

#4506

Sponsor:

Council
Member
Guy

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES ON A TAX-EXEMPT AND/OR TAXABLE BASIS, AND A GENERAL OBLIGATION BOND ANTICIPATION NOTE IN ORDER TO PROVIDE THE FUNDS NECESSARY: (i) TO FINANCE VARIOUS CAPITAL PROJECTS OF THE CITY SPECIFIED IN THE CITY'S CAPITAL BUDGET FOR ITS FISCAL YEAR ENDING JUNE 30, 2016, TOGETHER WITH CERTAIN OTHER ADDITIONAL PROJECTS; (ii) TO FUND A CERTAIN GENERAL OBLIGATION BOND ANTICIPATION NOTE OF THE CITY, AND (iii) TO REFUND CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE SALE OF THE BONDS; AUTHORIZING AMENDMENTS TO PRIOR BOND ORDINANCES AND AUTHORIZING OTHER NECESSARY ACTION

WHEREAS, the City presently intends (i) to fund various capital projects specified in the City's capital budget for its Fiscal Year ending June 30, 2016, as amended and supplemented from time to time, together with the capital projects described in Exhibit "A" attached hereto (the "Additional Projects"); (ii) to fund on a long-term basis the City's General Obligation Bond Anticipation Note (Street Repairs Project), Series of 2017 (Line of Credit) (the "2017 BAN"); and (iii) to refund certain outstanding indebtedness of the City; and

WHEREAS, in order to finance such capital projects and the Additional Projects, the funding of the 2017 BAN and the refunding of certain general obligation indebtedness of the City (collectively, the "Project"), the City has determined to issue its General Obligation Bonds (the "Bonds"), in an aggregate principal amount not to exceed \$63,000,000 in one or more series on a tax-exempt and/or taxable basis; and

WHEREAS, the City has also determined to issue a general obligation bond anticipation note (the "BAN") in a principal amount not exceeding \$14,000,000 in order to finance temporarily the Project and Additional Projects, such BAN and Additional Projects to be permanently financed from a series of the Bonds; and

WHEREAS, the City has heretofore adopted the General Obligation Bond Ordinance, No. 83-019, Division 4 of Article VI of Chapter 2 of the Wilmington City Code (the "General Ordinance"), authorizing the City to issue General Obligation Bonds secured by a pledge of the City's full faith, credit and taxing power, for the purpose of, among other things, paying the costs of capital projects of the City and refunding outstanding indebtedness; and

WHEREAS, this Ordinance is a Supplemental Ordinance adopted pursuant to the General Ordinance and provides for the issuance and sale of the Bonds.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

Section 1. Defined Terms. Terms used in this Ordinance and not otherwise defined shall have the meaning specified in the General Ordinance.

Section 2. Authorization of General Obligation Bonds and BAN. The City hereby authorizes the issuance of its General Obligation Bonds in an aggregate principal amount not to exceed \$63,000,000 (the "Bonds") in one or more series on a tax-exempt and/or taxable basis, pursuant to and in accordance with the General Ordinance, as supplemented by this Ordinance and the Bond Committee Resolution (as defined herein) for the purpose of financing the Project, including the costs and expenses associated with issuing and providing for on-going continuing legal compliance of the Bonds and/or prior series of bonds. The City also hereby authorizes the issuance of a general obligation bond anticipation note (the "BAN") in a principal amount not exceeding \$14,000,000 for the purpose of providing temporary financing for the Project and Additional Projects. A series of the Bonds will be issued at such time as necessary to provide permanent financing for the Additional Projects. The Bonds and the BAN shall be sold at private negotiated sale or competitive sale as determined by such Resolution of the Bond Committee.

The Bonds and the BAN shall be awarded and sold by the Bond Committee to an underwriter or group of underwriters, or to one or more financial institution (the "Underwriter" or "Bank", as appropriate) to be selected by the Bond Committee at a purchase price and in accordance with such terms and conditions as will be set forth: (i) in the case of a negotiated sale, in a Bond Purchase Agreement or a Note Purchase Agreement to be entered into by the Underwriter/Bank and the City, or (ii) in the case of a competitive sale, in a Bid Form submitted to the Bond Committee in response to an Invitation to Bid prepared and distributed by the Bond Committee. In the case of clause (ii) above, the Bond Committee will accept the Bid Form which represents the lowest true interest cost to the City. The appropriate officials of the City are hereby authorized to enter into such Bond Purchase Agreement or a Note Purchase Agreement and to execute the Bond Purchase Agreement or a Note Purchase Agreement on behalf of the City, or to accept the most favorable Bid Form.

The Bonds and the BAN shall bear such rate or rates of interest provided that the true interest cost of the Bonds or the BAN does not exceed 7.0%, shall mature in such principal amounts and on such dates, shall be subject to redemption, shall bear such series designation, shall be sold at such price and in such manner, and shall be in such forms and contain or be subject to such other terms and conditions, as shall be determined in the Resolution adopted by the Bond Committee (the "Bond Committee Resolution"). The Bond Committee Resolution shall set forth the particular projects and prior general obligation bonds which will be funded or refunded as part of the Project.

Section 3. Authorization of Paying Agent's Agreement. A fiscal agent, paying agent and registrar for the Bonds (the "Paying Agent") may be selected and appointed by the Bond Committee. In the event that it is determined that it is advantageous to use a Paying Agent, the appropriate officials of the City are hereby authorized and directed to contract with the Paying Agent in connection with the performance of duties as paying agent

and registrar on the usual and customary terms. The Paying Agent Agreement shall be in such form as shall be approved by the Bond Committee.

Section 4. Preparation of Preliminary Official Statement. The Bond Committee is authorized and directed to prepare, approve and “deem final” a Preliminary Official Statement and an Official Statement with respect to the Bonds to be used in connection with the public sale of the Bonds. The final Official Statement shall contain the final terms of the Bonds and shall be prepared for use in the public offering and sale of the Bonds.

Section 5. Execution of Bonds and the BAN. The Bonds and the BAN shall be executed by the manual or facsimile signatures of the Mayor, the City Treasurer and the City Auditor, and by the actual or facsimile impression of the seal of the City, both attested by the manual or facsimile signatures of the City Clerk or Deputy City Clerk.

Section 6. Security for the Bonds and the BAN. The full faith, credit and taxing power of the City is hereby pledged to the prompt payment of the principal of, premium, if any, and the interest on the Bonds and the BAN. The Bonds and the BAN shall be the direct and unlimited obligations of the City, and unless paid from other sources, the City shall levy ad valorem taxes upon all taxable property in the City for the payment of the Bonds and the BAN without limitation as to rate or amount.

Section 7. Federal Tax Covenants. In the event that part or all of the Bonds or BAN are issued on a tax-exempt basis, the City hereby covenants not to take or omit to take any action so as to cause interest on the Bonds or BAN to be no longer excluded from gross income for purposes of federal income taxation and to otherwise comply with the requirements of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the “Code”), and all applicable regulations promulgated with respect thereto, throughout the term of the Bonds or BAN. The City further covenants with the registered owners of the Bonds and the BAN that it will make no investments or other use of the proceeds of the Bonds or BAN which would cause such Bonds or BAN to be “arbitrage bonds” as defined in Section 148 of the Code. The City further covenants to comply with the rebate requirements (including the prohibited payment provisions) contained in Section 148(f) of the Code in any regulations promulgated thereunder, to the extent applicable, and to pay any interest or penalty imposed by the United States for failure to comply with rebate requirements, to the extent applicable. In the event the Bonds or the BAN could be issued on a bank-eligible basis, the Bond Committee is hereby delegated the authority to designate the Bonds or the BAN pursuant to Section 265 of the Code.

Section 8. Official Intent. In accordance with Treasury Reg. §1.150-2, the City hereby confirms its intentions that a portion of the proceeds of the Bonds or the BAN authorized by this Ordinance, or any other obligations issued by the City, will be used to reimburse itself for qualifying expenditures of the Project paid prior to the date of issuance of the Bonds or the BAN authorized by this Ordinance. All original expenditures to be reimbursed will be capital expenditures (as defined in Treas. Reg. §1.150-1(b)) and other amounts permitted to be reimbursed pursuant to Treas. Reg. §1.150-2(d)(3) and (f).

Section 9. Amendments to Prior Bond Ordinances. Pursuant to (i) Ordinance No. 98-065, (ii) Ordinance No. 02-041, (iii) Ordinance No. 05-086, (iv) Substitute No. 2 to Ordinance No. 08-024, and (v) Ordinance No. 11-049 (collectively, the “Prior Bond Ordinances”), the City authorized the issuance of general obligation bonds (collectively, the “Prior Bonds”) to fund various capital projects specified in the City’s capital budget for its Fiscal Year ending (a) June 30, 1998 and June 30, 1999, (b) June 30, 2000, (c) June 30, 2004, (d) June 30, 2006 and June 30, 2008, and (e) June 30, 2012, respectively. Over time, certain of these capital projects either did not commence or came in under budget, leaving an amount of unspent proceeds (the “Unspent Proceeds”). The City hereby amends the Prior Bond Ordinances to allow for the Unspent Proceeds to be used to pay the upcoming debt service payments due on such Prior Bonds or any series of bonds that refunded such Prior Bonds and hereby authorizes the City Treasurer to effectuate the same.

Section 10. Further Action. The appropriate officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and record all such documents, publish all notices and otherwise carry out the intent of the General Ordinance and this Ordinance in the name of and on behalf of the City.

Section 11. Inconsistent Provisions. In the event that any provision of the Bonds or BAN, or any term or condition contained in any agreement relating to the Bonds or BAN or in this Supplemental Ordinance, shall be inconsistent with any of the provisions of the General Ordinance, the provision of the Bonds or BAN, such agreements and this Supplemental Ordinance shall be controlling with respect to the Bonds or BAN, such agreements and this Supplemental Ordinance.

Section 12. Relation to General Ordinance. This Ordinance is supplemental to the General Ordinance and all sections of the General Ordinance, except as modified herein in accordance therewith, are applicable to the Bonds or BAN authorized hereunder. This Ordinance shall take effect immediately upon its passage.

Section 13. Effective Date. This Ordinance shall become effective upon its passage by Council and approval by the Mayor.

First Reading.....April 5, 2018
Second Reading.....April 5, 2018
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved on this _____ day of _____, 2018

Mayor

SYNOPSIS: This Ordinance authorizes the issuance of up to \$63,000,000 aggregate principal amount General Obligation Bonds, in one or more series on a tax-exempt and/or taxable basis (the “Bonds”) and up to a \$14,000,000 general obligation bond anticipation note (the “BAN”) in order to finance (a) certain capital projects specified in the City’s capital budget for its Fiscal Year ending June 30, 2016, together with the additional capital projects described in Exhibit “A” attached hereto, (b) the funding of an outstanding general obligation bond anticipation note of the City, (c) the refunding of certain outstanding indebtedness of the City, and (d) the costs and expenses associated with issuing and providing for on-going continuing legal compliance of the Bonds and/or prior series of bonds.

Exhibit "A"

Description of Additional Projects

GENERAL FUND CAPITAL	PR #
<u>Mayor's Office</u>	
Agency Development Fund	00115
NPC's Infrastructure Support	06522
<u>Real Estate and Housing</u>	
Infrastructure Improvements	12040
<u>Public Works</u>	
Public Works Call Center	06208
Wilmington Transportation Initiative	12034
<u>Parks and Recreation</u>	
Anderson Community Center Renovation	98280
Swimming Pool/Bath House Renovation	06505
Monument Renovations	06507
Parks Identification/Signage Project	06510
Swimming Pool Improvements	12013
Fencing	12019
Skateboard Park	12037
Eden Park A/E Services	16065
Pool House Renovations	16046
<u>Fire/Administration</u>	
Fire Station renovations	06516
Fire Station Renovations	12006
<u>Police/Administration</u>	
Public Safety Bldg. Improvements	12008
Patrol Rifle Program	17043

WATER/SEWER CAPITAL

Public Works

CSO – Real Time Control Phase 2	06W13
Sewer Improvements Minor	12W11
CSO – Urban Forest Management	12W13
WWTP – Force Main S&F Monitoring	12W15
Water – Arch Improvements – Brandy	12W22
Annual Water Improvements	14W21

OTHER GOVERNMENTAL

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Computer System Upgrades	12004
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Mayor's Office/OED

Capital Strategic Dev Fund	04D01
S. Walnut St. Urban Renewal Plan	06D02
Capital – Strategic Dev Fund	08D01

Public Works/Transportation

Fire Apparatus Replacement – 2012	12007
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