

## TOWNSHIP OF MONTCLAIR

### **RESOLUTION CONSENTING TO THE ISSUANCE OF CERTAIN "WANAQUE NORTH PROJECT REVENUE BONDS, SERIES 2009" BY THE NORTH JERSEY DISTRICT WATER SUPPLY COMMISSION AND CERTAIN OTHER MATTERS RELATED THERETO**

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July 7, 2009

**WHEREAS**, the North Jersey District Water Supply Commission (the "*Commission*") is a public body corporate and politic of the State of New Jersey (the "*State*"), organized and existing under and by virtue of the laws of the State and, in particular, N.J.S.A. 58:5-1 *et seq.*, as amended and supplemented (the "*Act*"), for the purpose, among other things, of providing local government water supplies;

**WHEREAS**, the Township of Montclair (the "*Local Unit*"), a municipal corporation of the State located in the County of Essex, and the Commission have previously entered into that certain "Contract" dated as of October 31, 1918, as amended by "Contracts" dated January 24, 1924, March 24, 1925, June 4, 1925, June 11, 1925, June 25, 1925, August 4, 1925, May 25, 1926, December 26, 1940, July 26, 1950, and December 8, 1950 by and among the City of Newark, the City of Passaic, the City of Paterson, the City of Clifton, the Township of Montclair, the Township of Glen Ridge, the Township of Bloomfield, the Town of Kearny and the Passaic Valley Water Commission (including the Local Unit, each a "*Contracting Local Unit*" and collectively, the "*North Local Units*"), as the same may be amended or supplemented in accordance with its terms (collectively, the "*North Service Contract*");

**WHEREAS**, pursuant to and in accordance with the provisions of the Act, on January 22, 1988, the Commission adopted that certain resolution entitled, "General Bond Resolution of the North Jersey District Water Supply Commission Securing One or More Series of Wanaque North Project Revenue Bonds" (the "*North General Bond Resolution*"), as may be amended and supplemented (the North General Bond Resolution and all supplemental resolutions, including the Sixteenth Supplemental Resolution, as such term is defined herein, shall be collectively referred to as the "*North Bond Resolution*"), authorizing, among other things, the issuance of one or more series of Bonds, including any and all Additional Bonds, as such terms are defined in the North Bond Resolution, by the Commission in order to finance and refinance the Commission's share of the costs of the acquisition, construction and improvement of the Wanaque North Project, as such term is defined in the North Bond Resolution;

**WHEREAS**, the North Service Contract sets forth the terms and conditions of the relationship between the Local Unit, the other Contracting Local Units and the Commission in connection with the Commission's Wanaque North Project;

**WHEREAS**, the Commission intends to undertake improvement, reconstruction and renovation of existing water supply facilities of the Commission including the following with respect to the Wanaque North Project: (i) relocation of the Wanaque Treatment Plant main entrance gate and security facilities closer to Ringwood Avenue for critical improvements to the security facilities and traffic control at the Plant entrance; and (ii) the costs of issuance of the herein defined Wanaque North 2009 Program Loan Bonds (the *“Wanaque North Water Treatment Plant Security Zone Extension Improvements Project”*);

**WHEREAS**, pursuant to the provisions of the New Jersey Environmental Infrastructure Trust Financing Program (the *“Program”*), established pursuant to N.J.S.A. 58:11B-1 *et seq.* (the *“Trust Act”*), funds may be available for the purpose of financing certain projects eligible for inclusion in the Program (*“Program Eligible Projects”*);

**WHEREAS**, as a project that provides security improvements, most, if not all, of the Wanaque North Water Treatment Plant Security Zone Extension Improvements Project qualifies under the Program and the Trust Act as a Program Eligible Project, subject to a final determination made by the New Jersey Environmental Infrastructure Trust (the *“Trust”*) and the New Jersey Department of Environmental Protection (the *“DEP”*);

**WHEREAS**, the Commission desires to finance all, or a portion, of the costs of the Wanaque North Water Treatment Plant Security Zone Extension Improvements Project from (i) the proceeds of a loan (the *“Wanaque North 2009 Trust Loan”*) from the Trust to the Commission, such loan to be secured by a Bond issued by the Commission to the Trust (the *“Wanaque North 2009 Trust Loan Bond”*) pursuant to the North Bond Resolution, and (ii) the proceeds of a loan (the *“Wanaque North 2009 Fund Loan”*, and together with the Wanaque North 2009 Trust Loan, the *“Wanaque North 2009 Program Loans”*) from the State, acting by and through the DEP (the *“Fund”*), to the Commission, such loan to be secured by a Bond issued by the Commission to the Fund (the *“Wanaque North 2009 Fund Loan Bond”*, and together with the Wanaque North 2009 Trust Loan Bond, the *“Wanaque North 2009 Program Loan Bonds”*) pursuant to the North Bond Resolution in the maximum aggregate stated principal amount not exceeding \$2,500,000;

**WHEREAS**, pursuant to the provisions of the North Bond Resolution, the Commission has scheduled for adoption, at its regularly scheduled meeting of July 22, 2009, that certain Supplemental Resolution No. 16 (the *“Sixteenth Supplemental Resolution”*), authorizing the issuance of the Wanaque North 2009 Program Loan Bonds;

**WHEREAS**, the Wanaque North 2009 Program Loan Bonds shall be issued on a parity basis with all other Bonds of the Commission previously issued pursuant to the North Bond Resolution and shall be equally secured by the Trust Estate, as such term is defined in the North Bond Resolution, which includes, without limitation, certain payments made by the North Local Units under and pursuant to the North Service Contract;

**WHEREAS**, in accordance with the North Service Contract, the Commission shall obtain the consent of each and every North Local Unit, which such consent shall be evidenced by resolution, duly adopted by the governing body of each and every North Local Unit, prior to the Commission's adoption of the Sixteenth Supplemental Resolution and the issuance of the Wanaque North 2009 Program Loan Bonds;

**WHEREAS**, on June 17, 2009, pursuant to all applicable law, including without limitation N.J.S.A. 58:11-B-9(a), the Commission submitted an application (the "*Application*") to the Local Finance Board in the Division of Local Government Services of the State's Department of Community Affairs (the "*Local Finance Board*") for the Local Finance Board's approval of the issuance of the Wanaque North 2009 Trust Program Loan Bonds to the Trust and the State as part of the Program;

**WHEREAS**, pursuant to and in accordance with the provisions of the Act, on June 17, 2009, the Commission caused to be filed with the Clerks of each Contracting Local Unit, including the Local Unit, copies of the Sixteenth Supplemental Resolution, and notice of a public comment to be held by the Commission on July 22, 2009, regarding the issuance of the Wanaque North 2009 Trust Program Loan Bonds; and

**WHEREAS**, the Commission believes: (i) it is in the public interest to accomplish such purpose; (ii) said purpose is for the health, wealth, convenience or betterment of the inhabitants of the North Local Units served by the Commission; (iii) the amounts to be expended for said purpose are not unreasonable or exorbitant; and (iv) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the North Local Units served by the Commission and will not create an undue financial burden to be placed upon the Commission; now therefore

**BE IT RESOLVED** by the Council of the Township of Montclair, in the County of Essex, as follows:

**Section 1.** In accordance with the North Service Contract, the Township hereby consents to the issuance of the Wanaque North 2009 Trust Program Loan Bonds. The Township is providing this consent because the Commission's participation in the Program provides the Commission with below market funding for the Wanaque North Water Treatment Plant Security Zone Extension Improvement Project, which is vital to the Commission in achieving its purposes in the distribution of drinking water to the North Local Units and in order to obtain energy efficiencies and cost savings.

**Section 2.** The Township hereby authorizes the preparation and the distribution of financial statements and demographic and other information concerning the Township to be used by (i) the Commission, the Trust, or the State in connection with the Wanaque North 2009 Trust Program Loan Bonds, (ii) any rating agency ("*Rating Agency*") providing a rating on the Wanaque North 2009 Trust Program Loan Bonds, or (iii) any bond insurer ("*Bond Insurer*") insuring the Wanaque North 2009 Trust Program Loan Bonds. In furtherance of such authorization, the Township hereby directs the Mayor and the Township Manager (collectively, the "*Authorized Officer*") to take such action as the Authorized Officer, after consultation with counsel to the Township, bond counsel to the Commission and other professional advisors to the Commission (the "*Consultants*"), deems necessary, desirable or convenient in connection with the preparation and distribution of such information to the Commission, the Trust, the State, Rating Agency or Bond Insurer.

**Section 3.** The Township hereby authorizes the performance of any act and the execution or acknowledgement and delivery of any document, instrument or closing certificate that the Authorized Officer, after consultation with the Consultants, deems necessary, desirable or convenient in connection with the Wanaque North 2009 Trust Program Loan Bonds, and the Township hereby directs the Authorized Officer to execute or acknowledge, and to cause the Clerk of the Township (the "*Clerk*") to attest and affix the seal, where required, upon, any such document, instrument or closing certificate or to execute any certificate, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons. Such closing certificates shall include, without limitation, (i) a determination that all legislative actions taken by the Local Unit in connection with the Wanaque North 2009 Trust Program Loan Bonds, including, without limitation, the authorization of the North Service Contract, as of the date of issuance of the Wanaque North 2009 Trust Program Loan Bonds, have not been altered, amended, supplemented or repealed and as such, are in full force and effect, and (ii) any representations, warranties or covenants required by the Commission, the Trust, the State, Bond Insurer and/or Rating Agency.

**Section 4.** This resolution shall take effect immediately.

**Section 5.** Upon the adoption hereof, the Township Clerk shall forward certified copies of this resolution to the Authorized Officer, to the Township Attorney, to Michael Restaino, Executive Director of the Commission, and to Stephen B. Pearlman, Esq., of DeCotiis, FitzPatrick, Cole & Wisler, LLP, general counsel to the Commission.

RECORD OF COUNCIL VOTE											
	YES	NO	ABS	N.V.	AB		YES	NO	ABS	N.V.	AB
Councilor Africk						Councilor Murnick					
Councilor Baskerville						Deputy Mayor Terry					
Mayor Fried						Councilor Weller					
Councilor Lewis											
X - Indicate Vote    ABS - Abstain    N.V. - Not Voting    AB - Absent											

**I HEREBY CERTIFY** the foregoing to be a true copy of a resolution adopted by the Council of the Township of Montclair, in the County of Essex, at its meeting held on July 7, 2009.

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**Linda S. Wanat**  
**Municipal Clerk of the Township of Montclair, N.J.**