

FIRST READING: 02/03/2014
SECOND READING: 02/18/2014

MAYOR AND CITY COUNCIL OF OCEAN CITY
ORDINANCE NO. 2014- 1

AN ORDINANCE to authorize and empower Mayor and City Council of Ocean City to issue and sell, upon its full faith and credit, its general obligation bond in an aggregate principal amount not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000), pursuant to the authority of Section 19-207 of the Local Government Article of the Annotated Code of Maryland (2013 Volume) and Section C-719 of the Charter of Mayor and City Council of Ocean City, as amended, to be designated as “General Obligation Refunding Bond, Series 2014A”, said bond to be issued and sold for the public purposes of (i) refunding all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Refunding Bonds of 2004 maturing on or after March 1, 2015 and (ii) paying the costs of issuance of said bond, which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses; providing for the sale of said bond by private negotiated sale without advertisement or publication of notice of sale; prescribing the form and tenor of said bond; determining other matters relating to the issuance and sale of said bond; providing for the disbursement of the proceeds of said bond; providing that the proceeds of said bond, or any moneys which may be deemed to be proceeds, will not be used in a manner which would cause said bond to be arbitrage bond; covenanting to levy and collect all taxes necessary to provide for the payment of the principal of and interest on said bond; and generally relating to the issuance, sale and delivery of said bond.

RECITALS

The authority for the powers herein exercised is contained in Section C-719 of the Charter (the “Charter”) of Mayor and City Council of Ocean City (the “City”) and in Section 19-207 of the Local Government Article of the Annotated Code of Maryland (2013 Volume) (the “Enabling Act”), and together with the Charter, the “Authorizing Legislation”).

The Authorizing Legislation authorizes and empowers the City to borrow money for certain public purposes and to evidence such borrowing by the issuance and sale of its general obligation bonds in accordance with the procedure prescribed by the Authorizing Legislation, subject to the limitation that no bond shall be issued by the City pursuant to the authority of the Authorizing Legislation if, by the issuance thereof, the total bonded indebtedness of the City

represented by its bonds payable from its general tax revenues then would exceed the amount permitted pursuant to the Authorizing Legislation.

The City proposes to spend the proceeds of the Bond (as defined below) (i) to refund all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Refunding Bonds of 2004 maturing on or after March 1, 2015 (the “2004 Bonds”) and (ii) to pay the costs of issuing the Bond, which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses.

The Authorizing Legislation authorizes the City to issue bonds for the purpose of refunding outstanding bonds issued by the City in order to realize debt service savings or for other reasons set forth in the Authorizing Legislation. The City has determined that the City will realize savings in the total cost of debt service on either a direct comparison or present value basis by refunding all or a portion of the 2004 Bonds.

The Charter contains no limitations upon the rate at which ad valorem taxes may be levied by the City for the payment of the principal of and interest on said bonded indebtedness.

Since the adoption of Article XI-E as an amendment of the Constitution of Maryland, the General Assembly has passed no law proposing a limitation upon the rate at which taxes may be levied by the City, or a limitation upon the amount of bonded indebtedness which may be incurred by the City.

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

Section 1: Acting pursuant to the authority of the Authorizing Legislation, the City hereby determines that the net proceeds from the sale of its General Obligation Refunding Bond, Series 2014A, authorized to be issued and sold by this Ordinance, shall be used and applied for

the public purposes of (a) refunding all or a portion of the Mayor and City Council of Ocean City Municipal Purpose Refunding Bonds of 2004 maturing on or after March 1, 2015 (the “2004 Bonds”) and (b) paying the costs of issuing the Bond (as defined below), which expenses include costs of document production and reproduction, and financial advisory and counsel fees and expenses, all as stated in the Recitals to this Ordinance.

Section 2: The City is hereby authorized to borrow money and incur indebtedness for the purposes set forth in the Recitals and Section 1 of this Ordinance. To evidence such borrowing and indebtedness and acting pursuant to the authority of the Authorizing Legislation, the City shall issue and sell, upon its full faith and credit, its general obligation bond in an aggregate principal amount not to exceed Four Million Five Hundred Thousand Dollars (\$4,500,000), said bond to be designated as “General Obligation Refunding Bond, Series 2014A” (the “Bond”), the net proceeds of such sale to be used and applied as provided in this Ordinance.

Section 3: The Bond shall be executed in the name of the City and on its behalf by the Mayor. Such signature of the Mayor shall be manual or shall be imprinted on such Bond by facsimile; an imprint of the corporate seal of the City (or a facsimile thereof) shall also be affixed thereon, attested by the manual or facsimile signature of the City Clerk of the City (the “City Clerk”); all in accordance with and pursuant to the authority of the Maryland Uniform Facsimile Signature of Public Officials Act. In the event any official whose signature shall appear on the Bond shall cease to be such official prior to the delivery of the Bond, or in the event any such official whose signature shall appear on the Bond shall have become such after the date of issue thereof, the Bond shall nevertheless be a valid and legally binding obligation of the City in accordance with its terms.

Section 4: Except as provided hereinafter or in resolutions or ordinances of the City adopted prior to the issuance and delivery of the Bond, the Bond shall be substantially in the form set forth in Exhibit A. Appropriate variations and insertions may be made to provide dates, numbers and amounts, and modifications not altering its substance may be made by the Mayor to carry into effect the purposes of this Ordinance or to comply with the recommendations of legal counsel or the financial advisor to the City (the “Financial Advisor”). Such form and all of the covenants therein contained are hereby adopted by the City as and for the form of obligation to be incurred by the City, and such covenants are hereby made binding upon the City, including the promise to pay therein contained.

Section 5: The City hereby determines that it is in the public interest to sell the Bond at private sale without advertisement or publication of a notice of sale. The City shall solicit proposals for the purchase of the Bond from one or more financial institutions. In connection therewith, the Mayor and the Finance Administrator of the City (the “Finance Administrator”) are authorized to (i) prepare a request for proposals or similar documents with the assistance of the Financial Advisor, (ii) solicit proposals from banks or other financial institutions recommended by the Financial Advisor for the purchase of such Bond, (iii) make all necessary arrangements for the tabulation and comparison of the proposals received, including the employment of specially qualified personnel, if necessary, to determine the proposal which has the most advantageous terms for the City, and (iv) negotiate the terms of the sale of the Bond with one or more banks or financial institutions submitting proposals. The Mayor, after considering any recommendations of the Financial Advisor, may also approve the form of, and authorize the Finance Administrator to execute and deliver on behalf of the City, a purchase agreement for the Bond, to the extent required with respect to the Bond. All actions taken by the

officers and employees of the City to solicit proposals for the purchase of the Bond and to redeem the 2004 Bonds are hereby ratified and approved.

Section 6: The City shall sell the Bond to the financial institution submitting the proposal for the Bond that is in the best interests of the City (the "Successful Bidder"), as determined by the Mayor and the Finance Administrator with the assistance of the Financial Advisor. Promptly upon the determination of the Successful Bidder, the sale of the Bond to the Successful Bidder shall be approved by executive order of the Mayor. Such executive order shall also fix and determine the final principal amount of the Bond, the maturity schedule therefor, the interest rate to be borne by the Bond and other details of the Bond. Notwithstanding the foregoing, the Mayor may determine, based upon the advice of the Financial Advisor, to reject all proposals received and to solicit proposals for the purchase of the Bond at a future time or times, as market conditions warrant.

Section 7: The Mayor is expressly authorized and empowered to take any and all action necessary to complete and close the award, sale and delivery of the Bond to the Successful Bidder, including, without limitation, making such changes or modifications in the form of the Bond approved hereby as may be necessary or appropriate to comply with the Successful Bidder's proposal.

Section 8: The proceeds of the sale of the Bond shall be paid directly to the Finance Administrator. The Finance Administrator shall pay from the gross proceeds received from the sale of the Bond all costs of issuing the same, including costs of document production and reproduction, and financial advisory and counsel fees and expenses. The Finance Administrator shall use the balance of the proceeds from the sale of the Bond, and any investment earnings thereon, to redeem the 2004 Bonds on the earliest practicable date. Prior to expenditure of such

proceeds, the same or any part thereof shall be invested by the Finance Administrator, with the approval of the Mayor, in any authorized investment of the City. In addition, if the funds derived from the sale of the Bond shall exceed the amount needed to refund the 2004 Bonds and to pay the costs of issuing the Bond, the funds so borrowed and not expended as provided by this Ordinance shall be set apart in a separate fund by the Finance Administrator and applied in payment of the next principal maturity of the Bond.

Section 9: In order to provide for the payment of the principal of and interest on the Bond when due, there shall be appropriated in the next ensuing fiscal year of the City and in each fiscal year thereafter, so long as the Bond is outstanding and unpaid, or until a sufficient fund has been accumulated and irrevocably set aside for such purpose, an amount sufficient to meet the debt service on the Bond coming due in such fiscal year and there shall be levied ad valorem taxes upon all property within the corporate limits of the City subject to assessment for full City taxes, in rate and amount sufficient in each such fiscal year, together with other funds which the City has appropriated for such purposes, to fund such appropriations and to provide, to the extent necessary, for the payment when due of the principal of and interest on the Bond maturing in each such fiscal year. In the event the proceeds from the taxes so levied in each such fiscal year shall prove inadequate for the above purposes, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency.

To assure the performance by the City of the provisions of this Section, the full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the payment to maturity of the principal of and interest on the Bond as and when the same matures and becomes payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements

of the Bond; this pledge is made hereby for the benefit of the holder, from time to time, of the Bond.

The City hereby solemnly covenants and agrees with the holder of the Bond to levy and collect the taxes hereinabove described and to take any other action that may be appropriate from time to time during the period that the Bond remains outstanding and unpaid to provide the funds necessary to make principal and interest payments thereon when due.

Section 10: The Mayor and the Finance Administrator shall be the officers of the City responsible for the issuance of the Bond within the meaning of the Arbitrage Regulations (defined below). The Mayor and the Finance Administrator shall also be the officers of the City responsible for the execution and delivery (on the date of issuance of the Bond) of a certificate of the City (the "Tax and Section 148 Certificate") which complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby authorized and directed to execute the Tax and Section 148 Certificate and to deliver the same to Bond Counsel on the date of the issuance of the Bond.

The City shall set forth in the Tax and Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bond, or of any monies, securities or other obligations on deposit to the credit of any account of the City which may be deemed to be proceeds of the Bond pursuant to Section 148 or the Arbitrage Regulations (collectively, "Bond Proceeds"). The City covenants with the holder of the Bond that the facts, estimates and circumstances set forth in the Tax and Section 148 Certificate will be based on the City's reasonable expectations on the date of issuance of the Bond and will be, to the best of the certifying officials' knowledge, true and correct as of that date.

The City covenants with the registered owner of the Bond that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds which would cause the Bond to be an “arbitrage bond” within the meaning of Section 148 and the Arbitrage Regulations. The City further covenants that it will comply with Section 148 and the Arbitrage Regulations which are applicable to the Bond on the date of issuance of the Bond and which may subsequently lawfully be made applicable to the Bond as long as the Bond remains outstanding and unpaid. The Mayor and the Finance Administrator are hereby authorized and directed to prepare or cause to be prepared and to execute, respectively, any certification, opinion or other document, including, without limitation, the Tax and Section 148 Certificate, which may be required to assure that the Bond will not be deemed to be an “arbitrage bond” within the meaning of Section 148 and the Arbitrage Regulations. All officers, employees and agents of the City are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bond as may be necessary or appropriate from time to time to comply with, or to evidence the City’s compliance with, the covenants set forth in this Section.

The City further covenants with the registered owner of the Bond that it shall make such use of the proceeds of the Bond, regulate the investment thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest on the Bond.

The Mayor may make such covenants and agreements in connection with the issuance of the Bond as he shall deem advisable in order to assure the registered owner of the Bond that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants and agreements shall be binding on the City so long as the

observance by the City of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on the Bond from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the investment of Bond Proceeds, the payment of certain earnings resulting from such investment to the United States, limitations on the times within which, and the purposes for which, Bond Proceeds may be expended, or the use of specified procedures for accounting for and segregating Bond Proceeds. Any covenant or agreement made by the Mayor or the Finance Administrator pursuant to this paragraph may be set forth in or authorized by the Tax and Section 148 Certificate or an order executed by the Mayor.

Section 11: The City hereby designates the Bond as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 12: Pursuant to the authority of this Ordinance, all officers, employees and agents of the City may take such actions and execute and deliver such documents as are necessary or appropriate from time to time to provide for the issuance, sale and delivery of the Bond.

Section 13: This Ordinance shall take effect from the date of its approval by the Mayor, on or following the date of its final passage.

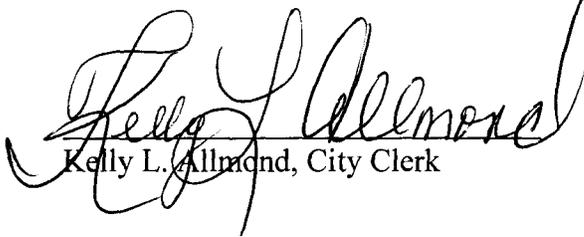
[signatures appear on next page]

THIS ORDINANCE was introduced and read at a meeting of the Mayor and City Council held on the 3rd day of February, 2014, and thereafter, a statement of the substance of the Ordinance having been published as required by law, was finally passed by the Mayor and City Council on the 18th day of February, 2014.

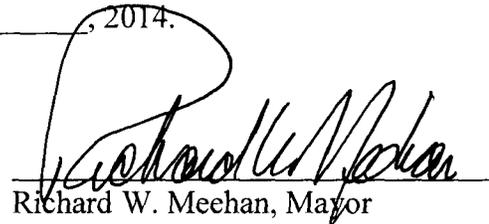


Lloyd Marth, President of the City Council

Approved by me this 18 day of February, 2014.

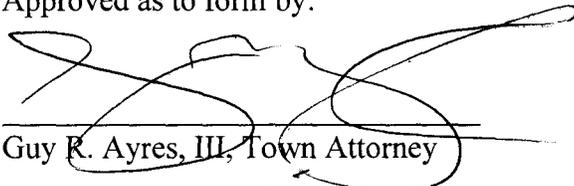


Kelly L. Allmond, City Clerk

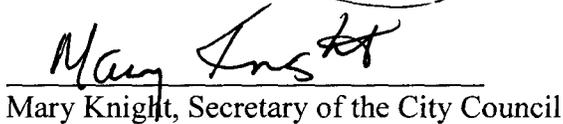


Richard W. Meehan, Mayor

Approved as to form by:



Guy R. Ayres, III, Town Attorney



Mary Knight, Secretary of the City Council