

The following resolution was adopted at a regular meeting of the Borough Council of the Borough of Highlands, in the County of Monmouth, New Jersey held at the Municipal Building in the Borough on March 4, 2015, and the same shall be reflected in the minutes of such meeting.

**R-15-73**

**RESOLUTION DETERMINING THE FORM AND OTHER DETAILS OF NOT EXCEEDING \$4,800,000 SEWER UTILITY BONDS, SERIES 2015, OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, AND PROVIDING FOR THEIR SALE TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY AND AUTHORIZING THE EXECUTION AND DELIVERY OF LOAN AGREEMENTS TO BE EXECUTED BY THE BOROUGH AND EACH OF THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST AND THE STATE OF NEW JERSEY, ACTING BY AND THROUGH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND FURTHER AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT PURSUANT TO THE NEW JERSEY ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING PROGRAM.**

**WHEREAS**, the Borough of Highlands, in the County of Monmouth, New Jersey (the "Borough"), has determined that there exists a need within the Borough to provide for the construction of a new stormwater pump station in Jones Creek, replacement of the existing outfall from the Valley Street Pump Station, the replacement/upgrade of the existing stormwater infrastructure and the installation of additional drainage infrastructure in various portions of the Borough (the "Project") as defined in each of that certain Loan Agreement (the "Trust Loan Agreement") to be entered into by and between the Borough and the New Jersey Environmental Infrastructure Trust (the "Trust") and that certain Loan Agreement (the "Fund Loan Agreement", and together with the Trust Loan Agreement, the "Loan Agreements") to be entered into by and between the Borough 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 Environmental Infrastructure Trust Financing Program (the "Program");

**WHEREAS**, the Borough has determined to finance the Project with the proceeds of a loan to be made by each of the Trust (the "Trust Loan") and the State (the "Fund Loan", and together with the Trust Loan, the "Loans") pursuant to the Trust Loan Agreement and the Fund Loan Agreement, respectively;

**WHEREAS**, to evidence the Loans, each of the Trust and the State require the Borough to authorize, execute, attest and deliver the Borough's Sewer Utility Bonds, Series 2015, in an aggregate principal amount not to exceed \$4,800,000, a portion of which will be to the Trust (the "Trust Loan Bond") and a portion of which will be to the State (the "Fund Loan Bond" and, together with the Trust Loan Bond, the "Borough Bonds") pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (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 Trust Loan Bond and the Fund Loan Bond to the Trust and the State, respectively, without any public offering, and N.J.S.A. 58:11B-9(a) allows for the sale of the Trust Loan Bond to the Trust without any public offering, all under the terms and conditions set forth herein; and

**WHEREAS**, the Trust and the State have expressed their desire to close in escrow the making of one or more of the Loans, the issuance of one or more of the Borough Bonds and the execution and delivery of one or more of the Loan Agreements and the Continuing Disclosure Agreement, all pursuant

to the terms of an Escrow Agreement (the "Escrow Agreement") to be entered into by and among the Trust, the State, the Borough and the escrow agent named therein; and

**WHEREAS**, in connection with the issuance of the Borough Bonds to the Program, the governing body of the Borough wishes to authorize the execution of certain certificates and opinions as may be required by the Program or Bond Counsel to the Borough (collectively, the "Escrowed Documents") by the Mayor, Chief Financial Officer, Borough Clerk, Counsel to the Borough, Project Engineer or Appraiser and/or Bond Counsel to the Borough (collectively, the "Borough Representatives") on or before the date when the Borough is scheduled to close the loans in escrow with the Program (the "Escrow Closing Date"), such documents to be delivered to Bond Counsel and held by Bond Counsel until such time as the Borough authorizes release of the same.

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

**Section 1.** 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 Borough hereby sells and awards its Borough Bonds in an aggregate principal amount not to exceed \$4,800,000 in accordance with the provisions hereof. The Borough Bonds have been referred to and are described in bond ordinances of the Borough, such bond ordinance were finally adopted by the Borough at meetings duly called and held on December 11, 2009, September 19, 2012 and April 26, 2014, at each time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

**Section 2.** The Chief Financial Officer of the Borough (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 Trust and the State under the Loan Agreements and the terms and conditions hereof, the following items with respect to the Trust Loan Bond and the Fund Loan Bond:

- (a) The aggregate principal amounts of the Trust Loan Bond and the Fund Loan Bond to be issued, which aggregate principal amount shall not exceed \$4,800,000;
- (b) The maturity and annual principal installments of the Borough Bonds, which maturity shall not exceed 20 years;
- (c) The date of the Borough Bonds;
- (d) The interest rates of the Borough Bonds;
- (e) The purchase price for the Borough Bonds; and
- (f) The terms and conditions under which the Borough Bonds shall be subject to redemption prior to their stated maturities.

**Section 3.** Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Borough Bonds by the parties authorized under Section 4(c) hereof.

**Section 4.** The Borough hereby determines that certain terms of the Borough Bonds shall be as follows:

- (a) The Trust 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 Borough 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 Borough 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 Borough Clerk.

**Section 5.** The Trust Loan Bond and the Fund Loan Bond shall be substantially in the form set forth in the Trust Loan Agreement and the Fund Loan Agreement, respectively.

**Section 6.** The law firm of McManimon, Scotland & Baumann, LLC is hereby authorized to arrange for the printing of the Borough Bonds, which law firm may authorize McCarter & English, LLP, bond counsel to the Trust and the State for the Program, to arrange for same. The Borough auditor is hereby authorized to prepare the financial information necessary in connection with the issuance of the Borough Bonds. The Mayor, the Chief Financial Officer and the Borough Clerk are hereby authorized to execute any certificates necessary or desirable in connection with the financial and other information. Bond Counsel to the Borough is hereby authorized to accept and hold the Escrowed Documents on or before the Escrow Closing Date and to release same upon the direction of the Borough.

**Section 7.** The Borough hereby designates the Chief Financial Officer to award the Bonds in accordance with Section 2 hereof and such financial officer shall report in writing the results of the sale to this Council as required by law.

**Section 8.** 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 Borough Bonds, and are further authorized to deliver same to the Trust and the State upon delivery of the Borough Bonds and the receipt of payment therefor in accordance with the Loan Agreements.

**Section 9.** The Trust 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 Borough by either the Mayor or the Chief Financial Officer in substantially the forms attached hereto as Exhibits A, B and C, respectively, 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 Borough (collectively, the "Borough Consultants") and after further consultation with the Trust, the State and their representatives, agents, counsel and advisors (collectively, the "Program Consultants", and together with the Borough 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 Borough Clerk is hereby authorized to attest to the execution of the Financing Documents by an Authorized Officer of the Borough as determined hereunder and to affix the corporate seal of the Borough to such Financing Documents.

**Section 10.** The Authorized Officers of the Borough are hereby further severally authorized to (i) execute and deliver, and the Borough Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Borough to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers or the Borough 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 11.** This resolution shall take effect immediately.

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

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
CARD						X
KANE			X			
REDMOND		X	X			
RYAN			X			
NOLAN	X		X			
ON CONSENT AGENDA			YES	X	NO	

**DATE: March 4, 2015**

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**Carolyn Cummins, Borough Clerk**

I hereby certify this to be a true copy of Resolution R-15-73 adopted by the Governing Body of the Borough of Highlands on March 4, 2015.

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Borough Clerk/Deputy Clerk

## CERTIFICATE

I, Carolyn Cummins, Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the Borough duly called and held on March 4, 2015 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF,      I have hereunto set my hand and affixed the corporate seal of the  
Borough this \_\_\_\_ day of February, 2015.

[SEAL]