

ORDINANCE

No. 24-013

1st Reading FEB 08 2024

Date to Mayor APR 09 2024

Public Hearing APR 04 2024

Date Returned APR 12 2024

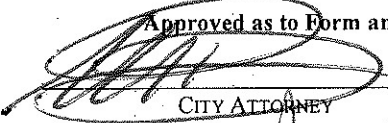
2nd Reading & Passage APR 04 2024

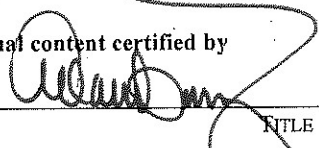
Date Resubmitted to Council _____

Withdrawn _____ Lost _____

Approved as to Form and Legality

Factual content certified by


CITY ATTORNEY


TITLE

Councilman /woman Jennifer Vaughn Williams

presents the following Ordinance:

BOND ORDINANCE PROVIDING FOR PHASE IV OF THE LEAD SERVICE LINE REPLACEMENT PROGRAM IN THE TRENTON WATER WORKS SERVICE AREA, BY THE CITY OF TRENTON, IN THE COUNTY OF MERCER, STATE OF NEW JERSEY, APPROPRIATING \$10,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$10,000,000 BONDS OR NOTES TO FINANCE THE COST THEREOF

WHEREAS, the Trenton Water Works ("TWW"), a public water system owned and operated by the City of Trenton, in the County of Mercer, State of New Jersey (the "City"), provides drinking water to approximately 215,000 customers with approximately 63,000 metered accounts and utilizes approximately 650 miles of distribution mains in Trenton, Hamilton, Lawrence, Ewing and Hopewell; and

WHEREAS, TWW desires to replace all or a portion of its lead service lines in TWW's public water distribution system with copper service lines in order to bring its public water system into compliance with the United States Environmental Protection Agency's ("USEPA") lead and copper rule and continue progress on the New Jersey Department of Environmental Protection ("NJDEP") mandated Lead Service Line Replacement Plan under N.J.S.A. 52:12A-44 (the "Project"); and

WHEREAS, the City, on behalf of TWW, has previously filed with the NJDEP an initial plan for the replacement of all lead service lines within the TWW service area in accordance with N.J.S.A. 52:12A-44, which involves the implementation and completion of the Project; and

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WHEREAS, the lead service lines connect to TWW's water distribution system, but all or a portion of such lead service lines are privately owned by various property owners; and

WHEREAS, as of this date, TWW is required to provide an average annual replacement of 10% of the public water system's lead service lines that are known to, and identified by, TWW over 10 year period from the effective date of N.J.S.A. 52:12A-44; and

WHEREAS, N.J.S.A. 40A:2-22(f)(5) authorizes, among other things, municipalities, including the City, to construct, reconstruct and finance the replacement of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into a privately-owned structure, for the purpose of replacing residential, commercial and industrial lead service lines, for up to 30 years; and

WHEREAS, the Project will improve the City's drinking water quality and public health conditions; and

WHEREAS, TWW believes that the provision of clean, lead free drinking water to its customers is a public purpose beneficial to all of its customers and any benefit to any private land owner in accomplishing this purpose is incidental and subordinate to this primary public and governmental purpose; and

WHEREAS, the City previously adopted bond ordinances totaling \$40,000,000 to finance Phases I and II of its lead service line replacement program, and it now desires to adopt a bond ordinance in the amount of \$10,000,000 to finance Phase IV of the Project.

BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF TRENTON, IN THE COUNTY OF MERCER, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken on behalf of the Trenton Water Works

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("TWW") by the City of Trenton, in the County of Mercer, State of New Jersey (the "City") as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the amount of \$10,000,000. Pursuant to the provisions of N.J.S.A. 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), no down payment is required as this bond ordinance involves environmental infrastructure projects, which are funded by loans from the New Jersey Infrastructure Bank (the "I-Bank") or the State of New Jersey, acting by and through the Department of Environmental Protection.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the \$10,000,000 appropriation, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$10,000,000 pursuant to, and within all limitations prescribed by, the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the City in a principal amount not exceeding \$10,000,000 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, said Local Bond Law.

SECTION 3. The improvements hereby authorized and purposes for the financing of which said debt obligations are to be issued are for the replacement of approximately 1,000 to 1,700 lead service lines from the main up to the curb, including the curb box and, as applicable, from the curb onto real property, including, but not limited to, privately-owned real property and privately-owned structures located in the TWW service area.

a. All improvements shall include, as applicable, treatment improvements to mitigate lead contamination, reservoir/piping improvements to reduce potential for algae growth, the furnishing and installation of lead rated filters, lead service inventory development, all field work, site restoration of the trench, materials, equipment,

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engineering, design, architectural, environmental consulting work, preparation of plans and specifications, permits, bid documents, conducting and preparation of reports and studies, equipment rental, labor and appurtenances necessary therefore or incidental thereto.

b. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$10,000,000.

c. The aggregate estimated cost of said improvements or purposes is \$10,000,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Mercer make a loan, contribution or grant-in-aid to the City for the improvements authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Mercer. In the event, however, that any amount so loaned, contributed or granted by the United States of America, the State of New Jersey, and/or the County of Mercer shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply however, with respect to any contribution or grant in aid received by the City as a result of using such funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the City, provided that no note shall mature later than one (1) year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with the provisions of the New Jersey Infrastructure Trust Act, N.J.S.A. 58:11B-1 ("NJIT Act"). The notes shall bear interest at such

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rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the City shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law and, as applicable, the provisions of the NJIT Act. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The City hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

a. The purpose described in Section 3 of this bond ordinance is not a current expense. In accordance with N.J.S.A. 52:12A-44, it is an improvement which the City may lawfully undertake as a local improvement, the cost of which may be borne by all of the customers of TWW's water system or specially assessed on property specially benefitted

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thereby via the levy of a special assessment against the benefitted properties, upon notice to the Director of Local Government Services of the New Jersey Department of Community Affairs. The portion of the costs of such purpose not specially assessed on property specially benefitted thereby shall be undertaken as a general improvement by the City.

b. The period of usefulness of said improvements is within the limitations of said Local Bond Law and, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, the period of usefulness is thirty (30) years.

c. The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the City and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services within the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the City, as defined in the Local Bond Law, is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$10,000,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

d. An aggregate amount not exceeding \$1,500,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements hereinbefore described.

e. This bond ordinance authorizes obligations of the City solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

SECTION 8. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the debt obligations authorized by

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this bond ordinance. The debt obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the debt obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The City reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the City's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 150-2. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized herein is paid, or (ii) the date the improvements or purposes described in Section 3 hereof are "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid.

SECTION 10. The City covenants to maintain the exclusion from gross income under section 103(a) of the Internal Revenue Code of 1986, as amended, of the interest on all tax-exempt bonds and notes issued under this ordinance.

SECTION 11. The bonds authorized herein shall be designated as "Qualified Bonds", pursuant to the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 et seq. (the "Municipal Qualified Bond Act"), and shall contain a recital that it is issued pursuant to Title 40A of the New Jersey Statutes and is entitled to the benefits of the provisions of the Municipal Qualified Bond Act. The City shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, the interest rate, and the dates of payment of debt service on such Qualified

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Bonds within ten (10) days after the date of issuance of such Qualified Bonds.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, as provided by the Local Bond Law.

INTRODUCTION				ADOPTION				INTRODUCTION				ADOPTION			
AYE	NAY	NV	AB	AYE	NAY	NV	AB	AYE	NAY	NV	AB	AYE	NAY	NV	AB
EDWARDS	✓			✓				GONZALEZ	✓			✓			
FIGUEROA	✓			✓				HARRISON	✓			✓			
KETTENBURG	✓			✓				WILLIAMS	✓			✓			
FRISBY	✓			✓											

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ on FEB 08 2024

Adopted on second reading after the public hearing on APR 04 2024

Mayor [Signature]
 President of Council [Signature]



Reconsidered by Council – Override Vote _____
 City Clerk [Signature]