

Resolution 2014-66

A RESOLUTION APPROVING THE (A) AMENDMENT AND RESTATEMENT OF THE CITY OF FRANKLIN'S SERIES 101-A-1 LOAN AGREEMENT WITH THE PUBLIC BUILDING AUTHORITY OF THE CITY OF FRANKLIN, TENNESSEE (B) DIRECTING THE CONVERSION OF THE INTEREST RATE ON THE RELATED LOCAL GOVERNMENT PUBLIC IMPROVEMENT BONDS, SERIES 101-A-1 TO AN INDEX RATE; (C) AUTHORIZING THE EXECUTION AND DELIVERY OF AGREEMENTS IN CONNECTION THEREWITH; AND (D) AUTHORIZING THE NOVATION OF AN INTEREST RATE SWAP AGREEMENT RELATING TO THE SERIES 101-A-1 BONDS AND LOAN AGREEMENT AND THE EXECUTION AND DELIVERY OF ALL DOCUMENTS RELATING TO SUCH NOVATED SWAP AGREEMENT

WHEREAS, the City of Franklin, Tennessee (the "City") has heretofore entered into the Series 101-A-1 Loan Agreement, dated as of January 1, 2007 (the "Series 101-A-1 Loan Agreement") with The Public Building Authority of the City of Franklin, Tennessee (the "Authority"); and

WHEREAS, in order to fund the Series 101-A-1 Loan Agreement, the Authority issued its Local Government Public Improvement Bonds, Series 101-A-1, dated January 25, 2007 (the "Series 101-A-1 Bonds") bearing interest at the Daily Rate (as such term is defined in the Series 101-A-1 Loan Agreement) pursuant to an Indenture of Trust, dated as of January 1, 2007 (the "Original Indenture"), as supplemented by a Series 101-A-1 Supplemental Indenture of Trust, dated as of January 1, 2007 (the "Series 101-A-1 Supplemental Indenture" and collectively with the Original Indenture, the "Series 101-A-1 Indenture"), each among the Authority and Regions Bank, as trustee (the "Trustee") with liquidity provided by a Standby Bond Purchase Agreement among the Authority, the Trustee and Depfa Bank PLC, New York Branch ("Depfa"), dated January 25, 2007 (the "Standby Agreement"), with the Series 101-A-1 Bonds remarketed by Raymond James and Associates, Inc., as successor to Morgan Keegan & Company, Inc., (the "Series 101-A-1 Remarketing Agent") pursuant to a Remarketing Agreement, dated as of January 1, 2007 (the "Series 101-A-1 Remarketing Agreement"); and

WHEREAS, in connection with the issuance of the Series 101-A-1 Bonds, the Authority, at the direction of the City, entered into an interest rate swap agreement with Depfa, consisting of an ISDA Master Agreement, Confirmation, Schedule, and Credit Support Annex, dated February 16, 2007 (collectively, the “Interest Agreement”) for the notional amount of the Series 101-A-1 Bonds continuing for the term of the Series 101-A-1 Bonds providing for the Authority to pay a fixed rate of interest and Depfa to pay a variable rate of interest, which Interest Agreement was in compliance with the relevant statutes and guidelines of the State of Tennessee, as reported on by the Director of State and Local Finance; and

WHEREAS, the City has been notified that Depfa is in the process of winding down and portions of its portfolio were acquired by FMS Wertmanagement (“FMSW”), an entity owned by the government of Germany; and

WHEREAS, upon consultation with its financial advisor, the City has determined that it is prudent and cost-effective to convert the Series 101-A-1 Bonds to an Index Rate so that no liquidity is necessary to support the Series 101-A-1 Bonds; and

WHEREAS, in consultation with its swap advisor, PFM Swap Advisors LLC, the City has determined that it is prudent and cost-effective to the City for the Authority enter into a novation (collectively, the “Novation Agreement”) with FMSW in which FMSW will become the counterparty under the Interest Agreement in lieu of Depfa which novation has been favorably reported on by the Director of State and Local Finance, a copy of said report being attached hereto as Exhibit A; and

WHEREAS, the City desires to (i) amend and restate the Series 101-A-1 Loan Agreement in substantially the form now before this meeting (the “Amended and Restated Series 101-A-1 Loan Agreement”) to permit the conversion of the Series 101-A-1 Bonds to an Index Rate (as defined in the Second Supplemental Indenture presented to the meeting), (ii) request the Authority to amend the Series 101-A-1 Indenture to provide for a conversion of the Series 101-A-1 Bonds to an index rate period (“Index Period”) during which time the Series 101-A-1 Bonds will bear interest at the Index

Rate, which will permit the Series 101-A-1 Bonds to be sold directly to financial institutions or other entities willing to purchase Series 101-A-1 Bonds in an Index Period, and (iii) request the Authority to amend the Original Indenture to make certain technical corrections to provide greater flexibility to the City and to reduce costs; and

WHEREAS, upon the conversion of the Series 101-A-1 Bonds to the Index Rate, the Series 101-A-1 Bonds will be sold to PNC Bank National Association, or an affiliate thereof, (the "Purchaser") in the Index Period and in connection therewith, the City will enter into an Index Rate Agreement (the "Series 101-A-1 Index Rate Agreement") in substantially the form now before this meeting and the Standby Agreement will be terminated; and

WHEREAS, it is hereby determined by the Board of Mayor and Aldermen (the "Governing Body") to be in the best interest of the City to: (i) authorize the amendment and restatement of the Series 101-A-1 Loan Agreement and request that the Authority, the Trustee and any other required parties consent to the Amended and Restated Loan Agreement to permit the conversion of the Series 101-A-1 Bonds to the Index Rate; (ii) request that the Authority, the Trustee, and any other required parties approve and consent to amendments to the Original Indenture and the Series 101-A-1 Indenture by approving the Second Supplemental Indenture to provide for an Index Period and to provide for greater flexibility to the City and to the Authority and to reduce costs, (iii) request the Authority to amend or terminate of any related documents no longer necessary; (iv) approve the execution and delivery of the Index Rate Agreement; (iv) direct the Authority, upon receipt of all requisite consents, to convert the Rate Period on the Series 101-A-1 Bonds from the Daily Rate to the Index Rate and terminate the Standby Agreement upon the successful conversion; and (v) pay costs incident to the amendments described above and the conversion of the Series 101-A-1 Bonds to the Index Rate; and

WHEREAS, for the purposes recited above, the Governing Body of the City adopts this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the City of Franklin, Tennessee, as follows:

Section 1. Approval of Amendment and Restatement of the Series 101-A-1 Loan Agreement. The form, terms and provisions of the Amended and Restated Series 101-A-1 Loan Agreement now before this meeting are hereby approved. The Amended and Restated Series 101-A-1 Loan Agreement is to be in substantially the form now before this meeting and is hereby approved with such changes therein as shall be approved by the Mayor, City Administrator/Recorder, and the Assistant City Administrator/CFO, the execution thereof by the Mayor and the City Administrator/Recorder to constitute conclusive evidence of the approval of any and all changes or revisions therein. The Mayor and City Administrator/Recorder are hereby authorized, empowered and directed to execute and deliver the Amended and Restated Loan Agreement in the name and on behalf of the City. From and after the execution and delivery of the Amended and Restated Loan Agreement, the Mayor, the City Administrator/Recorder, and the Assistant City Administrator/CFO are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Amended and Restated Loan Agreement as executed. The Authority is hereby requested to execute and deliver the Amended and Restated Loan Agreement in the form approved by the City.

Section 2. Request the Authority to Approve the Second Supplemental Indenture Amending the Original Indenture and the Series 101-A-1 Indenture. The Governing Body hereby requests that the Authority and the Trustee and any other required parties approve and consent to the Second Supplemental Indenture in substantially the form presented to this meeting amending the Original Indenture and the Series 101-A-1 Indenture and such other documents necessary to (i) effect amendments to provide for an Index Period for the Series 101-A-1 Bonds, all of which shall contain terms and provisions consistent with the Index Rate Agreement, (ii) effect amendments to provide greater flexibility and reduced costs to the City under the Original Indenture and the Series 101-A-1

Indenture (which are not a precondition to the conversion), and (iii) effect the Novation Agreement. The Authority, at the direction of the Assistant City Administrator/CFO, is requested to terminate any unnecessary related agreements resulting from the conversion and the amendments.

Section 3. Certain Terms of the Bonds in the Index Period.

(a) The Mayor is hereby authorized to direct the Authority to convert the Series 101-A-1 Bonds to the Index Period and to sell or direct the sale of the Series 101-A-1 Bonds to the Purchaser.

(b) The Series 101-A-1 Bonds and the Amended and Restated Series 101-A-1 Loan Agreement will bear interest at the Index Rate, which during the initial Index Period will be a variable rate to be established on a monthly basis based upon a percentage of not more than 70% of LIBOR (as defined in the Second Supplemental Indenture), plus not to exceed 45 basis points. The Index Rate may be increased to the maximum rate permitted by applicable law in the event of default by the City under the Amended and Restated Series 101-A-1 Loan Agreement or the Index Rate Agreement. The Series 101-A-1 Bonds will be subject to redemption as provided in the Series 101-A-1 Indenture. At the conclusion of the five year period following the initial purchase by the Index Purchaser of the Series 101-A-1 Bonds, the Index Purchaser is required to tender the Series 101-A-1 Bonds back to the Trustee for remarketing in a different interest rate period or purchased by an Index Purchaser in a new subsequent Index Period. If the Series 101-A-1 Bonds are not remarketed or sold to another purchaser or redeemed by the City by payment in full, then the Series 101-A-1 Bonds and the Amended and Restated Series 101-A-1 Loan Agreement will be in default.

Section 4. Approval of the Index Rate Agreement. The form, terms and provisions of the Index Rate Agreement now before this meeting are hereby approved. The Index Rate Agreement is to be in substantially and materially the form now before this meeting and is hereby approved with such changes therein as shall be approved by the Mayor, City Administrator/Recorder, and the Assistant City Administrator/CFO, the execution thereof by the Mayor and the City

Administrator/Recorder to constitute conclusive evidence of the approval of any and all changes or revisions therein. The Mayor and City Administrator/Recorder are hereby authorized, empowered and directed to execute and deliver the Index Rate Agreement in the name and on behalf of the City. From and after the execution and delivery of the Index Rate Agreement, the Mayor, the City Administrator/Recorder, and the Assistant City Administrator/CFO are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Index Rate Agreement as executed.

Section 5. Approval of Conversion of Series 101-A-1 Bonds and Request To Terminate the Standby Agreement. The Series 101-A-1 Bonds which funded the Series 101-A-1 Loan Agreement currently bear interest at the Daily Rate as defined in the Series 101-A-1 Loan Agreement. For the reasons stated in the recitals, the Governing Body hereby authorizes the Mayor to elect to direct a conversion of the Rate Period on the Series 101-A-1 Bonds, and thus the Amended and Restated Series 101-A-1 Loan Agreement, from the Daily Rate to the Index Rate. The City hereby requests the Authority to terminate the Standby Agreement upon the conversion of the Series 101-A-1 Bonds to the Index Rate in accordance with the terms thereof and of the Series 101-A-1 Indenture.

The conversion of the interest rate period shall occur through the sale of the Series 101-A-1 Bonds to the Purchaser in the Index Period. The conversion of the Series 101-A-1 Bonds to the Index Rate shall be effective only upon execution and delivery of the Series 101-A-1 Index Rate Agreement, the Amended and Restated Series 101-A-1 Loan Agreement and the Second Supplemental Indenture, and receipt of all requisite consents, and delivery of such other documents necessary to implement the conversion.

The Mayor and the City Administrator/Recorder are hereby authorized to give notice to the Trustee of the City's direction that the Rate Period on the Series 101-A-1 Bonds be converted from the Daily Rate to the Index Rate in accordance with provisions hereof. The Mayor is also authorized to rescind such conversion notice as provided in the Amended and Restated Series 101-A-1 Loan

Agreement, if in his discretion, such conversion does not achieve the objectives of the City as stated in this Resolution. The City acknowledges that the Bank has not entered into a binding commitment to purchase the remarketed Series 101-A-1 Bonds as of the date hereof.

Section 6. Request to the Authority for Approval of the Novation Agreement. The Governing Body hereby requests that the Authority and any other required parties approve and consent to the Novation Agreement in substantially the forms presented to this meeting and such other documents necessary to effect the transfer of the Interest Agreement to FMSW.

Section 7. Additional Authorizations. All acts and doings of the Mayor, the City Administrator/Recorder, the Assistant City Administrator/CFO, the City Attorney, and any other representative or officer of the City which are in conformity with the purposes and intent of this Resolution and in furtherance of the amendments, the conversion, and the novation as set forth herein shall be and the same hereby are in all respects, approved and confirmed. The engagement of Bass, Berry & Sims PLC as bond counsel to the City in connection with the actions authorized herein is hereby approved.

Section 8. Separability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

Section 9. Repeal of Conflicting Resolutions and Effective Date. All other resolutions and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed and this Resolution shall be in immediate effect from and after its adoption.

Adopted and approved this 11th day of November, 2014.

/s/ _____
Mayor

ATTEST:

/s/ _____
City Administrator/Recorder

CERTIFICATE OF CITY ADMINISTRATOR/RECORDER

I, Eric Stuckey, certify that I am the duly qualified and acting City Administrator/Recorder of the City of Franklin, Tennessee, and as such official I further certify that attached hereto is a copy of excerpts from the minutes of a regular meeting of the governing body of the City held on November 11, 2014; that these minutes were promptly and fully recorded and are open to public inspection; that I have compared said copy with the original minute record of said meeting in my official custody; and that said copy is a true, correct and complete transcript from said original minute record insofar as said original record relates to the amendment, restatement and conversion of the Series 101-A-1 Loan Agreement.

WITNESS my official signature and seal of said City on this the __ day of _____, 2014.

/s/ _____
City Administrator/Recorder

(SEAL)

EXHIBIT A

REPORT OF DIRECTOR OF STATE AND LOCAL FINANCE



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF STATE AND LOCAL FINANCE
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505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7872
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September 29, 2014

Honorable Board of Mayor
and Aldermen of the City of Franklin
109 Third Avenue South
Franklin, TN 37064

Dear Mayor Moore and Aldermen:

This Office received a request on September 10, 2014, from the City of Franklin (the "City") to determine if the novation of the current counterparty in the original interest rate swap agreement (the "SWAP Agreement") for the Series 101-A-1 Loan Agreement, dated January 1, 2007 (the "Loan"), associated with the City's variable interest rate Public Building Authority Local Government Public Improvement Bonds, Series 101-A-1A (the "PBA Bonds") requires a Report of Compliance under the State Funding Board's Guidelines for Interest Rate and Forward Purchase Agreements (the "Guidelines"), effective November 1, 2009 (the "2009 Guidelines"), or if the transaction does not change and remains under the 2002 Guidelines. To continue under the 2002 Guidelines, the City must ensure that it meets all the requirements of those Guidelines including monitoring and financial reporting compliant with Generally Accepted Accounting Principles.

History of the City's SWAP Agreement

The City entered into a swap with Depfa Bank PLC (Depfa) in March 2007 to hedge its exposure to variable interest rate fluctuations associated with the Loan. The swap was originally structured with the City paying a fixed interest rate to a counterparty and in return receiving a percent of an index—one-month LIBOR. This structure closely matched the underlying interest rate of the Loan. Subsequently in December 2008, the City changed the variable index leg of the transaction from a percentage of one-month LIBOR to a percentage of five-year LIBOR (calculated on a constant maturity basis).

Depfa serves as the liquidity provider for the underlying PBA Bonds in its capacity as a Standby Bond Purchase Agreement (the "SBPA") provider. The SBPA expires on June 1, 2019. Depfa had been downgraded to Baa3/BBB/BBB+ during the recent financial crisis. The German government has decided to transfer the ownership of Depfa to the government-owned FMSW (AAA-rated) during the latter part of 2014. This would include the SBPA and current SWAP Agreement.

Proposed Transaction

The City's Financial Advisor, Public Financial Management, Inc. ("PFM") determined through its research and inquiry of several investment banks that the transfer to FMSW of the SBPA could result in increased interest rates on the PBA Bonds because of concerns regarding the ability to remarket bonds with a FMSW

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SBPA. The City has decided to replace Depfa as its current SBPA provider with a better know alternate provider. In conjunction with this, the City wishes to replace Depfa as the counterparty to its SWAP Agreement. The City has engaged PFM Swap Advisors LLC as it independent Swap Advisor.

Considerations

The City and its Board, with the help of its Swap Advisor and Financial Advisor, should evaluate all of the risks associated with the proposed novation and determine if it is in best interests of the City.

Determination

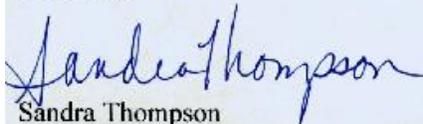
The only term in the SWAP Agreement that will be changed is the counterparty. No other terms of the SWAP Agreement are to be changed. It essentially remains the same. Changing the counterparty does not impact the hedge effectiveness of the transaction.

It is the determination of this office that the City's SWAP Agreement will remain compliant under the 2002 Guidelines if the counterparty is novated. No approval under the 2009 Guidelines is needed to complete the novation.

If the City makes any additional changes to the SWAP Agreement other than a novation of the counterparty including refunding of the underlying debt, the City will need to request a report of compliance under the 2009 Guidelines to continue the current SWAP Agreement

Please notify this Office with the City's decision with regard to this transaction.

Sincerely,



Sandra Thompson
Director of the Office of State and Local Finance

Cc: Mr. Jim Arnette, Director of Local Government Audit, COT
Mr. Russ Truell, CFO, City of Franklin