

City of Philadelphia



(Bill No. 070075-A)

AN ORDINANCE

Constituting the Eighth Supplemental Ordinance to the General Gas Works Revenue Bond Ordinance of 1998 (the "1998 General Ordinance"); authorizing the Mayor, the City Controller and the City Solicitor, or a majority of them, to sell, either at public or private sale, Gas Works Revenue Bonds, Seventh Series (1998 Ordinance), of the City of Philadelphia, in one or more subseries (the "Seventh Series Bonds") to be issued to pay (i) the costs of certain capital projects as hereinafter more particularly described, and (ii) the cost of refunding or redeeming all or a portion of certain outstanding Gas Works Revenue Bonds and other Project Costs, as hereinafter more particularly described; and authorizing the application of proceeds of the Seventh Series Bonds for such purpose; authorizing the City to obtain Credit Facilities in the forms of credit enhancement and liquidity for the Seventh Series Bonds; authorizing the City to enter into one or more Qualified Swap Agreements with respect to all or a portion of the Seventh Series Bonds; determining the sufficiency of Gas Works Revenues; covenanting the separation of Gas Works revenue accounts and proceeds of the Seventh Series Bonds from general accounts of the City; covenanting the payment of interest on and principal of and specifying the purposes of the Seventh Series Bonds; authorizing covenants and actions in order that the Seventh Series Bonds shall not be arbitrage bonds; authorizing the Seventh Series Bonds to be issued in book-entry form and providing book-entry provisions to apply in such case; and providing that this Ordinance is supplemental to the 1998 General Ordinance and that the provisions of the 1998 General Ordinance, to the extent not modified, amended or superseded by this Ordinance, are applicable.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Mayor, the City Controller and the City Solicitor (the "Bond Committee"), or a majority of them, are hereby authorized, on behalf of the City, to borrow, by the issuance and sale of Gas Works Revenue Bonds, Seventh Series (1998 General Ordinance), of the City (the "Seventh Series Bonds"), which may be issued in one or more subseries, designated "Seventh Series Bonds" and consecutively thereafter by letter designation, and in one or more subseries with such relative priorities as the Bond Committee may deem desirable, pursuant to The First Class City Revenue Bond Act of October 18, 1972, Act No. 234 (the "Act") and the General Gas Works Revenue Bond Ordinance of 1998, Bill No. 980232, adopted by the City on April 30, 1998 (the "1998 General Ordinance"), a sum or sums which in the aggregate shall not exceed the principal amount of Seventh Series Bonds authorized to be issued hereunder, to be expended as provided in Section 2 of this Ordinance. The Seventh Series Bonds shall be sold at public or private sale and shall contain such terms and provisions as are determined by a majority of the Bond Committee to be in the best interests of the City

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and are not inconsistent with the provisions hereof, of the Act, or of the 1998 General Ordinance, or any applicable law. If a majority of the Bond Committee determines it to be in the best interests of the City, the Seventh Series Bonds may be issued in book-entry form; and in such event a majority of the Bond Committee shall also select a securities depository (the "Depository") for the Seventh Series Bonds. If a majority of the Bond Committee determines it to be in the best interests of the City, the City may obtain Credit Facilities in the form of credit enhancement and liquidity for all or a portion of the Seventh Series Bonds. If a majority of the Bond Committee determines that the entry by the City into one or more Qualified Swap Agreements will assist the City in more effectively managing its interest costs or interest rate exposure, the City may enter into one or more Qualified Swap Agreements with respect to the Seventh Series Bonds and: designate in writing to the Fiscal Agent that such Qualified Swap Agreements constitute Qualified Swaps, in accordance with the requirements of the 1998 General Ordinance and Section 8 of this Ordinance. The Seventh Series Bonds shall mature or be subject to mandatory redemption in such principal amounts and on such date or dates and at such rate or rates (including, without limitation, variable, adjustable or convertible rates), as shall be determined by a majority of the Bond Committee. A majority of the Bond Committee is authorized to take any and all other actions as may be necessary or appropriate in connection with the consummation of the transactions contemplated herein.

The Seventh Series Bonds are authorized to be issued hereunder in an aggregate principal amount of up to Two Hundred Ninety Million Dollars (\$290,000,000); provided that, if any of the Seventh Series Bonds are to be sold at discounts which are in lieu of periodic interest, the aggregate principal amount of the Seventh Series Bonds which may be issued hereunder shall be increased to reflect such discounts, as long as the aggregate gross proceeds to the City from the sale of the Seventh Series Bonds shall not exceed Two Hundred Ninety Million Dollars (\$290,000,000), plus accrued interest if any. Not more than an aggregate principal amount of Ninety Million Dollars (\$90,000,000) shall be used for refunding or redeeming Gas Works Revenue Bonds referred to in Section 2 of this Ordinance, together with costs of issuance related thereto and any deposits (cash or otherwise) to the Sinking Fund Reserve related thereto as referred to in Section 2 of this Ordinance. Not more than an aggregate principal amount of Two Hundred Million Dollars (\$200,000,000) (the "Maximum New Money Amount") shall be used for capital projects, costs of issuance related thereto, required deposits to the Sinking Fund Reserve related thereto and paying other Project Costs (the "Capital Projects"), provided, however, that, only one issuance (whether in one or more subseries) of Seventh Series Bonds for the Capital Projects is authorized and if the amount of such issuance is less than the Maximum New Money Amount, then no additional subseries of bonds for the Capital Projects are authorized to be issued pursuant to this Ordinance.

The Seventh Series Bonds shall not pledge the City's credit or taxing power, create any debt or charge against the tax or general revenues of the City or create any lien

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against any property of the City other than the revenues pledged by the 1998 General Ordinance. The opinion of the City Solicitor required by Section 8 of the Act with respect to the matters stated in the preceding sentence has been filed with City Council and shall be kept on file at the office of the Clerk of City Council.

SECTION 2. The Seventh Series Bonds shall be issued for the purpose of providing funds for any or all of the following purposes: (i) the capital projects included in the capital program of the Philadelphia Gas Works ("Gas Works"), which may include, without limitation, (a) the acquisition of land or rights therein; (b) the acquisition, construction or improvement of buildings, structures and facilities together with their related furnishings, equipment, machinery and apparatus; (c) the acquisition, construction or replacement of pipes and pipe lines; and (d) the acquisition or replacement of property of a capital nature for use in the operation, maintenance and administration of the Gas Works system of the City; (ii) the provision of capitalized interest on the Bonds during construction of the capital projects; (iii) the refunding or redeeming of all or any portion of any or all of the outstanding City of Philadelphia, Pennsylvania, Gas Works Revenue Bonds (1998 Ordinance), of one or more of the following Series: Second Series B and Fourth Series, together with such other Gas Works Revenue Bonds, upon such terms and in such amounts as shall be determined by the Director of Finance (the "Prior Bonds"), (iv) paying the costs of issuing the Seventh Series Bonds and any required deposits to the Sinking Fund Reserve; and (v) paying any other Project Costs (as defined in the Act).

The Director of Finance is hereby authorized to determine, on behalf of the City, the particular series and maturities of the Prior Bonds to be refunded, the amount of Seventh Series Bond proceeds to be applied to the refunding of the Prior Bonds and to deposit such proceeds in an escrow account for the benefit of the holders of the refunded Prior Bonds, and to take any and all other action, including the irrevocable pledge of such proceeds and/or the income or profit from the investment thereof, for the payment and redemption of the refunded Prior Bonds, and the publication of all required redemption notices or the giving of irrevocable instructions therefor, as may be necessary or appropriate to accomplish the refunding of the Prior Bonds and to comply with the requirements of Section 10 of the Act.

The City covenants that the proceeds of the Seventh Series Bonds allocable to the capital program of the Gas Works which remain available for the payment of the costs of the capital improvements, after payment of the financing costs, the required payment into the Sinking Fund Reserve and the repayment to the City and the Gas Works of amounts previously advanced for Project Costs or for the funding or refunding of bond anticipation notes or other obligations issued in respect of Project Costs as described above, shall be deposited, held in, and disbursed from, one or more unsegregated accounts of the Gas Works which shall be separate and apart from and not commingled with the consolidated cash account of the City or any other account of the City not held exclusively for Gas Works purposes. This covenant shall not be construed to require the establishment of any Gas Works account segregated from any other Gas Works accounts.

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All interest and income earned on the investment of such proceeds (except for amounts to be rebated to the United States) pending expenditure for the aforesaid purposes may be transferred to and deposited in the operating funds of the Gas Works and applied as Gas Works Revenues in accordance with Section 4.02 of the 1998 General Ordinance.

The City covenants that the proceeds of the Seventh Series Bonds allocable to the refunding program which remain available for the payment of the costs of refunding the Prior Bonds, after payment of the financing costs, and the required payment into the Sinking Fund Reserve, shall be deposited, held in and disbursed from a special account of the Sinking Fund or the escrow fund to be established pursuant to the Escrow Agreement (defined below).

The City hereby authorizes the redemption of the Prior Bonds in accordance with the terms of the 1998 General Ordinance and the Prior Bonds and further authorizes the Bond Committee or the Director of Finance to enter into an Escrow Deposit Agreement (the "Escrow Agreement") providing, among other things, for the deposit and investment of all or a portion of the Seventh Series Bond proceeds and any other available funds of the City in amounts sufficient, together with interest thereon, if any, to defease such Prior Bonds so that such Prior Bonds shall be deemed not to be Outstanding under the 1998 General Ordinance, and providing for payment of the Prior Bonds at maturity or redemption, as applicable, including all interest payable on such Prior Bonds to such maturity or redemption dates, as applicable. All interest and income earned, if any, on the investment of such proceeds (except for amounts to be rebated to the United States), which is not required for the refunding or redemption of the Prior Bonds, pending expenditure for the aforesaid purposes may be transferred to and deposited in the operating funds of the Gas Works and applied as Gas Works Revenues in accordance with Section 4.02 of the 1998 General Ordinance.

SECTION 3. Based on the report of the Director of Finance of the City required by Section 8 of the Act (the "Financial Report"), it is hereby determined that the pledged Gas Works Revenues (as defined in the 1998 General Ordinance) will be sufficient to comply with the rate covenant contained in Section 4.03(b) of the 1998 General Ordinance and also to pay all costs, expenses and payments required to be paid therefrom in the order and priority stated in Section 4.02 of the 1998 General Ordinance. An executed copy of the Financial Report has been filed with City Council and shall be kept on file at the office of the Clerk of City Council.

SECTION 4. The City covenants that, as long as any of the Seventh Series Bonds shall remain outstanding, all pledged Gas Works Revenues shall be deposited and held in and disbursed from one or more unsegregated accounts of the Gas Works which shall be separate from and not commingled with the consolidated cash account of the City or any other account of the City not held exclusively for Gas Works purposes. Such pledged Gas Works Revenues shall be held for the security and payment of the Seventh Series Bonds and all Bonds issued under the 1998 General Ordinance to the extent, and to

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be applied in the order of priority, set forth in Section 4.02 of the 1998 General Ordinance. This covenant shall not be construed to require the establishment of any Gas Works account segregated from any other Gas Works accounts except as provided in Section 2 hereof or as otherwise required by the 1998 General Ordinance.

SECTION 5. The City covenants that as long as any Seventh Series Bonds shall remain unpaid, it shall make payments or cause payments to be made out of its 1998 Gas Works Revenue Bond Sinking Fund created under the 1998 General Ordinance at such times and in such amounts as shall be sufficient for the payment of the interest thereon and the principal thereof when due; provided, however, that whenever the City shall be required to deposit moneys with the Fiscal Agent for the mandatory redemption of any of the Seventh Series Bonds, such obligation may be satisfied, in whole or in part, by the delivery by the City to the Fiscal Agent of a principal amount of Seventh Series Bonds of the maturity required to be redeemed for cancellation prior to the date specified for such redemption.

SECTION 6. The Director of Finance is authorized to make such elections under the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations promulgated thereunder with respect to the Seventh Series Bonds and to take such actions on behalf of the City with respect to the investment of the proceeds of the Seventh Series Bonds as is deemed advisable, and the Director of Finance or any member of the Bond Committee is authorized to make such covenants as may be necessary or advisable in order that the Seventh Series Bonds shall not be "arbitrage bonds" as defined in the Code.

SECTION 7. In the event Seventh Series Bonds are issued in book-entry form, the ownership of one fully registered Seventh Series Bond for each maturity, each in the aggregate principal amount of such maturity, will be registered in the name(s) designated by the Depository. So long as, but only so long as, the book-entry only system is applicable to the Seventh Series Bonds, the following provisions of this Section 7 shall govern as to matters set forth in Article III of the 1998 General Ordinance.

Pursuant to the book-entry only system, ownership interests in the Seventh Series Bonds may be purchased in the manner directed by the Depository, which may be through financial institutions for whom the Depository effects book-entry transfer (the "Participants"). A person who owns such an interest in a Seventh Series Bond (a "Beneficial Owner") will not receive certificated Seventh Series Bonds and will not be the registered owner thereof. Receipt by the Beneficial Owners of timely payment of principal, purchase price, redemption price and interest on the Seventh Series Bonds, is subject to the Depository's making such timely payment, either to the Beneficial Owner or to the Participants to be forwarded to the Beneficial Owners. Neither the City nor the Fiscal Agent will have any responsibility or obligation to such Participants or to the Beneficial Owners for any failure of the Depository to act or make any payment with respect to the Seventh Series Bonds or the providing of notices relating to redemption or mandatory tender to Participants or the Beneficial Owners of the Seventh Series Bonds.

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The Depository will receive payments from the Fiscal Agent to be remitted by the Depository to the Beneficial Owners or to the Participants for whom the Depository holds the Seventh Series Bonds for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Seventh Series Bonds shall be recorded on the records of the Depository or the records of the Participants, whose ownership interests will be recorded on the records of the Depository.

When notices are given, they shall be sent by the Fiscal Agent to the Depository with a request that the Depository forward (or cause to be forwarded) the notice to the Participants so that such Participants may forward (or cause to be forwarded) the notices to the Beneficial Owners.

Transfers of ownership interests in the Seventh Series Bonds will be accomplished by book-entries made by the Depositories and/or the Participants who act on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Seventh Series Bonds, except as specifically provided herein. So long as the Depository is the Bondholder, interest, principal and redemption price of the Seventh Series Bonds will be paid when due by the Fiscal Agent to the Depository, then paid by the Depository to the Beneficial Owners, or by the Depository to the Participants and thereafter paid by the Participants to the Beneficial Owners. The payments to the Depository shall satisfy the City's obligations under the Seventh Series Bonds.

For every transfer and exchange of the Seventh Series Bonds, the Fiscal Agent, the Depository and the Participants may charge the Beneficial Owner of the Seventh Series Bonds a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. No transfer or exchange of any Seventh Series Bonds shall be required to be made fewer than five (5) days prior to any interest payment date or five (5) days prior to any mailing of a notice to redemption of the Seventh Series Bonds. No transfers shall be made of Seventh Series Bonds previously called for redemption, except pursuant to the optional or mandatory tender provisions thereof.

The Depository may determine to discontinue providing its services with respect to the Seventh Series Bonds at any time by giving notice to the City and the Fiscal Agent and discharging its responsibilities with respect thereto under applicable law. Under such circumstances (if there is no successor securities depository), the City is obligated to deliver bond certificates in such names as the City and the Fiscal Agent are directed by the Depository.

The Bondholders have no right to a depository for the Seventh Series Bonds. If the book-entry only system is no longer utilized, bond certificates will be issued in such names as the City and the Fiscal Agent are directed by the Depository.

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Notwithstanding any other provision of the 1998 General Ordinance, so long as the Depository is the registered Bondholder of all Seventh Series Bonds, the Depository may present notices, approvals, waivers or other communications required or permitted to be made by Bondholders under the 1998 General Ordinance on a fractionalized basis on behalf of some or all of the Beneficial Owners.

The appropriate officials of the City are authorized to execute any documentation required by the Depository in connection with book-entry registration of the Seventh Series Bonds.

SECTION 8. (a) Subject to the determination by a majority of the Bond Committee referred to in Section 1 hereof and as required by Section 3.03 of the 1998 General Ordinance, the Director of Finance is hereby authorized to enter into one or more interest rate swap transactions consisting of a Master Agreement, Schedule and one or more Confirmations ("Seventh Series Swap"), collectively constituting a Qualified Swap Agreement, as such term is defined in the 1998 General Ordinance, with respect to the Seventh Series Bonds, as authorized and permitted pursuant to Section 3.09 of the 1998 General Ordinance. The Seventh Series Swap shall be in a notional amount not to exceed the outstanding aggregate principal amount of the Seventh Series Bonds, amortizing in accordance with the principal amortization schedule of the Seventh Series Bonds. The Seventh Series Swap shall be entered into with a Qualified Swap Provider, as such term is defined in the 1998 General Ordinance and amortized in accordance with the principal amortization of the Seventh Series Bonds to which such Seventh Series Swap relates.

(b) In accordance with and as permitted by Section 4.02 of the 1998 General Ordinance, the pledge and grant of a lien on and security interest in, all Gas Works Revenues, all accounts, contract rights and general intangibles representing the Gas Works Revenues and all funds and accounts established under the 1998 General Ordinance (except for the Sinking Fund and the Sinking Fund Reserve), and in each case, the proceeds of the foregoing, shall be for the benefit of the provider of the Seventh Series Swap and the provider of a Credit Facility securing any payments of the City to be made pursuant to the Seventh Series Swap ("Swap Credit Facility"), all to the extent and in the manner as provided therein.

(c) All of the provisions of Section 4.02 of the 1998 General Ordinance relating to Qualified Swaps, except to the extent limited by Section 8(b) hereof with respect to the Sinking Fund and the Sinking Fund Reserve, shall apply to the Seventh Series Swap and to payments due from the City to the providers of the Seventh Series Swap and the Swap Credit Facility, respectively; provided that periodic payments scheduled to be paid by the City under the Seventh Series Swap shall be payable equally and ratably with payments of debt service on the Seventh Series Bonds and shall be secured by Gas Works Revenues equally and ratably with payments of debt service on the Seventh Series Bonds. Payments by the City to a provider of a Swap Credit Facility shall have the same priority and security as the corresponding payments under the

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Seventh Series Swap secured by such Swap Credit Facility. The provider of the Seventh Series Swap and the provider of a Swap Credit Facility shall have no right or claim at any time to amounts on deposit in the Sinking Fund or the Sinking Fund Reserve.

(d) All of the provisions of Section 4.03(b) of the 1998 General Ordinance relating to Qualified Swaps shall apply to the Seventh Series Swap and to the Swap Credit Facility.

SECTION 9. (a) Subject to the determination by a majority of the Bond Committee referred to in Section 1 hereof, in accordance with and as permitted by Section 4.02 of the 1998 General Ordinance, the pledge and grant of a lien on and security interest in, all Gas Works Revenues, all accounts, contract rights and general intangibles representing the Gas Works Revenues and all funds and accounts established under the 1998 General Ordinance (except for the Sinking Fund and the Sinking Fund Reserve), and in each case, the proceeds of the foregoing, shall be for the benefit of the providers of any Credit Facilities with respect to the Seventh Series Bonds, all to the extent and in the manner as provided therein; provided, however, that any payments to a Credit Facility provider on account of principal of and interest on Seventh Series Bonds owned or deemed to be owned by a Credit Facility Provider shall be payable from and secured by Gas Works Revenues and the Sinking Fund and Sinking Fund Reserve equally and ratably with all other Seventh Series Bonds.

(b) All of the provisions of Section 4.02 of the 1998 General Ordinance relating to Credit Facilities, except to the extent limited by Section 9(a) hereof with respect to the Sinking Fund and the Sinking Fund Reserve, shall apply to Credit Facilities with respect to the Seventh Series Bonds and to payments due from the City to the providers of such Credit Facilities. The providers of Credit Facilities shall have no right or claim, at any time to amounts on deposit in the Sinking Fund or the Sinking Fund Reserve, except as provided in Section 9(a) hereof.

(c) All of the provisions in Section 4.03(b) of the 1998 General Ordinance relating to Credit Facilities shall apply to the Credit Facilities with respect to the Seventh Series Bonds.

SECTION 10. This Ordinance is supplementary to the 1998 General Ordinance and all sections of the 1998 General Ordinance not inconsistent with this Ordinance are applicable to the Seventh Series Bonds. All definitions of terms contained in the Act or the 1998 General Ordinance not inconsistent herewith shall apply to such terms in this Ordinance.

SECTION 11. The City reasonably expects to reimburse any expenditures toward the cost of the matters authorized by Section 2 of this Ordinance paid prior to the issuance of the Seventh Series Bonds. No funds from sources other than the Seventh Series Bonds authorized by this Ordinance have been or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City, or any

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member of the same "control group" as the City within the meaning of Treasury Regulation Section 1.150-1(e) of the Code, pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This section constitutes a declaration of the City's official intent to reimburse expenditures paid in accordance with Treasury Regulation Section 1.150-2 (d) of the Code.

This Ordinance shall take effect immediately.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on March 8, 2007. The Bill was Signed by the Mayor on March 21, 2007.



Patricia Rafferty
Chief Clerk of the City Council