COUNCIL ITEM 8C
DATE 10-22-12

COUNCIL ITEM 10A
DATE 10/8/12

ORDINANCE 12-60

AN ORDINANCE SUPPLEMENTING ORDINANCE 00-59 OF THE CITY OF PORT ST. LUCIE, FLORIDA, ENACTED JULY 10, 2000, AND ENTITLED:

> "AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, FLORIDA PROVIDING FOR THE ACQUISITION AND CONSTRUCTION OF PUBLIC IMPROVEMENTS WITHIN THE CITY; PROVIDING FOR THE ISSUANCE FROM TIME TO TIME OF SPECIAL ASSESSMENT BONDS TO FINANCE THE COST THEREOF; PROVIDING FOR THE PAYMENT THEREOF FROM SPECIAL ASSESSMENTS LEVIED AGAINST BENEFITED PROPERTY AND CERTAIN OTHER MONEYS; PROVIDING FOR THE RIGHTS, SECURITY, AND REMEDIES OF THE REGISTERED OWNERS OF SUCH BONDS; PROVIDING SEVERABILITY AND EFFECTIVE DATE;"

AUTHORIZING THE PAYMENT PRIOR TO MATURITY OF ALL OF THE OUTSTANDING SPECIAL ASSESSMENT BONDS, TAX-EXEMPT SERIES 2003B (TESORO SPECIAL ASSESSMENT DISTRICT-INSTALLMENT PAYMENT ASSESSMENTS SECURED); PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING $16,500,000 SPECIAL ASSESSMENT REFUNDING BONDS, SERIES 2012A (TESORO SPECIAL ASSESSMENT DISTRICT), OF THE CITY TO REFINANCE THE TESORO PROJECT COSTS AND PAY THE COST OF ISSUANCE OF SUCH BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS FROM CERTAIN PLEDGED REVENUES, INCLUDING SPECIAL ASSESSMENTS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA HEREBY ORDAINS:

ARTICLE I

AUTHORITY, DEFINITIONS AND FINDINGS

Section 1.01 Authority for this Series Ordinance. This Series Ordinance is enacted pursuant to the provisions of Chapter 166, Florida Statutes, Sections 1.01 and 9.09 of the Charter of the City of Port St. Lucie, Florida (the "City") and other applicable provisions of law (collectively, the "Act"), Ordinance 94-34 of the City, enacted by the City Council of the City (the "Council") on July 25, 1994 (the "Assessment Act"), and Ordinance 00-59 of the City, enacted by the Council on July 10, 2000 (the "Master Ordinance"). This Series Ordinance is supplemental to the Master Ordinance.

Section 1.02 Definitions. Unless the context otherwise requires, the capitalized terms used in this Series Ordinance shall have the meanings specified in this Section. Capitalized terms not otherwise defined in this Section shall have the meanings specified in the Master Ordinance. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Bond Ordinance" means, collectively, the Master Ordinance, this Series Ordinance and all ordinances amendatory hereof and ordinances and resolutions supplemental hereto, including, particularly, the Tesoro Supplemental Bond Resolution.

"Consulting Engineers" means Culpepper & Terpening, or such other firm of registered professional engineers as may be retained by the City with respect to the Tesoro Project.

"Covenant" means the covenant contained in Section 3.04(D) of the Master Ordinance to budget and appropriate from Non-Ad Valorem Revenues.

"Escrow Agent" means U.S. Bank National Association, Orlando, Florida, or any other bank or trust company, which may be located within or without the State, holding a portion of the proceeds of the sale of the Tesoro Assessment Refunding Bonds in trust pursuant to the provisions of the Escrow Deposit Agreement, to be applied to pay the principal of and interest on the Refunded Bonds.

"Escrow Deposit Agreement" means, with respect to the Refunded Bonds, the agreement by and between the City and the Escrow Agent, which agreement shall provide for the holding in trust of moneys and Federal Securities sufficient to pay the principal of and interest on the Refunded Bonds as they become due until the first date on which the Refunded Bonds may be called, and shall be in substantially the form on file with the Clerk, with such changes, additions, deletions and filling in of blanks, as shall be approved by the Mayor upon the recommendation of the City Manager with the advice of the City Attorney and Bond Counsel, such approval to be presumed by the Mayor's execution thereof.

"Master Ordinance" means Ordinance 00-59 enacted by the Council on July 10, 2000, as amended from time to time.

"Non-Ad Valorem Revenues" means all or any specified portion of the revenues of the City derived from sources other than ad valorem taxation and legally available to pay the Debt Service on the Tesoro Assessment Refunding Bonds.

"Original Tesoro Special Assessments" means the special assessments pledged to secure the Refunded Bonds.

"Refunded Bonds" means all or a portion of the City's outstanding $31,245,000 original aggregate principal amount of Special Assessment Bonds, Tax-Exempt Series 2003B (Tesoro Special Assessment District - Installment Payment Assessments Secured), $14,550,000 of which is currently outstanding.

"Tesoro Assessment Refunding Bonds" means the City's Special Assessment Refunding Bonds, Series 2012A (Tesoro Special Assessment District), issued pursuant to the Bond Ordinance.

"Tesoro Investment Earnings" means the earnings from the investment of moneys in the Tesoro Subaccounts.

"Tesoro Pledged Revenues" means the Revised Tesoro Special Assessments, the moneys on deposit in the Tesoro Subaccounts, and the Tesoro Investment Earnings.

"Tesoro Project" means the acquisition and construction of additions, extensions and improvement of roadways, telecommunication, stormwater attenuation, drainage facilities, potable water transmission, sanitary wastewater transmission, re-use irrigation water transmission and public safety facilities within and without an area designated as the Tesoro Special Assessment District, as more particularly described on Exhibit A hereto.

"Tesoro Project Costs" means the cost of the acquisition and construction of the Tesoro Project including, but not limited to: the acquisition of any lands or interests therein or any other properties deemed necessary or convenient therefor; engineering, accounting, and legal fees and expenses; expenses for plans, specifications and surveys and appraisals; expenses for estimates of costs and of revenues; the fees of fiscal agents, financial advisors and consultants; administrative expenses; interest on the Tesoro Assessment Refunding Bonds for a reasonable period of time after the date of their delivery; reasonable reserves for the payment of Debt Service with respect to the Tesoro Assessment Refunding Bonds; discount upon the sale of the Tesoro Assessment Refunding Bonds; the cost of purchasing any Credit Facility with respect to the Tesoro Assessment Refunding Bonds; such other expenses as may be necessary or incidental to the financing authorized by this Series Ordinance, to the Tesoro Project, and to the placing of the Tesoro Project in operation; and, to the extent permitted by the Code, reimbursement to the City for any sums expended for the foregoing purposes in anticipation of the issuance of the Tesoro Assessment Refunding Bonds.

"Tesoro SAD" means the Tesoro Special Assessment District as more particularly described in the Tesoro Special Assessment Resolutions.

"Tesoro Special Assessment Resolutions" means collectively, Resolution 03-R14 adopted by the Council on February 18, 2003, and Resolution 03-R29 adopted March 24, 2003, providing for the levying and collection of the Tesoro Special Assessments.

"Tesoro Special Assessments" means the Special Assessments levied against the properties located within Tesoro SAD in connection with the Refunded Bonds pursuant to the Tesoro Special Assessment Resolutions.

"Tesoro Subaccounts" means the separate accounts established and maintained in the funds and accounts established pursuant to the Master Ordinance for the benefit of the Owners of the Tesoro Assessment Refunding Bonds.

"Tesoro Supplemental Bond Resolution" means the resolution adopted by the Council supplemental to this Series Ordinance specifying the method of fixing the fiscal and other details of the Tesoro Assessment Refunding Bonds and providing for their sale and delivery.

Section 1.03 Findings. It is hereby ascertained, determined and declared that:

A. It is necessary and desirable and in the best interest of the City and its inhabitants to refund all of the City's Refunded Bonds.

B. The City proposes to issue not to exceed $16,500,000 aggregate principal amount of Special Assessment Refunding Bonds, Series 2012A (Tesoro Special Assessment District) in order to refund all of the Refunded Bonds, fund a reserve account, if necessary, and pay the cost of issuance of the Tesoro Assessment Refunding Bonds.

C. Pursuant to the Bond Ordinance, the City is authorized to issue refunding bonds and to secure such bonds with Tesoro Pledged Revenues.

D. The City anticipates receiving the Tesoro Pledged Revenues, and the Tesoro Pledged Revenues are not pledged or encumbered to pay any other debts or obligations of the City. The City is authorized pursuant to the provisions of the Act and the Assessment Act to pledge the Tesoro Pledged Revenues to secure the payment of the Tesoro Assessment Refunding Bonds.

E. The Tesoro Pledged Revenues are estimated to be sufficient to pay the Debt Service on the Tesoro Assessment Refunding Bonds and to make all other payments required to be made by the provisions of the Bond Ordinance.

F. In order to secure a more favorable interest rate on the Tesoro Assessment Refunding Bonds, the Council may determine in the Tesoro Supplemental Bond Resolution to enter into the Covenant to further secure payment of the Tesoro Assessment Refunding Bonds.

G. The principal of and interest on the Tesoro Assessment Refunding Bonds, and all required payments into the Tesoro Subaccounts, shall be secured solely by a lien upon and pledge of the Tesoro Pledged Revenues; to the extent provided in the Tesoro Supplemental Bond Resolution, the Tesoro Assessment Refunding Bonds may also be secured by the Covenant. Neither the City, nor the State of Florida or any political subdivision thereof or governmental authority or body therein, shall ever be required to levy ad valorem taxes to pay the principal of and interest on the Tesoro Assessment Refunding Bonds or to make any of the required payments into the Tesoro Subaccounts, and the Tesoro Assessment Refunding Bonds shall not be secured by a lien upon any property owned by or situated within the corporate limits of the City other than the Tesoro Pledged Revenues in the manner provided herein and in the Tesoro Supplemental Bond Resolution.

Section 1.04 Bond Ordinance to Constitute Contract. In consideration of the acceptance of the Tesoro Assessment Refunding Bonds authorized to be issued hereunder by those who shall be the Registered Owners of the same from time to time, the Bond Ordinance shall be deemed to be and shall constitute a contract between the City and such Registered Owners. The covenants and agreements in the Bond Ordinance set forth to be performed by the

City shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Tesoro Assessment Refunding Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Tesoro Assessment Refunding Bonds over any other thereof, except as expressly provided therein and herein.

ARTICLE II

AUTHORIZATION OF REFUNDING; AUTHORIZATION OF ISSUANCE OF TESORO ASSESSMENT REFUNDING BONDS; DESCRIPTION, DETAILS AND FORM OF BONDS

Section 2.01 Authorization of Refunding. The Council hereby specifically authorizes the refunding of all of the Refunded Bonds. The Council hereby delegates to the City Manager the authority to determine the date of redemption of the Refunded Bonds and authorizes the City Manager to provide or cause to be provided the notice of redemption to the Holders of the Refunded Bonds.

Section 2.02 Authorization of Tesoro Assessment Refunding Bonds. Subject and pursuant to the provisions of the Bond Ordinance, obligations of the City, to be known as "Special Assessment Refunding Bonds, Series 2012A (Tesoro Special Assessment District)", are hereby authorized to be issued in an aggregate principal amount on original issuance not to exceed Sixteen Million Five Hundred Thousand Dollars ($16,500,000), for the purpose of refinancing the Tesoro Project Costs and paying the cost of issuance of the Tesoro Assessment Refunding Bonds. Such Tesoro Assessment Refunding Bonds may be issued in one or more series and shall bear a series designation of their year of issuance.

Section 2.03 Description of Tesoro Assessment Refunding Bonds. The Tesoro Assessment Refunding Bonds shall be in the form and subject to issuance, registration, transfer and exchange as provided in the Bond Ordinance, and particularly as provided in the Tesoro Supplemental Bond Resolution.

ARTICLE III

APPLICATION OF PROVISIONS OF THE MASTER ORDINANCE; SECURITY FOR THE TESORO ASSESSMENT REFUNDING BONDS; REMEDIES

Section 3.01 Application of Provisions of the Master Ordinance. The Tesoro Assessment Refunding Bonds shall for all purposes be considered to be Additional Bonds issued under the authority of the Master Ordinance and shall be entitled to all the protection and security provided therein for each Series of Bonds. The covenants and pledges contained in the Master Ordinance shall be fully applicable to the Tesoro Assessment Refunding Bonds therein or herein authorized, except as otherwise provided herein or in the Tesoro Supplemental Bond Resolution.

Section 3.02 Security for the Tesoro Assessment Refunding Bonds.

A. *Pledge and Lien.* The Tesoro Assessment Refunding Bonds shall be secured forthwith equally and ratably solely by a pledge of and lien upon the Tesoro Pledged Revenues;

to the extent provided in the Tesoro Supplemental Bond Resolution, the Tesoro Assessment Refunding Bonds may also be secured by the Covenant. The Tesoro Assessment Refunding Bonds shall not be or constitute general obligations or an indebtedness of the City as "bonds" within the meaning of the Constitution of the State of Florida. No Owner of any Tesoro Assessment Refunding Bonds shall ever have the right to compel the exercise of the ad valorem taxing power of the City or taxation in any form of property therein to pay the Debt Service on the Tesoro Assessment Refunding Bonds. The Tesoro Assessment Refunding Bonds shall not constitute a lien upon the Tesoro Project or upon any property of or in the City.

B. *Series Subaccounts*. There are hereby created and established in the Funds and Accounts created and established pursuant to Section 3.03(A) of the Master Ordinance the following Series Subaccounts, hereinbefore defined as the "Tesoro Subaccounts": (1) in the Special Assessment Bonds Sinking Fund, the "Tesoro Assessment Bonds Subaccounts," which includes (a) in the Debt Service Account, the "Tesoro Assessment Bonds Debt Service Subaccount," (b) in the Bond Amortization Account, the "Tesoro Assessment Bonds Bond Amortization Subaccount," (c) in the Reserve Account, the "Tesoro Assessment Bonds Reserve Subaccount," and (d) in the Redemption Account, the "Tesoro Assessment Bonds Redemption Subaccount."

C. *Use of Pledged Revenues*. All Tesoro Special Assessments and Tesoro Investment Earnings shall be applied and deposited in the manner provided in the Tesoro Supplemental Bond Resolution. Moneys and Authorized Investments on deposit at any time in the Tesoro Subaccounts may be used and applied only in the manner provided in the Tesoro Supplemental Bond Resolution. Moneys on deposit in the Tesoro Subaccounts may be invested and reinvested only in Authorized Investments in the manner provided in the Tesoro Supplemental Bond Resolution.

Section 3.03 Remedies. Any Registered Owner of, or any Credit Facility Issuer for, Tesoro Assessment Refunding Bonds shall have available the remedies specified in Section 5.03 of the Master Ordinance and such additional remedies as may be provided in the Tesoro Supplemental Bond Resolution.

ARTICLE IV

APPLICATION OF PROCEEDS OF THE TESORO ASSESSMENT REFUNDING BONDS

All moneys received from the sale of any or all of the Tesoro Assessment Refunding Bonds authorized and issued pursuant to this Series Ordinance shall be disbursed as provided in the Tesoro Supplemental Bond Resolution. Proceeds of the Tesoro Assessment Refunding Bonds to be used to pay the principal of and interest on the Refunded Bonds shall be deposited with an Escrow Agent and used solely for the purpose of paying the principal of and interest on the Refunded Bonds.

ARTICLE V

DELEGATION OF AUTHORITY TO DEEM PRELIMINARY OFFICIAL STATEMENT FINAL; SALE OF THE TESORO ASSESSMENT REFUNDING BONDS; CONTINUING DISCLOSURE; MISCELLANEOUS PROVISIONS

Section 5.01 Delegation of Authority to Deem Preliminary Official Statement Final. The City Manager, upon the advice of the City's Disclosure Counsel, is hereby authorized to certify or otherwise represent when the Preliminary Official Statement with respect to the Tesoro Assessment Refunding Bonds shall be "deemed final" by the City as of its date (except for permitted omissions), in accordance with Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "Rule").

Section 5.02 Sale of the Tesoro Assessment Refunding Bonds. The Tesoro Assessment Refunding Bonds shall be sold in a manner consistent with the Bond Ordinance, and the City Manager is authorized to proceed to develop and to present to the Council for its approval such proposal for the purchase of Tesoro Assessment Refunding Bonds as he shall determine to be in the best interest of the City. The City Manager, in consultation with and upon the advice of the City Attorney, Bond Counsel and Disclosure Counsel is authorized to proceed to draft and develop, or cause to be drafted and developed, all documents necessary to facilitate and proceed with the offering for sale of the Tesoro Assessment Refunding Bonds, including a Preliminary Official Statement.

Section 5.03 Continuing Disclosure Agreement. The City will execute and deliver a Continuing Disclosure Certificate satisfying the requirements of the Rule at or prior to the time of issuance of the Tesoro Assessment Refunding Bonds.

Section 5.04 Severability of Invalid Provisions. If any one or more of the covenants, agreements or provisions of this Series Ordinance should be held to be contrary to any express provision of law or to be contrary to the policy of express law, though not expressly prohibited, or to be against public policy, or should for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements, or provisions of, and in no way affect the validity of, all the other provisions of the Master Ordinance or this Series Ordinance or of the Tesoro Assessment Refunding Bonds.

Section 5.05 Repealing Clause. All ordinances of the City, or parts thereof, in conflict with the provisions of this Series Ordinance are to the extent of such conflict hereby superseded and repealed.

Section 5.06 Effective Date. This Series Ordinance shall take effect immediately upon the final approval hereof.

Passed and Enacted by the City Council of the City of Port St. Lucie, Florida at a regular meeting duly called and held this _____ day of October, 2012.

CITY OF PORT ST. LUCIE, FLORIDA

By: _____
JoAnn M. Faiella, Mayor

ATTEST:

_____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

_____
Roger G. Orr, City Attorney