

R-20-067
TOWNSHIP OF MONTCLAIR

RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$1,950,000 BONDS OF THE TOWNSHIP OF MONTCLAIR, IN THE COUNTY OF ESSEX, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY AND FURTHER AUTHORIZING THE EXECUTION OF VARIOUS AGREEMENTS, ALL PURSUANT TO THE STATE FISCAL YEAR 2018 NEW JERSEY WATER BANK

March 24, 2020

WHEREAS, the Township of Montclair, in the County of Essex, New Jersey (the "Local Unit"), has determined that there exists a need within the Local Unit to acquire, construct, renovate or install a project consisting of various improvements to the Sewer Utility including the acquisition and installation of equipment and materials and work necessary therefor or related thereto (the "Project") as defined in each of that certain Loan Agreement (the "I-Bank Loan Agreement") to be entered into by and between the Local Unit and the New Jersey Infrastructure Bank (the "I-Bank") and that certain Loan Agreement (the "Fund Loan Agreement", and together with the I-Bank Loan Agreement, the "Loan Agreements") to be entered into by and between the Local Unit and the State of New Jersey, acting by and through the New Jersey Department of Environmental Protection (the "State"), all pursuant to the State Fiscal Year 2018 New Jersey Water Bank (the "Program");

WHEREAS, the Local Unit has determined to finance the acquisition, construction, renovation or installation of the Project with the proceeds of a loan to be made by each of the I-Bank (the "I-Bank Loan") and the State (the "Fund Loan", and together with the I-Bank Loan, the "Loans") pursuant to the I-Bank Loan Agreement and the Fund Loan Agreement, respectively;

WHEREAS, to evidence the Loans, each of the I-Bank and the State require the Local Unit to authorize, execute, attest and deliver the Local Unit's Bonds, Series 2018, to the I-Bank (the "I-Bank Loan Bond") and Bonds, Series 2018, to the State (the "Fund Loan Bond", and together with the I-Bank Loan Bond, the "Local Unit Bonds"), said Local Unit Bonds to be issued in an aggregate principal amount not to exceed \$1,950,000, pursuant to the terms of the Local Bond Law of the State, constituting Chapter 2 of Title 40A of the Revised Statutes of the State (the "Local Bond Law"), other applicable law and the Loan Agreements;

WHEREAS, N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law allows for the sale of the I-Bank Loan Bond and the Fund Loan Bond to the I-Bank and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the I-Bank Loan Bond to the I-Bank without any public offering, all under the terms and conditions set forth herein;

WHEREAS, the I-Bank and the State have expressed their desire to close in escrow the making of the Loans, the issuance of the Local Unit Bonds and the execution and delivery of the Loan Agreements, all pursuant to the terms of an Escrow Agreement (the "Escrow Agreement")

to be entered into by and among the I-Bank, the State, the Local Unit and the escrow agent named therein.

NOW, THEREFORE, BE IT RESOLVED by a 2/3 vote of the full membership of the governing body of the Local Unit as follows:

Section 1. The I-Bank Loan Agreement, the Fund Loan Agreement and the Escrow Agreement (collectively, the "Financing Documents") are hereby authorized to be executed and delivered on behalf of the Local Unit by either the Mayor or the Chief Financial Officer in substantially the forms on file with the Clerk, with such changes as the Mayor or the Chief Financial Officer (each an "Authorized Officer"), in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit (collectively, the "Local Unit Consultants") and after further consultation with the I-Bank, the State and their representatives, agents, counsel and advisors (collectively, the "Program Consultants", and together with the Local Unit Consultants, the "Consultants"), shall determine, such determination to be conclusively evidenced by the execution of such Financing Documents by an Authorized Officer as determined hereunder. The Local Unit Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Local Unit as determined hereunder and to affix the corporate seal of the Local Unit to such Financing Documents.

Section 2. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Local Unit Clerk, as applicable, in their respective sole discretion, after consultation with the Consultants, to be executed in connection with the execution and delivery of the Financing Documents and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 3. In accordance with N.J.S.A. 40A:2-27(a)(2) of the Local Bond Law and N.J.S.A. 58:11B-9(a), the Local Unit hereby sells and awards its I-Bank Loan Bond to the I-Bank and its Fund Loan Bond to the State, in a total aggregate principal amount not to exceed \$1,950,000, all in accordance with the provisions hereof. The Local Unit Bonds have been referred to and are described in bond ordinance #O-17-035 of the Local Unit finally adopted on October 24, 2017, entitled "Bond Ordinance Providing for Improvements to the Sewer Utility in and by the Township of Montclair, in the County of Essex, New Jersey, Appropriating \$2,600,000 Therefor and Authorizing the Issuance of \$2,600,000 Bonds or Notes of the Township to Finance the Cost Thereof." The aforementioned ordinance was finally adopted by the Local Unit at a meeting duly called as set forth above, at which time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 4. The Chief Financial Officer of the Local Unit is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions established by the I-Bank and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the I-Bank Loan Bond and the Fund Loan Bond:

- (a) The aggregate principal amounts of the I-Bank Loan Bond and the Fund Loan Bond to be issued;
- (b) The maturity and annual principal installments of the Local Unit Bonds, which maturity shall not exceed 30 years;
- (c) The date of the Local Unit Bonds;
- (d) The interest rates of the Local Unit Bonds;
- (e) The purchase price for the Local Unit Bonds; and
- (f) The terms and conditions under which the Local Unit Bonds shall be subject to redemption prior to their stated maturities.

Section 5. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Local Unit Bonds by the parties authorized under Section 4 hereof.

Section 6. The Local Unit hereby determines that certain terms of the Local Unit Bonds shall be as follows:

- (a) The I-Bank Loan Bond shall be issued in a single denomination and shall be numbered R-1. The Fund Loan Bond shall be issued in a single denomination and shall be numbered R-2;
- (b) The Local Unit Bonds shall be issued in fully registered form and shall be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America; and
- (c) The Local Unit Bonds shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 7. The I-Bank Loan Bond and the Fund Loan Bond shall be substantially in the form set forth in the I-Bank Loan Agreement and the Fund Loan Agreement, respectively.

Section 8. The law firm of McManimon, Scotland & Baumann, LLC is hereby authorized to arrange for the printing of the Local Unit Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank and the State for the Program, to arrange

for same. The Local Unit auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Local Unit Bonds. The Mayor, the Chief Financial Officer and the Local Unit Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information.

Section 9. The terms of the Local Unit Bonds authorized to be set forth by the Chief Financial Officer in accordance with Section 2 hereof shall be ratified by the affirmative vote of 2/3 of the full membership of the governing body of the Local Unit.

Section 10. The Mayor and the Chief Financial Officer are hereby severally authorized to execute any certificates or documents necessary or desirable in connection with the sale of the Local Unit Bonds, and are further authorized to deliver same to the I-Bank and the State upon delivery of the Local Unit Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

Section 11. This resolution shall take effect immediately.

Section 12. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to McManimon, Scotland & Baumann, LLC, bond counsel to the Local Unit, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the I-Bank.