



Legislation Text

File #: 19-0125, **Version:** 1

Resolution Authorizing the Issuance of General Obligation Public Improvement Refunding Bonds of the City Of Hampton in the Maximum Principal Amount Not to Exceed \$23,100,000 to Refund the City's General Obligation Public Improvement and Refunding Bonds, Series 2010A (Tax-Exempt) Previously Issued by the City, and Providing for the Form, Details and Payment of Such Bonds

PURPOSE/BACKGROUND:

The City issued a Request for Proposal for refinancing existing debt with the assistance of Davenport & Company, LLC ("Davenport"), which serves as financial advisor to the City. The purpose of the resolution is to authorize the issuance of certain refunding bonds, as well as to delegate authority to the City Manager, in consultation with the Director of Finance and Davenport, to select the best respondent and authorize the sale of the bonds.

Discussion:

Davenport distributed that certain Request for Proposals (the "RFP") dated February 22, 2019, on behalf of the City to refinance for savings purposes the City's General Obligation Public Improvement and Refunding Bonds, Series 2010A (Tax-Exempt) (the "2010A Bonds"). The new bond issue will be referred to as General Obligation Public Improvement Refunding Bonds (the "Bonds"). The Bonds will be issued to prepay the outstanding principal and accrued interest components of the 2010A Bonds to the closing date (anticipated to be April 29, 2019); and, to pay the costs associated with the transaction. The Bonds will be a general obligation of the City of Hampton for which its full faith and credit will be irrevocably pledged to its payment. The respondents were expected to provide proposals to fund up to the total requested amount of the Bonds.

Thirteen responses to the RFP were received. Davenport will present its analysis of those proposals and staff will request your approval. Bank of America's response provided the greatest amount of debt service savings currently calculated at approximately \$609,401.

Impact:

Interest savings with a possible range of approximately \$500,000 to \$600,000.

Recommendation:

Approve the Resolution.

WHEREAS, the Public Finance Act of 1991, Sections 15.2-2600 et seq. of the Code of Virginia of 1950, as amended (the "Public Finance Act"), permits the issuance of bonds, when authorized by the Council of the City (the "Council") of Hampton, Virginia (the "City"), at one time or from time to time, in order to finance the cost of capital improvement projects and to

refund bonds or notes previously issued for such purposes, and the City has previously issued general obligation bonds for such purposes;

WHEREAS, the City's Financial Advisor has recommended to Council that the City may achieve debt service savings by refunding the outstanding maturities of its General Obligation Public Improvement and Refunding Bonds, Series 2010A (Tax-Exempt) (the "Prior Bonds") through the issuance of general obligation refunding bonds in an aggregate principal amount up to \$23,100,000 (the "Bonds"), and the City's Financial Advisor has further recommended structuring the refunding as a private placement with a bank or other financial institution;

WHEREAS, the City sought bids from banks and other financial institutions for the purchase of the refunding bonds in a competitive solicitation process, and has received proposals from multiple banks and financial institutions; and

WHEREAS, it is the desire of Council to proceed with the issuance of the refunding bonds provided certain debt service savings goals are met, and to delegate to the City Manager and the Director of Finance the authority to select the proposal that they deem most advantageous to the City.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA AS FOLLOWS:

1. Authorization of Bonds. The issuance of the Bonds is authorized in the maximum principal amount not to exceed \$23,100,000, subject to the limitations of paragraph 2 hereof, in order to refund all or a portion of the City's Prior Bonds, and to pay issuance and related costs of the Bonds. The Bonds shall be designated "General Obligation Public Improvement Refunding Bonds", and may also include such other term or terms as part of their designation, including any alternate designation permitted by paragraph 2, as the officers herein authorized deem appropriate.

2. Terms of Sale; Delegation of Authority. The Council hereby approves the sale of the Bonds which may be sold all at one time or at different times, in either case in one or more series, as may be determined by the Director of Finance of the City in consultation with the Financial Advisor, with the approval of the City Manager of the City, provided (i) the true interest cost of the Bonds shall not exceed 2.75%, (ii) the aggregate principal amount of the Bonds shall not exceed the amount specified in paragraph 1, (iii) the final maturity of the Bonds shall not be later than the final maturity of the Prior Bonds, January 15, 2022, and (iv) issuance of the Bonds shall result in gross debt service savings of at least \$500,000 as compared to debt service on the Prior Bonds to be refunded, as determined the Financial Advisor. The Bonds may be subject to optional redemption or prepayment on such terms as negotiated by the Director of Finance with the approval of the City Manager.

The actions of the Director of Finance, with the approval of the City Manager, in issuing the

Bonds shall be conclusive, and no further action shall be necessary on the part of the Council. This Resolution is intended to grant to the Director of Finance and the City Manager full and complete authority to finalize the terms of the Bonds, to provide for their issuance and sale and to execute and deliver any and all documentation in connection therewith without further approval by Council, subject to the requirements and conditions of this Resolution, the Public Finance Act, the City Charter and the Constitution and other laws of the Commonwealth of Virginia.

In the event the purchaser of the Bonds desires to structure the financing as a general obligation loan, the Director of Finance, with the approval of the City Manager, is authorized to negotiate, enter into and execute and deliver documents for such purpose, and evidence such loan through the issuance of a note or bond appropriately designated, subject to the conditions of this paragraph 2, and the other terms of this Resolution which shall, in such case, be interpreted in a manner consistent with a loan financing structure.

3. Refunding Provisions. The Director of Finance, with the approval of the City Manager, is authorized to cause the Prior Bonds to be called for optional redemption in accordance with their terms and to set the date for redemption. In connection with the refunding herein authorized, the City Manager, if determined necessary or appropriate in consultation with the Financial Advisor, is authorized to retain the services of an independent consultant to provide a verification report (the "Verification Agent") on aspects of the refunding and is further authorized to retain the services of an escrow agent (the "Escrow Agent") and to enter into an escrow agreement to the extent needed to hold and provide for investment of all or portions of the proceeds of the Refunding Bonds and other funds as needed pending their application to redeem the Prior Bonds.

4. Bond Form and Details. The Bonds shall be in the form as the Director of Finance may select, with the approval of the City Manager, with such terms and provisions not inconsistent with this Resolution as may be approved by such officers and the officer signing the Bonds, whose approval shall be evidenced conclusively by the execution and delivery thereof.

5. Preparation, Execution and Delivery of Bonds. The City Manager, the Director of Finance and the City Clerk are authorized and directed to take all proper steps to have the Bonds prepared and executed in accordance with their terms, to deliver the Bonds to or for the account of the purchasers thereof upon payment therefor, and to provide for the registration of the Bonds. The Bonds shall be signed by the manual or facsimile signatures of the City Manager or the Director of Finance, and the City's seal shall be affixed thereto or a facsimile thereof printed thereon and attested by the manual or facsimile signature of the City Clerk. The Bonds may also be signed by the Mayor of the City. No bond signed by facsimile signatures shall be valid until it has been authenticated by the manual signature of an authorized officer or employee of the registrar and the date of authentication noted thereon.

6. Pledge of Full Faith and Credit. The power and obligation of the City to pay principal of, premium, if any, and interest on the Bonds shall be unlimited and the City shall levy and

collect ad valorem taxes upon all taxable property within the City, without limitation as to rate or amount, sufficient to pay the principal of, premium, if any, and interest on the Bonds to the extent other funds of the City are not sufficient or available for such purpose. The full faith and credit of the City are pledged for the payment of principal of, premium, if any, and interest on the Bonds.

7. Duties of Registrar. The Registrar shall be selected by the Director of Finance, with the approval of the City Manager. The Registrar shall maintain registration books for the registration of the Bonds. Upon surrender of any bond to the Registrar, together with an assignment duly executed by the registered owner or his duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the City shall execute, and the Registrar shall authenticate and deliver in exchange, a new bond or bonds having an equal aggregate principal amount, in authorized denominations, of the same form and maturity, bearing interest at the same rate, and registered in names as requested by the then registered owner or his duly authorized attorney or legal representative. Any such exchange shall be at the expense of the City, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto.

The Registrar shall treat the registered owner as the person exclusively entitled to payment of principal, premium, if any, and interest and the exercise of all other rights and powers of the owner, except that interest payments shall be made to the person shown as owner on the registration books as of the record date.

8. Legal Debt Limit. The Council has ascertained and hereby determines and states that the maximum principal amount of the Bonds authorized by this Resolution and all other outstanding general obligation bonds or other general obligation indebtedness heretofore issued or contracted by the City for any purpose, or in any manner, does not exceed 10% of the assessed valuation of the real estate in the City subject to taxation, as shown by the last preceding assessment for taxes, and that, accordingly, the Bonds are within the limitation of indebtedness as provided in Section 6.16 of the City Charter, Section 15.2-2634 of the Public Finance Act and Article VII, Section 10 of the Virginia Constitution.

9. Tax Compliance Undertakings.

(a) The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the Bonds issued as tax-exempt obligations to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, including regulations issued pursuant thereto (the "Code"), or otherwise cause interest on the Bonds issued as tax-exempt obligations to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Without limiting the generality of the foregoing, the City shall comply with any provision of law that may require the City at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Bonds, unless the City receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent

interest on the Bonds issued as tax-exempt obligations from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. The City shall pay any such required rebate from its legally available funds.

(b) Such officers of the City as may be requested are authorized and directed to execute appropriate certificates setting forth facts and covenants related to the expected use and investment of the proceeds of the Bonds issued as tax-exempt obligations in order to show that such expected use and investment will not violate the provisions of Section 148 of the Code and any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificates, covenants and elections shall be in such form as may be requested by bond counsel for the City.

(c) The City covenants that it shall not permit the proceeds of the Bonds issued as tax-exempt obligations or the facilities financed with the proceeds of such Bonds to be used in any manner that would result in (a) 10% or more of such proceeds or the facilities financed with such proceeds being used in a trade or business carried on by any person other than a governmental unit or 5% or more of such proceeds or facilities financed with such proceeds being used for such purpose where such use is unrelated or disproportionate to the governmental use of such proceeds, as provided in Section 141(b) of the Code (b) 5% or more of such proceeds or the facilities financed with such proceeds being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any person other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the City receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds issued as tax-exempt obligations from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the City need not comply with such covenants.

(d) The Post Issuance Policies and Procedures previously established by the City Manager and Director of Finance as directed by Council to ensure compliance with the Tax Compliance Undertakings shall apply to the Bonds, and shall be administered by the Director of Finance and such other officers and staff as the Director of Finance may designate and authorize for such purpose.

10. Filing of Resolution. The City Clerk, with the assistance of the City Attorney, is authorized and directed to see to the immediate filing of a certified copy of this Resolution in the Circuit Court of the City of Hampton and is directed to make a copy of this Resolution continuously available for inspection by the general public during normal business hours at the City Clerk's office from the date of adoption hereof through the date of the issuance of the Bonds.

11. Confirmation and General Authorization. All other actions of officers of the City in conformity with the purposes and intent of this Resolution and in furtherance of the issuance

of the Bonds are approved and confirmed. The officers of the City are authorized and directed to execute and deliver all certificates and instruments and to take all such further action as may be considered necessary or desirable in connection with the issuance and delivery of the Bonds.

12. Effective Date. This Resolution shall be in force and effect upon adoption.