

CHAPTER 2022-75

No. 432 **AN ORDINANCE APPROVING THE DEVELOPMENT OF TOTAL MAXIMUM DAILY LOAD IMPLEMENTATION PLANS AND ALL ATTENDANT EXPENSES AND APPROVING THE FINANCING THEREOF BY THE ISSUANCE OF APPROPRIATION OBLIGATIONS THEREFOR IN THE AMOUNT NOT TO EXCEED \$1,000,000.00**

Approved December 21, 2022

Be it ordained by the City of Providence:

WHEREAS, The City of Providence (the "City") entered into a consent agreement with the Rhode Island Department of Environmental Management on March 7, 2017, which requires, among other things, the City to develop Total Maximum Daily Load Implementation Plans ("TMDLIP"). A total maximum daily load is a calculation of the maximum amount of a pollutant allowed to enter a waterbody, so that the waterbody will meet and/or continue to meet water quality standards; and

WHEREAS, The City desires to finance the development of TMDLIP for water bodies in the City including, but not limited to, Mashapaug Pond, Roger Williams Park Pond, Woonasquatucket River and West River (the "Project") and to finance the Project through a loan from the Rhode Island Infrastructure Bank ("RIIB"); and

WHEREAS, The City has received correspondence from RIIB confirming the City's qualification for affordability-based loan forgiveness for the Project, pursuant to which the City would receive \$400,000 in loan forgiveness based on a loan of \$1,000,000; and

WHEREAS, The estimated maximum cost of the Project is \$1,000,000; and

WHEREAS, The period of usefulness of the Project is expected to be at least (5) years; and

WHEREAS, The net debt of the City is not affected by the issuance of the Obligations (defined below) as the Obligations are limited obligations, payable solely from appropriations of funds therefor by the City Council and do not constitute a general obligation of the City; and

WHEREAS, The Obligations authorized hereby will be within all debt and other limitations prescribed by the Constitution and the laws of State of Rhode Island ("State").

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF PROVIDENCE THAT:

SECTION 1. The sum of One Million (\$1,000,000) is appropriated for the development and financing of the Project, including funding a debt service reserve fund, if required by RIIB, and financing costs.

SECTION 2. In accordance with Chapter 46-12.2 of the Rhode Island General Laws, the City Treasurer and the Mayor are hereby authorized to borrow an amount not exceeding One Million Dollars (\$1,000,000) from RIIB, and to evidence such loan, such officers are hereby authorized to issue and refund on behalf of the City, in an amount not exceeding One Million Dollars (\$1,000,000) appropriation obligations (the "Obligations") of the City, at one time, or from time to time in order to meet the foregoing appropriation.

SECTION 3. The manner of sale, amount, denominations, maturities, conversion or registration privileges, interest rates, medium of payment, and other terms, conditions and details of the Obligations may be fixed by the officers authorized to sign the Obligations.

SECTION 4. Pending the issuance of the Obligations under Section 2 hereof, the City Treasurer may expend funds from the General Fund of the City for the purposes specified in Section 1 hereof. Any advances made under this section shall be repaid without interest from the proceeds of the Obligations issued hereunder or from the proceeds of applicable federal or state assistance or from other available funds.

SECTION 5. The City Treasurer and the Mayor are hereby authorized to enter into a loan agreement and other financing documents with RIIB (the "Financing Documents") and said officers are hereby authorized and instructed to take all actions, and to execute and deliver the Financing Documents and any related agreements, certificates and other documents in such form as they may deem necessary or desirable to implement the Project. To the extent that the Financing Documents contemplate tax-exempt financing, such officers are also authorized to take all action, on behalf of the City, necessary to insure that the interest component of the Obligation payments will be excludable from gross income for federal income tax purposes and to refrain from all actions which would cause the interest component of the Obligation payments to become subject to federal income taxes.

SECTION 6. Nothing contained in this Ordinance, the Financing Documents or any other instrument shall be construed with respect to the City as incurring a pecuniary liability or charge upon the general credit of the City or against its taxing power, nor shall the breach of any agreement contained in this Ordinance, the Financing Documents or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City or any charge upon its general credit or against its taxing power, except to the extent that the payments payable under the Financing Documents are special limited obligations of the City, subject to appropriation of funds by the City Council.

SECTION 7. This Ordinance is an affirmative action of the City Council toward the execution and delivery of the Obligations and the Financing Documents 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 1.150(2), to reimburse the City's General Fund for certain capital expenditures paid on or after the date which is sixty (60) days prior to the date of this Ordinance, but prior to the execution and delivery of the Financing Documents. Such amounts to be reimbursed shall not exceed \$1,000,000 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 property is placed in service or abandoned, but in no event later than three (3) years after the date the expenditure is paid.

SECTION 8. The Director of Finance and the Mayor are authorized to take all actions necessary to comply with federal tax and securities laws including Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule") and to execute and deliver one or more Disclosure Certificates in connection with the Obligations in the form as shall be deemed advisable by the Director of Finance and the Mayor in order to comply with the SEC Rule. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Disclosure Certificates, as they may be amended from time to time. Notwithstanding any other provision of this Ordinance or the Obligations, failure of the City to comply with a Disclosure Certificates shall not be considered an event of default; however, any holder of the Obligations 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 Section and under the Disclosure Certificate.

SECTION 10. This Ordinance shall take effect upon passage.

IN CITY COUNCIL
DEC 01 2022
FIRST READING
READ AND PASSED

Tina L. Mastrosianni CLERK
ACTING

IN CITY COUNCIL
DEC 15 2022
FINAL READING
READ AND PASSED

John J. Iglizzi PRESIDENT
Tina L. Mastrosianni ACTING CLERK

I HEREBY APPROVE.

[Signature]
Mayor
12/21/22



CITY OF PROVIDENCE
Jorge G. Elorza, Mayor

MEMO

TO: Lawrence Mancini, Chief Financial Officer
Sara Silveria, Finance Director
Krystle Lindberg, Deputy Finance Director

FROM: Craig Hochman, PE, City Engineer

DATE: August 17, 2022

RE: Rhode Island Infrastructure Bank – Loan Forgiveness
Total Maximum Daily Load Implementation Plans

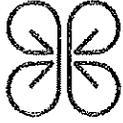
The Department of Public Works, Engineering Division submitted multiple clean water sewer/stormwater projects for consideration to the Rhode Island Department of Environmental Management for inclusion on the Clean Water State Revolving Fund Project Priority List (PPL) in March 2022. Inclusion on the PPL is the first step to be considered for grant assistance and/or loan forgiveness.

On June 23, the Engineering Division received correspondence from the Rhode Island Infrastructure Bank (RIIB) indicating our qualification for affordability-based loan forgiveness (see attached letter) for the development of Total Maximum Daily Load Implementation Plans (TMDL IP). A TMDL is a calculation of the maximum amount of a pollutant allowed to enter a waterbody, so that the waterbody will meet and/or continue to meet water quality standards. The implementation plan develops actions, and a schedule of milestones to reach the goal of restoration. TMDL IPs are required by the consent agreement for the Rhode Island Pollutant Eliminations System permit, which was agreed to by the City and RIDEM on March 7, 2017. TMDL IP's will be developed for Mashapaug Pond, Roger Williams Parks Pond, Woonasquatucket River and West River.

The Engineering Division requests authority to borrow \$500,000, of which 40% (\$200,000) will be forgiven by RIIB, in accordance with RIIB's June 23rd correspondence. This is a fantastic opportunity for the city to further its investments in clean water, stormwater, and sewer infrastructure. It's intended that the development of TMDL IP's will provide opportunities for future grant funding. It's proposed that the balance of unforgiven loan will be paid utilizing American Rescue Plan Act (ARPA) funds that have been allocated for sewer and stormwater.

The city must commit to these projects by September 1, 2022, to finalize and secure loan forgiveness allocations. Project loans must close by December 31, 2022.

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Jeffrey R. Diehl
Executive Director and CEO

June 23, 2022

Craig Hochman,
Chief Engineer
City of Providence
25 Dorrance Street
Providence, RI 02903

Re: Affordability-Based Loan Forgiveness

Dear Mr. Hochman,

Thank you for submitting a financial application to the RI Infrastructure Bank for the City of Providence's clean water project.

We are providing additional assistance to qualifying communities for eligible projects to increase the affordability of infrastructure. The Infrastructure Bank, in coordination with our regulatory partners, have established within the RI Clean Water and Drinking Water SRFs an Affordability Criteria for Rhode Island's municipalities, drinking water and wastewater systems based on median household income, employment rate and population growth ratio. Entities are indexed and compared to the statewide average. Entities with an index below the statewide average qualify for loan forgiveness according to the following table:

Tier 1 community index 70% or less	40% of qualifying project cost forgiven
Tier 2 community index 71% - 85%	15% of qualifying project cost forgiven

More details on the indexing process can be found in the RI Affordability Criteria Overview and the Affordability Criteria FY23 Calculation and Results documents posted on the RIIB website.

The City of Providence falls in Tier 1. Providence applied for clean water financing with a total cost of \$1,000,000 for one project, TMDL Implementation plans for Roger Williams Pond, Mashapaug Pond Watersheds, Woonasquatucket River Watershed and West River Watershed. Providence is eligible to receive \$400,000 in affordability-based loan forgiveness for this project.

The City of Providence must commit to these projects by September 1, 2022 to finalize and secure final loan forgiveness allocations. **Project loans must close by December 31, 2022 and meet other program requirements to receive forgiveness.**

Very truly yours,