

CITY OF HIGH POINT

AGENDA ITEM



Title: Authorize the Issuance of Series 2022C General Obligation Refunding Bond

From: Bobby D. Fitzjohn, Financial Services Director

Meeting Date: April 8, 2022

Public Hearing: No

Advertising Date : N/A-

Advertised By:

Attachments: Issuance Resolution

PURPOSE:

The Financial Services Department recommends that the City Council take the final step to authorize the issuance of up to \$7,152,000 Series 2022 General Obligation Refunding Bonds.

BACKGROUND:

The proposed resolution, prepared by the City's bond attorneys, provide staff the authorization to issue up to \$7,152,000 for refunding the Series 2012 General Obligation Bonds and Series 2012C Refunding General Obligation Bonds. Cash flow savings are in excess of \$196,000 over the next 10 years, however the bond can be refinanced anytime in the future without penalty. Final maturity dates will remain the same.

The LGC will consider the refunding authorization for approval at their May 5, 2022 meeting.

These are necessary legal proceedings for the issuance of refunding bonds.

BUDGET IMPACT:

The interest rate refunding savings will be built into the debt service budgets for the General Debt Service Fund and the Stormwater Fund in the 2022-2023 annual budget and successive years.

RECOMMENDATION / ACTIONS REQUESTED:

City Council is requested to approve the "Resolution of The City Council of The City of High Point, North Carolina Authorizing the Issuance of a General Obligation Refunding Bond, Series 2022C".

EXTRACTS FROM MINUTES OF CITY COUNCIL

* * *

A regular meeting of the City Council of the City of High Point, North Carolina (the “*City Council*”) was duly held in the Council Chambers of the Municipal Building located at 211 South Hamilton Street in High Point, North Carolina, the regular place of meeting, at 5:30 p.m. on April 18, 2022:

Members Present:

Members Absent:

* * * * *

Councilmember _____ moved that the following resolution, a summary of which had been provided to each Councilmember and a copy of which was available with the City Clerk, be adopted:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING BOND, SERIES 2022C

WHEREAS, the Bond Order described below has been adopted, and it is desirable to make provision for the issuance of the Bond (as defined below) authorized by the Bond Order for the purpose of refunding the City of High Point, North Carolina General Obligation Public Improvement Bonds, Series 2012 maturing on and after March 1, 2023 and the City of High Point, North Carolina General Obligation Refunding Bonds, Series 2012 maturing on and after March 1, 2023 (collectively, the “*Refunded Bonds*”);

WHEREAS, the City Council previously adopted a resolution on March 21, 2022 authorizing the issuance of general obligation bonds for various purposes, including the refunding of the Refunded Bonds, via a publicly offered competitive sale process; however, the City subsequently received a proposal from Pinnacle Bank to purchase the Bond through a direct bank loan which the City has determined to be more advantageous to the City;

WHEREAS, the City of High Point, North Carolina desires to issue its General Obligation Refunding Bond, Series 2022C (the “*Bond*”) and to request that the Local Government Commission (the “*Commission*”) sell the Bond to Pinnacle Bank in accordance with the terms provided herein;

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

Section 1. For purposes of this Resolution, the following words will have the meanings ascribed to them below:

“*Bank*” means Pinnacle Bank, as the original purchaser of the Bond, and its successors and assigns.

“*Bond*” means the City’s General Obligation Refunding Bond, Series 2022C authorized under the Bond Order.

“*Bond Order*” means the bond order authorizing the City to issue general obligation refunding bonds to refund, among other bonds, the Refunded Bonds adopted by the City Council on March 7, 2022 and effective on its adoption.

“*Business Day*” means a day other than a Saturday or Sunday on which the Bank, at its principal corporate offices, is not required or authorized by law to remain closed.

“*City*” means the City of High Point, North Carolina.

“*City Council*” means the City Council of the City.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein will be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto.

“*Commission*” means the Local Government Commission of North Carolina.

“*Default Rate*” means the interest rate in effect under the Bond immediately prior to the date the City defaults on its obligations to pay the principal of and interest on the Bond when due, plus 4.0% per annum; provided, however that the Default Rate shall not exceed the maximum rate of interest permitted by law.

“*Determination of Taxability*” means, with respect to the Bond, and shall be deemed to have occurred on the date when (a) the City shall receive notice from the Owner that the Internal Revenue Service has assessed as includable in gross income the interest payments made by the City on the Bond and such assessment is due to the occurrence of an Event of Taxability or (b) the City or the Owner shall receive notice from the Internal Revenue Service that the interest payments made by the City on the Bond is includable in the gross income of the Owner for federal income tax purposes and such determination is due to the occurrence of an Event of Taxability.

“*Event of Taxability*” means the occurrence or existence of any fact, event or circumstance caused by either the action or inaction of the City which has the effect of causing the interest payments on the Bond made by the City to be includable in the gross income of the Owner for federal income tax purposes.

“*Federal Securities*” means obligations permitted by Section 159-72 of the General Statutes of North Carolina, as may be amended from time-to-time, or any successor statute thereto.

“*Finance Officer*” means the City’s Financial Services Director or any successor to the function of the City’s statutory finance officer.

“*Inclusion Date*” means the effective date that the interest payments on the Bond made by the City is includable in the gross income of the Owner of the Bond as a result of a Determination of Taxability.

“*Owner*” means the registered owner of the Bond, which will initially be the Bank.

“*Pricing Certificate*” means the certificate of the Finance Officer, or his designee, delivered in connection with the issuance of the Bond which establishes the final principal amount, annual installment amounts and such other terms of the Bond consistent with this Resolution.

“*Refunded Bonds*” means, collectively, the City’s (a) General Obligation Public Improvement Bonds, Series 2012 maturing on and after March 1, 2023 and (b) General Obligation Refunding Bonds, Series 2012 maturing on and after March 1, 2023.

Section 2. The City will issue not to exceed \$7,200,000 in total aggregate principal amount of its Bond. The principal amount of the Bond will be set forth in the Pricing Certificate.

Section 3. The Bond will be dated its date of issuance and pay interest semiannually on March 1 and September 1, beginning September 1, 2022. The Bond is being issued to provide funds to refund all of the Refunded Bonds, described in and in accordance with the Bond Order, and to pay the costs of issuing the Bond.

Section 4. The Bond will mature on March 1, 2032 and is payable in annual installments. Such annual installments will be payable on March 1 in the years and the amounts set forth in the Pricing Certificate.

Section 5. The Bond will bear interest from its date at a rate of 1.96% per annum computed on the basis of a 360-day year of twelve 30-day months. If the City is in default of its obligations to pay the principal of and interest on the Bond when due, from the date of such default until the default has been remedied or waived by the Owner, all amounts payable on the Bond will bear interest at the Default Rate

Section 6. The Bond shall be registered as to principal and interest, and the Finance Officer, or his designee, will act as the initial “Registrar” and is directed to maintain the registration records with respect to the Bond, subject to the appointment of a successor as permitted by law. The Bond shall bear the original or facsimile signatures of the Mayor or City Manager and the City Clerk, or their respective designees. An original or facsimile of the seal of the City is to be imprinted on the Bond.

The Bond will be non-transferable, except to (a) an affiliate of the Bank or (b) a bank, insurance company or similar financial institution or any other entity approved by the Commission who executes an investor letter in a form and substance satisfactory to the Registrar. The Registrar has no obligation to pay any amounts due on the Bond to anyone other than the Owner as shown on the registration books kept by the Registrar.

Section 7. The Bond is subject to redemption, at the option of the City, from any money that may be made available for such purpose, either in whole or in part, on any Business Day, at the redemption price of 100% of the principal amount of Bond to be redeemed, plus accrued interest thereon to the redemption date. The City will give the Bank at least thirty days prior written notice of such redemption. The notice of redemption may state that it is conditional on sufficient money being available to pay the redemption price on the date fixed for redemption.

If the Bond is redeemed in part, such redemption shall be deemed a redemption of the principal amount of the Bond then outstanding in inverse order.

Section 8. The Bond and the provisions for the registration of the Bond and for the approval of the Bond by the Secretary of the Commission are to be in substantially the form set forth in Appendix A hereto. The Bond is to be numbered from “R-1” consecutively and upward.

Section 9. The Authorized Officers (as defined below) are hereby authorized to execute a non-arbitrage certificate with respect to the Bond in order to comply with Section 148 of the Code and the applicable Income Tax Regulations thereunder.

Section 10. The City covenants that it will not take or permit, or omit to take or cause to be taken, any action that would adversely affect the exclusion from gross income of the recipient thereof for federal income tax purposes of the interest on the Bond, and, if it should take or permit, or omit to take or cause to be taken, any such action, the City will take or cause to be taken all lawful actions within its power necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof. The City acknowledges that the continued exclusion of interest on the Bond from the owner's gross income for federal income tax purposes depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code. The City covenants that it will comply with all the requirements of Section 148 of the Code, including the rebate requirements, and that it will not permit at any time any of the proceeds of the Bond or other funds under its control be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bond to be "arbitrage bonds" for purposes of Section 148 of the Code.

While the Bond is outstanding, in the event of a Determination of Taxability, the interest rate on the Bond, from and after the Inclusion Date, shall be adjusted to preserve the Owner's after-tax economic yield with respect to the interest on the Bond, taking into account any interest expense deductions lost by the Owner as a direct or indirect result of the Determination of Taxability. In addition, the City shall pay to the Owner (i) an amount necessary to reimburse the Owner for any interest, penalties, or other charges assessed by the Internal Revenue Service and the North Carolina Department of Revenue by reason of the Owner's failure to include the interest on the Bond in its gross income for income tax purposes, and (ii) additional interest as a result of the increase in the interest rate on all previous interest payments made by the City after the Inclusion Date. In the event of a Determination of Taxability, the Owner shall provide the City and the Commission with a new debt service schedule for the Bond which reflects the adjustment of the interest rate on the Bond.

The City agrees to give prompt written notice to the Owner of the receipt of any notice or information from any source whatsoever to the effect that an Event of Taxability or a Determination of Taxability shall have occurred while the Bond is outstanding.

Section 11. The Finance Officer is hereby directed to create and establish an account on the City's books and records to be designated "*City of High Point, North Carolina General Obligation Refunding Bonds, Series 2022C Costs of Issuance Account*" or such other name as the Finance Officer may determine (the "*Costs of Issuance Account*"). From the proceeds of the Bond, the State Treasurer shall (1) transfer the amount necessary for the refunding of the Refunded Bonds to the City and the City will transfer such amount to the registered owner of the Refunded Bonds and (2) transfer the balance of the proceeds from the sale of the Bond to the Costs of Issuance Account.

Proceeds on deposit in the Costs of Issuance Account will be used to pay the costs of issuing the Bond. Funds on deposit in the Costs of Issuance Account may be invested and reinvested by the Finance Officer as permitted by the laws of the State of North Carolina. The Finance Officer will keep and maintain adequate records pertaining to the proceeds of the Bond and each account and all disbursements from each account so as to satisfy the requirements of the laws of the State of North Carolina and assure that the City maintains its covenants with respect to the exclusion of the interest on the Bond from gross income for purposes of federal income taxation. To the extent any funds remain in the Costs of Issuance Fund on September 1, 2022, the Finance Officer will apply the remaining proceeds of the Bonds to pay interest on the Bond on September 1, 2022.

Section 12. Actions taken by officials of the City to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

Section 13. The Commission is hereby requested to sell the Bond through a direct bank loan at private sale without advertisement to the Bank subject to the provisions hereof as permitted by Sections 159-123(b)(5) and 159-123(c) of the General Statutes of North Carolina, as amended. The Bond will be sold at a price of 100% of the par amount of the Bond and at an interest rate not to exceed the interest rate set forth herein. The Finance Officer, or his designee, is authorized to deliver the Pricing Certificate and approve any further changes to or additional terms of the Bond set forth in this Resolution in the Pricing Certificate.

Section 14. The Mayor, the City Manager, the Finance Officer and the City Clerk, and their respective designees (collectively, the “*Authorized Officers*”) are hereby authorized and directed, individually or collectively, to execute and deliver for and on behalf of the City the Bond to be prepared and, when it shall have been duly sold by the Commission, to execute the Bond and to turn the Bond over to the registrar and transfer agent of the City for delivery to the Bank.

Section 15. The Authorized Officers are authorized and directed to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated in this Resolution or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution. Any provision in this Resolution that authorizes more than one officer of the City to take certain actions permits such officers to take the authorized actions either individually or collectively.

Section 16. Portions of this Resolution may be amended or supplemented, from time to time, without the consent of the Owner of the Bond if, in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the Owner of the Bond and would not cause the interest on the Bond to be included in the gross income of a recipient thereof for federal income tax purposes.

All other amendments or supplements to this Resolution require the consent of the Owner of the Bond, including any amendment or supplement that would reduce the principal amount of the Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable. Any act done pursuant to a modification or amendment consented to by the Owner of the Bond is binding on any Owner of the Bond and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no Owner of the Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the City from taking any action pursuant to a modification or amendment.

If the City proposes an amendment or supplemental resolution to this Resolution, the City shall cause notice of the proposed amendment to be sent to each Owner by first-class mail, postage prepaid, to the address of such Owner as it appears on the registration books; but the failure to receive such notice by mailing by any Owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at City for inspection by any Owner.

Section 17. Nothing in this Resolution precludes (a) the payment of the Bond from the proceeds of refunding bonds or (b) the payment of the Bond from any legally available funds.

If the City causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the Owner the principal of the Bond (including interest to become due thereon) and, premium, if any, on the Bond, through setting aside trust funds or setting apart in a reserve fund or special trust

account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, money sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, to the extent permitted by law, such Bond will be considered to have been discharged and satisfied, and the principal of the Bond (including premium, if any, and interest thereon) will no longer be deemed to be outstanding and unpaid; *provided, however*, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the City receives an opinion of a nationally recognized verification firm that the segregated money or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the City shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. Provisions shall be made by the City, for the mailing of a notice to the Owner that such money is so available for such payment.

Section 18. The City agrees that it will furnish the Bank (i) current audited financial statements within 210 days of the end of the City's fiscal year prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute and (ii) a copy of the City's annual budget within 30 days of adoption. The City may satisfy this requirement by making the aforementioned financial statements available in electronic format on its public governmental website in the required timeframe.

Section 19. If the date for making any payment, or the date for performance of any act or the exercising of any right, as provided in this Resolution, is not a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Resolution, and no interest will accrue for the period after such nominal date.

Section 20. All acts and doings of the Authorized Officers that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bond are in all respects ratified, approved and confirmed.

Section 21. If any one or more of the agreements or provisions contained in this Resolution is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions of this Resolution or of the Bond authorized hereunder.

Section 22. All resolutions or parts thereof of the Board in conflict with the provisions of this Resolution are, to the extent of such conflict, hereby superseded and repealed. The provisions of the resolution of the City Council adopted on March 21, 2022 related to the issuance of the 2022C Bonds (as defined in that resolution) are hereby repealed and superseded by this Resolution.

Section 23. After the issuance of the Bond, the remaining amount of the Bond Order that is authorized but unissued will be deemed repealed.

Section 24. This Resolution is effective on its adoption.

STATE OF NORTH CAROLINA)
)
CITY OF HIGH POINT) ss:

I, Lisa B. Vierling, City Clerk of the City of High Point, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of so much of the proceedings of the City Council as it relates to a resolution entitled “**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HIGH POINT, NORTH CAROLINA AUTHORIZING THE ISSUANCE OF A GENERAL OBLIGATION REFUNDING BOND, SERIES 2022C**” duly adopted by the City Council of the City of High Point, North Carolina, at a meeting held on the 18th day of April, 2022 and that such proceedings are to be recorded in the minute books of said City Council.

WITNESS my hand and the seal of the City of High Point, North Carolina, this the ___ day of April, 2022.

City Clerk
City of High Point, North Carolina

(SEAL)

APPENDIX A
FORM OF BOND

No. R-1

\$[_____]

UNITED STATES OF AMERICA
STATE OF NORTH CAROLINA
CITY OF HIGH POINT

INTEREST

RATE
1.96%

MATURITY DATE
MARCH 1, 2032

DATED DATE
MAY [], 2022

REGISTERED OWNER: PINNACLE BANK

PRINCIPAL SUM: [AMOUNT] DOLLARS

GENERAL OBLIGATION REFUNDING BOND, SERIES 2022C

THE CITY OF HIGH POINT, NORTH CAROLINA (the “City”) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, upon surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above (computed on the basis of a 360-day year of twelve 30-day months), payable on September 1, 2022 and semiannually thereafter on March 1 and September 1 of each year. Principal of and interest on this Bond are payable in immediately available funds to the Registered Owner at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, a bond order adopted by the City Council of the City on March 7, 2022 and effective on the date of its adoption and a bond resolution adopted by the City Council on April 18, 2022. The Bond is being issued to refund the City’s General Obligation Public Improvement Bonds, Series 2012 maturing on and after March 1, 2023 and General Obligation Refunding Bonds, Series 2012 maturing on and after March 1, 2023 and to pay the costs of issuing the Bond.

This Bond is payable in annual installments on each March 1 in the years and in the amounts as follows:

<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>	<u>DATE</u>	<u>PRINCIPAL AMOUNT</u>
2023	\$	2028	\$
2024		2029	
2025		2030	
2026		2031	
2027		2032*	

* Maturity

The Bond is subject to redemption, at the option of the City, from any money that may be made available for such purpose, either in whole or in part, on any Business Day, at the redemption price of 100% of the principal amount of Bond to be redeemed, plus accrued interest thereon to the redemption date. The City will give the Bank at least thirty days prior written notice of such redemption. The notice of redemption may state that it is conditional on sufficient money being available to pay the redemption price on the date fixed for redemption.

While this Bond is outstanding, in the event of a Determination of Taxability, the interest rate on this Bond, from and after the Inclusion Date, shall be adjusted to preserve the Owner's after-tax economic yield with respect to the interest on this Bond, taking into account any interest expense deductions lost by the Owner as a direct or indirect result of the Determination of Taxability. In addition, the City shall pay to the Owner (i) an amount necessary to reimburse the Owner for any interest, penalties, or other charges assessed by the Internal Revenue Service and the North Carolina Department of Revenue by reason of the Owner's failure to include the interest on this Bond in its gross income for income tax purposes, and (ii) additional interest as a result of the increase in the interest rate on all previous interest payments made by the City after the Inclusion Date. In the event of a Determination of Taxability, the Owner shall provide the City and the Commission with a new debt service schedule for this Bond which reflects the adjustment of the interest rate on this Bond.

If the City is in default of its obligations to pay the principal of and interest on this Bond when due, from the date of such default until the default has been remedied or waived by the Owner, all amounts payable on this Bond will bear interest at the Default Rate.

THIS BOND WILL BE NON-TRANSFERABLE, EXCEPT TO (A) AN AFFILIATE OF THE INITIAL REGISTERED OWNER OR (B) A BANK, INSURANCE COMPANY OR SIMILAR FINANCIAL INSTITUTION OR ANY OTHER ENTITY APPROVED BY THE NORTH CAROLINA LOCAL GOVERNMENT COMMISSION WHO EXECUTES AN INVESTOR LETTER IN A FORM AND SUBSTANCE SATISFACTORY TO THE REGISTRAR FOR THE BOND.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the certification hereon shall have been signed by an authorized representative of the Local Government Commission.

IN WITNESS WHEREOF, the City has caused this Bond to bear the original or facsimile of the signatures of the Mayor and the City Clerk and an original or facsimile of the seal of the City to be imprinted hereon and this Bond to be dated as of the Dated Date above.

(SEAL)

City Clerk

Mayor

Date of Execution: May __, 2022

The issue hereof has been approved under the provisions of The Local Government Bond Act.

SHARON G. EDMUNDSON
Secretary of the Local Government Commission

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address,
including Zip Code, and Federal Taxpayer Identification or
Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to register the transfer of the within Bond on the books kept for registration thereof,
with full power of substitution in the premises.

Dated: _____
Signature guaranteed by:

NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program (“Stamp”) or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.

TRANSFER FEE MAY BE REQUIRED