

RESOLUTION NO. 12-2021

**REDEVELOPMENT AUTHORITY OF
THE CITY OF HARRISBURG**

Adopted May 18, 2021

A RESOLUTION OF THE REDEVELOPMENT AUTHORITY OF THE CITY OF HARRISBURG, APPROVING A PLAN OF DEFEASANCE; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT, AND SUCH OTHER DOCUMENTS AS SHALL BE NECESSARY TO EFFECTUATE THE PLAN OF DEFEASANCE; AUTHORIZING AND DIRECTING THE DEFEASANCE TO MATURITY OF THE AUTHORITY'S OUTSTANDING FEDERALLY TAXABLE GUARANTEED VARIABLE RATE REVENUE BONDS (STADIUM PROJECT), SERIES A-2 OF 2005; AND AUTHORIZING OTHER NECESSARY ACTION

WHEREAS, the Redevelopment Authority of the City of Harrisburg (the "Authority") is a body corporate and politic of the Commonwealth of Pennsylvania created by resolution of the Council of the City of Harrisburg, Dauphin County, Pennsylvania (the "City"), under provisions of the Urban Redevelopment Law of the Commonwealth of Pennsylvania, approved May 24, 1945, PL. 991, as amended (the "Act"), for the purpose of, among other things, eliminating or preventing the spread of blighted conditions in the City; and

WHEREAS, the Authority at the request of the City issued on February 10, 2005, its Federally Taxable Guaranteed Revenue Bonds (Stadium Project), Series A-2 of 2005, in the original aggregate principal amount of \$9,000,000 (the "2005A-2 Bonds"), pursuant to a First Supplemental Indenture dated as of February 1, 2005 (the "First Supplemental Indenture"), amending and supplementing that Trust Indenture dated as of January 1, 2005 (the "Original Indenture," and together with the First Supplemental Indenture, the "Indenture"), each between the Authority and TD Bank, N.A., as successor trustee (the "Trustee"), to finance a project for the benefit of the Harrisburg Civic Baseball Club, Inc. (the "Borrower") consisting of, among other things, the renovation and upgrade of Commerce Bank Park, now known as FNB Field; and

WHEREAS, the Authority loaned the proceeds of the 2005A-2 Bonds to the Borrower under and pursuant to that First Supplemental Loan and Security Agreement, dated as of February 1, 2005 (the "First Supplemental Loan Agreement"), amending and supplementing that Loan and Security Agreement dated as of January 1, 2005 (the "Original Loan Agreement," and together with the First Supplemental Loan Agreement, the "Loan Agreement"), each between the Authority and the Borrower, and under which the Borrower agreed to make loan payments to the Authority in amounts sufficient to allow the Authority to pay the principal of, premium, if any, and interest on the 2005A-2 Bonds, when due; and

WHEREAS, as additional security for the 2005A-2 Bonds, the City, the Authority and the Trustee have entered into a Stadium Guaranty Agreement, dated as of January 1, 2005 (the “Guaranty Agreement”), under which the City has agreed to guarantee the payment of the principal of and interest on the 2005A-2 Bonds; and

WHEREAS, Ambac Assurance Corporation (“Ambac”), as bond insurer, heretofore issued its policy of municipal bond insurance for the 2005A-2 Bonds; and

WHEREAS, unrelated to the issuance by the Authority of its 2005A-2 Bonds, the City has issued its General Obligation Refunding Bonds, Series D of 1997 in the original aggregate principal amount of \$24,891,771.10 (the “1997D Bonds”) and its General Obligation Refunding Notes, Series F of 1997 (the “1997F Notes,” and together with the 1997D Bonds, the “1997 Bonds”), which also were insured by Ambac; and

WHEREAS, in December 2010, under the authority of the Municipalities Financial Recovery Act of 1987, 53 P.S. §11701.101 *et seq.*, as amended (“Act 47”), the Secretary of the Department of Community and Economic Development (“DCED”) designated the City a distressed municipality in large part because of an inability to satisfy significant portions of the City’s debt obligations; and

WHEREAS, in October 2011, the Governor of the Commonwealth of Pennsylvania declared the City to be in state of fiscal emergency under newly adopted amendments to Act 47 which, by operation of law, empowered the Secretary of DCED to seek judicial confirmation of a receiver for the City in order to develop a sound financial recovery plan; and

WHEREAS, throughout the course of receivership, the City’s fiscal crisis prevented the City from making certain of the scheduled debt service payments due on the 1997 Bonds, thereby requiring Ambac to pay the holders of the 1997 Bonds on behalf of the City; and

WHEREAS, on or about April 12, 2012, Ambac filed a complaint against *inter alia*, the City, in the Court of Common Pleas of Dauphin County, Pennsylvania, seeking relief for the losses associated with the failure of the City to make such payments; and

WHEREAS, the City entered into a settlement with Ambac to resolve the litigation and the contractual obligations triggered by the City’s defaults on its debt service obligations with respect to the 1997 Bonds, which settlement is set forth in that certain Second Amended and Restated Settlement Agreement between the City and Ambac (the “Existing Settlement Agreement”); and

WHEREAS, the City and Ambac have determined that it would be in their mutual best interest to renegotiate aspects of the Existing Settlement Agreement, such renegotiation to include terms and conditions for the defeasance of the 2005A-2 Bonds using funds of the City; and

WHEREAS, on May 11, 2021, the Council for the City (“Council”) adopted Resolution No. 29 of 2021, approving the final terms and conditions of a Third Amended and

Restated Settlement Agreement between the City and Ambac (the “Settlement Agreement”), amending and restating the Existing Settlement Agreement; and

WHEREAS, under the terms and conditions of the Settlement Agreement, the City has agreed to cause the defeasance to maturity of the 2005A-2 Bonds, on or before December 31, 2021; and

WHEREAS, the City has determined to fund the defeasance to maturity of the 2005A-2 Bonds using proceeds from one or more series of its general obligation bonds, or other available funds of the City; and

WHEREAS, the City has requested the cooperation of the Authority, as the issuer of the 2005A-2 Bonds, in the undertaking of a project (the “Defeasance Project”) limited to the defeasance to maturity of the 2005A-2 Bonds; and

WHEREAS, in connection with the defeasance of the 2005A-2 Bonds, the Authority shall enter into an Escrow Deposit Agreement (the “Escrow Agreement”), with the City and TD Bank, N.A., as escrow agent (the “Escrow Agent”), pursuant to which the Authority shall deposit with the Escrow Agent funds provided by the City in an amount sufficient to pay the principal of, premium, if any, and interest on the 2005A-2 Bonds, whether by reason of maturity or mandatory redemption, on each May 15 and November 15, until May 15, 2030, the final maturity of the 2005A-2 Bonds; and

WHEREAS, the Authority desires to authorize and direct the officers and members of the Board of the Authority to take all actions necessary to defease the 2005A-2 Bonds to maturity in accordance with the provisions of the Indenture; and

WHEREAS, the Authority desires to approve the Defeasance Project, consisting of the defeasance of the 2005A-2 Bonds, and desires to authorize and approve the execution and delivery by the Authority of the Escrow Agreement, and such other documents, instruments and certificates as it deems necessary or appropriate to effectuate the purpose of this Resolution (collectively, the “Authority Documents”).

NOW, THEREFORE, BE IT RESOLVED by the Redevelopment Authority of the City of Harrisburg, as follows:

1. Approval of Defeasance Project. The Authority hereby authorizes and approves the Defeasance Project, consisting of the defeasance to maturity of the 2005A-2 Bonds on a date to be determined by the City in consultation with the Authority, all as described in the preambles of this Resolution. The Authority in authorizing and approving the Defeasance Project is not making any declaration as to the Settlement Agreement negotiated by the City, and this Resolution shall not be interpreted as supporting or opposing the City’s recovery plan.

2. Authorization and Approval of Authority Documents. The Authority is hereby authorized to enter into the Authority Documents. The Authority hereby approves the Authority Documents in such forms as shall be acceptable to and approved by the authorized officer or officers of the Authority executing any such Authority Documents, with the advice of

Counsel to the Authority; and such approval shall be conclusively evidenced by the execution thereof in accordance with Paragraph 4 hereof.

3. Authorizing Defeasance of 2005A-2 Bonds.

(a) The payment and defeasance of the 2005A-2 Bonds using funds of the City is hereby directed, ratified, confirmed and approved.

(b) The Chair or Vice Chair or any other member of the Board of Authority hereby are, authorized and empowered, with the advice of Counsel to the Authority, to negotiate, execute and deliver such further instruments and documents, as may be necessary or desirable to consummate the transactions contemplated thereby, in the name and on behalf of the Authority, including all necessary directions and notices to the Trustee for the defeasance to maturity of the 2005A-2 Bonds.

(c) The payment and defeasance of the 2005A-2 Bonds to maturity as authorized by this Resolution is contingent and conditioned upon the receipt by the Authority of funds from the City in an amount sufficient to provide for the payment of the debt service on the 2005A-2 Bonds to their final maturity.

4. Execution and Delivery of Authority Documents. The Chair or Vice Chair or any other member of the Board of Authority is hereby authorized to execute and deliver, in the name of the Authority and on its behalf, the Authority Documents, and to approve the final forms and substance thereof pursuant to Section 2 hereof, and any amendments or supplements thereto after the initial execution and delivery thereof, such approvals to be conclusively evidenced by execution thereof, and the Secretary or any Assistant Secretary or any other member of the Board of Authority is hereby authorized to affix to all such documents the seal of the Authority and to attest to the same. Copies of the Authority Documents, together with the other documents relating to the transactions authorized hereby, in final form as executed and delivered by the parties thereto, shall be filed in the official records of the Authority.

5. Binding Effect of Covenants and Agreements. All covenants, obligations and agreements of the Authority set forth in this Resolution and in the documents authorized hereby shall be deemed to be the covenants, obligations and agreements of the Authority to the full extent authorized or permitted by law, and all such covenants, obligations and agreements shall be binding upon the Authority and its successors from time to time and upon any board or body to which any powers or duties affecting the same shall be transferred by or in accordance with law.

6. No Liability. No covenant, obligation or agreement herein contained or contained in any documents authorized hereby shall be deemed to be a covenant, obligation or agreement of any member, officer, agent or employee of the Authority in his or her individual capacity and neither members of the Authority nor any officer executing the documents authorized by this Resolution shall be liable personally hereunder or be subject to any personal liability or accountability by reason of the execution and delivery thereof.

7. Further Action. Any member of the Authority and the Executive Director of the Authority is hereby authorized and directed to execute such further documents and do such

further things as may be necessary or proper to carry out the Defeasance Project, the defeasance to maturity of the 2005A-2 Bonds and the intent and purposes of this Resolution or any document herein authorized.

8. Repeal of Inconsistent Resolutions. All prior resolutions or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistency.

9. Effective Date. This Resolution shall take effect immediately.

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I, the undersigned officer of the Redevelopment Authority of the City of Harrisburg, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution duly adopted by the Board of the Authority at a public meeting of the Authority held the 18th day of May, 2021, after notice thereof had been duly given as required by law, at which meeting a quorum was present and voting and is now in full force and effect on the date of this certification.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Authority this 18th day of May, 2021.


Secretary

(SEAL)