

First Reading 8.06.2012

Second Reading 8.10.2012

ORDINANCE 2012- 25

AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE NO. 2005-5, PASSED BY THE CITY COUNCIL ON MARCH 7, 2005, AS SUPPLEMENTED AND AMENDED BY ORDINANCE NO. 2005-9, PASSED BY THE CITY COUNCIL ON APRIL 18, 2005, AS SUPPLEMENTED AND AMENDED BY ORDINANCE NO. 2006-9, PASSED BY THE CITY COUNCIL ON JANUARY 31, 2006

RECITALS

On June 1, 2005, Mayor and City Council of Ocean City (the "City"), issued its Airport Improvement Bond of 2005 (the "Bond") in the aggregate principal amount of Nine Hundred Twenty-Five Thousand Dollars (\$925,000). Pursuant to Ordinance No. 2005-5, passed by the City Council on March 7, 2005, as supplemented and amended by Ordinance No. 2005-9, passed by the City Council on April 18, 2005 (collectively, the "2005 Ordinance"), the Mayor solicited proposals from potential purchasers of the Bond, and, based upon the recommendation of the City's financial advisor, the Mayor pursuant to the 2005 Ordinance in an Order dated May 24, 2005 fixed the interest rate on the Bond at 5.21% and other terms of the Bond, and sold and delivered the Bond to Bank of America, NA or its designee (the "Bond Purchaser"). On February 10, 2006 the City issued an Amended and Restated Airport Improvement Bond of 2005, which increased the bonded indebtedness to \$1,025,000.00, to the Bond Purchaser.

The proceeds of the Bond were disbursed by the City in order to pay the cost of constructing and installing hangars at the City Airport (the "Project"). The penalty period for the early redemption of the Bond has expired, and the City has determined, based upon more favorable interest rates, to either redeem the bond or to negotiate modifications to the existing bond. The Bond Purchaser has agreed to modify the existing bond upon terms on the attached "Summary of Terms." The City has agreed to the terms and desires to issue and deliver an amended Bond to the Bond Purchaser in the aggregate principal amount not to exceed \$801,215.85, bearing interest at an annual rate not to exceed three point two percent (3.2%) to be fixed by the Mayor, together with the modified principal payment schedule and certain other terms of the Bond, prior to delivery of the amended Bond to the Bond Purchaser.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE MAYOR AND CITY COUNCIL OF OCEAN CITY, that:

Section 1: The aggregate principal amount of the Bond is hereby modified to an amount not to exceed Eight Hundred One Thousand Two Hundred Fifteen Dollars and eighty-five cents (\$801,215.85) at an interest rate not to exceed three point two percent (3.2%).

Section 2: The Mayor is authorized to issue and deliver the Bond on behalf of the City to the Bond Purchaser in an aggregate principal amount not to exceed Eight Hundred One Thousand Two Hundred Fifteen Dollars and eighty-five cents (\$801,215.85), such Bond to bear interest at

LAW OFFICES

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SUITE 200  
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OCEAN CITY, MD 21842

an annual rate not to exceed three point 2 percent (3.2%) per annum, to be payable as to principal at such times and in such amounts, and to have such other terms as set forth in, or to be determined in accordance with, the modified terms. The Mayor shall fix such interest rate, principal payment schedule and other terms of the Bond by a written order of the Mayor. Since the City solicited proposals for the original Bond and the amended Bond issued by the City and sold to the Bond Purchaser, the Mayor shall not be required to solicit additional proposals in connection with the modifications of the Bond authorized by this Ordinance. The Mayor shall make arrangements to exchange the outstanding Bond held by the Bond Purchaser for the modified Bond authorized by this Ordinance.

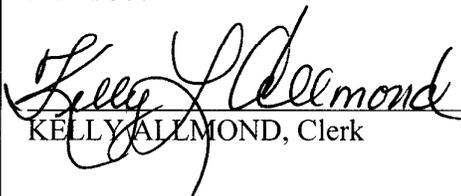
Section 3: The 2005 and 2006 Ordinances shall remain in full force and effect except to the extent modified by this Ordinance.

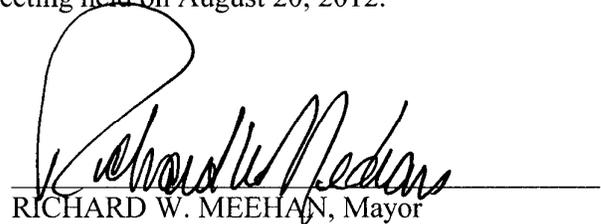
Section 4: This Ordinance shall take effect from the date of its approval by the Mayor, on or following the date of its final passage.

INTRODUCED at a meeting of the City Council of Ocean City, Maryland held on August 6, 2012.

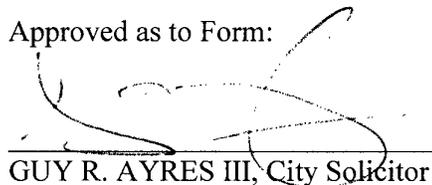
ADOPTED AND PASSED, by the required vote of the elected membership of the City Council and approved by the Mayor at its meeting held on August 20, 2012.

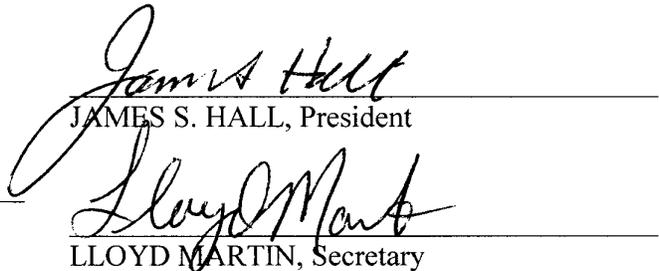
ATTEST:

  
KELLY ALLMOND, Clerk

  
RICHARD W. MEEHAN, Mayor

Approved as to Form:

  
GUY R. AYRES III, City Solicitor

  
JAMES S. HALL, President

  
LLOYD MARTIN, Secretary

**SUMMARY OF TERMS**



- A. **BORROWER:**  
Town of Ocean City, MD (the "Borrower" or the "Obligor")
- B. **LENDER / PURCHASER:**  
Bank of America, N.A. (the "Bank" or "BANA")
- C. **ISSUE / CREDIT FACILITY:**  
Mayor and City Council of Ocean City Amended & Restated Airport Improvement Bond of 2005 (the "Bond") -- The Bonds shall continue to: a) have only a Bank Purchase Mode, b) not be designed or intended to be traded in a public market, c) not carry a public rating, and d) not be held at DTC and not have a CUSIP number assigned to them.
- D. **FACILITY AMOUNT:**  
\$791,062.11
- E. **INTEREST RATE:**  
A fixed rate of interest of 3.20% per annum.  
  
The Interest Rate shall only be available to the Borrower if this commitment is accepted on or before Noon on August 1, 2012, and the Credit Facility is issued on or before October 15, 2012. If the commitment is not accepted or the Credit Facility is not closed by the dates referenced above, BANA shall have the right in its sole discretion to adjust the Interest Rate. If the commitment is accepted but the transaction is not closed by the dates referenced above, the Bank shall have the right in its sole discretion to adjust the Interest Rate and assess the Borrower a charge for any losses suffered by the Bank in connection with making such rate available.
- F. **LENDERS LEGAL FEES:**  
Reasonable legal fees are to be determined to review documents prepared by the Town's counsel.
- G. **INTEREST CALCULATION:**  
All calculations of interest and fees shall be made on the basis of 30 days elapsed in a 360-day year.
- H. **SECURITY:**  
The Credit Facility will be secured by the General Obligation full faith, credit and unlimited taxing power of the Borrower.
- I. **CLOSING DATE / MATURITY:**  
The closing of the Credit Facilities shall be on October 15, 2012. The Bonds shall terminate and all amounts outstanding thereunder shall be due and payable in full on July 15, 2024.
- J. **REPAYMENT:**  
The Bond shall be repaid in quarterly payments of principal and accrued interest. See Exhibit A for the projected amortization schedule.
- K. **PREPAYMENT:**  
The Bond is not prepayable.
- L. **FINANCIAL INFORMATION:**  
The Borrower shall provide annual audited financial statements within 270 days of fiscal year end.
- M. **DOCUMENTATION:**  
Documentation shall be in form and substance satisfactory to the Bank and shall include, without limitation, the Bond, Ordinance, Certificate as to Incumbency and Authorization of the Bond as well as any other associated Bond Documents or Certificates prepared by the Town's counsel and other counsel to the transaction that the Bank may reasonably require as well as receipt of opinions of the

Town's counsel and such other legal opinions as are deemed necessary by the Bank or are customary for a transaction of this type.

N. CONDITIONS:

This Summary of Terms is intended only as an outline of certain of the material terms of the Credit Facility and is subject to:

- Absence of any material adverse change in the financial condition, operations or prospects of the Borrower, or in any law, rule or regulation (or their interpretation or administration), that, in each case, may adversely affect the consummation of the transaction, to be determined in the Bank's sole discretion,
- Agreement as to all final terms and conditions and satisfactory documentation thereof (including satisfactory legal opinions),

O. FUTURE MODIFICATIONS:

The terms, conditions, pricing levels and fees (including legal fees and expenses) cited herein reference the financing and the Facility Amount as described in this Summary of Terms and Conditions and are subject to revision in the event that (i) the Facility Amount changes, (ii) the security, transaction structure, or amortization is modified, or (iii) the proposed financing does not close by October 15, 2012.

P. NO ADVISORY OR FIDUCIARY ROLE:

The Borrower acknowledges and agrees that: (i) the transaction contemplated by this term sheet agreement is an arm's length, commercial transaction between the Borrower and BANA in which BANA is acting solely as a principal and is not acting as a municipal advisor, financial advisor or fiduciary to the Borrower; (ii) BANA has not assumed any advisory or fiduciary responsibility to the Borrower with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto; (iii) the only obligations BANA has to the Borrower with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) the Borrower has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate.

Q. AGREEMENT BY THE BORROWER:

The Borrower hereby agrees to engage the Bank to provide the Credit Facility, which is the subject hereof, pursuant to the terms and conditions stated herein. Please evidence your acceptance of the foregoing by signing and returning a copy of the document to BANA.

This commitment as outlined herein is agreed to and accepted this 20<sup>th</sup> day of August 2012.

TOWN OF OCEAN CITY, MARYLAND (SEAL)

By: *Richard W. Medley*

Its: \_\_\_\_\_