

“VIRTUAL” REGULAR MEETING OF WILMINGTON CITY COUNCIL
MAY 7, 2020 @ 6:30 P.M. – REVISED*
www.WilmingtonDe.gov or www.WITN22.org

AGENDA

- I. Call to Order**
 - Prayer
 - Pledge of Allegiance
 - Roll Call

- II. Approval of Minutes**

- III. Committee Reports**

- IV. Acceptance of Treasurer’s Report**

- V. Non-Legislative Business**

All Council	Sympathy Dr. Joseph Johnson
Harlee	Sympathy Lois Gaitwood
Oliver	Sympathy Kenyatta X. Brooks
Oliver	Sympathy Erma V. Peterson

VI. Legislative Business

OLIVER

#4781 Ord. 20-010 Authorize an Amendment to Sublease Agreement between the City and DETV Foundation, Inc. **(3rd & Final Reading)**

Synopsis: *This Ordinance is being presented by City Council for Council’s review and approval. This Ordinance authorizes the execution of an amended lease agreement between the City of Wilmington and DETV Foundation, Inc. for studio space located at 2801 Lancaster Avenue in Wilmington, Delaware to provide that the City shall cover the costs of utilities related to the leased premises.*

SHABAZZ (Johnson presenting on behalf of Shabazz)

#4799 A Resolution Encouraging United States Congress to Vote for the COVID Community Relief Act that Provides \$2 Billion of Flexible Funding for Municipalities with Populations of Less Than 500,000 to Accommodate the Financial Impacts of COVID-19 on Small Communities

Synopsis: *This Resolution is being presented by City Council for Council’s review and approval. This Resolution asks the United States Senate and the United States House of Representatives to vote to pass H.R. 6467, The COVID Community Relief Act, which will provide important and flexible funding to small*

municipalities to address public health emergencies caused by COVID-19, to replace revenue shortfalls and to prevent further shutdown of vital sectors of the state economy, and hasten the recovery once social distancing measures are relaxed.

FREEL

Rev. 1*

#4795 Sub. 1 Ord. 20-018 Establish Salaries of City Council Members for the 108th Session to be Effective as of January 4, 2022 **(3rd & Final Reading)**

Synopsis: *This Substitute Ordinance is being presented by City Council for Council's review and approval. Pursuant to City Charter Section 2-100 and City Council Rule 26, his Ordinance establishes increased salaries for Council Members for the 108th Council Session who will take office on January 4, 2022.*

#4800 An Ordinance Authorizing the Issuance of the City's General Obligation Bond (LED Street Lighting Project), Series of 2020B-SEPRLF in Order to Provide the Funds Necessary for Capital Projects of the City of Wilmington Relating to the LED Street Lighting Project; Providing for the Sale of the Bond to the Delaware State Energy Program Revolving Loan Fund; and Authorizing Other Necessary Action **(1st & 2nd Reading)**

Synopsis: *This Ordinance is being presented by the Administration for Council's review and approval. This Ordinance authorizes the issuance of a General Obligation Bond (LED Street Lighting Project), Series of 2020B-SEPRLF, in an amount not to exceed \$2,120,708, which will be sold to the Delaware State Energy Program Revolving Loan Fund in order to (i) finance capital projects of the City, specifically, the replacement of 1,732 lighting fixtures owned and maintained by the City with LED lamps to provide energy savings to the City as set forth in the City's capital budget for its Fiscal Year ending June 30, 2020; (ii) pay administrative costs relating to such capital project; and (iii) pay the costs of issuing the Bond.*

GUY

Rev. 1*

#4797 Sub. 1 Ord. 20-019 Amend Chapter 2 of the City Code in Order to Authorize the City Treasurer to Access the Budget Reserve Account Funds for Fiscal Year 2020 and Require Replenishment of the Budget Reserve Account Funds in the Ensuing Fiscal Year **(3rd & Final Reading)**

Synopsis: *This Substitute Ordinance is being presented by the City Treasurer for Council's review and approval. This Ordinance amends § 2-376.3(c) by extending from July 1, 2019 to June 30, 2020, the authorization for the City Treasurer to access budget*

reserve account funds and the requirement to replenish those funds no later than October 1, 2020.

- #4801 An Ordinance Authorizing the Issuance of a Tax and Revenue Anticipation Note, Series of 2020, of the City of Wilmington in Principal Amount Not to Exceed \$20,000,000; Providing for the Sale of the Note at Private Negotiated Sale; and Authorizing Other Necessary Action **(1st & 2nd Reading)**

Synopsis: *This Ordinance is presented by the City Treasurer for Council's consideration and approval and authorizes the City to issue its Tax and Revenue Anticipation Note in principal amount not exceeding \$20,000,000 in anticipation of and secured by taxes and revenues to be received by the City during its Fiscal Year 2021 commencing on July 1, 2020 and ending on June 30, 2021. The Note will be a general obligation of the City secured by the full faith, credit and taxing power of the City.*

VII. Petitions and Communications

VIII. Adjournment

NOTE: In following Governor Carney's Proclamation #17-3292, due to the outbreak of the COVID-19, public meetings are currently being conducted virtually to maintain social distancing and to keep all constituents safe. Members of the public are invited to join the City Council meeting by accessing the meeting as follows:

<https://zoom.us/j/93346253196> or log on to WITN22 website www.witn22.org or YouTube link <https://www.youtube.com/user/WITNWilmington/> or listen in only by calling one of the following phone numbers (929) 205-6099 or (301) 715-8592. You will be asked for the Webinar ID. Please enter **933 4625 3196** and then #.

***NOTE REVISION:** The agenda has been revised to reflect Substitute to agenda #4795 and #4797 after these items were discussed in Committee on April 27.

AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO A SUBLEASE AGREEMENT BETWEEN THE CITY AND DETV FOUNDATION, INC.

#4781

Sponsor:

Council
Member
Oliver

Co-Sponsor:

Council
President
Shabazz

WHEREAS, pursuant to Section 2-308 and Section 8-200 of the City Charter, City Council may, by ordinance, authorize contracts for the leasing of real estate, the supplying of personal property, or the rendering of services to the City for a period of more than one year; and

WHEREAS, City Council adopted Substitute No. 1 to Ordinance No. 19-006 which approved a multi-year lease agreement between the City and DETV Foundation, Inc. ("DETV") for studio space located at 2801 Lancaster Avenue in Wilmington, Delaware (the "Lease");

WHEREAS, the City desires to amend the Lease on the terms set forth in the Second Amended and Restated Sublease Agreement ("Amended Lease"), a copy of which is attached hereto and incorporated by reference herein as Exhibit "A"; and

WHEREAS, the term of the Amended Lease alters the terms of the Lease to provide that the City shall cover the costs of utilities related to the leased premises; and

WHEREAS, it is the recommendation of the Cable Video & Telecommunications Commission that the City enter into the Amended Lease.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The Amended Lease between the City of Wilmington and DETV, a copy of which is attached hereto as Exhibit "A," is hereby approved, and the appropriate officers of the City are hereby authorized and directed to execute as many copies of the Amended Lease, as well as all additional undertakings related thereto, as may be necessary.

SECTION 2. This Ordinance shall become effective immediately upon its passage by City Council and approval by the Mayor.

First Reading.....March 19, 2020
Second Reading.....March 19, 2020
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2020.

Mayor

SYNOPSIS: This Ordinance authorizes the execution of an amended lease agreement between the City of Wilmington and DETV Foundation, Inc. for studio space located at 2801 Lancaster Avenue in Wilmington, Delaware to provide that the City shall cover the costs of utilities related to the leased premises.

EXHIBIT A

SECOND AMENDED AND RESTATED SUBLEASE AGREEMENT

THIS SECOND AMENDED AND RESTATED SUBLEASE AGREEMENT (“Amended Sublease”) is made as of this _____ day of _____, 2020, by and between the **City of Wilmington**, a Delaware municipal corporation (the “Tenant”), and **DETV Foundation, Inc.** (the “Subtenant”), a non-profit corporation incorporated under the laws of the State of Delaware.

WITNESSETH

WHEREAS, Tenant and Lancaster Associates LLC (“Landlord”) entered into a Lease Agreement (“Lease”), attached hereto as “Attachment A”, executed on June 24, 2019 for the lease of the property located at 2801 Suite 1 Lancaster Avenue, Wilmington, Delaware 19805 (the “Premises”); and

WHEREAS, Tenant has lawful possession of the premises pursuant to the Lease; and

WHEREAS, Tenant desires to sublet the Premises to the Subtenant upon the terms and conditions set forth herein.

WHEREAS, Tenant and Subtenant previously entered into a Sublease Agreement dated April 3, 2019 (“Original Sublease”) which was thereafter amended by mutual agreement on April 17, 2019.

WHEREAS, Tenant and Subtenant desire to further amend the Original Sublease and restate the entirety of their agreement in this Amended Sublease.

NOW, THEREFORE, WITNESSETH in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows.

1. **SUBLEASE.** Subject to the terms and conditions of this Amended Sublease, Tenant hereby subleases to Subtenant, and Subtenant hereby subleases from Tenant, the Premises.
2. **TERM.** The term of this Amended Sublease shall commence on date first set forth above and shall terminate on March 31, 2022 unless sooner terminated by one of the following: (a) upon termination of the Lease agreement between Landlord and Tenant, (b) by agreement of the parties hereto, or (c) pursuant to the provisions of the Lease or new lease upon the same terms.
3. **RENT.** Tenant agrees that Subtenant shall not be charged rent in any amount for Subtenant’s use of Premises.
4. **UTILITIES.** Tenant shall be responsible for and pay all charges for heat, water, gas, electricity, or any other utility used or consumed on the Premises.
5. **INCORPORATION OF LEASE TERMS.** Subtenant has reviewed a complete copy of the Lease, and, unless modified hereby, agrees to comply with all of the obligations of the

Tenant under the Lease (whether requested by Landlord or Tenant), and specifically consents to the terms thereof or any new lease upon the same terms. Unless modified by the terms of this Amended Sublease, Subtenant hereby assumes and agrees to abide by and comply with, for the benefit of Tenant and Landlord, all covenants, obligations and undertakings of Tenant under the Lease or any new lease upon the same terms. Subtenant shall not do or permit to be done anything, which would constitute a default under the Lease or cause the Lease to be terminated or forfeited. In the event Subtenant causes or permits what Tenant reasonably deems to be a default under the Lease or any new lease upon the same terms, in addition to all other remedies available to Tenant, Tenant shall be entitled to enter the Premises, without Subtenant's consent, and cure said default, whereupon all expenses incurred by Tenant thereby shall be additional rent due and payable with the next monthly rent payment.

6. ACCEPTANCE OF PREMISES. Subtenant acknowledges and agrees that it has previously inspected the Premises and is accepting and subleasing the Premises hereunder in "as is" condition. Subtenant has and will rely solely on Subtenant's own independent investigations and inspections of the Premises and has not relied and will not rely on any representations of Tenant.
7. SUBORDINATION. This Amended Sublease is subject and subordinate to the Lease, to all matters contained therein, and to any encumbrance of Landlord's and/or Tenant's interest in the Premises. This provision is self-operative and no further action or documentation shall be necessary for such subordination to be effective.
8. INSURANCE. Subtenant shall provide insurance coverage for itself and all of its employees, if any, used in connection with this Sublease as follows: workers' compensation as required by law; comprehensive general liability coverage for personal injury, including death, and property damage in the minimum amount of One Million Dollars (\$1,000,000.00). Such policies shall be issued by a financially sound carrier. Subtenant shall provide Tenant with a certificate of insurance evidencing the above-stated coverage and naming the City of Wilmington as an additional insured.
9. INDEMNIFICATION. Subtenant shall indemnify and hold harmless the Tenant, its employees, agents, and officers, from and against any and all claims, damages, actions, liabilities and expenses, including reasonable attorneys' fees, resulting from the negligent acts or omissions of Subtenant, its employees, agents, subcontractors, consultants, or subconsultants in performing the services required under this Agreement.
10. NOTICE. Any notice which is required or may be given in connection with this Sublease Agreement shall be addressed to the parties as follows:

Tenant/The City:

Hanifa Shabazz
Louis L. Redding City/County Building

800 N. French St. 9th Floor
Wilmington, DE 19801

Subtenant/DETV:

Ivan Thomas
DETV Foundation
500 East Hanna Drive
Newark, DE 19702

11. GOVERNING LAW. The laws of the State of Delaware shall govern this Sublease. All disputes in connection with this Agreement shall be resolved by the courts of New Castle County, Delaware. Subtenant agrees to submit exclusively to the jurisdiction and venue of said courts.
12. MODIFICATION TO AGREEMENT. This Amended Sublease may not be changed orally, but only by an agreement in writing and signed by both parties.
13. ENTIRE AGREEMENT. This Amended Sublease contains the entire agreement of the parties and no other representations or agreements, oral or otherwise, among the parties not embodied herein shall be of any force or effect with respect to the subject matter hereof. No failure of any of the parties to exercise any power given hereunder, or to insist upon strict compliance of any obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of any party's right to demand exact compliance with the terms hereof.

IN WITNESS WHEREOF, the parties have entered into this Sublease the date and year first above mentioned.

TENANT: CITY OF WILMINGTON

SUBTENANT: DETV FOUNDATION, INC.

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

#4799

WHEREAS, the Coronavirus Aid, Relief and Economic Security (CARES) Act provides \$2.2 trillion to address the COVID-19 emergency, with \$150 billion going directly to states, territories, tribes and localities to combat the public health and economic effects of the COVID-19 pandemic; and

Sponsor:

**Council
President
Shabazz**

Co-Sponsors:

**Council
Members
Johnson
Oliver
Harlee
Freel
Dixon
Walsh**

WHEREAS, the State of Delaware is fortunate to have fierce advocates in Congress who fought to ensure that small states like ours were not overlooked in comparison to their larger neighbors and were awarded significant funding. However, like many states, Delaware is facing a looming budget shortfall that already is unprecedented in our state's history. The full economic impact of this crisis might not be realized for several months; and

WHEREAS, The CARES Act provides vital funding, but it restricts the money to unbudgeted expenses related to COVID-19. This is far too restrictive for states like Delaware to effectively apply the federal funds to these very special circumstances. Being able to use these dollars to shore-up Delaware's operating budget is critical to maintaining services and recovering from this unprecedented crisis; and

WHEREAS, according to a survey by the United States Conference of Mayors and the National League of Cities, as this pandemic brings the nation's economy to a standstill, nearly nine in 10 cities expect a budget shortfall due to the impact of the outbreak. An even larger share of cities – 98% – with populations between 50,000 and 500,000 expect a shortfall because of the pandemic; and

WHEREAS, the City of Wilmington is among those smaller-than-500,000 population municipalities that will be directly and adversely impacted in our efforts to both address the pandemic, while compensating for the shortfalls, layoffs and service gaps that have been created due to COVID-19; and

WHEREAS, The City of Wilmington is not only the largest city in the State of Delaware, but a City with over 50% of its permanent residents self-identifying as Black, Hispanic and low- to moderate income households. The shortfalls we will experience due to predicated by virtue that 43% of the City's revenues are generated from Wage Taxes, 25% of the City's revenues are generated from Property Taxes and 65% of the City's operating budgetary expenses are for core City services such as First Responders for Police and Fire, Sanitation, Streets, Water Sewer System, and Code Enforcement.

COVID-19 will have real, and possibly long-lasting effects on our City, and the flexibility provided by H.R. 6467 will be key to our efforts to address public health emergencies caused by COVID-19; and

WHEREAS, by raising our voices, Members of the 107th Session of the City Council of the City of Wilmington, Delaware raise our voices, along with leaders of small municipalities across the country. We ask that you support H.R. 6467 and that you encourage your colleagues in Washington to do the same.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON we ask that you to support Congressional efforts to amend the CARES Act – H.R. 6467 - to provide small municipalities, such as Wilmington, Delaware, the flexibility to use the funds to compensate for unprecedented revenue losses. Flexible federal funds for state revenue shortfalls will help states continue to provide vital citizen services, prevent further shutdown of vital sectors of the state economy, and hasten the recovery once social distancing measures are relaxed.

Passed by City Council,

ATTEST: _____
City Clerk

SYNOPSIS: This Resolution asks the United States Senate and the United States House of Representatives to vote to pass H.R. 6467, The COVID Community Relief Act, which will provide important and flexible funding to small municipalities to address public health emergencies caused by COVID-19, to replace revenue shortfalls and to prevent further shutdown of vital sectors of the state economy, and hasten the recovery once social distancing measures are relaxed.

SUBSTITUTE NO. 1 TO ORDINANCE NO. 20-018

AN ORDINANCE ESTABLISHING SALARIES OF CITY COUNCIL MEMBERS FOR THE 108TH COUNCIL SESSION TO BE EFFECTIVE AS OF JANUARY 4, 2022

**Rev. 1
#4795**

Sponsors:

**Council
President
Shabazz**

**Council
Member
Freel**

WHEREAS, City Charter Section 2-100 provides, in relevant part, that the terms of City Council Members shall be for four (4) years commencing on the first Tuesday of the month of January following the year in which they were elected; that each Council Member shall receive a salary at the rate of eight thousand dollars (\$8,000.00) per annum, or such other sum as the Council may from time-to-time ordain; that the annual salary shall not be increased during the current term of Council Members enacting such ordinance; that no change shall be made in the compensation of Council Members during the final six months of the terms of the Council Members; and that the Council President shall receive, in addition to the sum paid the Council Members, the sum of one thousand dollars (\$1,000.00) per annum; and

WHEREAS, pursuant to City Charter Section 2-100, the current salaries of City Council Members were established by Ordinance No. 16-022, which became effective as of the first Tuesday in January 2017; and

WHEREAS, Ordinance No. 87-052 enacted the principal recommendations contained in the May 1987 Report (the "Report") of the Council Compensation Commission (the "Commission"), including the recommendation that Council review its salary structure at least every four (4) years, using the methodology set forth in the Report, to avoid the need for large catch-up increases in salaries of Council Members, and the Council since then has adopted periodic findings of increases in compensation of non-union City employees and applied proportional increases to the compensation of City Council Members, as recommended by the Commission; and

WHEREAS, Council’s most recent findings, done pursuant to Council Rule 26, reflect the cumulative compound increase in pay for non-union City employees and propose proportional, increased salaries for the 108th Council Session Council Members, which would be effective as of January 4, 2022; and

WHEREAS, in January 2022, the Council President and any Council Member may elect in writing to decline the salary increase otherwise authorized by Section 1 of this Ordinance.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. The salaries of the Council President, the Chair of the Finance Committee, the President Pro Tempore, and the other Council Members for the 108th Council Session shall be as follows:

President of Council	\$36,727.00 per annum
Finance Committee Chair	\$34,151.00 per annum
President Pro Tempore	\$32,997.00 per annum
Council Members	\$29,057.00 per annum

SECTION 2. The City Council Members who will take office on January 5, 2021, and the future Council Members thereafter, shall review the Council’s salary structure every four (4) years, using the methodology set forth in the Report, in order to avoid overly long periods between adjustments or a need for large catch-up increases in salaries. The Council Members shall avoid the use of any formula or other mechanism that would relieve any of them from their responsibility for dealing with the issue of the compensation to be paid Members of City Council.

SECTION 3. The effective date of the salaries of the Council President, the Finance Committee Chair, the President Pro Tempore, and the Council Members set forth in Section 1 of this Ordinance shall be January 4, 2022. Within five (5) business days following

January 4, 2022, the Council President and any Council Member may elect in writing, signed and filed with the City Treasurer, to decline the salary increase authorized by the provisions of Section 1 of this Ordinance, said amount to be pro-rated in each pay period for the term of said President or said Council Member. In the event of a vacancy occurring during the term of the office of the Council President or of any Council Member, the duly appointed successor-President or successor-Member shall receive the full salary authorized for the position, unless within five (5) business days of taking such office, said successor elects in writing to decline the full salary by declining the salary increase in the aforementioned manner. The balance of the provisions of this Substitute Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... April 16, 2020
Second Reading..... April 16, 2020
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2020.

Mayor

SYNOPSIS: Pursuant to City Charter Section 2-100 and City Council Rule 26, this Substitute Ordinance establishes increased salaries for Council Members for the 108th Council Session who will take office on January 5, 2021. The increased salaries will be effective as of January 4, 2022.

FISCAL IMPACT STATEMENT: See attached.

Per Council Rule# 26

Ord# 16-022			Scenario#1			
President Salary		\$35,650				
President Pro Tempore		\$32,030				
Finance Committee Chair		\$33,150				
Council Members		\$28,205				
Non Union	COLA	Cum %	Council Member	President	Finance	Pro Tem
FY17	0.00%	0.00%	\$28,205.00	\$35,650.00	\$33,150.00	\$32,030.00
FY18	1.00%	1.00%	\$28,487.05	\$36,006.50	\$33,481.50	\$32,350.30
FY19	0.00%	1.00%	\$28,487.05	\$36,006.50	\$33,481.50	\$32,350.30
FY20	2.00%	3.02%	\$29,056.79	\$36,726.63	\$34,151.13	\$32,997.31
		3.02%	\$29,056.79	\$36,726.63	\$34,151.13	\$32,997.31

**Per Council Rule#26
Proposed Council Salary for 108th Session of City Council**

City Council Fiscal Impact	107th Current	Proposed 108th Session	Difference	Fica	Med Tax	Pension	Total
President Salary	\$35,650	\$36,726.63	\$1,076.63	\$66.75	\$15.61	\$83.44	\$1,242.43
President Pro Tempore	\$32,030	\$32,997.31	\$967.31	\$59.97	\$14.03	\$74.97	\$1,116.27
Finance Committee Chair	\$33,150	\$34,151.13	\$1,001.13	\$62.07	\$14.52	\$77.59	\$1,155.30
Council Members (10)	\$28,205	\$29,056.79	\$851.79	\$52.81	\$12.35	\$66.01	\$9,829.67
Total Annual Additional Cost:							\$13,343.67
Total FY2021 Fiscal Impact effective 1/5/2021:							\$6,671.84

**Proposed Recommendation per Council Rule# 26
108th Session Salary**

President Salary	\$36,727
President Pro Tempore	\$32,997
Finance Committee Chair	\$34,151
Council Members	\$29,057

ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY'S GENERAL OBLIGATION BOND (LED STREET LIGHTING PROJECT), SERIES OF 2020B-SEPRLF IN ORDER TO PROVIDE THE FUNDS NECESSARY FOR CAPITAL PROJECTS OF THE CITY OF WILMINGTON RELATING TO THE LED STREET LIGHTING PROJECT; PROVIDING FOR THE SALE OF THE BOND TO THE DELAWARE STATE ENERGY PROGRAM REVOLVING LOAN FUND; AND AUTHORIZING OTHER NECESSARY ACTION.

#4800

Sponsor:

**Council
Member
Freel**

WHEREAS, the City of Wilmington (the “City”) has determined to undertake various capital projects of the City including the replacement of 1,732 lighting fixtures owned and maintained by the City with LED lamps to provide energy savings to the City, all as specified in the City’s capital budget for its Fiscal Year ending June 30, 2020 (collectively, the “Project”); and

WHEREAS, in order to finance the Project and pay certain administrative costs relating to the Project, the City has determined to issue its General Obligation Bond (LED Street Lighting Project), Series of 2020B-SEPRLF (the “Bond”), in a principal amount not to exceed \$2,120,708; and

WHEREAS, the City has heretofore adopted the General Obligation Bond Ordinance, 83-019, Division 4 of Article VI of Chapter 2 of the Wilmington City Code (the “General Ordinance”), authorizing the City to issue general obligation bonds or notes secured by a pledge of the City's full faith, credit and taxing power, for the purpose of, among other things, paying the costs of capital projects; and

WHEREAS, this Ordinance is a Supplemental Ordinance adopted pursuant to the General Ordinance and provides for the issuance and sale of the Bond.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

Section 1. Defined Terms. Terms used in this Ordinance and not otherwise defined shall have the meaning specified in the General Ordinance.

Section 2. Authorization of the Bond. The City hereby authorizes the issuance of its General Obligation Bond (LED Street Lighting Project), Series of 2020B-

SEPRLF, or such other series designation as the Bond Committee (as defined herein) shall determine, in a principal amount not to exceed \$2,120,708 pursuant to and in accordance with the General Ordinance, as supplemented by this Ordinance and the Bond Committee Resolution (as defined herein) for the purpose of financing the Project. The Bond shall be sold at private negotiated sale to the Delaware State Energy Program Revolving Loan Fund (the “Fund”), acting by and through the Delaware Department of Natural Resources and Environmental Control (“DNREC”), all as determined by such Resolution of the Bond Committee.

The Bond shall be in such principal amount (not exceeding \$2,120,708), shall bear such rate or rates of interest, shall mature in such principal amounts and on such dates, shall be subject to redemption, shall be sold at such price and in such manner, and shall be in such form and contain or be subject to such other terms and conditions, as shall be determined in the Resolution (the “Bond Committee Resolution”) adopted by the City of Wilmington Bond Committee (the “Bond Committee”).

Section 3. Execution of the Bond. The Bond shall be executed by the manual or facsimile signatures of the Mayor, the City Treasurer and the City Auditor, and by the manual or facsimile impression of the City seal, both attested by the manual or facsimile signature of the City Clerk or Deputy City Clerk.

Section 4. Security for the Bond. The full faith, credit and taxing power of the City is hereby pledged to the prompt payment of the principal of, premium, if any, and the interest on the Bond. The Bond shall be the direct and unlimited obligation of the City, and unless paid from other sources, the City shall levy *ad valorem* taxes upon all taxable property in the City for the payment of the Bond subject to the limitation contained in applicable law.

Section 5. Further Action. The appropriate officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and record all such documents, publish all notices and otherwise carry out the intent of the General Ordinance and this Ordinance in the name of and on behalf of the City.

Section 6. Inconsistent Provisions. In the event that any provision of the Bond, or any term or condition contained in any agreement relating to the Bond, shall be

inconsistent with any of the provisions of the General Ordinance, the provision of the Bond, this Ordinance and such agreement shall be controlling with respect to the Bond and such agreement.

Section 7. Relation to General Ordinance. This Ordinance is supplemental to the General Ordinance and all sections of the General Ordinance, except as modified herein in accordance therewith, are applicable to the Bond authorized hereunder. This Ordinance shall take effect immediately upon its passage by City Council and approval of the Mayor.

Section 8. Effective Date. This Ordinance shall become effective upon its passage by Council and approval by the Mayor.

First Reading.....May 7, 2020
Second Reading.....May 7, 2020
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____, 2020

Mayor

SYNOPSIS: This Ordinance authorizes the issuance of a General Obligation Bond (LED Street Lighting Project), Series of 2020B-SEPRLF, in an amount not to exceed \$2,120,708, which will be sold to the Delaware State Energy Program Revolving Loan Fund in order to (i) finance capital projects of the City, specifically, the replacement of 1,732 lighting fixtures owned and maintained by the City with LED lamps to provide energy savings to the City as set forth in the City’s capital budget for its Fiscal Year ending June 30, 2020; (ii) pay administrative costs relating to such capital project; and (iii) pay the costs of issuing the Bond.

SUBSTITUTE NO. 1 TO ORDINANCE NO. 20-019

AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE IN ORDER TO AUTHORIZE THE CITY TREASURER TO ACCESS THE BUDGET RESERVE ACCOUNT FUNDS FOR FISCAL YEAR 2020 AND REQUIRE REPLENISHMENT OF THE BUDGET RESERVE ACCOUNT FUNDS IN THE ENSUING FISCAL YEAR.

Rev. 1
#4797

Sponsor:

Council
Member
Guy

WHEREAS, the Administration and the City Council concur that the provisions of § 2-376.3(c), as amended by Ordinance No. 19-004, should be amended so as to extend from July 1, 2019 to June 30, 2020 the period of time during which the City Treasurer shall be authorized to access budget reserve funds and also be required to replenish the Budget Reserve Account thereafter.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

SECTION 1. Chapter 2 of the City Code is hereby amended by amending § 2-376.3(c), as amended by Ordinance No. 19-004, by deleting the language within brackets and by adding the underlined language to read as follows:

Sec. 2-376.3. Authorization to access budget reserve account funds and to require their replenishment.

....

(c) The aforesaid authority of the city treasurer to access budget reserve account funds and the requirements to replenish the budget reserve account funds shall pertain to fiscal year [2019] 2020 only and the provisions of subsections (a) and (b) as such subsections relate to fiscal year [2019] 2020 only shall be of no further force and effect as of July 1, [2019] 2020, except only as to administrative matters to be completed on or before October 1, [2019] 2020. In addition, the day the city treasurer draws down funds, the city treasurer shall notify all members of the City Council in writing by email the amount of the draw down, the purpose of the draw down, and the date of the draw down.

SECTION 2. This Ordinance shall become effective immediately upon its date of passage by the City Council and approval by the Mayor.

First ReadingApril 16, 2020
Second Reading..... April 16, 2020
Third Reading

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this ____ day of _____,

Mayor

SYNOPSIS: This Substitute Ordinance amends § 2-376.3(c), as amended by Ordinance No. 19-004, by extending from July 1, 2019 to June 30, 2020, the authorization for the City Treasurer to access budget reserve account funds and the requirement to replenish those funds no later than October 1, 2020.

W0110311

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A TAX AND REVENUE ANTICIPATION NOTE, SERIES OF 2020, OF THE CITY OF WILMINGTON IN A PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000; PROVIDING FOR THE SALE OF THE NOTE AT PRIVATE NEGOTIATED SALE; AUTHORIZING THE CITY'S BOND COMMITTEE TO DETERMINE THE PRINCIPAL AMOUNT, INTEREST RATE, METHOD OF SALE, AND OTHER TERMS AND CONDITIONS OF THE NOTE; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY AS SECURITY FOR THE NOTE; AND AUTHORIZING OTHER NECESSARY ACTION.

#4801

WHEREAS, The City of Wilmington (the "City") anticipates the receipt during

Sponsor:

its Fiscal Year 2021 beginning on July 1, 2020 and ending on June 30, 2021, of taxes and

**Council
Member
Guy**

other revenues as yet uncollected;

WHEREAS, based on monthly estimates of its expected taxes, revenues and expenditures for Fiscal Year 2021, the City anticipates that because of the differences in timing between the receipt of such taxes and other revenues and the making of such expenditures, its cash on hand at certain times during such period may temporarily be reduced to undesirably low levels; and

WHEREAS, the City is authorized, pursuant to the Wilmington Tax and Revenue Anticipation Note Ordinance, as amended (the "General Ordinance"), to borrow money from time to time in any fiscal year in anticipation of the receipt of taxes and revenues and to evidence such borrowings by the issuance and sale of its Tax and Revenue Anticipation Note; and

WHEREAS, the City desires by the enactment of this Ordinance to authorize the issuance and sale of its Tax and Revenue Anticipation Note in accordance with the General Ordinance, as amended.

THE COUNCIL OF THE CITY OF WILMINGTON HEREBY ORDAINS:

Section 1. Definitions. The terms used in this Ordinance shall have the

meanings specified herein or in the preambles hereto, or, if not otherwise defined herein, as specified in the General Ordinance, unless a different meaning is clearly indicated by the context.

Section 2. Authorization. This Ordinance is enacted pursuant to the provisions of the Home Rule Enabling Act as effectuated by qualified voters in the adoption of the Home Rule Charter of the City and in accordance with the provisions of the General Ordinance, as amended.

Section 3. Interpretation. All references in this Ordinance to articles, sections and other subdivisions of this Ordinance are to the designated articles, sections or other subdivisions of this Ordinance as originally enacted. The words "herein", "hereof", "hereby" and "hereunder", and other words of similar import refer to this Ordinance as a whole and not to any particular article, section or other subdivision. The use of words in the singular number includes the plural and the use of the plural includes the singular number.

Section 4. Descriptive Headings. The descriptive headings in the sections of this Ordinance are inserted for convenience only and shall not control or affect the meaning or construction of any of its provisions.

Section 5. Severability. In case any one or more of the provisions contained in this Ordinance or in the Note or other documents executed and delivered pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Ordinance or of said Note or other documents, and this Ordinance, said Note or other documents shall be construed or enforced as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Section 6. Authorization of Note. The Council hereby determines it to be in the best financial interest of the City to issue its Tax and Revenue Anticipation Note, Series of 2020 (the "Note"). The Council hereby authorizes the issuance of the Note in a principal amount not to exceed \$20,000,000 in anticipation of the receipt of taxes and other revenues to be received during the City's Fiscal Year 2021. The Note may be issued as a single note or several notes, as determined by the Bond Committee of the City.

Section 7. Terms of the Note. The Note shall be issued in typewritten form, shall be dated the date of issuance, mature no later than June 30, 2021 and shall bear interest at a rate not to exceed 8 %. The actual rate, principal amount, maturity date and the other terms and conditions of the Note shall be determined by the Bond Committee of the City. Interest on the Note shall be payable at maturity or at such other time or times as determined by the Bond Committee of the City. The final terms and conditions of the Note shall be determined in a resolution to be adopted by the City's Bond Committee (the "Resolution").

The principal of and interest on the Note shall be payable in lawful money of the United States of America at the principal office of a paying agent to be selected by the City's Bond Committee, which institution is hereby appointed paying agent for the Note (the "Paying Agent").

Section 8. Prepayment of Note. The Note may be subject to prepayment prior to maturity as determined by the Bond Committee of the City.

Section 9. Award of Note. The Note shall be awarded and sold at private sale by negotiation to a purchaser or underwriter to be determined by the City's Bond Committee (the "Purchaser"), at a price of par and in accordance with the other terms

and conditions set forth in the Resolution to be adopted by the City's Bond Committee. The Purchaser may also be appointed Paying Agent if such appointment is determined by the Bond Committee to be appropriate.

Section 10. Security for Note. The Note shall be a full faith and credit general obligation of the City and shall be equally and ratably secured by the pledge of, security interest in, and a lien and charge on, the taxes and other revenues to be received by the City during the period when the Note will be outstanding. Such pledge, lien and charge shall be fully effective as against the City, all its creditors and all third parties from and after the filing of appropriate financing statements in accordance with the Uniform Commercial Code and Section 13 of the General Ordinance. The filing of such financing statements is hereby authorized and directed.

Section 11. Sinking Fund. The Bond Committee of the City is hereby authorized but not required to establish a sinking fund (the "Sinking Fund") for the Note to be held by the Paying Agent in the name of the City but subject to withdrawal only by the Paying Agent. The City covenants and agrees to deposit in any Sinking Fund so established not later than the maturity date of the Note the amount representing the principal of and interest on the Note due on such date.

The Paying Agent shall, without further authorization, withdraw moneys from any Sinking Fund so established and apply such moneys to the payment of the principal of and interest on the Note. Moneys to the credit of the Sinking Fund (to the extent established and available) shall, upon the written order of the City, signed by the Mayor or the Treasurer or Director of Finance of the City, be invested by the Paying Agent in specified direct obligations of the United States of America. All such investments or deposits shall mature or shall be subject to redemption by the holder

thereof at the option of such holder upon the date or dates specified in such written order.

Section 12. Execution and Delivery of Note. The Mayor, the City Auditor and the City Treasurer are hereby authorized and directed to execute in the name of, on behalf of, and under the seal of the City, the Note in the form and containing the terms described herein and the City Clerk or Deputy Clerk is hereby authorized and directed to attest such signatures and seal. The appropriate officers of the City are hereby authorized and directed to deliver the Note to the Purchaser upon compliance with all conditions precedent to such delivery required by the General Ordinance, this Ordinance and the Resolution of the Bond Committee. Immediately upon receipt of all or part of the purchase price for the Note, the Director of Finance or Treasurer of the City is authorized to make or direct disbursements to pay the financing costs incurred in connection with the issuance of the Note.

Section 13. Cash Flow Certificate. The Mayor, in consultation with the Director of Finance of the City, is authorized and directed to prepare a Certificate as to anticipated cash flow (the "Cash Flow Certificate"), including a calculation of the anticipated cumulative cash flow deficit. The Cash Flow Certificate submitted in accordance with Section 14 of the General Ordinance shall be approved by the Bond Committee.

It is hereby determined that the anticipated principal amount of the Note does not exceed fifty percent (50 %) of the sum of the taxes and revenues to be collected or received during the period when the Note will be outstanding as estimated in the Cash Flow Certificate. The Mayor and the City Treasurer are hereby authorized to certify to the Purchaser of the Note at the time of delivery that the principal amount of the Note does not exceed the limitations set forth in the General Ordinance or, if the Note is issued

on a tax-exempt basis, in applicable United States Treasury Regulations.

Section 14. Federal Tax Covenant. In the event it is determined that the Note is issued on a federal tax-exempt basis, the City hereby covenants not to take or omit to take any action so as to cause interest on the Note to be no longer excluded from gross income for purposes of federal income taxation and to otherwise comply with the requirements of Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable regulations promulgated with respect thereto, throughout the term of the Note. The City further covenants with the owner of the Note that it will make no investments or other use of the proceeds of the Note which would cause such Note to be an "arbitrage bonds" as defined in Section 148 of the Code. The City further covenants to comply with the rebate requirements (including the prohibited payment provisions) contained in Section 148(t) of the Code in any regulations promulgated thereunder, to the extent applicable, and to pay any interest or penalty imposed by the United States for failure to comply with rebate requirements, to the extent applicable. In the event that the Note could be issued on a bank-eligible basis, the Bond Committee is hereby delegated the authority to designate the Note pursuant to Section 265 of the Code.

Section 15. Department of Finance Filing. The City Clerk is hereby authorized and directed. to cause certain documents and proceedings in connection with the authorization, issuance and sale of the Note (including certified copies of this Ordinance and the Cash Flow Certificate and a true copy of the accepted proposal for the purchase of the Note) to be filed with the Department of Finance of the City in accordance with Section 16 of the General Ordinance.

Section 16. Binding Effect of Covenants and Agreements. All covenants,

obligations and agreements of the City set forth in this Ordinance and in the documents authorized hereby shall be deemed to be the covenants, obligations and agreements of the City to the full extent authorized or permitted by law.

Section 17. Further Action. The proper officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and/or record all such instruments and documents (including, but not limited to, the execution and delivery of any investment contract which the Bond Committee may authorize in connection with investments of proceeds of the Note, preparation of any offering materials if determined by the Bond Committee to be appropriate, and execution of a purchase agreement or bank loan agreement, as the case may be, and a paying agent agreement), publish all notices and otherwise comply with the provisions of this Ordinance in the name and on behalf of the City.

Section 18. Inconsistent Provisions. In the event that any prior ordinances, including the General Ordinance, or portions thereof are inconsistent with this Ordinance, this Ordinance shall be controlling with respect to the Note.

Section 19. Effective Date. This Ordinance shall become effective upon its passage by Council and approval by the Mayor.

First Reading.....May 7, 2020
Second Reading.....May 7, 2020
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved this _____ day of _____, 2020

Mayor

SYNOPSIS: This Ordinance is presented by the City Treasurer for Council's consideration and approval and authorizes the City to issue its Tax and Revenue Anticipation Note in principal amount not exceeding \$20,000,000 in anticipation of and secured by taxes and revenues to be received by the City during its Fiscal Year 2021 commencing on July 1, 2020 and ending on June 30, 2021. The Note will be a general obligation of the City secured by the full faith, credit and taxing power of the City.

W910008