



Legislation Text

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A RESOLUTION INCORPORATING BY REFERENCE AND ADOPTING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF, (A) A TWENTY-FOURTH SUPPLEMENTAL UTILITIES SYSTEM REVENUE BOND RESOLUTION FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF NOT TO EXCEED \$100,000,000 OF THE CITY OF GAINESVILLE, FLORIDA'S UTILITIES SYSTEM REVENUE BONDS, 2012 SERIES A IN ORDER TO PROVIDE A PORTION OF THE MONEYS NECESSARY TO REFUND CERTAIN OF THE CITY'S OUTSTANDING UTILITIES SYSTEM REVENUE BONDS, AND DELEGATING THE AUTHORITY TO DETERMINE CERTAIN MATTERS IN CONNECTION THEREWITH AND (B) A TWENTY-FIFTH SUPPLEMENTAL UTILITIES SYSTEM REVENUE BOND RESOLUTION FOR THE PURPOSE OF AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF NOT TO EXCEED \$105,000,000 OF THE CITY'S VARIABLE RATE UTILITIES SYSTEM REVENUE BONDS, 2012 SERIES B IN ORDER TO PROVIDE THE MONEYS NECESSARY TO REFUND CERTAIN OF THE CITY'S OUTSTANDING UTILITIES SYSTEM REVENUE BONDS, AND DELEGATING THE AUTHORITY TO DETERMINE CERTAIN MATTERS IN CONNECTION THEREWITH; APPROVING THE NEGOTIATED SALE OF THE 2012 SERIES A BONDS AND APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF A CONTRACT OF PURCHASE WITH RESPECT THERETO, AND DELEGATING THE AUTHORITY TO DETERMINE CERTAIN MATTERS IN CONNECTION THEREWITH; APPROVING THE NEGOTIATED SALE OF THE 2012 SERIES B BONDS AND APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF A CONTRACT OF PURCHASE WITH RESPECT THERETO, AND DELEGATING THE AUTHORITY TO DETERMINE CERTAIN MATTERS IN CONNECTION THEREWITH; APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF CONTINUING DISCLOSURE CERTIFICATES WITH RESPECT TO THE 2012 SERIES A AND B BONDS; APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF A REMARKETING AGREEMENT, A TENDER AGENCY AGREEMENT AND A STANDBY BOND PURCHASE AGREEMENT WITH RESPECT TO THE 2012 SERIES B BONDS; APPROVING THE FORM, AND AUTHORIZING THE EXECUTION AND DELIVERY, OF AN ESCROW DEPOSIT AGREEMENT RELATING TO THE 2012 SERIES A BONDS; AUTHORIZING, WITH RESPECT TO THE 2012 SERIES A BONDS, THE DEPOSIT OF BOND PROCEEDS AND CERTAIN OTHER AMOUNTS INTO THE ESCROW ACCOUNT TO BE ESTABLISHED PURSUANT TO THE ESCROW DEPOSIT AGREEMENT AND THE INVESTMENT OF SUCH MONEYS; AUTHORIZING THE AUTHENTICATION AND DELIVERY OF THE 2012 SERIES A AND B BONDS; APPROVING THE FORM AND USE OF THE PRELIMINARY OFFICIAL STATEMENT AND THE OFFICIAL STATEMENT RELATING TO THE 2012 SERIES A BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF SAID OFFICIAL STATEMENT; APPROVING THE FORM AND USE OF THE OFFICIAL STATEMENT RELATING TO THE 2012 SERIES B BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY OF SAID OFFICIAL STATEMENT; AUTHORIZING THE REGISTRATION OR QUALIFICATION OF THE 2012 SERIES A AND B BONDS UNDER THE BLUE SKY LAWS OF VARIOUS STATES; AUTHORIZING CERTAIN CITY OFFICIALS TO TAKE OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE, SALE AND DELIVERY OF THE 2012 SERIES A AND B BONDS; AUTHORIZING THE EXTENSION OR SUBSTITUTION OF THE LIQUIDITY FACILITY FOR THE 2012 SERIES B BONDS; AUTHORIZING THE REMOVAL OF THE REMARKETING AGENT AND/OR THE TENDER AGENT FOR THE 2012 SERIES B BONDS AND APPOINTMENT OF SUCCESSOR(S) THEREFOR; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN

EFFECTIVE DATE.

The City Commission:

1. Adopt the attached resolution (Authorizing Resolution), which:

(a) incorporates by reference and adopts, and authorizes the execution and delivery of:

(i) a Twenty-Fourth Supplemental Utilities System Revenue Bond Resolution (Twenty-Fourth Supplemental Resolution), which authorizes the issuance, sale, execution and delivery of not to exceed \$100 million in aggregate principal amount of the City's tax-exempt Utilities System Revenue Bonds, 2012 Series A (2012 Series A Bonds) in order to refund portions of (X) the City's tax-exempt Utilities System Revenue Bonds, 2003 Series A (2003 Series A Bonds), and (Y) the City's tax-exempt Utilities System Revenue Bonds, 2005 Series A (2005 Series A Bonds), and delegates the authority to determine certain matters in connection therewith; and

(ii) a Twenty-Fifth Supplemental Utilities System Revenue Bond Resolution (Twenty-Fifth Supplemental Resolution), which authorizes the issuance, sale, execution and delivery of not to exceed \$105 million in aggregate principal amount of the City's tax-exempt Variable Rate Utilities System Revenue Bonds, 2012 Series B (2012 Series B Bonds) in order to refund portions of (W) the City's Utilities System Revenue Bonds, 2005 Series B (Federally Taxable) (2005 Series B Bonds), (X) the City's tax-exempt Variable Rate Utilities System Revenue Bonds, 2005 Series C (2005 Series C Bonds), (Y) the City's tax-exempt Variable Rate Utilities System Revenue Bonds, 2006 Series A (2006 Series A Bonds) and (Z) the City's Utilities System Revenue Bonds, 2008 Series A (Federally Taxable) (2008 Series A Bonds), and delegates the authority to determine certain matters in connection therewith;

(b) in the case of the 2012 Series A Bonds:

(i) approves the form, and authorizes the execution and delivery, of a contract of purchase between the City and an underwriting group for which J.P. Morgan Securities LLC (JP Morgan Securities) will serve as senior book-running manager, and delegates the authority to determine certain matters in connection therewith;

(ii) approves the form, and authorizes the execution and delivery, of a continuing disclosure certificate;

(iii) approves the form and use of the preliminary official statement and the official statement relating to the 2012 Series A Bonds and authorizes the execution and delivery of said official statement; and

(iv) approves the form, and authorizes the execution and delivery, of an escrow deposit agreement with U.S. Bank Trust National Association, the Trustee for our Utilities System Revenue Bonds (U.S. Bank Trust), authorizes the deposit of 2012 Series A Bond proceeds and certain other amounts into the escrow account to be established pursuant to said escrow deposit agreement and authorizes the investment of such monies in such Defeasance Securities as an Authorized Officer of the City (as such terms are defined in the Utilities Bond Resolution) shall determine (including, without limitation, United States Treasury Securities - State and Local Government Series);

(c) in the case of the 2012 Series B Bonds:

(i) approves the form, and authorizes the execution and delivery, of a contract of purchase between the City and JP Morgan Securities, which will serve as sole underwriter, and delegates the authority to determine certain matters in connection therewith;

- (ii) approves the form, and authorizes the execution and delivery, of a continuing disclosure certificate;
- (iii) approves the form and use of the official statement relating to the 2012 Series B Bonds and authorizes the execution and delivery of said official statement;
- (iv) approves the form, and authorizes the execution and delivery, of a remarketing agreement between the City and JP Morgan Securities, pursuant to which JP Morgan Securities will serve as the initial remarketing agent for the 2012 Series B Bonds;
- (v) approves the form, and authorizes the execution and delivery, of a tender agency agreement between the City and U.S. Bank Trust, pursuant to which U.S. Bank Trust will serve as the initial tender agent for the 2012 Series B Bonds;
- (vi) approves the form, and authorizes the execution and delivery, of a standby bond purchase agreement between the City and JPMorgan Chase Bank, National Association (JP Morgan Chase Bank), pursuant to which JPMorgan Chase Bank will provide liquidity support for any 2012 Series B Bonds that are tendered for purchase and not remarketed;
- (vii) delegates the authority to extend the term of any facility providing liquidity support for the 2012 Series B Bonds or to procure another facility in substitution therefor; and
- (viii) delegates the authority to remove the remarketing agent and/or the tender agent for the 2012 Series B Bonds and to appoint successor(s) therefor; and
- (d) in the case of the 2012 Series A and B Bonds:
 - (i) authorizes the authentication and delivery of the 2012 Series A and B Bonds;
 - (ii) authorizes the registration or qualification of the 2012 Series A and B Bonds under the blue sky laws of various states; and
 - (iii) authorizes certain City officials to take other actions in connection with the issuance, sale and delivery of the 2012 Series A and B Bonds.

2. Authorize the Clerk of the Commission, the General Manager and other Authorized Officers of the City to execute such documents as may be necessary to proceed with the transactions authorized above and to take such other actions as may be necessary or advisable to proceed with the issuance of the 2012 Series A and B Bonds in accordance with this City Commission authorization.

In March 2012, the City Commission, among other things, (1) authorized (a) the refunding of all or a portion of the 2005 Series B Bonds, the 2005 Series C Bonds, the 2006 Series A Bonds, the 2008 Series A Bonds and the City's tax-exempt Utilities System Revenue Bonds, 2010 Series C through the issuance of variable rate, tax-exempt bonds and (b) the refunding of all or a portion of the 2003 Series A Bonds and the 2005 Series A Bonds through the issuance of fixed-rate, tax-exempt bonds; and (2) approved the selection of a Senior Manager for the refunding bonds, and authorized the appointment of additional Co-Managers if doing so would enhance the distribution of the refunding bonds.

With respect to the fixed-rate refunding portion of the financing, GRU staff and our Financial Advisor have determined that it is advantageous that up to approximately \$1.605 million of the 2003 Series A Bonds and \$91.820

million of the 2005 Series A Bonds be refunded through the issuance of the tax-exempt 2012 Series A Bonds, in order to produce debt service savings.

With respect to the variable rate refunding portion of the financing, it also has been determined that it is advantageous that up to approximately \$31.560 million of the 2005 Series B Bonds, \$31.775 million of the 2005 Series C Bonds, \$30.750 million of the 2006 Series A Bonds and \$40.605 million of the 2008 Series A Bonds be refunded through the issuance of the tax-exempt 2012 Series B Bonds, in order (a) in the case of the refunded 2005 Series B Bonds and the refunded 2008 Series A Bonds, to (i) replace taxable debt with lower-cost tax-exempt debt and (ii) extend the amortization of the debt to more closely match the useful life of the assets to which such debt relates and (b) to restructure debt service and thereby permit the Utility to mitigate the effect of the biomass plant coming on-line (which is scheduled to occur in late 2013) on the Utility's retail electric rates.

Since market conditions may change up until the respective times of the pricing of the 2012 Series A and B Bonds, we are recommending that the General Manager be authorized to determine which of the refunding candidates (or portions thereof) are to be refunded, as follows:

- (a) in the case of the 2012 Series A Bonds, the General Manager shall select such Bonds (or portions thereof) to be refunded based upon a determination by the System's Financial Advisor that, in its opinion, the refunding of such Bonds (or portions thereof) will result in the maximum achievable amount of net present value savings, on an aggregate basis, based upon market conditions then in effect, calculating such savings assuming a discount rate equal to the arbitrage yield of the 2012 Series A Bonds; and
- (b) in the case of the 2012 Series B Bonds, the General Manager shall select such Bonds (or portions thereof) to be refunded based upon a determination by the System's Financial Advisor that, in its opinion, the refunding of such Bonds (or portions thereof) will result in the maximum achievable amount of net present value savings, on an aggregate basis, based upon market conditions then in effect, calculating such savings assuming (i) a discount rate of 4.00% (which is lower, and thus more conservative, than both the current and historical long-term borrowing cost of the Utility) and (ii) an interest rate for the variable rate 2012 Series B Bonds of 3.25% (which is approximately 0.50% higher than the average variable rate for comparable variable rate debt programs over the past ten years, inclusive of all financing costs).

The issuance of the 2012 Series A and B Bonds for the purposes referred to above is scheduled to occur in early August. We recommend that the City Commission adopt the attached Authorizing Resolution which approves the sale of the 2012 Series A and B Bonds and delegates certain authority to the General Manager or his designee to determine specific details with respect to the 2012 Series A and B Bonds. In the case of the fixed-rate 2012 Series A Bonds, such delegation is necessary in order to afford Utilities staff the flexibility to determine when market conditions are best for pricing such Bonds. In the case of the variable rate 2012 Series B Bonds, such delegation is necessary in order to determine the actual aggregate principal amount of such Bonds to be issued, since such amount will be a function of the "make-whole" redemption price of the refunded taxable 2005 Series B and 2008 Series A Bonds, which cannot be determined until 10 days prior to the delivery of the 2012 Series A and B Bonds.

This delegation authorizes the General Manager or his designee:

- (i) to determine, among other things:
 - (a) in the case of the 2012 Series A Bonds:
 - (1) the aggregate principal amount of the 2012 Series A Bonds;
 - (2) the maturity dates of the 2012 Series A Bonds and the principal amounts of the 2012 Series A Bonds

maturing on each maturity date and, if any 2012 Series A Bonds maturing on a particular date are to be issued as term bonds subject to mandatory redemption to satisfy sinking fund installments, the due dates and amounts of such sinking fund installments;

- (3) the interest rates or rates to be borne by the 2012 Series A Bonds of each maturity;
- (4) certain optional redemption provisions for the 2012 Series A Bonds;
- (5) the particular refunding candidates (or portions thereof) to be refunded, determined in the manner described above; and

(6) the underwriters' discount and the price at which the 2012 Series A Bonds will be sold to the underwriters; provided, however, that:

- (A) the maximum aggregate principal amount of the 2012 Series A Bonds shall not exceed \$100 million;
- (B) the final maturity date of the 2012 Series A Bonds shall not be later than October 1, 2036;
- (C) the maximum rate of interest that the 2012 Series A Bonds may bear shall be 5.00%;
- (D) the earliest date on which the 2012 Series A Bonds may be redeemed at the election of the City shall be not later than October 1, 2022, and the highest redemption price at which those Bonds may be so redeemed shall be not greater than 100% of the principal amount thereof, plus accrued interest to the date of redemption;
- (E) the net present value savings, on an aggregate basis, resulting from the issuance of the 2012 Series A Bonds and the refunding of the Bonds to be refunded thereby shall not be less than 3.00% of the principal amount of the 2012 Series A Bonds, calculated as described above; and
- (F) the true interest cost for the 2012 Series A Bonds shall not exceed 4.50%;

(b) in the case of the 2012 Series B Bonds:

- (1) the aggregate principal amount of the 2012 Series A Bonds and the respective due dates and amounts of the sinking fund installments therefor;
- (2) the initial Interest Mode (as defined in the Twenty-Fifth Supplemental Resolution) for the 2012 Series B Bonds, which shall be either the Daily Mode or the Weekly Mode (as such terms are defined in the Twenty-Fifth Supplemental Resolution);
- (3) the particular refunding candidates (or portions thereof) to be refunded, determined in the manner described above; and
- (4) the underwriter's discount for the sale of the 2012 Series A Bonds to JP Morgan Securities;

provided, however, that:

- (A) the maximum aggregate principal amount of the 2012 Series B Bonds shall not exceed \$105 million;

(B) the net present value savings, on an aggregate basis, resulting from the issuance of the 2012 Series B Bonds and the refunding of the Bonds to be refunded thereby shall not be less than 2.50% of the principal amount of the 2012 Series B Bonds, calculated as described above; and

(C) the maximum amount of the underwriter's discount shall not exceed \$3.00 per \$1,000 principal amount of the 2012 Series B Bonds; and

(ii) to make such changes to the documents (other than the Authorizing Resolution and the Twenty-Fourth and Twenty-Fifth Supplemental Resolutions) as he determines are necessary or appropriate, subject to the approval of the office of the City Attorney as to form and legality.

The Clerk of the Commission, the General Manager or other Authorized Officers of the City may be required to take certain other actions and hire certain other professionals to proceed with the issuance of the 2012 Series A and B Bonds. Therefore, we recommend that these officials be authorized to take such other actions that may be necessary or desirable to proceed with the issuance and closing of the bond issue in accordance with this City Commission authorization and delegation.

The financings described herein (a) are expected to achieve present value debt service savings, in part through the issuance of fixed-rate debt to refund fixed-rate debt at currently low fixed interest rates and in part through the issuance of variable rate debt to refund fixed-rate debt and (b) will restructure the Utility's debt service and thereby permit the Utility to mitigate the effect of the biomass plant coming on-line on the Utility's retail electric rates.