



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 150160

Introduced March 5, 2015

**Councilmember Blackwell
for
Council President Clarke**

**Referred to the
Committee on Finance**

AN ORDINANCE

Constituting the Twenty-First Supplemental Ordinance to the General Gas Works Revenue Bond Ordinance of 1975 (the "1975 General Ordinance"); authorizing the City of Philadelphia (the "City") to sell, either at public or private sale, Gas Works Revenue Bonds (1975 General Ordinance), of the City of Philadelphia, in one or more series or subseries (the "Bonds") to be issued to pay the cost of refunding or redeeming all or a portion of all of the outstanding Gas Works Revenue Bonds and other Project Costs, as hereinafter more particularly described; authorizing the City of Philadelphia to obtain credit enhancement for the Bonds; making certain determinations relating to Project Revenues and the payment of interest and principal; authorizing certain amendments to the 1975 General Ordinance that will take effect at such time that all of the Bonds currently outstanding under the 1975 General Ordinance are redeemed or defeased; and authorizing covenants and actions in order that the Bonds shall not be arbitrage bonds; all under certain terms and conditions.

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 of Philadelphia (the "City"), to borrow, by the issuance and sale of Gas Works Revenue Bonds of the City of Philadelphia (the "Bonds"), in one or more series or subseries and with such relative priorities as they 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 1975, Bill No. 1871 (approved May 30, 1975), as amended (the "1975 General Ordinance"), a sum or sums which in the aggregate shall not exceed the principal amount of Bonds authorized to be issued hereunder, to be expended

City of Philadelphia

BILL NO. 150160 continued

as provided in Section 2 of this Ordinance. The Bonds shall be sold, from time to time, 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 interest of the City and not inconsistent with the provisions hereof, of the Act or of the 1975 General Ordinance or any other applicable law. If a majority of the Bond Committee determines it to be in the best interest of the City, the 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 any Series of the Bonds. If a majority of the Bond Committee determines it to be in the best interest of the City, the City may obtain credit enhancement for all or a portion of any Series of the Bonds. Each Series of the Bonds shall mature or be subject to mandatory redemption in such principal amounts and on such dates, shall bear interest from such date or dates and at such rate or rates (including, without limitation, variable, adjustable or convertible rates), all as shall be determined by the Bond Committee. A majority of the Bond Committee is further 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 Bonds are authorized to be issued hereunder in an aggregate principal amount up to One Hundred Seventy Million Dollars (\$170,000,000); provided that, if any of the Bonds are to be sold at discounts which are in lieu of periodic interest, the aggregate principal amount of the 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 Bonds shall not exceed One Hundred Seventy Million Dollars (\$170,000,000) plus accrued interest, if any; and provided further, that the Bonds, or any portion thereof, may be sold at a premium so long as the aggregate principal amount of the Bond does not exceed One Hundred Seventy Million Dollars (\$170,000,000). Prior to the issuance of any Series of the Bonds, the Bond Committee shall adopt a Resolution authorizing such Series.

The 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 against any property of the City other than the revenues pledged by the 1975 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.

The Bond Committee is further authorized to authorize the issuance and sale of an one or more additional series of bonds which refund, in whole or in part, all or any portion of any Series of the Bonds; and to determine the terms thereof, provided however, that each series of refunding bonds (i) shall not extend the final maturity of the Bonds so refunded and shall have debt service in each year of the refunding bonds lower than the debt service on the Bonds refunded in each such year; and (ii) shall be in a principal

City of Philadelphia

BILL NO. 150160 continued

amount not to exceed the principal amount which accomplishes the foregoing, together with the amount necessary to pay the costs of issuance of such refunding bonds.

SECTION 2. The Bonds shall be issued for the purpose of providing funds for any and all of the following purposes (the “Refunding Project”): (i) the refunding and redeeming of all or any portion of the City of Philadelphia, Pennsylvania, Gas Works Revenue Bonds issued and outstanding under the 1975 General Ordinance, upon such terms and in such amounts as shall be determined by the Director of Finance (the “Prior Bonds”); (ii) paying the costs of issuing the Bonds and any required deposits to the Sinking Fund Reserve; and (iii) paying any other Project Costs (as defined in the Act) relating to the refunding of the Prior Bonds or the issuance of the Bonds which may include, without limitation, the repayment to any fund of the City or to the accounts of the Philadelphia Gas Works (the “Gas Works”) of amounts advanced for Project Costs.

The City covenants that the proceeds of the Bonds which remain available for the payment of the costs of refunding and redemption of 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 whole or in part, in accordance with the terms of the 1975 General Ordinance and the Prior Bonds and further authorizes the Bond Committee or the Director of Finance, if it is determined to be necessary, to enter into an Escrow Agreement (the “Escrow Agreement”) providing, among other things, for the deposit and investment of all or a portion of the Bond proceeds of any series and any other available funds of the City in amounts sufficient, together with interest thereon, if any, to defease the lien of such Prior Bonds 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 Project, pending expenditure for the aforesaid purposes may be transferred to and deposited in the operating funds of the Gas Works and applied as Project Revenues in accordance with Section 4.02 of the 1975 General Ordinance.

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 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

City of Philadelphia

BILL NO. 150160 continued

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.

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 Project Revenues (as defined in the 1975 General Ordinance) will be sufficient to comply with the rate covenant contained in Section 4.03(b) of the 1975 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 1975 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 Bonds shall remain outstanding, all pledged Project 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 Project Revenues shall be held for the security and payment of the Bonds and all Bonds issued under the 1975 General Ordinance to the extent and, to be applied in the order of priority, set forth in Section 4.02 of the 1975 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 1975 General Ordinance.

SECTION 5. The City covenants that, as long as any Bonds shall remain unpaid, it shall make payments or cause payments to be made out of its Gas Works Revenue Bond Sinking Fund created under the 1975 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 Bonds of a series, 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 Bonds of the series and 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 each Series of the Bonds and to take such actions on behalf of the City with respect to the investment of the proceeds of each Series of the 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 each Series of the Bonds shall not be “arbitrage bonds” as defined in the Code.

City of Philadelphia

BILL NO. 150160 continued

SECTION 7. In the event any Series of the Bonds are issued in book-entry form, the ownership of one fully registered Bond for each maturity of such Series, 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 Bonds of such Series, the following provisions of this Section 7 shall govern as to the applicable matters set forth in Article III of the 1975 General Ordinance.

Pursuant to the book-entry-only system, ownership interests in the Bonds may be purchased in the manner directed by the Depository, which may be through financial institutions for whom the Depository effects book-entry transfers (the "Participants"). A person who owns such an interest in the Bonds (a "Beneficial Owner") will not receive certificated 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 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 Bonds or the providing of notices relating to redemption or mandatory tender to Participants or the Beneficial Owners of the Bonds.

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 Bonds for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the 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 Bonds will be accomplished by book-entries made by the Depository and/or the Participants who act on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except as specifically provided herein. So long as the Depository is the Bondholder, interest, principal and redemption price of the 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 Bonds.

City of Philadelphia

BILL NO. 150160 continued

For every transfer and exchange of the Bonds, the Fiscal Agent, the Depository and the Participants may charge the Beneficial Owner of any Bond 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 Bond shall be required to be made fewer than fifteen (15) days prior to any interest payment date or fifteen (15) days prior to any mailing of a notice of redemption of the Bonds. No transfers shall be made of Bonds previously called for redemption, except pursuant to any optional or mandatory tender provisions thereof.

The Depository may determine to discontinue providing its services with respect to the 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 Bonds. If the book-entry only system is no longer utilized, bond certificates will be issued in such names as the City and Fiscal Agent are directed by the Depository.

Notwithstanding any other provision of the 1975 General Ordinance, so long as the Depository is the registered Bondholder of all Bonds, the Depository may present notices, approvals, waivers or other communications required or permitted to be made by bondholders under the 1975 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 Bonds.

SECTION 8. The 1975 General Ordinance is hereby amended as follows, provided that such amendments only take effect at such time as all Bonds currently issued and outstanding under the 1975 General Ordinance are redeemed or defeased through the issuance of bonds under the 1975 General Ordinance:

Section 2.01 is amended by adding the following definitions:

“Credit Facility means any surety bond, insurance policy or other insurance commitment or similar agreement that is provided by an insurance company or other institution with a current long term rating (or whose obligations thereunder are guaranteed by a financial institution with a long term rating) from Moody’s and S&P no lower than “A”.

City of Philadelphia

BILL NO. 150160 continued

Credit Facility Issuer or issuer of a Credit Facility means each issuer of a Credit Facility then in effect, and its successors. References herein to the Credit Facility Issuer shall be read to mean the issuer of the Credit Facility applicable to a particular Series of Bonds, or each issuer of a Credit Facility, as applicable.”

Sinking Fund Reserve Requirement means the Sinking Fund Reserve Requirement, if any, established for a Series of Bonds as determined by the Bond Committee.

Section 6.04 is hereby amended and restated in its entirety as follows:

“There is hereby established a Sinking Fund Reserve which shall be held by the Sinking Fund Depository as part of the Sinking Fund but for which a separate account shall be maintained. Unless otherwise provided in the applicable Supplemental Ordinance in compliance with this Section 6.04, the City shall, under direction of the Director of Finance, establish a separate Sinking Fund Reserve Sub-Account for each Series of Bonds issued hereunder and deposit in such Sinking Fund Reserve Sub-Account from the proceeds of sale of each Series of Bonds issued hereunder and/or Gas Works Revenues an amount which will cause the amount in such Sinking Fund Reserve Sub-Account to equal the Sinking Fund Reserve Requirement for such Series of Bonds, as established in the Supplemental Ordinance authorizing such Series of Bonds. The money and investments (valued at market) in each Sinking Fund Reserve Sub-Account and amounts which can be drawn under Credit Facilities held for each Sinking Fund Reserve Sub-Account shall be held and maintained in an amount equal to the Sinking Fund Reserve Requirement applicable to the Series of Bonds to which such Sinking Fund Reserve Sub-Account relates.

In lieu of a deposit to a Sinking Fund Reserve Sub-Account or in substitution for amounts in a Sinking Fund Reserve Sub-Account, the City may provide one or more letters of credit or other Credit Facilities in the same aggregate amount issued by a provider or providers whose credit facilities are such that bonds secured by such credit facilities are rated in one of three highest rating categories by Moody’s or S&P, provided that (1) in the case of a substitution for moneys in a Sinking Fund Reserve Sub-Account, an opinion of Bond Counsel is delivered to the Fiscal Agent that such substitution will not adversely affect the exclusion from gross income for Federal Income tax purposes of interest on the Bonds to which such Sinking Fund Reserve Sub-Accounts relates, the interest on which is

City of Philadelphia

BILL NO. 150160 continued

intended to be so excluded, (2) each such Credit Facility permits the Fiscal Agent to make a draw thereon up to the principal amount thereof if the Sinking Fund Reserve Sub-Account is needed to cover a shortfall in the Sinking Fund Reserve Sub-Account and other moneys in such Sinking Fund Reserve Sub-Account are insufficient and (3) each such Credit Facility provides that a draw will be made thereon to replenish the applicable Sinking Fund Reserve Sub-Account on the expiration thereof unless the City has otherwise made such deposit to the Sinking Fund Reserve Sub-Account or has obtained another Credit Facility meeting the requirements of this Section 6.04.

If, at any time for any reason, the moneys in the Sinking Fund, other than in the Sinking Fund Reserve, shall be insufficient to pay as and when due, the principal of, and premium, if any, and interest on, any Bond or Bonds secured by a Sinking Fund Reserve Sub-Account, the Sinking Fund Depository is hereby authorized and directed to withdraw from the applicable Sinking Fund Reserve Sub-Account and to draw on Credit Facilities held for the Sinking Fund Reserve Sub-Account and pay over to the Fiscal Agent the amount of such deficiency. If by reason of such withdrawal (including draws on any Credit Facilities held to satisfy the Sinking Fund Reserve Requirement for a particular Series of Bonds) or for any other reason there shall be a deficiency in a Sinking Fund Reserve Sub-Account, the City hereby covenants to restore such deficiency (either by a deposit of funds or the reinstatement of the cash limits of Credit Facilities) within twelve months. Each Sinking Fund Reserve Sub-Account shall be valued by the Sinking Fund Depository promptly after any withdrawal from such Sinking Fund Reserve Sub-Account or any other event indicating a possible deficiency in the Sinking Fund Reserve Sub-Account and on August 31 of each Fiscal Year.”

SECTION 9. This Ordinance is supplementary to the 1975 General Ordinance and all sections of the 1975 General Ordinance not modified, amended or superseded by this Ordinance are applicable to the Bonds. All definitions of terms contained in the Act or the 1975 General Ordinance not inconsistent herewith shall apply to such terms in this Ordinance.

SECTION 10. This Ordinance shall take effect immediately.