

Ordinance No. 956-17

AN EMERGENCY ORDINANCE

To amend Sections 1 and 25 of Ordinance No. 985-14, passed September 8, 2014, relating to the issuance and sale of water revenue obligations to refund outstanding water revenue obligations.

Council Member Kelley
(by departmental request)

WHEREAS, this Council passed Ordinance No. 985-14 on September 8, 2014 (the "Ordinance") and authorized the issuance and sale of water revenue obligations to refund outstanding water revenue obligations, authorized agreements related to the obligations, and authorized and approved related matters; and

WHEREAS, in order to take advantage of current favorable market conditions for the benefit of the users of the City's Waterworks System, this Council has determined to amend the Ordinance to include authorization for refunding subordinate lien bonds, in addition to senior lien bonds, under the Ordinance, and to extend the effectiveness of the Ordinance one year past its current expiration date; and

WHEREAS, this Ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department and providing for the immediate preservation of public peace, property, health or safety, in that authorizing the following amendments to the Ordinance to permit the refunding of subordinate lien bonds and to extend the effectiveness of the Ordinance is necessary to enable the City to respond to market conditions on a timely basis for the benefit of the Waterworks System and its users; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Sections 1 and 25 of Ordinance No. 985-14, passed

September 8, 2014, are amended to read as follows:

Section 1. Definitions.

In addition to the words and terms defined in the Indenture, the following words and terms shall have the following meanings, unless the context or use clearly indicates another or different meaning or intent:

"Bonds" or "Water Revenue Bonds" means all Bonds or Subordinate Bonds issued and outstanding under the Indenture.

"Bond Purchase Agreement" means, as to each Series of Refunding Bonds, the purchase agreement between the City and the Original Purchasers authorized by Section 4 with respect to that Series.

"Certificate of Award" means, as to each Series of Refunding Bonds, the certificate determining the final terms of the Refunding Bonds of that Series, consistent with the requirements of this Ordinance, including, without limitation, Section 4.

"Continuing Disclosure Agreement" means, as to each Series of Refunding Bonds, any continuing disclosure agreement authorized by Section 14.

"Credit Support Instrument" means an insurance policy, surety, letter of credit, standby bond purchase agreement or other credit enhancement, support or liquidity facility used to enhance or provide for the security or liquidity of Refunding Bonds, or any Hedge Agreements.

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“Escrow Agreement” means one or more agreements between the City and the Trustee, in its capacity as Escrow Agent, authorized by Section 7 or Section 17.

“Escrow Fund” means the fund, including the account or accounts therein, required to be maintained with the Trustee, in its capacity as Escrow Agent pursuant to an Escrow Agreement.

“Financial Advisor” means any financial advisory firm or firms retained by the Director of Finance of the City, from time to time, pursuant to Section 18.

“Hedge Agreement” means any agreement defined as such in Section 11.

“Indenture” means, as applicable, (i) the Original Indenture as previously supplemented and amended and as further supplemented and amended by Supplemental Indentures as provided in this Ordinance for the Refunding Bonds or (ii) the Subordinate Bonds Trust Indenture, dated as of October 1, 2012, between the City and U.S. Bank National Association, as trustee, delivered under authority of Ordinance No. 919-12 passed by the Council of the City on August 8, 2012 as supplemented and amended by Supplemental Indentures as provided in this Ordinance for the Refunding Bonds.

“Original Indenture” means the Amended and Restated Trust Indenture, effective October 5, 2001, between the City and U.S. Bank National Association, as successor trustee, delivered under authority of Ordinance No. 2011-95 passed by the Council of the City on April 1, 1996 and with the consent of the owners of 66-2/3% of the applicable Outstanding Revenue Bonds under the Indenture of Mortgage dated as of November 1, 1977.

“Original Purchasers” means, with respect to each Series of Refunding Bonds, the financial institutions identified in the applicable Certificate of Award.

“Outstanding Revenue Bonds” means Water Revenue Bonds of the City issued and outstanding, from time to time, under the Indenture. On the date of introduction of this Ordinance the following Bonds are Outstanding: Series G (currently outstanding in the amount of \$66,220,000), Series N (currently outstanding in the amount of \$21,865,000), Series O (currently outstanding in the amount of \$127,660,000), Series P (currently outstanding in the amount of \$103,990,000), Series Q (currently outstanding in the amount of \$90,800,000), Series T (currently outstanding in the amount of \$57,020,000), Series U (currently outstanding in the amount of \$54,935,000), Series V (currently outstanding in the amount of \$26,495,000), Series W (currently outstanding in the amount of \$44,420,000, and Series X (currently outstanding in the amount of \$44,410,000).

“Refunded Bonds” means, as to each Series of Refunding Bonds, the Outstanding Revenue Bonds designated in the Certificate of Award as the Water Revenue Bonds to be refunded with proceeds of that Series of Refunding Bonds.

“Refunding Bonds” means the obligations authorized by this Ordinance to be issued in one or more Series as additional Water Revenue Bonds under the Indenture for the purpose of refunding one or more Series of Outstanding Revenue Bonds, or designated maturities thereof, or one or more Series of Refunding Bonds.

“Supplemental Indenture” means, as to each Series of Refunding Bonds, the Supplemental Indenture or Supplemental Subordinate Indenture, as applicable, between the City and the Trustee securing that Series of Refunding Bonds as authorized under Section 7.

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“Taxable Obligations” means any Refunding Bonds the interest on which is intended to be included in gross income for federal income tax purposes.

“Tax-Exempt Obligations” means any Refunding Bonds the interest on which is intended to be excluded from gross income for federal income tax purposes.

“Tender Offer” means an offer by the City to holders of Outstanding Revenue Bonds for the purchase of the Outstanding Bonds in lieu of redemption.

Section 25. Sunset of Authorization.

The authority granted by Section 2 of this Ordinance to issue Refunding Bonds shall expire four years from the effective date of this Ordinance. If a preliminary official statement with respect to the Refunding Bonds is distributed under the authority of this Ordinance at any time within the four-year period following its effective date, then the authority granted by Section 2 of this Ordinance shall not expire as to those Refunding Bonds. The Director of Finance shall notify the Chairman of the Finance Committee and the Clerk of this Council of the initiation of the issuance of any Refunding Bonds under the authority of this Ordinance.

Section 2. That existing Sections 1 and 25 of Ordinance No. 985-14, passed September 8, 2014, are repealed.

Section 3. That pendency and passage of this Ordinance shall in no way affect the continuing effectiveness of the Ordinance as originally passed except to the extent amended by this Ordinance.

Section 4. That this Ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DDR:nl
8-16-17

FOR: Director Dumas

