obligations.

It is determined that the terms of the Refunding Obligations and related Loans as so determined within the limitations set forth in this Ordinance and as so specified and set forth in the Certificate of Award will be in the best interest of the City and consistent with all legal requirements.

Section 4. Application of Proceeds of Refunding Obligations and related Loans. The City shall deposit the proceeds of the sale of the Refunding Obligations and related Loans as follows:

(a) to the Trustee, for deposit to the credit of the Interest Account in the Debt Service Fund, the amounts, if any, (i) to be used to pay interest on the Refunding Obligations and (ii) received by the City upon delivery of the Refunding Obligations and execution of the Loan and Refinancing Agreement as accrued interest on any Refunding Obligations from their dated date to the Closing Date;

(b) to the Trustee, for deposit to the credit of the Debt Service Reserve Fund, any amount identified in the Certificate of Award as required to be deposited in the Debt Service Reserve Fund;

(c) to the Trustee, for deposit to the credit of any Escrow Fund established pursuant to any Escrow Agreement, any proceeds to be applied in accordance with the Escrow Agreement to refund the Refunded Bonds; and

(d) to the Department of Public Utilities the balance of the proceeds, if any, to be used to pay costs of issuing the Refunding Obligations and the execution and delivery of the Loan and Refinancing Agreement.

Provision shall be made in the Supplemental Indenture for the application of any amounts held in the funds and accounts established under the Indenture and no longer required for the security of the Bonds as a result of the Refunded Bonds no longer being Outstanding, or any amounts that otherwise are in excess of the required balances. Provisions may be made in the Supplemental Indenture for the creation of separate accounts within the funds established under the Indenture or Supplemental Indenture.

Section 5. Terms and Provisions Applicable to the Refunding Obligations.

(a) Form; Exchange and Transfer. All Refunding Obligations shall be issued in fully registered form. The Refunding Obligations initially may be delivered in certificated form registered in the name of the Lender, or at the direction of the Purchaser of the Refunding Obligations, in book-entry form, in which case they shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Supplemental Indenture.

(b) Denominations. The Refunding Obligations of each series shall be issued in the denominations permitted in the Supplemental Indenture.

(c) Interest and Place of Payment. The Refunding Obligations shall bear interest at their respective interest rates specified in the Certificate of Award, payable on each Interest Payment Date. The Refunding Obligations of each series shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their dated date. The principal and any redemption premium and the interest payable on each 2022 Refunding Bond shall be payable at the times, to the persons and in the manner set forth in, or referenced by, the Supplemental Indenture, including, without limitation, provisions thereof permitting special arrangements for payments to the Depository.

(d) Maturities. The Refunding Obligations shall mature on the date or dates provided in the Certificate of Award.

(e) Optional and Mandatory Redemption. The Refunding Obligations may be subject to redemption prior to maturity at the option of the City, if and to the extent so provided in the Certificate of Award. Any Refunding Obligations so determined to be subject to optional redemption and maturing by their stated terms after the earliest optional redemption date shall be subject to redemption at the option of the City on or after the earliest optional redemption date in whole or in part on any date at the redemption prices provided in the Certificate of Award and in accordance with the applicable Supplemental Indenture and the Indenture. The Refunding Obligations designated in the Certificate of Award as term bonds subject to mandatory sinking fund redemption shall be redeemed prior to maturity on each mandatory redemption date designated in the Certificate of Award in the aggregate amount of the sinking fund installment to be paid on such mandatory redemption date, all as provided in the Certificate of Award and in accordance with the Supplemental Indenture.

(f) Execution. The Refunding Obligations shall be signed by the persons and in the manner set forth in the Indenture.

(g) Numbering. The Refunding Obligations shall be numbered as determined by the Director of Finance.

Section 6. Authorization of Loan and Refinancing Agreement, Supplemental Indenture and Escrow Agreement. In order to provide for the Taxable Loans and Tax-Exempt Loans and to secure the payment of the principal of, premium, if any, and interest on the Refunding Obligations, the Mayor, Director of Finance and Director of Public Utilities, or any two of them, are authorized and directed, in the name and on behalf of the City, to sign and deliver the Loan and Refinancing Agreement, if applicable, and with respect to the Refunding Obligations, to sign and deliver to the Trustee, in trust for the Lender, or if applicable, the Original Purchaser and subsequent holders of the Refunding Obligations, one or more Supplemental Indentures, approved as to form by the Director of Law, substantially in the form of the Loan and Refinancing Agreement and Supplemental Indenture, as applicable, on file with the Clerk, with such changes not inconsistent with this Ordinance, the Certificate of Award and the Indenture and not substantially adverse to the City as may be approved by the officers signing the same on behalf of the City. The signing and delivery of that Loan and Refinancing Agreement and the Supplemental Indenture by those officers shall conclusively evidence the determination by those officers that such Loan and Refinancing Agreement and such Supplemental Indenture are not [substantially][materially] adverse to the City.

In order to cause the proceeds of the Refunding Obligations and the related Loans and any funds of the City deposited in an Escrow Fund to be invested as permitted under Section 9.02 of the Indenture so that the Refunded Bonds are deemed paid and discharged, and in order to cause the amount to be deposited to be dedicated and applied to the payment of the principal of and interest and any redemption premium on the Refunded Bonds as and when due, to and including the applicable redemption date, the Mayor, Director of Finance and Director of Public Utilities, or any two of them, are authorized and directed, in the name and on behalf of the City, to sign and deliver one or more Escrow Agreements between the City and the Trustee as Escrow Agent, approved as to form by the Director of Law, and substantially in the form of the Escrow Agreement now on file with the Clerk, providing for the establishment of an Escrow Fund as a trust fund in the custody of the Trustee and the investment, dedication and application of the moneys deposited in the accounts therein and further providing for the payment of the fees and expenses of the Trustee for the performance of its duties as Escrow Agent. Each Escrow Agreement shall provide for the redemption of the applicable Refunded Bonds subject to redemption in accordance with the Certificate of Award and shall provide irrevocable

instruction to the Trustee to affect such redemption in accordance with the Indenture. The Mayor, Director of Finance and the Director of Public Utilities, or any two of them, are authorized, in the name and on behalf of the City, to sign and deliver agreements, approved as to form by the Director of Law, with one or more institutions, including agreements to enable the City to more efficiently structure an Escrow Fund, and thereby maximize debt service savings and minimize negative arbitrage. The Director of Finance is authorized and directed to take such other actions as may be necessary or appropriate to accomplish the refunding of the Refunded Bonds, including without limitation, the retention of a firm of independent certified public accountants or other qualified finance professionals to verify that the securities to be in an Escrow Fund are of such maturities or redemption dates, and interest payment dates, and bear such interest, as will be sufficient, together with any available moneys in an Escrow Fund, for the payment of debt service on the Refunded Bonds.

Section 7. Security for the Refunding Obligations. As provided in the Indenture, the Refunding Obligations shall be payable solely from the Net Revenues and the funds established under the Indenture and shall be secured equally and ratably by (i) a pledge of and a lien on (A) the Pledged Funds and (B) the Net Revenues, provided, however, that any pledge of or lien on any fund, account, receivables, revenues, money or other intangible property not in the custody of the Trustee shall be valid and enforceable only to the extent permitted by law and (ii) the Indenture. Nothing in the Ordinance, the Refunding Obligations or the Indenture shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged, for the performance of any duty under this Ordinance, the Refunding Obligations and the Indenture; and further, nothing therein gives the Holders of the Refunding Obligations, and they do not have, the right to have excises or taxes levied by the Council, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Refunding Obligations, but the Refunding Obligations are payable from the Net Revenues and the funds established under the Indenture as provided herein and in the Indenture, and each Bond shall contain a statement to that effect; provided, however, that nothing herein or in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of the Indenture, this Ordinance or the Refunding Obligations.

Section 8. Covenants of City; Authorizations Relating to Federal Tax Laws.

(a) The City, by issuance of the Refunding Obligations, covenants and agrees with the Holders of the Refunding Obligations:

(i) That the City will use the proceeds of the Refunding Obligations and related Loans to pay costs of refunding the Outstanding Bonds, to make any required deposit to the Debt Service Reserve Fund and to pay costs of the issuance of the Refunding Obligations.

(ii) That the City will perform its covenants and agreements set forth in Article VIII of the Indenture.

(iii) That the Clerk, or other appropriate officer of the City, will furnish to the Original Purchaser and to the Trustee a true transcript of proceedings, certified by the Clerk or other officer, of all proceedings had with reference to the issuance of the Refunding Obligations together with such information from the City's records as is necessary to determine the regularity and validity of such issuance.



(iv) That it will restrict the investment and use of the proceeds of the Refunding Obligations and related Loans in such manner and to such extent, if any, as may be necessary so that the Tax-Exempt Refunding Obligations and Tax-Exempt Loans will not constitute private activity bonds or arbitrage bonds under Section 141 or 148. The Director of Finance, or any other officer of the City having responsibility for the issuance of the Tax-Exempt Refunding Obligations shall give an appropriate certificate of the City, for inclusion in the transcript of proceedings for the Tax-Exempt Refunding Obligations and Tax-Exempt Loans, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Tax-Exempt Refunding Obligations and Tax-Exempt Loans, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Tax-Exempt Refunding Obligations and Tax-Exempt Loans.

(v) That it (a) will take or cause to be taken such actions which may be required of it for the interest on the Tax-Exempt Refunding Obligations and Tax-Exempt Loans to be and remain excluded from gross income for federal income tax purposes, and (b) will not take or permit to be taken any actions which would adversely affect that exclusion, and that it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Tax-Exempt Refunding Obligations and Tax-Exempt Loans to the governmental purpose of the borrowing, (ii) restrict the yield on investment property acquired with those proceeds, (iii) make timely rebate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code. The Director of Finance and other appropriate officers are hereby authorized and directed to take any actions, make calculations and rebate payments, and make or give reports and certifications, as may be appropriate to assure such exclusion of that interest.

(b) The Director of Finance, the Director of Public Utilities or any other officer of the City having responsibility for the issuance of the Tax-Exempt Refunding Obligations is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Tax-Exempt Refunding Obligations as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148 (f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting favorable tax treatment or status of the Tax-Exempt Refunding Obligations or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments or penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the issuer, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Tax-Exempt Refunding Obligations, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Tax-Exempt Refunding Obligations, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Tax-Exempt Refunding Obligations, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Tax-Exempt Refunding Obligations.

Section 9. Other Documents. The Mayor, the Director of Finance, the Director of Public Utilities

and any other appropriate officer of the City, alone or in conjunction with any of the foregoing, are authorized and directed to execute, deliver and, if applicable, file, for and in the name and on behalf of the City, any certifications, financing statements, assignments and other instruments and documents which are necessary or appropriate to perfect the assignments contemplated in the Indenture or to consummate the transactions contemplated herein or in the Indenture, and the Refunding Obligations and the Loan and Refinancing Agreement. Those certifications and other instruments and documents include, without limitation, appropriate certificates under Section 103 of the Code, reports on Form 8038, any other certifications and forms necessary or advisable under the Code, and letters of representation or other agreements with a Depository pertaining to a book-entry system, and certifications by the Clerk of the transcript of proceedings relating to the issuance of the Refunding Obligations.

Section 10. Bond Counsel; Ratings. The legal services of the law firm of Squire Patton Boggs (US) LLP be and are hereby retained as Bond Counsel. Those legal services shall be in the nature of legal advice and recommendations as to the documents and the proceedings in connection with the authorization, sale and issuance of the Refunding Obligations and rendering at delivery a related legal opinion. In providing those legal services, as an independent contractor and in an attorney-client relationship, that firm shall not exercise any administrative discretion on behalf of this City in the formulation of public policy, expenditure of public funds, enforcement of laws, rules and regulations of the State, any county or municipal corporation or of this City, or the execution of public trusts. For those legal services, that firm shall be paid just and reasonable compensation and shall be reimbursed for actual out-of-pocket expenses incurred in providing those legal services, and the amount necessary for such compensation and expenses is hereby appropriated and shall be paid from the proceeds of the Refunding Obligations and otherwise from Account No. 6064-14800-1135001STDSTD (Other Debt Service Charges).

The Director of Finance is authorized and directed, if she deems it advisable and in the City's interest, to request a rating for the Refunding Obligations from Moody's Investors Service, Inc., S&P Global-Ratings, Fitch Ratings, or any of them. The expenditure of the amounts necessary to secure those ratings and to pay the cost of any Credit Support Instrument, as well as to pay the other financing costs incurred in connection with the Refunding Obligations, is hereby authorized and approved, and the amounts necessary to secure those ratings are hereby appropriated and shall be paid from the proceeds of the Refunding Obligations and otherwise from Account No. 6064-14800-1135001STDSTD (Other Debt Service Charges).

Section 11. Severability. Each section of this Ordinance and each subdivision or paragraph of any section thereof is hereby declared to be independent and the finding or holding of any section or any subdivision or paragraph of any section thereof to be invalid or void shall not be deemed or held to affect the validity of any other section, subdivision or paragraph of this Ordinance.

Section 12. Compliance with Open Meeting Law. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken, and that all deliberations of this Council and any of its committees that resulted in those formal actions were held, in meetings open to the public in compliance with the law.

Section 13. Effective Date. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and property of the City and for the further reason that this Ordinance is required to be effective immediately in order to enable the City to refund at a lower interest cost the Refunded Bonds upon terms in the best interest of and advantageous to the City and thereby to achieve interest savings available under current favorable market conditions; wherefore, this Ordinance shall be in full force and effect from and immediately after its passage, or at the earliest time allowed by law.

Vote on emergency clause: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Passed: \_\_\_\_\_, as an emergency measure: yeas \_\_\_\_\_, nays \_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved: \_\_\_\_\_

\_\_\_\_\_  
Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

\_\_\_\_\_.

Attest: \_\_\_\_\_  
Clerk of Council