

City of Philadelphia



(Bill No. 130767)

AN ORDINANCE

Constituting the Twelfth Supplemental Ordinance to the General Gas Works Revenue Bond Ordinance of 1998 (the “1998 General Ordinance”); authorizing the City of Philadelphia (the “City”) to sell, either at public or private sale, Gas Works Revenue Capital Project Commercial Paper Notes (1998 Ordinance) (the “Notes”) to pay the costs of certain capital projects and other Project Costs; authorizing the City to obtain credit enhancement and liquidity for the Notes; making certain determinations and covenants relating to Gas Works Revenues and the payment of interest and principal; and authorizing covenants and actions in order that the Notes will 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, to borrow, by the issuance and sale of Gas Works Revenue Capital Project Commercial Paper Notes (1998 General Ordinance), of the City (the “Notes”), which may be issued in one or more series or subseries and which shall be issued in installments, designated “Capital Project Commercial Paper Notes” and consecutively thereafter by letter designation, 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 Notes authorized to be issued and at any other time Outstanding hereunder, to be expended as provided in Section 2 of this Ordinance. The Notes shall be sold at public or private sale and shall contain such terms and provisions including, without limitation, the appointment of one or more securities dealers, brokers or other entities acting as purchasers of, or brokers for, the Notes pursuant to one or more agreements with the City (“Dealer”), as are determined by a majority of the Bond Committee to be in the best interests of the City and are not inconsistent with the provisions hereof, of the Act, of the 1998 General Ordinance, or of any applicable law, in connection with the issuance of the Notes. If a majority of the Bond Committee determines it to be in the best interests of the City, the Notes 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 Notes. 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 Notes. The Notes shall mature in such principal amounts and on such date or dates and bear

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interest 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 Notes are authorized to be issued hereunder in an aggregate principal amount of up to one hundred twenty million dollars (\$120,000,000) at any one time Outstanding, to pay the costs related to any or all of the purposes set forth in Section 2 hereof; provided that if any of the Notes are to be sold at discounts which are in lieu of periodic interest, the aggregate principal amount of the Notes 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 Notes shall not exceed one hundred twenty million dollars (\$120,000,000), plus accrued interest if any; and provided further, that the Notes, or any portion thereof, may be sold at a premium so long as the aggregate principal amount of the Notes does not exceed one hundred twenty million dollars (\$120,000,000). Prior to the issuance of each Series of Notes, the Bond Committee shall adopt a Resolution authorizing such series.

The Notes shall be issued as Subordinate Bonds and shall constitute Interim Debt pursuant to the 1998 General Ordinance. The Notes shall not be entitled to the benefit of the Sinking Fund Reserve. The "Final Maturity" of the Notes shall be no more than thirty (30) years from the date of issuance of the Notes.

Each series of Notes shall be issued from time to time, subject to the limitations set forth in this Ordinance, in such aggregate principal amount for each series as from time to time shall be determined by the Bond Committee, but not exceeding the maximum aggregate principal amount at any one time Outstanding authorized herein. The Notes of a series shall be (a) dated as of their respective dates of issuance, (b) numbered serially in consecutive numerical order from 1 upwards, (c) issued in minimum denominations of one hundred thousand dollars (\$100,000) or any integral multiples of one thousand dollars (\$1,000) in excess thereof, (d) issued without coupons and payable to bearer or such other person or entity designated by the City, including a depository or person designated by a depository if the Notes are issued in book-entry form, (e) issued as interest-bearing Notes (provided that interest shall accrue thereon from and including the date of issuance thereof to, but not including or after, the Stated Maturity (as hereinafter defined) thereof), (f) have interest payable and principal amounts maturing at such times as are stated therein, but in no event later than, as to a series of Notes, the Final Maturity, (g) payable as to principal and interest on the maturity date of a particular Note, which shall be not less than one (1) day after the issue date of such Note and not later than two hundred seventy (270) days from the date of issuance of the particular Note (the "Stated Maturity"); provided, however, that the Stated Maturity shall not be later than the earlier of 13 months following the date of initial issuance of any installment of Notes or Final Maturity, and payable in immediately available funds in lawful money of

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the United States of America upon presentation and surrender at the principal corporate trust office of the Fiscal Agent, and (h) authenticated by the Fiscal Agent and delivered by the Fiscal Agent to, or as directed by, the Dealer, from time to time in the manner provided for and subject to the conditions specified herein and in any agreement hereafter entered into by the City and the Dealer or Fiscal Agent, promptly upon receipt by the Fiscal Agent of a request specifying, as to each of the Notes then being issued: (i) the date of issue, Stated Maturity, serial number and principal amount, (ii) the rate of interest to be carried thereby, (iii) the total of principal and interest to be due thereon at the Stated Maturity thereof, (iv) the name of the payee, if other than bearer, and (v) the aggregate purchase price to be paid therefor by the Dealer or such other person or entity as such request shall specify. Delivery of the Notes by the Fiscal Agent to, or as directed by, the Dealer shall be against payment made in the manner specified herein.

The Notes 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 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 Notes shall be issued from time to time for the purpose of providing funds for any or all of the following purposes: (a) the capital projects included in the capital program of the Philadelphia Gas Works ("Gas Works"), which may include, without limitation, (i) the acquisition of land or rights therein; (ii) the acquisition, construction or improvement of buildings, structures and facilities together with their related furnishings, equipment, machinery and apparatus; (iii) the acquisition, construction or replacement of pipes and pipe lines; and (iv) 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; (b) the provision of interest on the Notes during construction of the capital projects; (c) paying the costs of issuing Notes; and (d) paying any other Project Costs (as defined in the Act).

The City covenants that the proceeds of the Notes which are available for the payment of the Project Costs after payment of costs of issuance, and the repayment to the City and the Gas Works of amounts, if any, 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 segregated 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. 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 retained in such account and be expended on Project Costs or may be transferred to and deposited in the operating

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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 Notes 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 all Bonds issued under the 1998 General Ordinance and the Notes to the extent, and in the order of priority both as to security and payment, set forth in Section 4.02 of the 1998 General Ordinance and with respect to the Notes, as provided in Section 4.02 of the 1998 General Ordinance and in Section 1 hereof. 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 Notes 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, subject to the priority of security and payment as set forth in the 1998 General Ordinance.

SECTION 6. The Director of Finance is authorized to make such elections under the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder with respect to the Notes and to take such actions on behalf of the City with respect to the investment of the proceeds of the Notes 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 Notes shall not be "arbitrage bonds" as defined in the Code.

SECTION 7. In the event Notes are issued in book-entry form, the ownership of one fully registered Note for each maturity or stated maturity, each in the aggregate principal amount of such maturity or stated maturity, will be registered in the name(s) designated by the Depository. So long as, but only so long as, the book-entry only

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system is applicable to the Notes, 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 Notes 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 Note (a "Beneficial Owner") will not receive certificated Notes 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 Notes, 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 Notes or the providing of notices relating to redemption to Participants or the Beneficial Owners of the Notes.

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 Notes for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Notes 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 Notes 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 Notes, except as specifically provided herein. So long as the Depository is the Noteholder, interest, principal and redemption price of the Notes 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 Notes.

For every transfer and exchange of the Notes, the Fiscal Agent, the Depository and the Participants may charge the Beneficial Owner of the Notes 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 Notes 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 of

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redemption of the Notes. No transfers shall be made of Notes 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 Notes 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 note certificates in such names as the City and the Fiscal Agent are directed by the Depository.

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

Notwithstanding any other provision of the 1998 General Ordinance, so long as the Depository is the registered holder of all Notes, the Depository may present notices, approvals, waivers or other communications required or permitted to be made by Noteholders 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 Notes.

SECTION 8. (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 Notes, 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 the Notes 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 equally and ratably with all other Notes and subject and subordinate as to priority of security and payment as set forth in Section 4.02 of the 1998 General Ordinance. The providers of Credit Facilities for the Notes shall have no right or claim at any time to amounts on deposit in the Sinking Fund Reserve.

(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 8(a) hereof, shall apply to Credit Facilities with respect to the Notes 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, except as provided in Section 8(a) hereof.

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(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 Notes.

SECTION 9. 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 Notes. 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 10. 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 Notes. No funds from sources other than the Notes 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 member of the same “control group” as the City within the meaning of Treasury Regulation 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 1.150-2(d) of the Code.

SECTION 11. 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 November 21, 2013. The Bill was Signed by the Mayor on December 4, 2013.



Michael A. Decker
Chief Clerk of the City Council