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March 16, 2021

Village of Nyack, New York
\$10,000,000 Amending Bond Resolution for Water Improvements
(Our File Designation: 5696/42692)

Ms. Jennifer Hetling
Village Clerk/Treasurer
Village of Nyack
9 North Broadway
Nyack, New York 10960-2697

Dear Jennifer:

Pursuant to your request, I have prepared the attached draft Extract of Minutes of a Board of Trustees meeting to be held on March 25, 2021, showing adoption of the above amending bond resolution. **Please note that the bond resolution requires at least a two-thirds vote of the entire membership of the Board of Trustees for adoption, without taking into account any temporary absences or vacancies. Therefore, four affirmative votes are required for adoption.**

Section 7 of the bond resolution contains the form of Notice to be published in the official Village newspaper and posted in six (6) locations throughout the Village, and in each Village polling place, within ten (10) days after adoption. The draft Affidavit of Posting to be executed by you, as the Village Clerk, is also enclosed. A copy of the notice, as posted, should be attached to this Affidavit.

Please obtain and forward to me a certified copy of the Extract of Minutes, an executed Affidavit of Posting and an original Affidavit of Publication from the newspaper. Upon receipt of such items we shall forward the additional documents required with respect to the estoppel publication of the bond resolution.

Please do not hesitate to contact me at your convenience if you have any questions.

With best regards, I am

Very truly yours,



Robert P. Smith

RPS/ml
Enclosures

EXTRACT OF MINUTES

Meeting of the Board of Trustees of the

Village of Nyack, in the

County of Rockland, New York

March 25, 2021

* * *

A regular meeting of the Board of Trustees of the Village of Nyack, in the County of Rockland, New York, was held at the Village Hall, 9 North Broadway, Nyack, New York, on March 25, 2021.

There were present: Hon. Dr. Don Hammond, Mayor; and

Trustees:

There were absent:

Also present: Jennifer Hetling, Village Clerk

* * *

_____ offered the following resolution and moved its adoption:

RESOLUTION OF THE VILLAGE OF NYACK, NEW YORK,
ADOPTED MARCH 25, 2021, AMENDING THE BOND
RESOLUTION ADOPTED JUNE 28, 2018

RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NYACK,
IN THE COUNTY OF ROCKLAND, NEW YORK (by the favorable vote of not less than two-thirds of all members of said Board of Trustees) AS FOLLOWS:

Recitals

WHEREAS, the Board of Trustees of the Village of Nyack, in the County of Rockland, New York, has heretofore duly authorized the issuance of bonds to finance the construction of improvements to the Village water system at the estimated total cost of \$10,000,000, which amount was appropriated for such purpose pursuant to the bond resolution adopted by said Board of Trustees on June 28, 2018; and

WHEREAS, said bond resolution limited the maximum maturity of the bonds to five (5) years; and

WHEREAS, the Board of Trustees of the Village has now determined that it is in the best interests of the Village to amend such bond resolution to provide for a longer period of probable usefulness, as authorized pursuant to Section 11.00 a. 1. of the Local Finance Law; and

WHEREAS, the maximum period of probable usefulness authorized for the project under applicable law is forty (40) years, and the amending bond resolution shall therefore be subject to a permissive referendum;

Now, therefore, be it

RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF NYACK,
IN THE COUNTY OF ROCKLAND, NEW YORK (by the favorable vote of not less than two-thirds of all members of said Board of Trustees) AS FOLLOWS:

Section (A) The bond resolution of the Village of Nyack duly adopted by the Board of Trustees on June 28, 2018, entitled:

“Bond Resolution of the Village of Nyack, New York, adopted June 28, 2018, authorizing the construction of improvements to the Village water system, stating the estimated maximum cost thereof is \$10,000,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of not to exceed \$10,000,000 to finance said appropriation,”

is hereby amended to read as follows:

BOND RESOLUTION OF THE VILLAGE OF NYACK, NEW YORK,
ADOPTED JUNE 28, 2018 AND AMENDED MARCH 25, 2021,
AUTHORIZING THE CONSTRUCTION OF IMPROVEMENTS TO
THE VILLAGE WATER SYSTEM, STATING THE ESTIMATED
MAXIMUM COST THEREOF IS \$10,000,000, APPROPRIATING
SAID AMOUNT FOR SUCH PURPOSE, AND AUTHORIZING THE
ISSUANCE OF BONDS IN THE PRINCIPAL AMOUNT OF NOT TO
EXCEED \$10,000,000 TO FINANCE SAID APPROPRIATION

THE BOARD OF TRUSTEES OF THE VILLAGE OF NYACK, IN THE
COUNTY OF ROCKLAND, NEW YORK, HEREBY RESOLVES (by the favorable vote of not
less than two-thirds of all the members of said Board of Trustees) AS FOLLOWS:

Section 1. The Village of Nyack, in the County of Rockland, New York (herein
called the "Village"), is hereby authorized to construct improvements to the Village water system
as described in the report dated June 2017, prepared by the H2M architects & engineers. The
estimated maximum cost thereof, including preliminary costs and costs incidental thereto and the
financing thereof, is \$10,000,000 and said amount is hereby appropriated for such purpose. The
plan of financing includes the issuance of bonds in the principal amount of not to exceed
\$10,000,000 to finance said appropriation, the collection of water fees from users based on metered
usage and, to the extent necessary if the amount of water fees collected is insufficient, the levy
and collection of taxes upon all the taxable real property in the Village, to pay the principal of said
bonds and the interest thereon as the same shall become due and payable. Any funds received
from grants and/or other sources are hereby authorized to be applied toward the cost of said project

or redemption of the Village's bonds or notes issued therefor, or to be budgeted as an offset to the taxes to be collected for the payment of the principal of and interest on said bonds or notes.

Section 2. Bonds of the Village in the principal amount of \$10,000,000 are hereby authorized to be issued pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called the "Law"), to finance said appropriation.

Section 3. The following additional matters are hereby determined and declared:

(a) The period of probable usefulness applicable to the object or purpose for which said \$10,000,000 bonds are authorized to be issued is forty (40) years pursuant to Section 11.00 a. 1 of the Law.

(b) The proceeds of the bonds herein authorized, and any bond anticipation notes issued in anticipation of said bonds, may be applied to reimburse the Village for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

(c) The proposed maturity of the bonds authorized by this resolution will exceed five (5) years.

Section 4. Each of the bonds authorized by this resolution, and any bond anticipation notes issued in anticipation of the sale of said bonds, shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds, and any notes issued in anticipation of said bonds, shall be general obligations of the Village, payable as to both principal and interest by general tax upon all the taxable real property within the Village. The faith and credit of the Village

are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds, and any notes issued in anticipation of the sale of said bonds, and provision shall be made annually in the budget of the Village by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 5. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 of the Law relative to the authorization of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and Section 168.00 of the Law, the powers and duties of the Board of Trustees relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized, and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and as to executing agreements for credit enhancement, are hereby delegated to the Village Treasurer, the chief fiscal officer of the Village.

Section 6. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the Village is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution, or summary thereof, are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 7. This bond resolution, as amended, is subject to a permissive referendum and the Village Clerk is hereby authorized and directed, within ten (10) days after the adoption of this amending resolution, to publish or cause to be published, in full, in the "*Journal News*," a newspaper having a general circulation within said Village and hereby designated the official newspaper of the Village for such publication, and posted in at least six (6) public places and in each polling place in the Village, a Notice in substantially the following form:

VILLAGE OF NYACK, NEW YORK

PLEASE TAKE NOTICE that on March 25, 2021 the Board of Trustees of the Village of Nyack, in the County of Rockland, New York, adopted a resolution amending the bond resolution adopted by said Board of Trustees on June 28, 2018, which bond resolution, as amended, is entitled:

“Bond Resolution of the Village of Nyack, New York, adopted June 28, 2018 and amended March 25, 2021, authorizing the construction of improvements to the Village water system, stating the estimated maximum cost thereof is \$10,000,000, appropriating said amount for such purpose, and authorizing the issuance of bonds in the principal amount of not to exceed \$10,000,000 to finance said appropriation,”

an abstract of which bond resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: AUTHORIZING said Village to construct improvements to the Village water system as described in the report dated June 2017, prepared by the H2M architects & engineers; STATING the estimated maximum cost of said object or purpose, including preliminary costs and costs incidental thereto and the financing thereof, is \$10,000,000; APPROPRIATING said amount for such purpose; STATING the plan of financing includes the issuance of \$10,000,000 bonds of the Village to finance said appropriation, the collection of water fees from users based on metered usage and, to the extent necessary if the amount of water fees collected is insufficient, the levy and collection of taxes upon all the taxable real property in the Village, to pay the principal of said bonds and the interest thereon; and STATING that any funds received from grants and/or other sources are hereby authorized to be applied toward the cost of said project or redemption of the Village’s bonds or notes issued therefor, or to be budgeted as an offset to the taxes to be collected for the payment of the principal of and interest on said bonds or notes;

SECOND: AUTHORIZING the issuance of \$10,000,000 bonds of the Village pursuant to the Local Finance Law of the State of New York (the “Law”) to finance said appropriation;

THIRD: DETERMINING and STATING the period of probable usefulness of the object or purpose for which said bonds are authorized is forty (40) years; the proceeds of said bonds may be applied to reimburse the Village for expenditures made after the effective date of said bond resolution for the purpose for which said bonds are authorized; and the proposed maturity of the bonds exceeds five (5) years.

FOURTH: DETERMINING that said bonds and any bond anticipation notes issued in anticipation of said bonds and the renewals of said bond anticipation notes shall be

general obligations of the Village; and PLEDGING to their payment the faith and credit of the Village;

FIFTH: DELEGATING to the Village Treasurer the powers and duties as to the issuance of said bonds and any bond anticipation notes issued in anticipation of said bonds, or the renewals of said notes; and

SIXTH: DETERMINING that the bond resolution is subject to a permissive referendum.

DATED: March 25, 2021

Jennifer Hetling
Village Clerk

Section 8. The Village Clerk is hereby authorized and directed to cause said amending bond resolution to be published, in summary, after said bond resolution shall take effect, in the newspaper hereinabove referred to in Section 7 hereof, and hereby designated the official newspaper for said publication, together with a Notice in substantially the form as prescribed by Section 81.00 of the Local Finance Law of the State of New York.

* * *

Section (B) The amendment of the bond resolution set forth in Section (A) of this resolution shall in no way affect the validity of any prior liabilities incurred, obligations issued, or action taken pursuant to said bond resolution, and all such liabilities incurred, obligations issued, or action taken shall be deemed to have been incurred, issued or taken pursuant to said bond resolution, as amended.

Section (C) Said bond resolution, as amended, is subject to a permissive referendum as therein provided. In the event that a valid petition protesting against said bond resolution and requesting that it be submitted to the electors of said Village for their approval or disapproval is filed and the Proposition submitted is defeated, the validity of the bond resolution adopted June 28, 2018 shall not be in any way affected and shall remain in full force and effect.

The adoption of the foregoing resolution was seconded
by _____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

CERTIFICATE

I, JENNIFER HETLING, Village Clerk of the Village of Nyack, in the County of Rockland, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the Board of Trustees of said Village of Nyack duly called and held on March 25, 2021, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said Board of Trustees and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Village of Nyack this 25th day of March, 2021.

(SEAL)

Village Clerk

STATE OF NEW YORK)
)
) ss.
COUNTY OF ROCKLAND)

AFFIDAVIT OF POSTING

JENNIFER HETLING, being duly sworn, deposes and says:

That she is and at all times hereinafter mentioned she was the duly elected, qualified and acting Village Clerk of the Village of Nyack, in the County of Rockland, State of New York;

That on March _____, 2021, she has caused to be conspicuously posted and fastened up in the following places and in each polling place in the Village, a Notice setting forth an abstract of the amending bond resolution duly adopted by the Board of Trustees on March 25, 2021, a copy of which is annexed hereto and made a part hereof, said places constituting at least six (6) of the most conspicuous public places in said Village:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Village Clerk

Subscribed and sworn to before me
this _____ day of March, 2021.

Notary Public, State of New York