

CITY COUNCIL**The City of Orange Township, New Jersey**

DATE _____

NUMBER 67-2023

TITLE: A BOND ORDINANCE PROVIDING FOR VARIOUS ACQUISITIONS AND IMPROVEMENTS TO THE CITY'S WATER AND SEWER SYSTEM, BY AND IN THE CITY OF ORANGE TOWNSHIP, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY; APPROPRIATING \$5,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$5,000,000 BONDS OR NOTES OF THE WATER AND SEWER UTILITY OF THE CITY TO FINANCE THE COSTS THEREOF AND REPEALING AND REPLACING BOND ORDINANCE NUMBER 57-2023 FINALLY ADOPTED OCTOBER 3, 2023.

WHEREAS, the City Council of the City of Orange Township, in the County of Essex, State of New Jersey (the "City") heretofore finally adopted Bond Ordinance Number 57-2023 on October 3, 2023 and entitled, "BOND ORDINANCE PROVIDING FOR VARIOUS ACQUISITIONS AND IMPROVEMENTS TO THE CITY'S WATER AND SEWER SYSTEM, BY AND IN THE CITY OF ORANGE TOWNSHIP, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY; APPROPRIATING \$5,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$5,000,000 BONDS OR NOTES OF THE WATER AND SEWER UTILITY OF THE CITY TO FINANCE THE COSTS THEREOF" (the "Original Bond Ordinance"); and

WHEREAS, the City hereby seeks to, among other things, repeal the Original Bond Ordinance and replace the Original Bond Ordinance with the following new bond ordinance.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF ORANGE TOWNSHIP, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1.

The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Water and Sewer Utility (the "Utility") of the City of Orange Township, in the County of Essex, State of New Jersey (the "City"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the amount of \$5,000,000 by the Utility of the City. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), no down payment is required as the Utility is self-liquidating.

Section 2.

For the financing of said improvements or purposes described in Section 3 hereof, negotiable bonds of the City are hereby authorized to be issued in a principal amount not exceeding \$5,000,000 pursuant to, and within the limitations prescribed by, the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the City in a principal amount not exceeding \$5,000,000 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, the Local Bond Law.

Section 3.

- (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued are for various acquisitions and improvements to the City's water and sewer system, including, but not limited to, as applicable, the purchase, acquisition, installation, rehabilitation, replacement, cleaning or repairs to wells, wellhouse, generators, sewers, sewer mains, sewer drains, meters, water mains, pipes, storm water improvements, water lines, hydrants, cameras, wiring, roof replacement, bathroom improvements, SCADA servers, and pump stations, and curb boxes.
- (b) The estimated maximum amount of bonds or notes of the City to be issued for said purposes is \$5,000,000.
- (c) The estimated cost of said improvements or purposes is \$5,000,000.
- (d) All such improvements or purposes described above shall include, but are not limited to, as applicable, all engineering and design work, consulting, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, tree cutting and removal, and also shall include all work, materials, equipment, accessories, labor and appurtenances necessary therefor or incidental thereto.

Section 4.

In the event the United States of America, the State of New Jersey, and/or the County of Essex make a contribution or grant in aid to the City for the improvements and purposes authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Essex. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Essex shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the City as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

Section 5.

All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the City, provided that no note shall mature later than one (1) year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with the provisions of the New Jersey Infrastructure Trust Act, N.J.S.A. 58:11B-1 ("NJIT Act"). The notes 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 of the City shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law and, as applicable, the provisions

of the NJIT Act. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

Section 6.

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

Section 7.

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

- (a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the City may lawfully undertake as general improvements for the Utility of the City, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.
- (b) The average period of usefulness of said improvements and purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of said bonds authorized by this bond ordinance, is 20 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the City and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, within New Jersey Department of Community Affairs, and such statement shows that the gross debt of the City, as defined in the Local Bond Law, is increased by the authorization of the obligations provided for in this bond ordinance by \$5,000,000 and the obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.
- (d) An amount not exceeding \$500,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purposes or improvements described in Section 3 hereof.
- (e) This bond ordinance authorizes obligations of the City solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-

liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 8.

The full faith and credit of the City 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 City and, unless paid from other sources, the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the principal of the obligations and the interest thereon without limitation as to rate or amount.

Section 9.

The City reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the City's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations §1.150-2.

Section 10.

The City covenants to maintain the exclusion from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, of the interest on all bonds and notes issued under this bond ordinance on a tax-exempt basis.

Section 11.

The Chief Financial Officer of the City 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 City, which are authorized herein, and to execute such disclosure document on behalf of the City. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City 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 City, which are authorized herein, 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 City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 12.

The bonds authorized herein shall be designated as "Qualified Bonds", pursuant to the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 *et seq.* (the "Municipal Qualified Bond Act"), and shall contain a recital that it is issued pursuant to Title 40A of the New Jersey Statutes and is entitled to the benefits of the provisions of the Municipal Qualified Bond Act. The City shall certify to the State Treasurer the name and address of the paying agent,

the maturity schedule, the interest rate and the dates of payment of debt service on such Qualified Bonds within ten (10) days after the date of issuance of such Qualified Bonds.

Section 13.

Bond Ordinance Number 57-2023 finally adopted October 3, 2023 is hereby rescinded and repealed.

Section 14.

This bond ordinance shall take effect twenty (20) days after the first publication of this bond ordinance after final adoption, as provided by the Local Bond Law.

ADOPTED:

Joyce Lanier
City Clerk

Tency Eason
Council President

APPROVED:

Honorable Dwayne D. Warren, Esq.
Mayor