

COUNCIL ITEM 8A  
DATE 8/22/11

~~COUNCIL ITEM 10A~~  
~~DATE 8/8/11~~

ORDINANCE 11-55

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA, SUPPLEMENTING ORDINANCE 94-35 OF THE CITY ENACTED ON JULY 25, 1994, AS AMENDED AND SUPPLEMENTED; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$21,500,000 AGGREGATE PRINCIPAL AMOUNT OF WATER AND SEWER SPECIAL ASSESSMENT REFUNDING BONDS, SERIES 2011B (UTILITY SERVICE AREA NOS. 5, 6 & 7A) (THE "SERIES 2011B BONDS"), TO PROVIDE FUNDS, TOGETHER WITH OTHER AVAILABLE MONEYS, TO (i) REFUND ON A CURRENT BASIS ALL OR A PORTION OF THE CITY'S OUTSTANDING \$54,390,000 ORIGINAL AGGREGATE PRINCIPAL AMOUNT OF SPECIAL ASSESSMENT BONDS, SERIES 2001D (UTILITY SERVICE AREA NOS. 5, 6 & 7A - WATER AND WASTEWATER EXPANSION PROJECT), (ii) FUND A DEPOSIT OR PURCHASE A RESERVE ACCOUNT CREDIT FACILITY FOR DEPOSIT TO A BONDS RESERVE SUBACCOUNT IN THE RESERVE ACCOUNT, AND (iii) PAY COSTS OF ISSUANCE OF THE SERIES 2011B BONDS; PROVIDING FOR THE SERIES 2011B BONDS TO BE SECURED BY THE SPECIAL ASSESSMENTS LEVIED AND COLLECTED WITHIN SUCH UTILITY SERVICE AREA; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING THE APPROPRIATE OFFICERS OF THE CITY TO PROCEED TO DEVELOP NECESSARY DOCUMENTS TO SELL THE SERIES 2011B BONDS AT NEGOTIATED SALE; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF PORT ST. LUCIE HEREBY ORDAINS:

**Section 1. Authority for this Series 2011B Ordinance.** This ordinance (the "Series 2011B Ordinance") is enacted pursuant to the provisions of Chapter 166, Part II, Florida Statutes, Sections 1.01 and 9.09 of the Charter of the City of Port St. Lucie, Florida ("City"), and other applicable provisions of law (collectively, the "Act"), and pursuant to Ordinance 94-34, enacted by the City on July 25, 1994, (the "Assessment Ordinance") and by Ordinance No. 94-35, enacted by the City on July 25, 1994 (the "Master Ordinance"); and is supplemental to the Master Ordinance.

**Section 2. Definitions.** Capitalized terms used but not defined in this Series 2011B Ordinance shall have the meanings assigned in the Master Ordinance unless the context clearly indicates otherwise.

**Section 3. Findings.** It is hereby ascertained, determined and declared that:

(A) The City has previously issued its \$54,390,000 original aggregate principal amount of Special Assessment Bonds, Series 2001D (Utility Service Area No. 5, 6 & 7A - Water and Wastewater Expansion Project), currently outstanding in the aggregate principal amount of \$20,660,000 (the "Series 2001D Bonds") pursuant to the Master Ordinance, as supplemented by Ordinance Nos. 00-62, 00-63 and 00-64, each enacted by the City on July 10, 2000, as supplemented and amended by Ordinance No. 01-40 enacted by the City on August 13, 2001

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(collectively, the "Series 2001D Ordinance") and as supplemented by Resolution No. 01-R59 adopted by the City on September 24, 2001 (the "Series 2001D Resolution" and, together with the Master Ordinance and the Series 2001D Ordinance, the "2001D Bond Ordinance").

(B) Pursuant to the 2001D Bond Ordinance, the Debt Service on the Series 2001D Bonds is secured by a lien upon and pledge of the 2001D Pledged Revenues which consists of (i) the 2001D Special Assessments, (ii) the 2001D Investment Earnings, and (iii) moneys on deposit in the 2001D Subaccounts (as such terms are defined in the 2001D Bond Ordinance). In addition, the Series 2001D Bonds are secured by a Credit Facility and the Reserve Account Requirement for the Series 2001D Bonds is satisfied with a Reserve Account Credit Facility. In order to obtain both the Credit Facility and the Reserve Account Credit Facility, the City in the 2001D Bond Ordinance covenanted to budget and appropriate to the Debt Service Reserve Subaccount for the Series 2001D Bonds any deficiencies in such subaccount or to replenish any draws made on the Reserve Account Credit Facility deposited in such subaccount from Utility System Revenues.

(C) The City is authorized to issue Additional Bonds pursuant to Sections 2.01 and 5.01 (F) of the Master Ordinance, to finance the payment of the principal of, premium, if specified, and interest on Bonds issued under the Master Ordinance to be refunded.

(D) The City has determined that it is in the best interest of the City and its inhabitants that the City refund all or a portion of its outstanding Series 2001D Bonds to be determined by subsequent resolution (the "Refunded Bonds") and authorizes the issuance pursuant to the Master Ordinance of not exceeding \$21,500,000 original aggregate principal amount of Water and Sewer Special Assessment Refunding Bonds, Series 2011B (Utility Service Area Nos. 5, 6 & 7A) (the "Series 2011B Bonds").

(E) The principal of and interest on the Series 2011B Bonds and all required other payments will be payable solely from the Series Pledged Revenues and, to the extent provided in the 2011B Supplemental Bond Resolution hereinafter referred to, the Utility System Revenues. The City will never be required to levy ad valorem taxes on any property therein to pay the principal of, premium, if any, and interest on the Series 2011B Bonds or to make any other payments provided for herein or in the Master Ordinance. The Series 2011B Bonds will not constitute a lien upon any properties owned by the City or located within the boundaries of the City, but will be secured solely by a lien upon and pledge of the Series Pledged Revenues in the manner provided in the Master Ordinance, this Series 2011B Ordinance, any ordinance amendatory thereof or hereof, and in the 2011B Supplemental Bond Resolution, and to the extent provided in the 2011B Supplemental Bond Resolution, the Utility System Revenues.

(F) A negotiated sale of the Series 2011B Bonds is in the best interest of the City and is found to be necessary due to the volatility of interest rates so that the City may achieve better market timing and lower interest rates on the Series 2011B Bonds, and increase the savings on the Refunded Bonds.

(G) In order to enable the underwriter for the Series 2011B Bonds to comply with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"), in connection with the offering and sale of the Series 2011B Bonds, it is necessary that a

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preliminary official statement be prepared in connection with sale of the Series 2011B Bonds and that such preliminary official statement be "deemed final" (except for permitted omissions) by the City Manager.

**Section 4. Authorization of the Refunding of the Refunded Bonds.** The refunding of the Refunded Bonds on a current basis is hereby authorized. The particular Series 2001D Bonds to be refunded and the date of such refunding shall be determined as provided in the 2011B Supplemental Bond Resolution.

**Section 5. Authorization of Series 2011B Bonds.** The issuance by the City of not exceeding \$21,500,000 aggregate principal amount of its Additional Bonds under the Master Ordinance to be known as "City of Port St. Lucie, Florida Water and Sewer Special Assessment Refunding Bonds, Series 2011B (Utility Service Area Nos. 5, 6 & 7A)", for the purpose of providing funds, together with other available moneys, to (i) refund on a current basis the Refunded Bonds, (ii) fund a deposit or purchase a Reserve Account Credit Facility for deposit to a sub-account to be created in the Reserve Account for the Series 2011B Bonds in the amount of the Reserve Account Requirement for the Series 2011B Bonds, and (iii) pay the costs of issuance of the Series 2011B Bonds, is hereby authorized. The Series 2011B Bonds shall be dated, shall be in the denomination of \$5,000 or integral multiples thereof, shall be in fully-registered form, payable to "Cede & Co.", as nominee for The Depository Trust Company, New York, New York, shall be issued in book-entry only form, shall mature at such times, shall bear interest from their date until maturity, calculated on the basis of a 360-day year consisting of twelve 30-day months, payable on such dates and at the rate or rates not to exceed the maximum rate allowed by law, and may be redeemable prior to maturity, all as provided in a subsequent resolution (the "2011B Supplemental Bond Resolution") of the City adopted at or prior to the time of sale of the Series 2011B Bonds. The Series 2011B Bonds and the premium, if any, and interest thereon shall be secured solely by a lien upon and pledge of the Series Pledged Revenues and, to the extent provided in the 2011B Supplemental Bond Resolution, the Utility System Revenues. The City shall, prior to the issuance of the Series 2011B Bonds, adopt the 2011B Supplemental Bond Resolution which shall set forth the fiscal details of the Series 2011B Bonds or delegate to the City Manager the authority to establish the fiscal details of the Series 2011B Bonds within specified parameters set forth therein and other matters related thereto.

**Section 6. Delegation of Authority to Take Other Action.** The City Manager and the Finance Director, upon the advice of the City's Bond Counsel, Disclosure Counsel and the City Attorney, are authorized (1) to apply for and secure a commitment for the issuance of a municipal bond insurance policy and a debt service reserve fund surety bond, if deemed to be in the best interest of the City; and (2) to take such further action as may be necessary or desirable to allow the underwriters to present a proposal to purchase the Series 2011B Bonds to the City at the earliest possible date consistent with market conditions.

**Section 7. Repeal of Inconsistent Instruments.** All ordinances or resolutions of the City or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

**Section 8. Effective Date.** This Series 2011B Ordinance shall take effect immediately upon the final approval hereof.

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**Passed and Enacted** by the City Council of the City of Port St. Lucie, Florida, this  
\_\_\_\_\_ day of August, 2011.

CITY OF PORT ST. LUCIE, FLORIDA

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JoAnn M. Faiella, Mayor

ATTEST:

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Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

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Roger G. Orr, City Attorney