

# City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

## CHAPTER 2018-45

No. 431

**AN ORDINANCE AUTHORIZING THE CITY OF PROVIDENCE TO ISSUE NOT TO EXCEED \$160,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FUND THE SCHOOL CAPITAL IMPROVEMENTS PLAN FOR THE FISCAL YEARS 2019-2024, SUBJECT TO APPROVAL OF STATE SCHOOL HOUSING AID AT A REIMBURSEMENT RATE OR STATE SHARE RATIO OF NOT LESS THAN 75% FOR THOSE EXPENDITURES ELIGIBLE FOR STATE AID**

*Approved August 2, 2018*

### ***Be it ordained by the City of Providence:***

WHEREAS, The City of Providence (the "City") desires to fund the school capital improvements plan for the Fiscal Years 2019-2024 (the "Projects") and to finance the Projects through the issuance of bonds;

WHEREAS, The estimated maximum cost of the Projects is \$160,000,000;

WHEREAS, The period of usefulness of the Projects are expected to be approximately thirty (30) years;

WHEREAS, The net general obligation debt of the City (secured by the full faith and credit and taxing power of the City) after the issuance of the Bonds is expected to be \$230,943,956 and the Bonds will be within all debt and other limitations prescribed by the Constitution and laws of the State of Rhode Island.

NOW, THEREFORE, Be it ordained by the City of Providence:

SECTION 1. In addition to sums heretofore appropriated, the sum of \$160,000,000 is appropriated to finance the Projects.

SECTION 2. Pursuant to Rhode Island General Laws § 45-12-2 and Section 807(e) of the Providence Home Rule Charter, the City Treasurer and the Mayor are authorized to issue general obligation bonds of the City in an amount not to exceed \$160,000,000 (the "Bonds") in order to meet the foregoing appropriation.

SECTION 3. The said officers from time to time may issue and refund not exceeding \$160,000,000 interest bearing or discounted notes (the "Notes") in anticipation of the issue of said Bonds pursuant to Section 807(h) of the Providence Home Rule Charter. Such notes may be issued in the amount of \$160,000,000 without any reduction for any grant to be received from the School Building Authority Capital Fund.

SECTION 4. The City may be eligible for state school housing aid reimbursement on debt service pursuant to chapter 7 of title 16, or for a grant, loan or other "financial assistance" as defined in Section 45-38.2-1(6), from the School Building Authority Capital Fund under chapter 38.2 of chapter 45 of the general laws for such Projects, as defined in Section 3, taking into account the resources and priorities of School Building Authority Capital Fund from time to time. The amount of borrowing authorized pursuant to this Ordinance shall be reduced by the amount of any grant received by the City from the School Building Authority Capital Fund. Bonds, Notes or other evidences of indebtedness shall not be issued under this Ordinance unless the City has received a letter from the Rhode Island Department of Education ("RIDE") confirming that the then-current state school housing aid reimbursement rate under chapter 7 of title 16, as amended from time to time, or financial assistance from the School Building Authority Capital Fund, or pursuant to any other law hereafter enacted providing for funds to municipalities for school housing purposes, is not less than seventy five percent (75%) of debt service for those expenditures which are eligible for state aid.

SECTION 5. The manner of sale, forms, amount, denominations, maturities, conversion or registration privileges, interest rates, and other conditions and details of the Bonds and Notes authorized herein shall be fixed by the said officers.

SECTION 6. Subject to Sections 13 and 14 of this Ordinance, the City Council hereby authorizes the City Treasurer and the Mayor, acting on behalf of the City, to issue the Bonds and Notes for the purposes set forth herein and to take all actions as they deem necessary to effect the issuance of the Notes and Bonds. The Bonds and Notes shall be issued by the City under its corporate name and seal or a facsimile of such seal. The Bonds and Notes shall be signed by the manual or facsimile signature of the City Treasurer and the Mayor.

SECTION 7. The City Treasurer and the Mayor are hereby authorized to issue the Bonds and Notes and deliver them to the purchaser and said officers are hereby authorized and instructed to take all actions, on behalf of the City, necessary to ensure that interest on the Bonds and Notes will be excludable from gross income for federal income tax purposes and to refrain from all actions which would cause interest on the Bonds and Notes to become subject to federal income taxes.

SECTION 8. The Bonds and Notes may be issued either alone or consolidated with other issues of notes or bonds of the City.

SECTION 9. The City's Finance Director is authorized to execute and deliver continuing disclosure certificates in connection with the Bonds and Notes issued by the City, in such form as shall be deemed advisable by the City's Finance Director. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of each continuing disclosure certificate, as it may be amended from time to time. Notwithstanding any other provision of this ordinance or the Bonds or Notes, failure of the City to comply with any continuing disclosure certificate shall not be considered an event of default; however, any bondholder or noteholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this ordinance and under any continuing disclosure certificate.

SECTION 10. The City Treasurer and the Mayor are also authorized, empowered and directed, on behalf of the City, to: (i) execute, acknowledge and deliver any and all other documents, certificates or instruments necessary to effectuate such borrowing, including, without limitation, a Preliminary Official Statement, a final Official Statement, all in such form and with such provisions as such officer shall deem advisable; (ii) amend, modify or supplement the bonds or notes and any and all other documents, certificates or instruments at any time and from time to time, in such manner and for such purposes as such officers shall deem necessary, desirable or advisable; (iii) do and perform all such other acts and things deemed by such officers to be necessary, desirable or advisable with respect to any matters contemplated by this ordinance in order to effectuate said borrowing and the intent hereof.

**SECTION 11.** This ordinance is an affirmative action of the City Council of the City of Providence toward the issuance of Bonds and/or Notes in accordance with the purposes of the laws of the State. This ordinance constitutes the City's declaration of official intent pursuant to Treasury Regulation Section 1.150-2 to reimburse the City's General Fund for certain capital expenditures for the Projects paid on or after the date which is sixty (60) days prior to the date of this ordinance, but prior to the issuance of the Bonds and/or Notes. Such amounts to be reimbursed shall not exceed \$160,000,000, and shall be reimbursed not later than eighteen (18) months after (a) the date on which the expenditure is paid, or (b) the date the Projects are placed in service or abandoned but in no event later than three (3) years after the date the expenditure is paid.

**SECTION 12.** No Bonds or Notes shall be issued pursuant to the authority of this ordinance until a majority of the electors of the City has approved the loan. The question of the approval of the loan shall be placed before the qualified electors of the City of Providence at the state general election to be held on November 6, 2018, shall be submitted in substantially the following form:

"Shall an Ordinance of the City Council effective on August 2, 2018 authorizing the issuance of up to \$160,000,000 general obligation bonds of the City pursuant to Rhode Island General Laws § 45-12-2 and § 807 of the City's Home Rule Charter in order to fund the school capital improvements plan for the fiscal years 2019-2024, subject to approval of state school housing aid at a reimbursement rate or state share ratio of not less than 75% for those expenditures eligible for state aid, be approved?"

**SECTION 13.** If and when the City issues said Bonds or Notes, it will issue them in three separate tranches, following these approximate times, years and principal amounts: Spring of 2019, \$51,635,000; Spring of 2022, \$49,910,000 and Spring of 2023, \$52,465,000. An increase or decrease in principal amount of five percent (5%) for each series shall be deemed an insubstantial deviation and shall be permissible. Notes, if any, may be issued in anticipation of Bonds not more than one (1) more year prior to the issuance of each series of Bonds. The City Council hereby extends the time limit for bond issuance pursuant to Article VIII, Section 807(p) of the City's Home Rule Charter, to the date which is five (5) years after the date the electors approve this Ordinance. Any Bonds must be issued not later than November 6, 2023.

**SECTION 14.** Prior to any issuance of any series of Bonds or Notes, the administration shall submit a spending plan for such Bonds or Notes to the City Council for review and approval by Resolution of the City Council.

**SECTION 15.** Prior to any issuance of any series of Bonds or Notes, the administration shall submit in ordinance form to the City Council for review and approval.

**SECTION 16.** This ordinance shall take effect upon its approval by the Mayor after its passage.

In City Council  
JUL 23 2018  
Read and Passed the First Time  
And Referred to the Committee  
On Finance  
Joe L. Dwyer Clerk

IN CITY  
COUNCIL  
JUL 30 2018  
FINAL READING  
READ AND PASSED  
David L. Hughes  
PRESIDENT  
Joe L. Dwyer  
CLERK

I HEREBY APPROVE.

[Signature]  
Mayor  
Date: 8/2/18