

O-20-13
TOWNSHIP OF MONTCLAIR

BOND ORDINANCE OF THE TOWNSHIP OF MONTCLAIR, IN THE COUNTY OF ESSEX, NEW JERSEY PROVIDING FOR THE REPLACEMENT OF THE STAIRS AT BUZZ ALDRIN MIDDLE SCHOOL AND AUTHORIZING THE ISSUANCE OF \$393,276 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE THE COST THEREOF

May 19, 2020 (date of introduction)

June 9, 2020 (date of public hearing)

WHEREAS, The Board of Education of the Township of Montclair in the County of Essex, New Jersey (the "Board of Education") has determined by resolution duly adopted on March 16, 2020 that it is necessary to raise the aggregate amount of \$393,276 for the capital project described herein and has delivered a copy of the resolution to each member of the Board of School Estimate (the "Board of School Estimate"); and

WHEREAS, the Board of School Estimate has fixed and has determined by resolution duly adopted on April 6, 2020 that it is necessary to raise the aggregate amount of \$393,276 for the capital project specified in the resolution of the Board of Education and has delivered a certificate to that effect to the Board of Education and to the Township Council of the Township of Montclair, in the County of Essex, New Jersey (the "Township"); and

WHEREAS, the Township hereby determines to finance the capital project to be undertaken by the issuance of school bonds or temporary notes of the Township; now, therefore,

BE IT ORDAINED by the Township Council of the Township of Montclair, in the County of Essex, New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

Section 1. The capital project in the principal amount of \$393,276 described in Section 3 of this bond ordinance shall be undertaken by the Board of Education pursuant to the provisions of Title 18A, Education, of the New Jersey Statutes ("Title 18A"), and specifically N.J.S.A. 18A:24-11 applicable to Type I school districts.

Section 2. In order to finance the cost of the capital project, negotiable bonds are hereby authorized to be issued in the principal amount of \$393,276 pursuant to Title 18A and this bond ordinance adopted in accordance with the procedures required by N.J.S.A. 40:49-1 et seq. Each of the bonds shall be designated "School Bond" and shall contain a recital that it is issued pursuant to Title 18A, Education, of the New Jersey Statutes.

Section 3. The capital project hereby authorized for which the bonds or temporary notes are to be issued is the replacement of the stairs at Buzz Aldrin Middle School, including all work and materials necessary therefor and incidental thereto.

Section 4. In anticipation of the issuance of the bonds, negotiable temporary notes or loan bonds are hereby authorized to be issued pursuant to and within the limitations prescribed by N.J.S.A. 18A:24-3. The chief financial officer of the Township or such other financial officer designated by resolution for this purpose (both being hereafter referred to in this section as the "chief financial officer") is hereby authorized to issue temporary notes or loan bonds of the Township. All temporary notes or loan bonds issued hereunder shall mature at such time as may be determined by the chief financial officer; provided that no temporary note or loan bond shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The temporary notes or loan bonds shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with temporary notes or loan bonds issued pursuant to this ordinance, and the chief financial officer's signature on the temporary notes or loan bonds shall be conclusive evidence as to all such determinations. All temporary notes or loan bonds issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. 18A:24-3. The chief financial officer is hereby

authorized to sell part or all of the temporary notes or loan bonds from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price, plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the Township Council at the meeting next succeeding the date when any sale or delivery of the temporary notes or loan bonds pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the temporary notes or loan bonds sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purpose authorized herein is inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The capital project described in Section 3 of this bond ordinance is not a current expense. It is an improvement that the Township may lawfully undertake as a school capital project in accordance with N.J.S.A. 18A:24-5.

(b) The maximum period of maturity is 20 years for the bonds authorized for the capital project authorized herein in accordance with N.J.S.A. 18A:24-5.

(c) The Supplemental Debt Statement required by N.J.S.A. 18A:24-16 and 17 has been duly prepared and filed in the office of the Township Clerk and in the office of the Secretary of

the Board of Education, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. The \$393,276 obligations authorized herein shall be included for purposes of calculating the net school debt of the school district of the Township pursuant to N.J.S.A. 18A:24-19 but shall be deducted from the gross debt of the Township pursuant to N.J.S.A. 40A:2-44.

Section 7. The Township hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Township hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the notes, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the notes. The chief financial officer is hereby authorized to act on behalf of the Township to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the cost of the purpose described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose or improvement described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption or as otherwise provided by N.J.S.A. 40:49-27.