



**Melbourne City Council**  
**November 14, 2023**  
**City Manager's Item Report**

Department:	Financial Services
Presenter:	Ross McGinn
Council District:	N/A
Reading Number:	1
Public Hearing:	Yes
Quasi-judicial Item (Disclosure Required):	No
Item Number:	C.19.

**Subject:**

An ordinance amending Ordinance No. 2007-12 relating to the City's Water and Sewer Revenue Bonds to remove specific references to maturity and payment dates from the Bond Ordinance.

**Background/Consideration:**

The ordinance amends the existing Water and Sewer Bond Ordinance originally adopted in 1984, and amended in 1984, 1986, 2000, 2002, 2007, and 2012. The Bond Ordinance acts as a codified document that serves as the City's covenant with its bondholders. In preparation for the Water and Sewer Revenue Bonds, Series 2023, staff reviewed the current Bond Ordinance with our financial advisor, PFM Financial Advisors LLC, and bond counsel, Bryant Miller Olive P.A., and determined that the Bond Ordinance's specific references to maturity dates and payment dates do not align with current industry practices.

The proposed ordinance amends Sections 5.02 and 10.02 of the Bond Ordinance to remove the requirements that bond mature on October 1, and that payments be made on April 1 and October 1, and instead permit the maturity date and payment dates to be established by each Supplemental Resolution authorizing issuance of each bond series. These changes will allow City staff and its financial advisors additional flexibility when creating new bond offerings.

The City Attorney's Office and Bond Counsel have found that the proposed amendment to the Bond Ordinance is not materially prejudicial to the rights or interests of the existing bondholders, and therefore does not require prior consent of the existing bondholders. The City Attorney's Office and Bond Counsel have also found that the consent of the bond insurer is not required. The proposed changes are not anticipated to have any negative impacts to the City's bond rating.

**Fiscal/Budget Impact:**

N/A

**Requested Action:**

Approval of Ordinance No. 2023-36.

ORDINANCE NO. 2023-36

AN ORDINANCE OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2007-12 RELATING TO THE CITY'S WATER AND SEWER REVENUE BONDS TO PROVIDE THAT THE MATURITY DATES AND THE PRINCIPAL AND INTEREST PAYMENT DATES FOR EACH SERIES OF BONDS ISSUED THEREUNDER SHALL BE ESTABLISHED IN THE SUPPLEMENTAL RESOLUTION AUTHORIZING SUCH SERIES OF BONDS; PROVIDING AUTHORITY; MAKING FINDINGS; PROVIDING AMENDMENTS TO ORDINANCE NO. 2007-12; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

BE IT ENACTED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. AUTHORITY FOR THIS ORDINANCE. This Ordinance is enacted pursuant to Chapter 69-879, Laws of Florida, Special Acts of 1969, as amended, Section 159.11, Florida Statutes, Chapter 166, Part II, Florida Statutes, the Constitution of the State of Florida, and other applicable provisions of law.

SECTION 2. FINDINGS. That it is hereby ascertained, determined and declared that:

(1) The City Council of the City of Melbourne, Florida (the "Issuer") enacted Ordinance No. 2007-12 on March 13, 2007 (as amended by Ordinance No. 2012-37 enacted on October 9, 2012 and Ordinance No. 2023-33 enacted on October 24, 2023), the "Original Ordinance", to provide for the issuance from time to time of the Issuer's water and sewer revenue bonds.

(2) Capitalized undefined terms used herein shall have the meaning ascribed thereto in the Original Ordinance.

(3) Pursuant to the Original Ordinance, the Issuer previously issued its currently Outstanding Water and Sewer Refunding Revenue Bonds, Series 2002B, Water and

Sewer Refunding Revenue Bonds, Series 2016A, Water and Sewer Refunding Revenue Bonds, Series 2016B, Water and Sewer Revenue Bond, Series 2021, and Water and Sewer Refunding Revenue Bond, Series 2022 (collectively, the "Existing Bonds").

(4) As more specifically described therein, the existing Original Ordinance provides that for any Additional Bonds issued thereunder, the Maturity Date shall be October 1, the principal payment dates shall be October 1, and the interest payment dates shall be April 1 and October 1.

(5) After consultation with the Issuer's Financial Advisor, the Issuer has determined that it is in the Issuer's best interests to amend the Original Ordinance hereunder to provide the flexibility to establish the Maturity Date and the principal and interest payment dates applicable to a particular series of Additional Bonds in the Supplemental Resolution authorizing such series.

(6) Section 12.01(1)(v) of the Original Ordinance provides that the Issuer may amend the Original Ordinance without the consent of Bondholders to make any change or modification of the terms thereof which, in the judgment of the Issuer, is not materially prejudicial to the rights or interests of the holders of the Bonds thereunder.

(7) The Issuer hereby finds that the amendments made hereunder are not materially prejudicial to the rights or interest of the holders of the Existing Bonds.

(8) Certain of the Existing Bonds are secured by municipal bond insurance policies held by National Public Finance Guarantee Corporation (the "Bond Insurer"), as successor in interest to Financial Guaranty Insurance Company. Section 15.06 of the Original Ordinance provides that if the Bond Insurer is no longer rated in the highest rating classification, then it shall not be entitled to any rights to consent to, approve or participate

in any actions proposed to be taken by the Issuer, a Bondholder or any of them pursuant to the Original Ordinance.

(8) The Bond Insurer is no longer rated in the highest rating classification and, accordingly, its consent to this Ordinance has not been requested or obtained.

SECTION 3. AMENDMENT TO SECTION 5.02 OF THE ORIGINAL ORDINANCE. Section 5.02 of the Original Ordinance is hereby amended to read as follows:

**SECTION 5.02. Description of Obligations.** That the Issuer shall by supplemental resolution specify the following: the authorized principal amount of Bonds; the date and terms of maturity or maturities of the Bonds, or the payment of the Bonds on the demand of the holders thereof, ~~provided that each maturity date shall be October 1 (or, in the event of semiannual maturities of principal, April 1 and October 1);~~ the interest rate or rates of the Bonds, which may include zero interest, variable, adjustable, convertible or other rates, original issue discounts or premiums, provided that the such rates shall never exceed the maximum interest rate permitted by law in effect at the time such Bonds are issued, ~~and provided further that;~~ the interest payment dates, ~~shall be April 1 and October 1 of each Bond Year;~~ the denominations, numbering and lettering of such Bonds, provided that Current Interest Bonds shall be in the denominations of \$5,000 or any integral multiple thereof, and Capital Appreciation Bonds shall be in denominations of \$5,000 Compounded Amounts at maturity or any integral multiple thereof, or any other denominations designated by the Issuer prior to the issuance of such Bonds; the Registrars and Paying Agents and place or places of payment of such Bonds; the redemption prices for such Bonds and any terms of redemption not inconsistent with the provisions of this ordinance, which may include mandatory redemptions at the election of the holder or registered owner thereof; the amount and date of each Amortization Installment for such Term Bonds, ~~provided that each Amortization Installment shall be due on April 1 or October 1, or both, of a Bond Year;~~ the use of proceeds of such Bonds not inconsistent with this ordinance; and any other terms or provisions applicable to the Bonds, not inconsistent with the provisions of this ordinance or the Act. All of the foregoing may be added by supplemental resolution or resolutions adopted at any time and from time to time prior to the issuance of such Bonds. Unless otherwise so provided, each Bond shall bear interest from the later of the original issue date shown thereon or the most recent interest payment date to which interest has been paid, until payment of the principal sum or until provision for the payment thereof on or after the maturity or redemption date has been duly provided for. It is contemplated that the 2002A Bonds and the 2002B Bonds will be issued as separate series and that the series designation of such series may be changed to reflect the date and sequence

of issuance.

\* \* \* \*

SECTION 4. AMENDMENT TO SECTION 10.02(7) OF THE ORIGINAL ORDINANCE. Section 10.02(7) of the Original Ordinance is hereby amended to read as follows:

**SECTION 10.02. Issuance of Parity Obligations.** That except as otherwise provided in this section, no Additional Bonds may be issued under this ordinance unless the Issuer shall have first complied with the requirements of this Section.

\* \* \* \*

(7) Additional Bonds issued pursuant to the terms and conditions of this Article shall be deemed on a parity with all Bonds then outstanding, and all of the covenants and other provisions of this ordinance shall be for the equal benefit, protection and security of the holders of any Bonds originally authorized and issued pursuant to this ordinance and the holders of any Additional Bonds evidencing additional obligations subsequently created within the limitations of and in compliance with this Article. ~~All such Bonds shall bear interest payable either semiannually on April 1 and October 1 of each year, or at maturity or prior redemption and shall mature on October 1 of the stated year of maturity thereof (or on April 1 and October 1 of such year if such Bonds are issued with semiannual principal maturities).~~ Additional Bonds shall be issued only for the purpose of financing one or more Projects, or for the purpose of refunding any obligations theretofore issued for such purposes.

SECTION 5. Severability/Interpretation Clause.

(a) That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, illegal, or otherwise void by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, illegality, or other declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.

(b) That in interpreting this Ordinance, underlined words indicate additions to existing text and ~~stricken words~~ indicate deletions from existing text. Asterisks (\* \* \* \*) indicate an omission from the ordinance of text, which exists in the Original Ordinance. It is intended that the text in the Original Ordinance denoted by the asterisks and not set forth in this ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.

SECTION 6. That this Ordinance shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 7. That this Ordinance was passed on the first reading at a regular meeting of the City Council on the \_\_\_\_\_ day of November, 2023, and adopted on second/final reading at a regular meeting of the City Council on the \_\_\_\_\_ day of November, 2023.

BY: \_\_\_\_\_  
Paul Alfrey, Mayor

ATTEST: \_\_\_\_\_  
Kevin McKeown, City Clerk

[CITY SEAL]

Ordinance No. 2023-36