

BOROUGH OF MENDHAM

MORRIS COUNTY, NEW JERSEY

RESOLUTION #151-2023

SUPPLEMENTAL RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$1,475,000 SEWER BONDS, OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY INFRASTRUCTURE BANK AND THE STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION THEREWITH AND FOR THE COMBINATION OF CERTAIN ISSUES OF BONDS.

WHEREAS, the Borough of Mendham, in the County of Morris (the “Local Unit”), New Jersey, has determined that there exists a need within the Local Unit to acquire, construct, renovate, install or refinance the Project (the “Project”), as defined in each of that certain Loan Agreement (the “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 New Jersey Infrastructure Bank Financing Program (the “Program”);

WHEREAS, the Local Unit has determined to finance or refinance 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 Sewer Bond, to the State (the “Fund Loan Bond”) and Sewer Bond, to the I-Bank (the “I-Bank Loan Bond” and, together with the Fund Loan Bond, the “Local Unit Bonds”) 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, the Local Unit Bonds have been authorized pursuant to two bond ordinances of the Local Unit adopted on September 23, 2019 and November 29, 2023, and respectively entitled: “Bond ordinance providing for the improvement of the sewerage system in and by the Borough of Mendham, in the County of Morris, New Jersey, appropriating \$5,075,000 therefor and authorizing the issuance of \$5,075,000 bonds or notes of the Borough

for financing part of such appropriation” and “Bond ordinance making a supplemental appropriation of \$1,475,000 for the improvement of the sanitary sewerage system in and by the Borough heretofore authorized to be undertaken by the Borough of Mendham, in the County of Morris, New Jersey, and authorizing the issuance of \$1,475,000 bonds or notes of the Borough for financing such supplemental appropriation” (collectively, the “Bond Ordinances”); and

WHEREAS, the I-Bank and the State have expressed their desire to close in escrow the making of one or more Loans, the issuance of one or more Local Unit Bonds and the execution and delivery of one or more 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 escrow agent named therein and the Local Unit; and

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 in the following resolution; and

WHEREAS, the Local Unit has heretofore authorized the issuance of not in excess of \$5,075,000 of bonds to finance the cost of the project pursuant to a resolution adopted by the Local Unit on September 23, 2019, and entitled “Resolution Determining the Form and Other Details of Not Exceeding \$5,075,000 Sewer Bonds of the Borough of Mendham, in the County of Morris, New Jersey and Providing for Their Sale to the New Jersey Infrastructure Bank and the State of New Jersey and Authorizing the Execution and Delivery of Certain Agreements in Connection Therewith” (the “Original Bond Resolution”); and

WHEREAS, the estimated cost of the project has increased since the adoption of the Original Bond Resolution and the Local Unit is desirous of authorizing additional bonds to finance the additional costs of the project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. Ordinances, Bond Amounts and Combination. Pursuant to the provisions of Section 40A:2-26 of the Local Bond Law, particularly paragraph (f) thereof and in lieu of the sale of more than one issue of bonds as provided for in the Local Bond Law, the several issues of bonds of the Local Unit described below, authorized pursuant to bond ordinances of the Local Unit heretofore adopted, shall be combined into a single and combined issue of bonds in the principal amount of \$6,550,000. The principal amount of the bonds of the several issues of bonds to be combined into a single issue as above provided, the bond ordinance authorizing each of said several issues described by reference to its title, number and date of adoption, and the period or average period of usefulness determined in each of said bond ordinances are respectively as follows:

A. \$5,075,000 bonds being those bonds authorized by an ordinance entitled “Bond ordinance providing for the improvement of the sanitary sewerage system in and by the Borough of Mendham, in the County of Morris, New Jersey, appropriating \$5,075,000 therefor and authorizing the issuance of \$5,075,000 bonds or notes of the Borough for financing such appropriation” heretofore finally adopted on September 23, 2019 (#11-2019). The period or average period of usefulness for the purpose stated in Section 4(b) of said ordinance is forty (40) years.

B. \$1,475,000 bonds, being those bonds authorized by an ordinance entitled “Bond ordinance making a supplemental appropriation of \$1,475,000 for the improvement of the sanitary sewerage system in and by the Borough heretofore authorized to be undertaken by the Borough of Mendham, in the County of Morris, New Jersey, and authorizing the issuance of \$1,475,000 bonds or notes of the Borough for financing such supplemental appropriation”, heretofore finally adopted on November 29, 2023 (#14-2023). The period or average period of usefulness stated in Section 4(b) of said ordinance is forty (40) years.

Section 2. Average Useful Life. It is hereby found, determined and declared that the average period of usefulness, taking into consideration the respective amounts of obligations authorized to be issued pursuant to each of said bond ordinances as described above, respectively, is forty (40) years.

Section 3. Award of the Local Unit Bonds. 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 (a) I-Bank Loan Bond to the I-Bank in accordance with the provisions of this resolution and (b) Fund Loan Bond to the State in accordance with the provisions of this resolution.

Section 4. Basic Terms of the Local Unit Bonds; Delegation of Power to Make Certain Determinations. The chief financial officer or the treasurer of the Local Unit (the “Chief Financial Officer”) 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 of this resolution, the following items with respect to the I-Bank Loan Bond and the Fund Loan Bond:

(a) The aggregate principal amount of the I-Bank Loan Bond to be issued and the aggregate principal amount of the Fund Loan Bond to be issued, which amounts in the aggregate shall not exceed \$1,475,000 (such amount being exclusive of the amount of \$5,075,000 bonds authorized to be issued by the Original Bond Resolution);

(b) The maturity or maturities and annual and semi-annual principal installments of the Local Unit Bonds, which maturity or maturities shall not exceed thirty-five (35) years (or such longer period of time as allowed by the Program but in any event no longer than forty (40) years) from the date of the Local Unit Bonds;

(c) The date or dates of the Local Unit Bonds;

(d) The interest rates of the Local Unit Bonds, provided that the effective interest rate of the I-Bank Loan Bond does not exceed seven per centum (7%) and that the interest rate on the Fund Loan Bond is zero per centum (0%);

(e) The purchase price for the Local Unit Bonds;

(f) The terms and conditions under which the Local Unit Bonds shall be subject to redemption prior to their stated maturities; and

(g) Such other matters with respect to the Local Unit Bonds as may be necessary, desirable or convenient in connection with the sale, issuance and delivery thereof including (1) adjusting the title of the Local Unit, (2) issuing each Local Unit Bond in the form of multiple bonds from time to time if the project is funded in more than one installment by the Program and (3) combining the issuance of the Local Unit Bonds with the issuance of other bonds of the Local Unit authorized or to be authorized to be issued for other purposes.

Section 5. Determinations Conclusive. Any determination made by the Chief Financial Officer pursuant to the terms of this resolution shall be conclusively evidenced by the execution and attestation of the Local Unit Bonds by the parties authorized under Section 4(c) of this resolution.

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

(a) The Fund Loan Bond shall be issued in a single denomination and shall be numbered RA-1, or as may otherwise be determined by the Chief Financial Officer. The I-Bank Loan Bond shall be issued in a single denomination and shall be numbered RB-1, or as may otherwise be determined by the Chief Financial Officer;

(b) The Local Unit Bonds shall be issued in fully registered form (convertible to bearer as therein provided) and shall (unless converted to bearer) be payable to the registered owners thereof as to both principal and interest in lawful money of the United States of America;

(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, imprinted, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk or Deputy Local Unit Clerk (the “Local Unit Clerk”); and

(d) In order to distinguish the Local Unit Bonds from other bonds of the Local Unit, the Local Unit Bonds shall have such letters and/or numbers incorporated in their titles as shall be determined by the Chief Financial Officer.

Section 7. Forms of the Local Unit Bonds. 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. Authorized Parties. The law firm of Hawkins Delafield & Wood LLP, bond counsel to the Local Unit, 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 and financial advisor, if any, are hereby authorized to prepare the financial information necessary in connection with the issuance of the Local Unit Bonds. The Mayor, the Chief Financial Officer, the Local Unit Administrator and the Local Unit Clerk (each, an “Authorized Official”) are hereby severally authorized to execute any certificates necessary or desirable in connection with the financial and other information.

Section 9. Report to the Local Unit. The Chief Financial Officer is hereby directed to report in writing to this Council at the next meeting of this Council next following the closing with respect to the Local Unit Bonds as to the terms of the Local Unit Bonds authorized to be determined by the Chief Financial Officer pursuant to and in accordance with the provisions of this resolution.

Section 10. Delivery of the Local Unit Bonds. Each Authorized Official is hereby authorized to execute any certificate or document necessary or desirable in connection with the sale of the Local Unit Bonds and is hereby authorized to deliver same to the 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. Execution of Agreements. 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 an Authorized Official (other than the Local Unit Clerk) in substantially the forms required and traditionally used by the I-Bank and the State (which forms are available from the I-Bank and the State), with such changes as such Authorized Official, in his or her sole discretion, after consultation with counsel and any advisors to the Local Unit (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 each such Financing Document by an Authorized Official (other than the Local Unit Clerk). The Local Unit Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Official and to affix the corporate seal of the Local Unit to such Financing Documents.

Section 12. Authorized Actions. The Authorized Officials 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 Officials 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 Local Unit Bonds and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such document, instrument or closing certificate by the party authorized under this resolution to execute such document, instrument or closing certificate and (ii) perform such other actions as the Authorized Officials deem necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 13. Multiple Document Sets. Notwithstanding any other provision of this resolution to the contrary, if in connection with the participation of the Local Unit in the Program, the State and the I-Bank require that the Local Unit execute more than one set of documents, the provisions of this resolution shall be deemed to apply to the Local Unit Bonds and the Financing Documents related to each set of documents; provided, however, that in no event may the aggregate principal amount of all Local Unit Bonds issued and delivered pursuant to the provisions of this resolution be in excess of the amount referred to in Section 2(a) hereof.

Section 14. Interim Financing. In anticipation of the issuance of the Local Unit Bonds, the Local Unit hereby authorizes, if necessary or desirable, the issuance, sale and award of a bond anticipation note or notes, or other obligation or obligations (the “Note”) pursuant to the I-Bank’s financing program. The Note shall be substantially in the form provided by the I-Bank. The execution and delivery of the Note shall be in the same manner as herein prescribed with respect to the Local Unit Bonds. An Authorized Official is hereby authorized to determine, pursuant to the terms and conditions established by the I-Bank under its financing program and the terms and conditions of this resolution, the following items with respect to the Note: (a) the aggregate principal amount of the Note to be issued, which amount shall not exceed \$1,475,000 (exclusive of the amount of \$5,075,000 authorized to be issued by the Original Bond Resolution); (b) notwithstanding any provisions of the Bond Ordinances or of N.J.S.A. 40A:2-8 to the contrary and as authorized by the provisions of N.J.S.A. 58:11B-9(e), the maturity of the Note, which shall be no later than five (5) years after the date of issuance thereof or such longer period of time as may be permitted under the rules of the I-Bank’s financing program; (c) the date of the Note; (d) the interest rate or rates of the Note (including different interest rates applicable to different drawdowns on the Note), which shall not exceed three percent (3%) per annum or such higher rate as may be determined pursuant to the rules of the I-Bank’s financing program; (e) the purchase price for the Note; and (f) such other matters

with respect to the Note as may be necessary, desirable or convenient in connection with the sale, issuance and delivery thereof, including, without limitation (i) combining the issuance of the Note with the issuance of other notes of the Local Unit authorized or to be authorized to be issued for other purposes and (ii) issuing the Note in the form of multiple notes from time to time if the project is funded in more than one installment by the I-Bank. The Authorized Officials are hereby further severally authorized to manually execute and deliver and the Local Unit Clerk is hereby further authorized to attest by manual signature to such execution and to affix, imprint, engrave or reproduce the corporate seal of the Local Unit to any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officials 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 Note and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such document, instrument or closing certificate by the party authorized under this resolution to execute such document, instrument or closing certificate.

Section 15. Capitalized Terms. All capitalized words and terms used but not defined in this resolution shall have the meanings ascribed to such words and terms, respectively, in the preambles to this resolution.

Section 16. Prior Action. All action taken to date by the officers, employees and agents of the Local Unit with respect to the Local Unit Bonds and the Note hereby are approved, ratified, adopted and confirmed.

Section 17. Effective Date. This resolution shall take effect immediately.

Adopted: November 29, 2023

ATTEST

Lauren McBride, Acting Borough Clerk

BOROUGH OF MENDHAM

Christine Serrano Glassner, Mayor