

**ORDINANCE NO. 2015 - 108**

**AUTHORIZING DEFEASANCE OF A PORTION OF THE CERTIFICATES OF PARTICIPATION (CITY OF MASON MUNICIPAL FACILITIES REFUNDING PROJECT), AUTHORIZING THE EXECUTION OF AN ESCROW DEPOSIT AGREEMENT, AND AUTHORIZING THE PURCHASE OF SECURITIES TO FUND AN ESCROW FUND.**

WHEREAS, the City previously entered into a Lease Agreement (the "Lease") with PS&W Holding Company, Inc. (the "Lessor"), pursuant to which the city administration building located on lands leased to the Lessor was subleased to the City; and

WHEREAS, Lessor assigned all of its rights under the Lease to U.S. Bank National Association ("Trustee"); and

WHEREAS, the Trustee heretofore authorized, sold and delivered tax-exempt \$18,325,000 Certificates of Participation (City of Mason Municipal Facilities Refunding Project), dated November 17, 2010 (the "Certificates"), the proceeds of which were used to refinance prior certificates the proceeds of which were used to finance the construction of the city administration building; and

WHEREAS, the City intends to enter into a sublease with a non-governmental entity for space in the city administration building; and

WHEREAS, the City intends to proactively undertake a "remedial action" pursuant to Treasury Regulation Section 1.141-12 regarding the tax-exempt status of the Certificates; and

WHEREAS, in the event a remedial action is required, Treasury Regulation 1.141-12(d), requires the City within ninety (90) days of the action undertaken, which necessitates a remedial action, establish a yield-restricted defeasance escrow to redeem the applicable portion of the Certificates issued to finance the construction of the city administration building when the same becomes due until December 1, 2020, which is the earliest call date of the Certificates, by the deposit into an escrow fund of available city moneys; and

WHEREAS, the City intends to prepay a portion of the Lease payments and instruct the Trustee to defease a proportionate amount of Certificates; and

WHEREAS, the City has determined in consultation with its Bond Counsel it is in the best interest of the City to cause the defeasance of the portion of the Certificates issued to pay the portion of the cost of constructing the city administration building which represents the space to be leased to a non-governmental entity;

NOW, THEREFORE, the City of Mason (hereinafter called the "City"), County of Warren, Ohio, hereby ordains:

SECTION 1. That it is hereby determined to be in the best interest of the City to cause the defeasance of approximately \$2,510,000 of the currently outstanding Certificates,

representing a portion of the Certificates issued to pay the cost of constructing the portion of the city administration building to be leased to a non-governmental entity.

SECTION 2. That the Finance Director is hereby authorized and directed to deposit an amount required to purchase U.S. Treasury Securities – State and Local Government Series ("SLGS") or other securities acceptable to Peck, Shaffer & Williams a Division of Dinsmore & Shohl LLP, as Bond Counsel, necessary to fully fund the escrow account from available city moneys into an Escrow Deposit Account established with U.S. Bank National Association, as Escrow Agent, ("Escrow Agent") to be used by the Escrow Agent to pay principal and interest, as it comes due, on that portion of the Certificates being defeased.

SECTION 3. That the City Manager is further authorized and directed to enter into an Escrow Deposit Agreement with U.S. Bank National Association to provide for the defeasance of a portion of the Certificates in substantially the form as is currently on file with the Finance Director with only such changes as are approved by legal counsel.

SECTION 4. That the City hereby authorizes the engagement of Peck, Shaffer & Williams a division of Dinsmore & Shohl LLP, as Bond Counsel and special legal counsel to the City.

SECTION 5. Peck, Shaffer & Williams a division of Dinsmore & Shohl LLP and/or U.S. Bank National Association are hereby authorized to subscribe for the SLGS or other open market securities on behalf of the City to fund the required escrow.

SECTION 6. That the City Manager is further authorized and directed to enter into an agreement with a qualified firm as verification agent for the defeasance.

SECTION 7. That if SLGS are not available and no existing investments of the City are suitable, the City Manager may further authorize an agreement for a qualified firm to take bids for open market securities on behalf of the City to fund the required escrow.

SECTION 8. That the Finance Director is hereby directed to forward a certified copy of this ordinance to the county auditor.

SECTION 9. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this council, and that all deliberations of this council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.

SECTION 10. That this Ordinance shall take effect at the earliest date permitted by law.

Passed the 12<sup>th</sup> day of October, 2015.

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Mayor

Attest: \_\_\_\_\_  
Clerk of Council

CERTIFICATE

The undersigned hereby certifies that the foregoing is a true and correct copy of Ordinance No. \_\_\_\_\_.

\_\_\_\_\_  
Clerk of Council

CERTIFICATE

The undersigned hereby certifies that a copy of the foregoing ordinance was certified this day to the County Auditor.

\_\_\_\_\_  
Clerk of Council

Dated: \_\_\_\_\_, 2015

RECEIPT

The undersigned hereby acknowledges receipt of a certified copy of the foregoing ordinance.

\_\_\_\_\_  
County Auditor

Dated: \_\_\_\_\_, 2015