



# City of West Allis

## Legislation Text

---

**File #:** R-2015-0134, **Version:** 2

---

Resolution awarding the sale of \$8,355,000 General Obligation Corporate Purpose Bonds, Series 2015A.

WHEREAS, on April 21, 2015, the Common Council of the City of West Allis, Milwaukee County, Wisconsin (the "City") adopted initial resolutions authorizing the issuance of general obligation bonds in an amount not to exceed \$2,000,000 for the public purpose of financing sanitary sewer improvements; in an amount not to exceed \$1,500,000 for the public purpose of financing water system improvements; in an amount not to exceed \$2,750,000 for the public purpose of financing street improvement projects; and in an amount not to exceed \$2,105,000 for the public purpose of refunding obligations of the City, including interest on them (collectively, the "Initial Resolutions");

WHEREAS, pursuant to the provisions of Section 67.05, Wisconsin Statutes, within 15 days following the adoption of the Initial Resolutions, the City Clerk caused a notice to electors to be published in the My Community NOW-Midwest, stating the purpose and maximum principal amount of the bond issues authorized by the Initial Resolutions for sanitary sewer improvements, water system improvements and street improvement projects and describing the opportunity and procedure for submitting a petition requesting a referendum on those Initial Resolutions;

WHEREAS, no petition for referendum was filed with the City Clerk, and the time to file such a petition will expire on May 21, 2015;

WHEREAS, on April 21, 2015, the Common Council of the City also adopted a resolution (the "Set Sale Resolution") providing that the general obligation bond issues authorized by the Initial Resolutions be combined, issued and sold as a single issue of bonds designated as "General Obligation Corporate Purpose Bonds, Series 2015A" (the "Bonds") for the purpose of paying the cost of the projects and the refunding described in the Initial Resolutions;

WHEREAS, the obligations to be refunded are the City's General Obligation Corporate Purpose Bonds, Series 2007A, dated May 1, 2007 (the "2007 Bonds") maturing in the years 2018 through 2022 and a portion of the General Obligation Promissory Notes, dated April 1, 2009 (the "2009 Notes") maturing in the years 2017 through 2019 (collectively, the "Refunded Obligations") (hereinafter the refinancing of the Refunded Obligations shall be referred to as the "Refunding");

WHEREAS, pursuant to the Set Sale Resolution, the City directed Ehlers & Associates, Inc. ("Ehlers") to take the steps necessary to sell the Bonds;

WHEREAS, Ehlers, in consultation with the officials of the City, prepared a Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Bonds and indicating that the Bonds would be offered for public sale on May 19, 2015;

WHEREAS, the City Clerk (in consultation with Ehlers) caused notice of the sale of the Bonds to be published and/or announced and caused the Notice of Sale to be distributed to potential bidders offering the Bonds for

public sale;

WHEREAS, the City has duly received bids for the Bonds as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation");

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Notice of Sale and is deemed to be the most advantageous to the City. Ehlers has recommended that the City accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference; and

WHEREAS, the Common Council now deems it to be necessary, desirable and in the best interest of the City that the Bonds be issued in the aggregate principal amount of \$8,355,000 for the following purposes and in the following principal amounts: \$2,000,000 to finance sanitary sewer improvements; \$1,500,000 to finance water system improvements; \$2,750,000 to finance street improvement projects; and \$2,105,000 to refund obligations of the City, including interest on them.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1A. Ratification of the Notice of Sale and Offering Materials. The Common Council of the City hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Notice of Sale and any other offering materials prepared and circulated by Ehlers are hereby ratified and approved in all respects. All actions taken by officers of the City and Ehlers in connection with the preparation and distribution of the Notice of Sale and any other offering materials are hereby ratified and approved in all respects.

Section 1B. Award of the Bonds. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal (as modified on the Bid Tabulation and reflected in the Pricing Summary referenced below and incorporated herein), plus accrued interest to the date of delivery, is hereby accepted (subject to the condition that no valid petition for a referendum is filed by May 21, 2015 in connection with the Bonds). The Mayor and City Clerk or other appropriate officers of the City are authorized and directed to execute an acceptance of the Proposal on behalf of the City. The good faith deposit of the Purchaser shall be retained by the City Treasurer until the closing of the bond issue, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds shall bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Corporate Purpose Bonds, Series 2015A"; shall be issued in the aggregate principal amount of \$8,355,000; shall be dated June 4, 2015; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum and mature on April 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest shall be payable semi-annually on April 1 and October 1 of each year commencing on October 1, 2015. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. The Bonds maturing on April 1, 2024 and thereafter shall be subject to redemption prior to maturity, at the option of the City, on April 1, 2023 or on any date thereafter. Said Bonds shall be redeemable as a whole or in part, and if in part, from maturities selected by the City and within each

maturity, by lot, at the principal amount thereof, plus accrued interest to the date of redemption. If the Proposal specifies that any of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption are set forth on an attachment hereto as Exhibit MRP and incorporated herein by this reference. Upon the optional redemption of any of the Bonds subject to mandatory redemption, the principal amount of such Bonds so redeemed shall be credited against the mandatory redemption payments established in Exhibit MRP for such Bonds in such manner as the City shall direct.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2015 through 2029 for the payments due in the years 2015 through 2030 in the amounts set forth on the Schedule. The amount of tax levied in the year 2015 shall be the total amount of debt service due on the Bonds in the years 2015 and 2016; provided that the amount of such tax carried onto the tax rolls shall be abated by any amounts appropriated pursuant to subsection (D) below which are applied to payment of principal of or interest on the Bonds in the year 2015.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the City shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the City and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be paid from other funds of the City then available, which sums shall be replaced upon the collection of the taxes herein levied.

(D) Appropriation. The City hereby appropriates from amounts levied to pay debt service on the Refunded Obligations, proceeds of the Bonds or other funds of the City on hand a sum sufficient to be irrevocably deposited in the segregated Debt Service Fund Account created below and used to pay the interest on the Bonds coming due on October 1, 2015 as set forth on the Schedule.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the City, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the City may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for \$8,355,000 General Obligation Corporate Purpose Bonds, Series 2015A, dated June 4, 2015" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness

evidenced by the Bonds is fully paid or otherwise extinguished. The City Treasurer shall deposit in the Debt Service Fund Account (i) all accrued interest received by the City at the time of delivery of and payment for the Bonds; (ii) any premium which may be received by the City above the par value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the City, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the City, unless the Common Council directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium not used for the Refunding and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the City and disbursed solely for the purposes for which borrowed or for the payment of the principal of and the interest on the Bonds. A portion of the proceeds of the Bonds shall be transferred to the Escrow Account in order to provide for payment of the Refunded Obligations, as provided in Section 18 hereof. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purposes for which the Bonds have been issued have been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purposes shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the City, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws.

(a) The City represents and covenants that the projects financed by the Bonds and by the Refunded

Obligations and the ownership, management and use of the projects will not cause the Bonds or the Refunded Obligations to be "private activity bonds" within the meaning of Section 141 of the Code. The City further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the City certifying that the City can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The City also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the City will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Designation as Qualified Tax-Exempt Obligations. The Bonds are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265 of the Code, relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Section 11. Execution of the Bonds; Closing; Professional Services. The Bonds shall be issued in printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the City has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The City hereby authorizes the officers and agents of the City to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 12. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by Bond Trust Services Corporation, Roseville, Minnesota, which is hereby appointed as the City's registrar and fiscal agent pursuant to the provisions of Section 67.10(2), Wisconsin Statutes (the "Fiscal Agent"). The City will enter into a contract with the Fiscal Agent to serve as the City's fiscal agent pursuant to Wis. Stats. Sec. 67.10(2). The Mayor and City Clerk are hereby authorized to enter into such contract on the City's behalf. Such contract may provide among other things, for the performance by the Fiscal Agent of the functions listed

in Wis. Stats. Sec. 67.10(2)(a) to (j), where applicable, with respect to the Bonds.

Section 13. Persons Treated as Owners; Transfer of Bonds. The City shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 14. Record Date. The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the City at the close of business on the Record Date.

Section 15. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the City and on file in the City Clerk's office.

Section 16. Official Statement. The Common Council hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the City in connection with the preparation of such Preliminary Official Statement and any addenda to it or Final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate City official shall certify the Preliminary Official Statement and any addenda or Final Official Statement. The City Clerk shall cause copies of the Preliminary Official Statement and any addenda or Final Official Statement to be distributed to the Purchaser.

Section 17. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the owners of the Bonds, to enter into a written undertaking (the "Undertaking") if required by the Rule to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. The Undertaking shall be enforceable by the owners of the Bonds or by the Purchaser on behalf of such owners (provided that the rights of the owners and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations thereunder and any failure by the City to comply with the provisions of the Undertaking shall not be an event of default with respect to the Bonds).

To the extent required under the Rule, the Mayor and City Clerk, or other officer of the City charged with the

responsibility for issuing the Bonds, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 18. Escrow Agent; Escrow Agreement; Escrow Account. Associated Trust Company, National Association, Green Bay, Wisconsin, is hereby appointed escrow agent for the City, for the purpose of ensuring the payment of the principal of and interest on the Refunded Obligations (the "Escrow Agent").

The Mayor and City Clerk are hereby authorized and directed to execute an escrow agreement substantially in the form attached hereto as Exhibit F (the "Escrow Agreement") (such form may be modified by said officers prior to execution, the execution of such agreement by said officers to constitute full approval of the Common Council of any such modifications), with the Escrow Agent, for the purpose of effectuating the provisions of this Resolution.

The Bond Proceeds allocable to refunding the Refunded Obligations shall be deposited in a refunding escrow account which is hereby created with the Escrow Agent, pursuant to the Escrow Agreement, for the purpose of retaining the required amount of cash, if any, and acquiring the United States obligations provided for in the Escrow Agreement.

Upon transfer of the Bond Proceeds and any other necessary funds allocable to refunding the Refunded Obligations to the Escrow Account, the taxes heretofore levied to pay debt service on the Refunded Obligations shall be abated to the extent such transfer together with investment earnings thereon is sufficient to pay the principal of and interest on the Refunded Obligations, but such abatement shall not affect the City's pledge of its full faith, credit and resources to make such payments. The refunding escrow account created by the Escrow Agreement shall hereinafter serve as the debt service (or sinking) fund account for the Refunded Obligations. The Escrow Agent shall serve as custodian of said debt service (or sinking) funds.

Section 19. Escrow Securities. The Escrow Agent and Ehlers are authorized to submit subscriptions for United States Treasury Securities - State and Local Government Series and to purchase other U.S. government securities on behalf of the City in such amount as is necessary in order to carry out the Refunding.

Section 20. Redemption of the Refunded Obligations. The 2007 Bonds maturing in the years 2018 through 2022 are hereby called for prior payment and redemption on April 1, 2017, and \$505,000 of the 2017 maturity, \$555,000 of the 2018 maturity and all of the 2019 maturity of the 2009 Notes are hereby called for prior payment and redemption on April 1, 2016, all at a price of par plus accrued interest to the date of redemption.

The City hereby directs the Escrow Agent appointed above to cause timely notice of redemption, in substantially the forms attached to the Escrow Agreement (the "Notices"), to be provided at the times, to the parties and in the manner set forth on the Notices.

Section 21. Record Book. The City Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 22. Bond Insurance. If the Purchaser determines to obtain municipal bond insurance with respect to the Bonds, the officers of the City are authorized to take all actions necessary to obtain such municipal bond insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the Mayor and City Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices

to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 23. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

ADM\ORDRES\ADMR.CPBonds.2015A