

**ORDINANCE NO. 5689**

**BOND ORDINANCE PROVIDING FOR PHASE III OF THE LOCAL UNIT'S ALLOCABLE SHARE OF THE FLOOD MITIGATION FACILITIES PROJECT OF THE JOINT MEETING OF ESSEX AND UNION COUNTIES, BY AND IN THE CITY OF ELIZABETH, IN THE COUNTY OF UNION, STATE OF NEW JERSEY (THE "LOCAL UNIT"); APPROPRIATING \$20,510,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$20,510,000 BONDS OR NOTES TO FINANCE THE COST THEREOF**

BE IT ORDAINED AND ENACTED BY THE GOVERNING BODY OF THE CITY OF ELIZABETH, IN THE COUNTY OF UNION, 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 City of Elizabeth, in the County of Union, State of New Jersey (the "Local Unit") as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the amount of \$20,510,000. 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 \$20,510,000 appropriation, negotiable bonds of the Local Unit are hereby authorized to be issued in the principal amount of \$20,510,000 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,

APPROVAL or DISAPPROVAL OF

AUG 24 2022

City Clerk

negotiable notes of the Local Unit in a principal amount not exceeding \$20,510,000 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 Local Unit's allocable share of capital improvement projects being undertaken by the Joint Meeting for Phase III of the Flood Mitigation Facilities Project consisting of, but not limited to, the construction of reinforced concrete flood protection walls around the Main Treatment Plant site including, but not limited to, the installation of four (4) flood protection swing gates, the demolition of the existing guard house and the construction of a new guard house, the construction of five (5) storm sewer isolation chambers with sluice gates and electric actuators, the realignment and repaving of various treatment plant roadways, the construction of a new emergency access roadway, the relocation and protection of existing utilities, and associated grading and site restoration. Phase III of the Flood Mitigation Facilities Project shall also include costs for engineering services related to surveying, I-Bank Project Report & Permitting, New Jersey Department of Environmental Protection and Army Corps of Engineers permitting, and performance of test pits for determination of utility locations.

a. All improvements shall include, as applicable, all work, materials, equipment, engineering services and design, architectural services and designs, surveying, environmental consulting work, environmental testing and 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 \$20,510,000.

c. The aggregate estimated cost of said improvements or purposes is \$20,510,000.

SECTION 4. In the event the United States of America (including the Federal Emergency Management Agency ("FEMA")), the State of New Jersey, and/or the County of Union make a loan, contribution or grant-in-aid to the Local Unit for the improvements authorized hereby and the same shall be received by the Local Unit 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 (including FEMA), the State of New Jersey, and/or the County of Union. In the event, however, that any amount so loaned, contributed or granted by the United States of America (including FEMA), the State of New Jersey, and/or the County of Union shall be received by the Local Unit 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 Local Unit 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 Local Unit, 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 Local Unit 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 Local Unit hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Local Unit 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 Local Unit 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. The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Local Unit 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 Local Unit, as defined in the Local Bond Law, is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$20,510,000 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 \$2,636,837.40 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 Local Unit 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 Local Unit.

SECTION 8. The full faith and credit of the Local Unit 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 Local Unit, and the Local Unit shall be obligated to levy *ad valorem* taxes upon all the taxable property located within the Local Unit for the payment of the principal of and the interest thereon without limitation as to rate or amount.

SECTION 9. The Local Unit 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 Local Unit'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 Local Unit 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 on a tax-exempt basis.

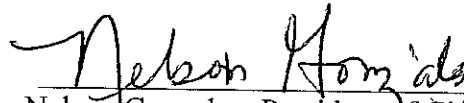
SECTION 11. Upon adoption hereof, the Clerk of the Local Unit shall forward certified copies of this bond ordinance to Everett M. Johnson, Esq., Wilentz, Goldman & Spitzer, P.A., bond counsel to the Joint Meeting of Essex and Union Counties, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel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

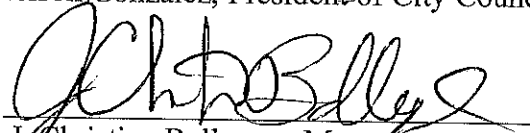
Introduced: \_\_\_\_\_, 2022

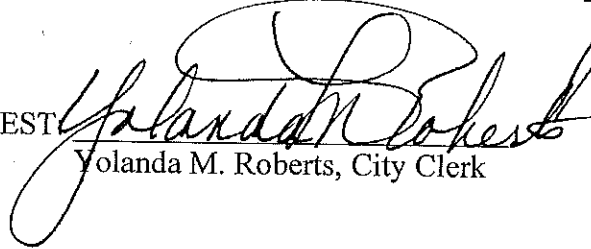
Adopted: \_\_\_\_\_, 2022

Passed: 8/23/22

  
Nelson Gonzalez, President of City Council

Approved: 08/24/22

  
J. Christian Bollwage, Mayor

ATTEST   
Yolanda M. Roberts, City Clerk