

**TOWNSHIP OF MILLBURN  
ORDINANCE NO. 2556-20  
BOND ORDINANCE PROVIDING FOR THE TOWNSHIP'S ALLOCABLE SHARE OF  
THE FLOOD MITIGATION FACILITIES PROJECT (PHASES I AND II) OF THE JOINT  
MEETING OF ESSEX AND UNION COUNTIES, BY AND FOR THE TOWNSHIP OF  
MILLBURN, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, APPROPRIATING  
\$1,650,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,650,000 BONDS  
OR NOTES TO FINANCE THE COST THEREOF**

BE IT ORDAINED AND ENACTED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN, 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 described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Joint Meeting of Essex and Union Counties (the "Joint Meeting") on behalf of the Township of Millburn, in the County of Essex, State of New Jersey (the "Township") as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the aggregate sum of \$1,650,000. Pursuant to the provisions of N.J.S.A. 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), no down payment is required as this bond ordinance authorizes obligations for environmental infrastructure projects which are funded by loans from the New Jersey Infrastructure Bank (the "I-Bank") and the State of New Jersey, acting by or through the Department of Environmental Protection.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the \$1,650,000 appropriation, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$1,650,000 pursuant to, and within all 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 Township in a principal amount not exceeding \$1,650,000 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, said

Local Bond Law.

SECTION 3. The improvements hereby authorized and purposes for the financing of which said debt obligations are to be issued are for the Township's allocable share of capital improvement projects being undertaken by the Joint Meeting, including, as applicable, but not limited to, (a) Phase I of the Flood Mitigation Facilities Project consisting of the construction of an Effluent Pumping Station, which will be connected to the existing twin outfall channels to the Arthur Kill, and (b) Phase II of the Flood Mitigation Facilities Project consisting of upgrades to the Co-Generation Facility, which upgrades include, but are not limited to, as applicable, the installation of two (2) additional co-generation engines in the existing Co-Generation Facility, the installation of electrical and instrumentation equipment for the new generator engines, integration of the new engines into the existing Co-Generation Facility, connection of the Biosolids Facilities to the Co-Generation electrical transmission lines, and upgrades to the substations at the Biosolids Facilities.

a. All improvements shall include, as applicable, all work, materials, equipment, engineering services and design, architectural services and designs, surveying, environmental consulting work, environmental remediation, preparation of plans and specifications, governmental permits, bid documents, conducting and preparation of reports, plans, analysis, and studies, equipment rental, labor and appurtenances necessary therefore or incidental thereto.

b. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,650,000.

c. The aggregate estimated cost of said improvements or purposes is \$1,650,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Essex make a loan, contribution or grant-in-aid to the Township for the improvements authorized hereby and the same shall be received by the Township 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 loaned, 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 Township 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 Township as a result of using such 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 Township, provided that no bond anticipation 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 bond anticipation 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 Township shall determine all matters in connection with the bond anticipation notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time in accordance with the provisions of Section 8.1 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 bond anticipation notes from time to time at 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 bond

anticipation notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the bond anticipation notes so sold, the price obtained and the name of the purchaser.

SECTION 6. 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 purposes authorized herein are 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 7. The following additional matters are hereby determined, declared, recited and stated:

a. The purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Township may lawfully undertake as general improvements, 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 or purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 30 years.

c. Notwithstanding N.J.S.A. 40:63-134, the supplemental debt statement required by the Local Bond Law has been duly made and filed in the office of the Township Clerk of the Township and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services within the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Township, as defined in the Local Bond Law, is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$1,650,000

and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

d. An aggregate amount not exceeding \$491,852 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 improvements hereinbefore described.

e. In accordance with N.J.S.A. 40:63-134, bonds authorized and issued by the Township to finance improvements or works for the Joint Meeting shall not be taken to be included within or governed by any limitation fixed by law to the amount of bonds authorized to be issued by the Township.

SECTION 8. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the debt obligations authorized by this bond ordinance. The debt obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable property located within the Township for the payment of the principal of and the interest thereon without limitation as to rate or amount.

SECTION 9. The Township 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 Township's official intent to reimburse any expenditure 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 Section 150-2.

SECTION 10. The Township 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 ordinance.

SECTION 11. Upon adoption hereof, the Township Clerk of the Township shall forward certified copies of this bond ordinance to Everett M. Johnson, Esq., Wilentz, Goldman & Spitzer, P.A., bond counsel to the Joint Meeting of Essex and Union Counties, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the I-Bank.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, as provided by the Local Bond Law.

Ordinance 2556-20

Introduced: 6/2/2020

Published: 6/4/2020