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**BALTIMORE CITY COUNCIL
WAYS AND MEANS
COMMITTEE**

Mission Statement

The Committee on Ways and Means (WM) is responsible for ensuring taxpayer dollars are expended prudently and equitably. WM will exercise regular oversight of the City's budget, expenditures, loans, and other financial matters. The committee's areas of jurisdiction include: budget & appropriations, taxation, financial services, consumer protection, audits, and the Comptroller's Office.

**The Honorable Eric T. Costello
Chairman**

PUBLIC HEARING

**Tuesday, October 15, 2024
10:04 AM**

COUNCIL CHAMBERS

Council Bill #24-0595

**Ordinance 24-362 - Revenue Obligations - Water Projects - Repeal and
Replace**



BILL SYNOPSIS

Committee: Ways and Means

Bill 24-0593

Ordinance 24-362 - Revenue Obligations - Water Projects - Repeal and Replace

Sponsor: President Mosby
Introduced: September 30, 2024

Purpose: For the purpose of repealing and replacing Ordinance 24-362 due to clerical error; maintaining the City’s authorization to issue revenue obligations within the maximum aggregate principal amount of the revenue obligations that may be outstanding authorized and calculated, as of June 30 of each year by the City to finance or refinance water facilities and, in that connection, amending and restating Ordinance 02-331, as amended by Ordinances 04-687, 7-420, 11-429, and 14-292; authorizing the Board of Finance to specify, prescribe, determine, provide for, approve, and amend the form, terms, provisions, manner or method of issuing and selling, the time or times of issuance, and all other details of the revenue obligations and any other matters necessary or desirable in connection with the authorization, issuance, sale, and payment of these revenue obligations; providing for a special effective date; and generally relating to the issuance and payment of revenue obligations.

Effective: Date it is enacted.

Agency Reports

Law Department	None as of this writing
Department of Finance	None as of this writing
Baltimore Development Corporation	None as of this writing
Department of Planning	None as of this writing
Department of Transportation	None as of this writing
Department of Public Works	None as of this writing

Analysis

Current Law

By repealing

Ordinance 24-362

By repealing and re-ordaining, with amendments,

Ordinance 02-331, as amended by Ordinance 04-687, 07-420, 11-429, and 14-292

By authority of

Article II – General Powers

Section (50)

Baltimore City Charter

Article – Local Government

Title 19

Annotated Code of Maryland

Background

If enacted, Ordinance 24-0593 will repeal and replace Ordinance 24-362 (Council Bill 24-0482) due to a clerical error. Also, Ordinance 02-331, as amended by Ordinance 04-687, 07-420, 11-429, and 14-292, will be repealed, re-ordained, and amended.

Additional Information

Fiscal Note: None

Information Source(s): City Code and Bill 24-0593

Analysis by: Niya N. Garrett Direct Inquiries to: (410) 396-1268

Analysis Date: October 10, 2024

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**CITY OF BALTIMORE
COUNCIL BILL 24-0593
(First Reader)**

Introduced by: The Council President
At the request of: The Administration (Department of Legislative Reference)
Introduced and read first time: September 30, 2024
Assigned to: Ways and Means Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Finance, Department of Planning, Baltimore Development Corporation, Department of Transportation, Department of Public Works

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Ordinance 24-362 – Revenue Obligations – Water Projects – Repeal and Replace**

3 FOR the purpose of repealing and replacing Ordinance 24-362 due to clerical error; maintaining
4 the City’s authorization to issue revenue obligations within the maximum aggregate principal
5 amount of the revenue obligations that may be outstanding authorized and calculated, as of
6 June 30 of each year by the City to finance or refinance water facilities and, in that
7 connection, amending and restating Ordinance 02-331, as amended by Ordinances 04-687,
8 7-420, 11-429, and 14-292; authorizing the Board of Finance to specify, prescribe, determine,
9 provide for, approve, and amend the form, terms, provisions, manner or method of issuing
10 and selling, the time or times of issuance, and all other details of the revenue obligations and
11 any other matters necessary or desirable in connection with the authorization, issuance, sale,
12 and payment of these revenue obligations; providing for a special effective date; and
13 generally relating to the issuance and payment of revenue obligations.

14 BY repealing
15 Ordinance 24-362

16 BY repealing and re-ordaining, with amendments,
17 Ordinance 02-331, as amended by Ordinances 04-687, 07-420, 11-429, and 14-292

18 BY authority of
19 Article II - General Powers
20 Section (50)
21 Baltimore City Charter

22 and

23 Article - Local Government
24 Title 19
25 Annotated Code of Maryland

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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Recitals

Ordinance 02-331 authorizes the City to issue from time to time its revenue obligations to finance water facilities within the geographical limits of the City’s water system. The maximum aggregate principal amount of revenue obligations authorized to be outstanding, as of June 30 of each year, under Ordinance 02-331, as last amended by Ordinance 14-292, is \$2,152,000,000.

Certain recent events have occurred that affect aggregate principal amount of revenue obligations that may be required to finance water facilities, including (without limitation) an increase in the number of water facilities that the City may desire to finance with the proceeds of revenue obligations. The current means for calculating the revenue obligations outstanding does not take into account the repayment of prior revenue obligations thereby impairing the City’s ability to issue new revenue obligations within the maximum amount authorized.

In addition, it is in the best interest of the City to amend and restate Ordinance 02-331 to authorize the Board of Finance to specify, prescribe, determine, provide for, approve, and amend, from time to time, the form, terms, provisions, manner or method of issuing and selling the revenue obligations (including negotiated as well as competitive bid sales), time or times of issuance, security for the revenue obligations, and all other details of the revenue obligations and other matters necessary or desirable in connection with the authorization, issuance, sale, and payment of the revenue obligations and to do all things necessary, proper, or expedient in connection with the issuance and sale of the revenue obligations.

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That Ordinance 24-362 is repealed, and the authority conferred in that Ordinance is rescinded.

SECTION 2. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That Ordinance 02-331, as amended by Ordinances 04-687, 07-420, 11-429, and 14-292, is repealed, re-ordained, and amended to read as follows:

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That, in addition to any other terms defined elsewhere in this Ordinance, the following terms have the meanings indicated:

(a) *[1990 Resolution] 2002 RESOLUTION.*

“[1990] 2002 Resolution” means the Mayor and City Council of Baltimore AMENDED AND RESTATED Water Projects Resolution adopted by the Board of Finance [June 6, 1990] APRIL 15, 2002, pursuant to Ordinance [90-495] 02-331, as amended, restated, and supplemented from time to time.

(b) *Administrative Resolution.*

“Administrative Resolution” means, collectively:

(1) the [1990] 2002 Resolution; and

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1 (2) any other resolution or resolutions adopted by the Board of Finance under this
2 Ordinance.

3 (c) *Capital receipts.*

4 “Capital receipts” means all receipts deposited in the Water Capital Fund or any other
5 fund for capital projects designated under the Administrative Resolution, including
6 revenues, receipts from federal grants, State of Maryland grants, county grants
7 (including contributions for service), private grants, State of Maryland loans, City
8 general obligation loan funds, proceeds of the revenue obligations, and all other
9 receipts dedicated to particular capital projects of the water utility.

10 (d) *Costs of issuance.*

11 “Costs of issuance” means the costs of issuing any series of revenue obligations,
12 including costs of engraving, printing, and advertising, attorneys fees, underwriting
13 discount, placement fees, consultants fees, bond insurance fees, rating agency fees,
14 initial fees for letters of credit or lines of credit, initial fees of the Trustee, and all
15 other incidental expenses.

16 (e) *Credit facility.*

17 “Credit facility” means any liquidity facility, letter of credit, bond insurance policy,
18 bond purchase agreement, guaranty, line of credit, surety bond, or similar credit or
19 liquidity facility securing any revenue obligation or other indebtedness of the City.

20 (f) *Enabling Laws.*

21 “Enabling Laws” means:

- 22 (1) City Charter Article II, § (50); and
23 (2) State Code, [Article 31, § 12] LOCAL GOVERNMENT ARTICLE, TITLE 19.

24 (g) *Financed facilities.*

25 “Financed facilities” means water utility capital projects that are financed with
26 proceeds of revenue obligations and are either:

- 27 (1) appropriated in any past or the current Ordinance of Estimates (as of the date
28 of issuance of any series of revenue obligations);
29 (2) included, from time to time, in the City’s 6-year capital program (or
30 comparable document, from time to time);
31 (3) contained in any supplemental appropriation approved from time to time by
32 the Mayor and City Council; or
33 (4) the subjects of transfer from existing appropriations in the Ordinance of
34 Estimates, as approved from time to time by the Board of Estimates.

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1 (h) *Includes; including.*

2 “Includes” or “including” means by way of illustration and not by way of limitation.

3 (i) *Indebtedness.*

4 “Indebtedness” means any indebtedness or liability for borrowed money, any
5 installment sale obligation, or any obligation under any financing lease, sale
6 leaseback, or similar transaction capitalized under generally accepted accounting
7 principles that, by law or contract, the City may be obligated to pay from the Water
8 Operating Fund.

9 (j) *Liquidity facility.*

10 “Liquidity facility” means a written commitment to provide money to purchase or
11 retire any indebtedness if:

12 (1) on the date of the commitment’s delivery, the unsecured indebtedness of the
13 provider of the commitment is rated by any two rating agencies in one of the
14 two highest rating categories; and

15 (2) as of any particular date of determination, not more than 10% of any amount
16 realized under the commitment for the payment of the principal or the
17 purchase or redemption price of the indebtedness (exclusive of amounts
18 realized for the payment of accrued interest on the indebtedness) is required to
19 be repaid by the City within the next 12 months.

20 (k) *Operating revenues.*

21 “Operating revenues” means all income, revenue, receipts, and other money deposited
22 in the Water Operating Fund, including revenues of the water utility arising from rates
23 and charges established by the City, all amounts derived by the City from the
24 ownership and operation of the water utility, all accounts, general intangibles, and
25 contract or other rights to receive them, and the proceeds of any of these, but
26 exclusive of capital receipts.

27 (l) *Refunding revenue bond.*

28 “Refunding revenue bond” means any bond issued under this Ordinance as a
29 refunding, renewal, or refinancing bond, including any parity bond issued under any
30 ordinance supplemental to this Ordinance.

31 (m) *Refunding revenue note.*

32 “Refunding revenue note” means any note or other indebtedness issued under this
33 Ordinance as a refunding, renewal, or refinancing note or indebtedness, including any
34 parity note issued under any ordinance supplemental to this Ordinance.

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1 (n) *Refunding obligations.*

2 “Refunding obligations” means refunding revenue notes and refunding revenue
3 bonds, collectively.

4 (o) *Revenue bond.*

5 “Revenue bond” means any revenue bond issued under this Ordinance, including any
6 parity revenue bond issued under any ordinance supplemental to this Ordinance.

7 (p) *Revenue note.*

8 “Revenue note” means any revenue note or other indebtedness issued under this
9 Ordinance, including any parity revenue note or indebtedness issued under any
10 ordinance supplemental to this Ordinance.

11 (q) *Revenue obligations.*

12 “Revenue obligations” means revenue notes, revenue bonds, refunding revenue notes,
13 and refunding revenue bonds, collectively.

14 (r) *Trustee.*

15 “Trustee” means:

16 (1) the bank, trust company, or national banking association appointed under the
17 Administrative Resolution as trustee for any revenue obligations; and

18 (2) its successors and any other entity that is substituted in its place in accordance
19 with the Administrative Resolution.

20 (s) *Water Capital Fund.*

21 “Water Capital Fund” means the fund of the City to which capital receipts are
22 credited.

23 (t) *Water facilities.*

24 “Water facilities” means all water facilities of the City, including financed facilities.

25 (u) *Water Operating Fund.*

26 “Water Operating Fund” means the fund of the City to which operating revenues
27 are credited.
28

29 (v) *Water utility.*

30 “Water utility” means the water utility operated under City Charter Article VI, § 18.

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1 SECTION 2. AND BE IT FURTHER ORDAINED, That:

2 (a) [Revenue obligations may be issued from time to time in an aggregate principal
3 amount not to exceed \$2,152,000,000 for the general public purposes of financing or
4 refinancing the cost of the financed facilities and repaying the City for amounts
5 expended on financed facilities in anticipation of the issuance of the revenue
6 obligations.] THE ISSUANCE, SALE AND DELIVERY OF REVENUE OBLIGATIONS IS
7 HEREBY AUTHORIZED FOR THE PUBLIC PURPOSE OF FINANCING OR REFINANCING THE
8 COST OF THE FINANCED FACILITIES AND REPAYING THE CITY FOR AMOUNTS EXPENDED
9 ON FINANCED FACILITIES IN ANTICIPATION OF THE ISSUANCE OF THE REVENUE
10 OBLIGATIONS, PROVIDED THAT AS OF JUNE 30 OF EACH YEAR THE AGGREGATE
11 PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS OUTSTANDING MAY NOT EXCEED
12 \$2,152,000,000.

13 (b) These revenue obligations may comprise any combination of (i) revenue notes,
14 (ii) revenue bonds, (iii) refunding revenue notes, and (iv) refunding revenue bonds.

15 (c) Refunding obligations issued under this Ordinance to refund any revenue obligations
16 previously issued under this Ordinance replace that portion of the authorized amount
17 previously issued and does not reduce the maximum authorized amount of revenue
18 obligations permitted to be issued under this Ordinance.

19 (d) THE AGGREGATE PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS AUTHORIZED TO BE
20 ISSUED UNDER THIS ORDINANCE MUST BE RESTORED BY AN AMOUNT EQUAL TO THE
21 PRINCIPAL AMOUNT OF REVENUE OBLIGATIONS PAID, PURCHASED, CANCELLED OR
22 OTHERWISE PROVIDED FOR WHENEVER:

23 (1) THE PRINCIPAL OF ANY REVENUE OBLIGATIONS PREVIOUSLY ISSUED IS PAID,
24 WHETHER AT MATURITY, ON REDEMPTION OR OTHERWISE;

25 (2) ANY REVENUE OBLIGATIONS ARE PURCHASED AND CANCELLED; OR

26 (3) PAYMENT OF THE PRINCIPAL OF ANY REVENUE OBLIGATIONS IS PROVIDED FOR
27 IN A MANNER THAT MAKES THE REVENUE OBLIGATIONS NO LONGER
28 OUTSTANDING UNDER THE TERMS OF THE ADMINISTRATIVE RESOLUTION OR
29 ANY TRUST AGREEMENT AUTHORIZED UNDER THIS ORDINANCE.

30 [(1) Paragraph (2) of this subsection (d) applies whenever:

31 (i) the principal of any revenue obligations previously issued is paid, whether at
32 maturity, on redemption, or otherwise;

33 (ii) any revenue obligations are purchased and cancelled; or

34 (iii) payment of the principal of any revenue obligations is provided for in a
35 manner that makes the revenue obligations no longer outstanding under the
36 terms of the Administrative Resolution.]

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1 [(2) In a situation described in paragraph (1) of this subsection, the principal amount
2 of revenue obligations authorized to be issued under this Ordinance is reduced by
3 an amount equal to the principal amount of revenue obligations paid, purchased
4 and cancelled, or otherwise provided for.]

5 (e) The amount of any credit facility and of any revenue obligation issued to evidence the
6 indebtedness for borrowed money or the liability for that credit facility does not
7 reduce the maximum authorized amount of revenue obligations permitted to be issued
8 under this Ordinance.

9 (f) In connection with the issuance of capital appreciation revenue obligations,
10 compound interest revenue obligations, or similar types of revenue obligations, the
11 principal amount of those revenue obligations, for purposes of determining the
12 remaining authorized amount permitted to be issued, is the principal amount
13 outstanding on the date of their issuance.

14 SECTION 3. AND BE IT FURTHER ORDAINED, That:

15 (a) The revenue notes, revenue bonds, or refunding obligations, as the case may be, may
16 be issued in one or more series from time to time.

17 (b) Unless otherwise specified in the Administrative Resolution, each series [shall] MUST
18 be identified by a year and a letter designation. Thus, for example, the first series in
19 the year [2002] 2021 (if more than one series of notes or bonds is issued in the year
20 [2002] 2021) [shall] MUST be designated “Revenue Notes (Water Projects), Series
21 [2002-A] 2021-A”; “Revenue Bonds (Water Projects), Series [2002-A] 2021-A”;
22 “Refunding Revenue Notes (Water Projects), Series [2002-A] 2021-A”; or
23 “Refunding Revenue Bonds (Water Projects), Series [2002-A] 2021-A”.

24 (c) The aggregate principal amount of revenue obligations to be issued at any one time
25 [shall] MUST be determined by the Board of Finance in the Administrative Resolution.

26 SECTION 4. AND BE IT FURTHER ORDAINED, That:

27 (a) The net proceeds from the sale of revenue notes or revenue bonds, as the case may be,
28 [shall] MUST be used and applied for the public purposes of:

29 (1) refinancing the City’s outstanding revenue bonds and revenue notes that were
30 issued to finance or refinance capital improvements for water facilities of the
31 City;

32 (2) financing, in whole or in part, the cost of the financed facilities (either
33 directly or by repayment to the City, as provided in this Ordinance);

34 (3) funding capitalized interest on any series of revenue notes or revenue bonds,
35 to the extent the Board of Finance considers necessary and in accordance with
36 any time limit established by law on this funding;

37 (4) paying the costs of issuance of any series of revenue notes or revenue bonds;
38 and

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1 (5) funding any reserve funds, including reserves for the revenue notes or
2 revenue bonds and operating reserves (to the extent provided by the Board of
3 Finance), created under this Ordinance and the Administrative Resolution.

4 (b) The net proceeds from the sale of refunding obligations [shall] MUST be used and
5 applied for the public purposes of:

6 (1) refinancing, restructuring, refunding, or renewing, in whole or in part, from
7 time to time, any outstanding revenue notes, revenue bonds, refunding
8 obligations, or other indebtedness, including the payment of any redemption
9 premium on them;

10 (2) paying any redemption premium in connection with obligations being
11 refinanced or refunded from the proceeds of the refunding obligations;

12 (3) paying the costs of issuance of any series of refunding obligations; and

13 (4) funding any reserve funds for the Refunding Obligations, including reserves
14 for the payment of the refunding obligations and operating reserves (to the
15 extent provided by the Board of Finance), created under this Ordinance and
16 the Administrative Resolution.

17 SECTION 5. AND BE IT FURTHER ORDAINED, That:

18 (a) The City finds and determines that the Board of Finance, being primarily responsible
19 for the issuance and sale of the City's certificates of indebtedness, has the expertise
20 and experience necessary to be primarily responsible for the determination of matters
21 set forth in this Ordinance to be within its jurisdiction.

22 (b) The market for revenue obligations of the City may change from time to time, and it
23 is in the City's best interest to continue the Board of Finance's exercise of its broad
24 authority and flexibility in connection with the issuance of revenue obligations.

25 SECTION 6. AND BE IT FURTHER ORDAINED, That:

26 (a) Before delivery of any series of revenue obligations, the Board of Finance [shall]
27 MUST adopt an Administrative Resolution.

28 (b) The Administrative Resolution [shall] MUST prescribe, subject to the Enabling Laws:

29 (1) the principal amount of revenue obligations to be issued as a series at any one
30 time;

31 (2) the date of issue of the series of revenue obligations;

32 (3) the interest rate or rates to be borne by the series of revenue obligations or the
33 method by which the interest rate or rates is computed, including limitations on
34 the interest rate or rates beyond which further approvals of the Board of Finance
35 are required;

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- 1 (4) the time periods and method of payment of interest on the series of revenue
2 obligations;
- 3 (5) the redemption provisions, if any, for the series of revenue obligations;
- 4 (6) the maturity or maturities of the series of revenue obligations;
- 5 (7) the denomination or denominations of any revenue obligations;
- 6 (8) the form, use of registration, and mechanics for payment of the revenue
7 obligations; and
- 8 (9) any other terms necessary or desirable to carry out this Ordinance, including other
9 matters determined by the Board of Finance under Section 17.

10 SECTION 7. AND BE IT FURTHER ORDAINED, That the Board of Finance may determine
11 whether a particular issue or series of revenue obligations [shall] MUST be sold by
12 competitive bidding or by private negotiations. That determination [shall] MUST be set
13 forth in the Administrative Resolution for the issue or series to which it applies.

14 SECTION 8. AND BE IT FURTHER ORDAINED, That:

- 15 (a) The Board of Finance may adopt a master administrative resolution that establishes
16 procedures to facilitate the prompt determination and approval of one or more of the
17 matters set forth in this Ordinance.
- 18 (b) These procedures may include telephonic approval and subsequent telegraphic,
19 electronic, or written confirmation of one or more matters by a designated officer of
20 the City, subject to safeguards and guidelines prescribed in the master administrative
21 resolution.

22 SECTION 9. AND BE IT FURTHER ORDAINED, That the Board of Finance may:

- 23 (1) establish procedures whereby a variable or floating rate or rates can be utilized for any
24 series of revenue obligations;
- 25 (2) establish any necessary relations with a commercial bank or other appropriate
26 institution to facilitate the payment of revenue obligations, including the use of
27 general or standby letters of credit, lines of credit, bond insurance, demand features,
28 loan agreements, credit facilities, liquidity facilities, backup loan arrangements, or
29 notes or similar arrangements; and

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1 (3) determine that the City should enter into a contract or agreement, payable from
2 operating revenues, intended to place revenue obligations on the interest rate,
3 currency, cash flow, or other basis desired by the Board of Finance, including any
4 interest rate swap agreement, currency swap agreement, forward payment conversion
5 agreement, or futures contract, any contract providing for payments based on levels
6 of, or changes in, interest rates, currency exchange rates, or stock or other indices, any
7 contract to exchange cash flows or a series of payments, or any contract, including an
8 interest rate floor or cap, or an option, put, or call, to hedge payment, currency, rate,
9 spread, or similar exposure, on the terms and provisions that the Board of Finance
10 considers necessary or desirable.

11 SECTION 10. AND BE IT FURTHER ORDAINED, That:

12 (a) The principal of, premium (if any) on, interest on, and purchase price of revenue
13 obligations and, to the extent provided in the Administrative Resolution, the amounts
14 owed to the provider of any credit facility securing any revenue obligations:

15 (1) do not constitute, within the meaning of any constitutional or charter provision
16 or otherwise, an indebtedness of the City or any other political subdivision of
17 the State of Maryland or a charge against the general credit or taxing powers
18 of the City; and

19 (2) may be paid solely from the following, in the order and manner that the Board
20 of Finance prescribes in the Administrative Resolution:

21 (i) operating revenues;

22 (ii) amounts in any funds pledged under the Administrative Resolution to
23 the payment of the revenue obligations, including any reserve fund
24 established by the Board of Finance for payment of the principal of,
25 premium (if any) on, and interest on the revenue obligations and any
26 investment earnings on those funds (to the extent provided by the
27 Board of Finance);

28 (iii) unexpended proceeds of the revenue obligations, including investment
29 earnings on those proceeds (to the extent provided by the Board of
30 Finance); and

31 (iv) other amounts legally available for these purposes.

32 (b) The issuance of revenue obligations does not constitute (directly, indirectly, or
33 contingently) an obligation, moral or otherwise, of the State of Maryland, of the City,
34 or of any other political subdivision of the State, to levy or pledge any form of
35 taxation whatever for their payment.

36 (c) RATES AND CHARGES OF THE WATER UTILITY MUST BE SET, ASSESSED, AND
37 COLLECTED IN ACCORDANCE WITH CITY PROCEDURES, THE CITY CHARTER, THE
38 ADMINISTRATIVE RESOLUTION, AND APPLICABLE LAW TO THE EXTENT DEEMED
39 NECESSARY TO OPERATE THE WATER FACILITIES AND PROVIDE PAYMENT FOR THE
40 OUTSTANDING REVENUE OBLIGATIONS.

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1 SECTION 11. AND BE IT FURTHER ORDAINED, That:

- 2 (a) From the proceeds of the revenue obligations, from other funds of the water utility, or
3 from any other sources, the Board of Finance may establish one or more reserve funds
4 for the revenue obligations, including debt service reserve funds, which may be
5 pledged to the payment of the principal of, premium (if any) on, interest on, and
6 purchase price of one or more series of revenue obligations in the event that the
7 operating revenues for any year are insufficient to pay these items for that year.
- 8 (b) This section does not preclude the establishment of other reserve funds, the amounts
9 in which are not pledged to payment of revenue obligations, in connection with the
10 revenue obligations or any subordinate obligations of the water utility, including a
11 renewal and replacement fund, a rate stabilization fund, a residual fund, and an
12 operating reserve fund.

13 SECTION 12. AND BE IT FURTHER ORDAINED, That the City covenants that it will pay the
14 principal of, the premium (if any) on, and the interest on any revenue notes or refunding
15 revenue notes in the nature of bond anticipation notes from the first proceeds of refunding
16 revenue bonds issued under this Ordinance when, and as soon as, the reason for deferring
17 their issuance no longer exists and, in any event, in sufficient time to permit the revenue
18 obligations to be paid at maturity or extended maturity.

19 SECTION 13. AND BE IT FURTHER ORDAINED, That:

- 20 (a) All revenue obligations and other agreements of the City under this Ordinance [shall]
21 MUST be executed in the name of the City and on its behalf by the Mayor and the
22 Director of Finance, by manual or facsimile signatures. The corporate seal of the City
23 [shall] MUST be printed or imprinted on the revenue obligations and attested by the
24 Custodian or Alternate Custodian of the City Seal, by manual or facsimile signature.
- 25 (b) If the Board of Finance finds that the nature of a transaction so requires, the Board
26 may establish in the Administrative Resolution a procedure whereby the Trustee, a
27 responsible trust company, or other authorized trustee, issuing agent, or paying agent
28 maintains an inventory of blank revenue obligations that have been previously
29 imprinted and signed and are available for delivery to purchasers under conditions
30 that require prompt action and delivery.
- 31 (c) If any official whose signature appears on any series of revenue obligations ceases to
32 be an official before the delivery of the revenue obligations, or if any official whose
33 signature appears on any series of revenue obligations became an official after the
34 date of issue, the revenue obligations of that series are nonetheless valid and legally
35 binding limited obligations of the City in accordance with their terms.

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1 SECTION 14. AND BE IT FURTHER ORDAINED, That:

- 2 (a) The proceeds from the sale of revenue obligations [shall] MUST be paid to the Director
3 of Finance for deposit, investment, and disbursement in accordance with the Enabling
4 Laws, this Ordinance, and the Administrative Resolution. ALL PREMIUMS RESULTING
5 FROM THE SALE OF THE REVENUE OBLIGATIONS ISSUED AND SOLD PURSUANT TO THE
6 PROVISIONS OF THIS ORDINANCE MUST BE APPLIED AS DIRECTED BY THE BOARD OF
7 FINANCE.
- 8 (b) On presentation of the appropriate vouchers, as provided in the Administrative
9 Resolution, the Trustee or the City [shall] MUST pay from the proceeds of each series
10 of revenue obligations all costs of issuance. Nothing prevents the City from paying
11 any underwriting discount or placement fee payable in connection with any series of
12 revenue obligations by the underwriters' or placement agents' deduction of an amount
13 equal to the discount or placement fee from the offering price of the series of revenue
14 obligations.
- 15 (c) The Trustee [shall] MUST credit to a special account established under the
16 Administrative Resolution the amount, if any, of the proceeds of each series of
17 revenue obligations designated as capitalized interest on that series of revenue
18 obligations.
- 19 (d) Before the proceeds of any series of revenue obligations are expended, all or any part
20 of the proceeds may be invested by the Trustee, in accordance with the Administrative
21 Resolution and within any limitation and in the manner provided by law.
- 22 (e) On presentation to the Trustee or the City of appropriate requests, as provided in the
23 Administrative Resolution, the Trustee [shall] MUST make payments from the
24 proceeds of any series of revenue obligations for any of the purposes specified in this
25 Ordinance and in the Administrative Resolution.
- 26 (f) If the funds derived from the sale of the revenue [notes or revenue bonds]
27 OBLIGATIONS exceed the amount needed (i) to refund any outstanding obligations of
28 the City to be refunded under the Administrative Resolution, [and] (ii) to finance the
29 financed facilities, (III) TO PAY COSTS OF ISSUANCE AND CAPITALIZED INTEREST, AND
30 (IV) TO FUND ANY RESERVES AND FOR ANY OTHER PURPOSES AUTHORIZED BY THE
31 ADMINISTRATIVE RESOLUTION, the funds so borrowed and not [expended] NEEDED
32 [for the public improvements authorized by this Ordinance] [shall] MUST be applied
33 as determined by the Board of Finance, under the terms and conditions set forth in the
34 Administrative Resolution, including to fund reserve fund deficiencies OR OTHER
35 RESERVES, if any, to pay principal of or interest on revenue obligations, to redeem or
36 purchase revenue obligations, or to pay for other capital projects of the water utility
37 within any limitation provided by law.

38 SECTION 15. AND BE IT FURTHER ORDAINED, That:

- 39 (a) The Board of Finance may take the actions and make the commitments on behalf of
40 the City described in this Section 15.

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- 1 (b) The Board of Finance may determine and set forth the form, terms, provisions
2 (including redemption provisions and sinking fund requirements, if any), manner or
3 method of issuing and selling the revenue obligations (including negotiated or
4 competitive bid sale), time or times of issuance, security for the revenue obligations,
5 and all other details and other matters necessary or desirable in connection with the
6 authorization, issuance, sale, and payment of the revenue obligations.
- 7 (c) In conjunction with the prospective underwriters or placement agents, if any, for the
8 revenue obligations, the Board of Finance may prepare and distribute preliminary and
9 final official statements or placement memoranda or circulars as the Board of Finance
10 considers necessary or desirable. All preliminary official statements or placement
11 memoranda or circulars [shall] MUST be clearly marked to indicate that they are
12 subject to completion and amendment.
- 13 (d) (1) The Board of Finance may determine the dates, times, and places for submission
14 of an underwriting or placement agreement or purchase contract by the
15 underwriters or placement agents for the revenue obligations or purchasers of the
16 revenue obligations.
- 17 (2) The underwriting or placement agreement or purchase contract [shall] MUST
18 specify:
- 19 (i) the interest rate or rates proposed to be paid on the revenue obligations or
20 the method by which the interest rate or rates [shall] MUST be computed;
- 21 (ii) the price at which the revenue obligations are to be sold to the
22 underwriters, placement agents, or purchasers; and
- 23 (iii) any other matters that the underwriters, placement agents, or purchasers
24 and the Board of Finance consider necessary or desirable to effect the sale
25 and delivery of the revenue obligations.
- 26 (e) The Board of Finance may determine the interest rate or rates to be paid by the City
27 on the revenue obligations or the method by which the interest rate or rates is
28 computed [in accordance with the proposed underwriting or placement agreement or
29 purchase contract submitted by the underwriters or placement agents for the revenue
30 obligations or purchasers of the revenue obligations].
- 31 (f) The Board of Finance, as it considers necessary or desirable, may appoint one or more
32 banks with trust powers, or trust companies, as Trustee, registrar, or paying agent for
33 the revenue obligations.
- 34 (g) (1) The Board of Finance may approve the form of trust agreements (which may be
35 the Administrative Resolution) between the City and the Trustee.
- 36 (2) The trust agreements may:
- 37 (i) pledge or assign all or any part of the security of the revenue obligations,
38 consistent with the covenants contained in this Ordinance and the
39 Administrative Resolution;

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1 (ii) contain reasonable and proper provisions for the protection and
2 enforcement of the rights and remedies of the holders of revenue
3 obligations;

4 (iii) set forth the rights and remedies of the holders of revenue obligations and
5 the Trustee;

6 (iv) restrict the individual right of action by the holders of revenue obligations;

7 (v) provide for the issuance of additional revenue obligations subordinate to,
8 or on a parity with, revenue obligations previously issued under the trust
9 agreement or the Administration Resolution, consistent with this
10 Ordinance and the provisions of the trust agreement or the Administrative
11 Resolution; and

12 (vi) contain whatever other provisions the Board of Finance considers
13 reasonable and proper for the security of the holders of revenue
14 obligations.

15 (h) The Board of Finance may amend, restate, or supplement the Administrative
16 Resolution in accordance with the Enabling Laws, this Ordinance, and the
17 Administrative Resolution.

18 SECTION 16. AND BE IT FURTHER ORDAINED, That the Board of Finance may perform any and
19 all actions that it considers necessary or desirable to effect the issuance and sale of the
20 revenue obligations in accordance with this Ordinance and the underwriting or placement
21 agreements or purchase contracts for the revenue obligations.

22 SECTION 17. AND BE IT FURTHER ORDAINED, That, before any revenue obligations are sold,
23 the Board of Finance may determine by administrative resolution:

24 (1) the provisions of the trust agreement between the City and the Trustee;

25 (2) the manner of execution, authentication, registration, and transfer of the revenue
26 obligations;

27 (3) provisions for authentication and delivery of the revenue obligations;

28 (4) the terms of any private insurance, public insurance, or other security for the revenue
29 obligations;

30 (5) provisions for creating, holding, and disbursing any funds and accounts to be held by
31 the Trustee or the Director of Finance;

32 (6) provisions for applying the operating revenues;

33 (7) provisions for the security for and investment of money held by the Trustee or the
34 Director of Finance;

35 (8) the procedures for redeeming the revenue obligations;

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- 1 (9) remedies for holders of revenue obligations in the event of default;
- 2 (10) the duties, rights, and immunities of the Trustee;
- 3 (11) the manner of executing instruments by holders of revenue obligations and the
- 4 method of proving ownership of revenue obligations;
- 5 (12) provisions for modifying the trust agreement;
- 6 (13) provisions for the defeasance of revenue obligations;
- 7 (14) the forms of the revenue obligations (including book-entry or certificated bonds)
- 8 and of the Trustee's authentication certificate; [and]
- 9 (15) any other matters in connection with the authorization, issuance, security, sale,
- 10 payment, and refunding of the revenue obligations that the Board of Finance
- 11 considers appropriate[.]; AND
- 12 (16) THE PREPARATION AND DISTRIBUTION OF AN OFFICIAL STATEMENT, PLACEMENT
- 13 MEMORANDUM OR OTHER DISCLOSURE DOCUMENT.

14 SECTION 18. AND BE IT FURTHER ORDAINED, That any resolution adopted under this

15 Ordinance is considered to be administrative.

16 SECTION 19. AND BE IT FURTHER ORDAINED, That nothing in this Ordinance precludes a

17 consolidation or other combination of the water utility, [and] the wastewater utility AND

18 THE STORMWATER UTILITY or any budgetary restructuring or interfund reorganization of

19 these utilities, so long as it is determined, in accordance with procedures set forth in the

20 Administrative Resolution, that the consolidation or combination will not impair the

21 security for the revenue obligations.

22 SECTION 20. AND BE IT FURTHER ORDAINED, That nothing in this Ordinance precludes a

23 pledge, with respect to the revenue obligations, of revenues of and amounts held by the

24 water utility, including the operating revenues, under different or alternative formulations

25 than that provided in this Ordinance and the Administrative Resolution.

26 SECTION 21. AND BE IT FURTHER ORDAINED, That[:]

27 [(a) The] THE Mayor and City Council may amend or supplement this Ordinance from

28 time to time as necessary or desirable to increase the authorized amount of revenue

29 obligations and for any other purpose, as long as the action is otherwise consistent

30 with the terms of this Ordinance, the Administrative Resolution, and the revenue

31 obligations.

32 [(b) The Administrative Resolution shall provide that no additional revenue obligations

33 may be issued under this Ordinance unless:

- 34 (1) no event of default exists on the date that the additional revenue obligations
- 35 are issued; and

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1 (2) there is a determination, under the Administrative Resolution, that the rate
2 requirements prescribed by the Administrative Resolution will be met on the
3 date that the additional revenue obligations are issued.]

4 SECTION 22. AND BE IT FURTHER ORDAINED, That if the Board of Finance fails to take any
5 action or act on any matter delegated to it or authorized to be implemented by it, the
6 action or matter may be taken or acted on or implemented by a resolution of the Mayor
7 and City Council.

8 SECTION 23. AND BE IT FURTHER ORDAINED, That:

9 (a) Revenue obligations may be issued under this Ordinance with the expectation that
10 interest on the revenue obligations will be exempt from federal income taxation
11 (“tax-exempt obligations”).

12 (b) The Administrative Resolution under which tax-exempt obligations are issued [shall]
13 MUST prescribe covenants and matters that the Board of Finance considers necessary
14 or desirable to assure that the revenue obligations will not be considered “arbitrage
15 bonds” within the meaning of § 148 of the Internal Revenue Code and its regulations
16 and to assure holders of the revenue obligations that interest on them will be and
17 remain exempt from federal income taxation.

18 (c) The Mayor, the Director of Finance, and the Chief of the Bureau of Treasury
19 Management [shall] MUST prepare or cause to be prepared and [shall] MUST execute
20 any certification, opinion, or other document that may be required to maintain the
21 exemption of interest on tax-exempt obligations from federal income taxation.

22 SECTION 24. AND BE IT FURTHER ORDAINED, That the covenants contained in this Ordinance
23 are for the benefit of the holders of the revenue obligations from time to time and are
24 enforceable by those holders, subject to any limitations set forth in the Administrative
25 Resolution.

26 SECTION 25. AND BE IT FURTHER ORDAINED, That the provisions of this Ordinance are
27 severable. If any provision, sentence, clause, section, or other part of this Ordinance is
28 held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, that
29 illegality, invalidity, unconstitutionality, or inapplicability does not affect or impair any of
30 the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their
31 application to other persons or circumstances. It is the intent of the Mayor and City
32 Council that this Ordinance would have been adopted even if the illegal, invalid,
33 unconstitutional, or inapplicable provision, sentence, clause, section, or other part had not
34 been included in this Ordinance, and as if the person or circumstances to which this
35 Ordinance or part are inapplicable had been specifically exempted.

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1 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the Board of Finance may amend, restate,
2 or supplement the 2002 Resolution, in accordance with that Resolution’s provisions governing
3 amendments, to accomplish any of the purposes set forth in this Ordinance and to specify,
4 prescribe, determine, provide for, approve, and amend, from time to time, the form, terms,
5 provisions, manner, or method of issuing and selling the revenue obligations (including
6 negotiated or competitive bid sale), time or times of issuance, security for the revenue
7 obligations, and all other details and other matters necessary or desirable in connection with the
8 authorization, issuance, sale, and payment of the revenue obligations and to do all things
9 necessary, proper, or expedient in connection with the issuance and sale of those revenue
10 obligations.

11 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
12 enacted.