

AT A MEETING OF THE MIDDLESEX WATER AUTHORITY HELD IN THE
BOARD ROOM OF THE HISTORIC COURTHOUSE AT 6:00 P.M. ON
WEDNESDAY, AUGUST 4, 2021:

Present: Greg Chambers, Chair
James Michael Reed, Treasurer
Carlton S. Revere, Secretary

Absent: Lud Kimbrough
Janet Riggs, Vice Chair

Matt Walker, Executive Director
Betty Muncy, Staff Secretary

CALL TO ORDER

The meeting was called to order by the Chairman, Greg Chambers, at 6:00 p.m.

PUBLIC COMMENT

Mr. Chambers opened the meeting for public comment. There was no comment, and the public comment section was closed.

APPOINTMENTS

The motion to appoint Betty Muncy as Deputy Treasurer for a term expiring June 30, 2022, and to name Betty Muncy and James Reed, Treasurer, as custodians of the Authority's accounts, including the ability to make changes to existing accounts and to establish new accounts, was made by Mr. Revere, seconded by Mr. Reed and carried unanimously.

INTERIM FINANCING

Jesse Bausch, with Sands Anderson, the Authority's bond counsel, was present to review the documents associated with the interim financing of the second USDA loans. The proposed resolution approves all the other forms of documents proposed, including the loan agreement, note and incidentals, such as banking agreements and authorizations, that have all been reviewed by Mr. Bausch and Mr. Siegal from Sands Anderson and Mrs. Lewis, the Authority's counsel. The financing is expected to close within the next couple of weeks. The monies will be placed in an escrow account and all draws must be approved by the USDA, ensuring that they are project eligible expenses that will be reimbursed by closing the USDA loans at the end of the project. According to Mr. Walker, several years ago a USDA Rural Development State Director interpreted a federal requirement differently than had been interpreted before, to require projects of a certain size to be funded through another lending institution and then Rural

Development funds would be used to close out with one closing. This interpretation remains. CoBank has been used for many USDA Rural Development projects and will be used to provide interim financing of up to \$10,679,000 to the Water Authority, the amount of the second two loans from the USDA. Interest payments will begin as soon as the first draw is made at a rate of 1.2% + monthly LIBOR. This is an unsecured loan secured by the Rural Development funding.

The motion to approve the following: A RESOLUTION OF THE BOARD OF THE MIDDLESEX WATER AUTHORITY PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A TAX-EXEMPT MULTIPLE ADVANCE TERM PROMISSORY NOTE (RD INTERIM LOAN-ANTICIPATION NOTE), IN A PRINCIPAL AMOUNT NOT TO EXCEED \$10,679,000, SETTING FORTH THE FORM, DETAILS AND PAYMENT THEREOF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN RD/RUS INTERIM LOAN AGREEMENT (NO. 00117351SLA) RELATED THERETO was made by Mr. Revere, seconded by Mr. Reed and carried unanimously by roll call vote.

A RESOLUTION OF THE BOARD OF THE MIDDLESEX WATER AUTHORITY PROVIDING FOR THE ISSUANCE, SALE AND AWARD OF A TAX-EXEMPT MULTIPLE ADVANCE TERM PROMISSORY NOTE (RD INTERIM LOAN-ANTICIPATION NOTE), IN A PRINCIPAL AMOUNT NOT TO EXCEED \$10,679,000, SETTING FORTH THE FORM, DETAILS AND PAYMENT THEREOF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN RD/RUS INTERIM LOAN AGREEMENT (NO. 00117351SLA) RELATED THERETO

WHEREAS, the Middlesex Water Authority (**the “Authority”**) is a public body politic and corporate of the Commonwealth of Virginia duly created pursuant to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2, Code of Virginia of 1950, as amended) (**the “Act”**); and

WHEREAS, the Authority is authorized to acquire, construct, operate and maintain water systems in the County of Middlesex, Virginia (**the “County”**); and

WHEREAS, the Authority is authorized pursuant to the Act to borrow money and to issue its revenue bond to pay all or part of the cost of such systems; and

WHEREAS, the Authority has determined to construct and equip a public water system to serve the Deltaville community of the County (**the “Project”**) and has entered into a loan agreement with the United States of America, acting through the Rural Utilities Service (**“RD/RUS”**) and issued its \$9,000,000 Water Revenue Bond, Series 2020A and its \$3,000,000 Water Revenue Bond, Series 2020B on September 22, 2020 (**the “2020 Bonds”**) the proceeds from which have provided funds to pay for a portion of the costs of the Project; and

WHEREAS, the Authority has received a letter of conditions commitment from RD/RUS to provide additional long-term financing of a portion of the Project through the purchase of its water revenue bonds for a total amount of \$10,679,000 (**the “RD/RUS Financing”**) the proceeds of which, together with other available funds and the 2020 Bonds, are estimated to be sufficient to pay the cost of the Project; and

WHEREAS, the Authority has determined to obtain interim financing for the RD/RUS

Financing for an amount equal to the RD/RUS Financing; and

WHEREAS, there have been presented to this meeting drafts of the following documents (**collectively, the “Documents”**) in connection with the transactions described above, copies of which shall be filed with the records of the Board:

(a) RD/RUS Interim Loan Agreement (No. 00117351SLA) to be dated as of the sale date of the Note (**the “Interim Loan Agreement”**) between the Authority and COBANK, ACB, a federally chartered instrumentality of the United States (**the “Lender”**), pursuant to which the Note will be sold to the Lender; and

(b) Form of the Authority’s Tax-Exempt Multiple Advance Term Promissory Note (RD Interim Loan -Anticipation Note) in the principal amount of \$10,679,000 (**the “Note”**).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
THE MIDDLESEX WATER AUTHORITY:**

1. Issuance of Note. Pursuant to the Act, the Board hereby provides for the issuance and sale of the Note of the Authority to provide funds to provide interim financing for a portion of the costs of Project in anticipation of completion of the RD/RUS Financing, and to pay related issuance and financing costs incurred in connection with issuing such Note.

2. Note Details. The Note shall be issued as a single, registered note as set forth in the Form of Note attached hereto and incorporated herein as Exhibit A, shall be designated “Tax-Exempt Multiple Advance Term Promissory Note (RD Interim Loan-Anticipation Note)” and shall be dated on the closing date. The final terms of the Note will be determined by Chairman or Vice Chairman of the Board, whose approval shall be evidenced conclusively by the execution and delivery of the Note, subject to the following parameters: (i) the Note shall have a maximum aggregate principal amount of not to exceed \$10,679,000, (ii) the interest rate per annum on the Note equal to the One Month LIBOR Index Rate (as defined in and subject to modification as described in the Form of Note) (iii) the Note shall be payable as to interest on a monthly basis, on the 20th day of each month, in arrears based on actual days elapsed over a 360 day year and (iv) the Note shall mature and principal will be due and payable upon receipt of funds from the RD/RUS Financing but not later than the earlier of (a) the closing on the RD/RUS Financing or (b) December 31, 2022. Subject to the preceding terms, the Board further authorizes the Chairman or Vice Chairman of the Board to determine the aggregate total of principal and interest payments on the Note and establish a payment schedule for the Note including the dates and amounts and the optional and extraordinary prepayment provisions, if any, of the Note, all in accordance with the provisions hereof.

3. Prepayment and Redemption Provisions. The principal of the Note shall be subject to optional prepayment or redemption, in whole or in part, by the Authority, at any time. The principal of the Note shall be subject to mandatory prepayment or redemption as set forth in the form of Note.

4. Execution and Form of Note. The Note shall be signed by the Chairman or Vice Chairman of the Board and the Authority’s seal shall be affixed thereon and attested by the Secretary of the Board. The Note shall be issued as a typewritten bond or note in substantially the form submitted to this meeting, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by such officers, whose approval shall be evidenced conclusively by the execution and delivery of the Note.

5. Execution and Form of Documents. The Chairman or Vice Chairman of the Authority, or either of them, is hereby authorized and directed to execute the Documents, which shall be in substantially the forms submitted to this meeting, which are approved, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officer executing them, his or her execution to constitute conclusive evidence of his or her approval of any such completions, omissions, insertions and changes, including but not limited to changes in payment dates, principal amortization amounts and maturity date.

6. Pledge of Bond Proceeds and Revenues; Parity. Principal of and premium, if any, and interest on the Note and all other amounts due thereunder shall be payable solely from the payments from the receipt by the Authority of loan proceeds from RD/RUS ("Revenues"). The Revenues are to be pledged as set forth in the Note. Nothing in the Note or this Resolution shall be deemed to constitute a pledge of the faith and credit of the Commonwealth of Virginia or any of its political subdivisions, including the Authority or the County. The issuance of the Note shall not directly, indirectly or contingently obligate the Commonwealth of Virginia or any of its political subdivisions, including the Authority or the County, to pledge its faith and credit or levy any taxes for the payment of the principal of or premium, if any, or interest on the Note or other costs incident to it or make any appropriation for its payment except from the revenues and other funds pledged for such purpose.

7. Preparation of Typewritten Note. The Authority shall initially issue the Note in typewritten form. The Note may be executed by manual or facsimile signature of the Chairman or Vice Chairman of the Board, the Authority's seal affixed thereto and attested by the Secretary of the Board; provided, however, that if both such signatures are facsimiles, no Note shall be valid until it has been authenticated by the manual signature of the Registrar and the date of authentication noted thereon.

8. Registration and Transfer of the Note. The Authority appoints the Executive Director of the Authority as paying agent and registrar (the "Registrar") for the Note. If deemed to be in its best interest, the Authority may at any time appoint a qualified bank or trust company as successor Registrar. Upon surrender of the Note at the office of the Registrar, together with an assignment duly executed by the registered owner or its duly authorized attorney or legal representative in such form as shall be satisfactory to the Registrar, the Authority shall execute, and the Registrar shall authenticate and deliver in exchange, a new Note or Notes having an equal aggregate principal amount, of the same form and maturity, bearing interest at the same rates and registered in such name as requested by the then registered owner or its duly authorized attorney or legal representative. Any such exchange shall be at the expense of the Authority, except that the Registrar may charge the person requesting such exchange the amount of any tax or other governmental charge required to be paid with respect thereto. The Registrar shall treat the registered owner as the person or entity exclusively entitled to payment of principal, premium, if any, and interest, and the exercise of all other rights and powers of the owner, except that installments shall be paid to the person or entity shown as owner on the registration books on the 15th day of the month preceding each interest payment date.

9. Mutilated, Lost or Destroyed Note. If the Note has been mutilated, lost or destroyed, the Authority shall execute and deliver a new Note of like date and tenor in exchange and substitution for, and upon cancellation of, such mutilated Note or in lieu of and in substitution for such lost or destroyed Note; provided, however, that the Authority shall so execute and deliver only if the registered owner has paid the reasonable expenses and charges of the Authority in

connection therewith and, in the case of a lost or destroyed Note, (a) has filed with the Authority evidence satisfactory to the Authority that such Note was lost or destroyed and (b) has furnished to the Authority satisfactory indemnity.

10. Arbitrage Covenants. The Authority covenants that it shall not take or omit to take any action the taking or omission of which will cause the Note to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the “Code”), or otherwise cause interest on the Note to be includable in the gross income of the registered owner thereof under existing law. Without limiting the generality of the foregoing, the Authority shall comply with any provision of any tax compliance or non-arbitrage agreement or certificate required in connection with the issuance of the Note that may require the Authority at any time to rebate to the United States any part of the earnings derived from the investment of the gross proceeds of the Note, unless the Authority receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Note from being included in the gross income for federal income tax purposes of the registered owners thereof under existing law. The Authority shall pay any such required rebate from legally available funds.

11. Tax Compliance on Non-Arbitrage Agreement or Certificate. Such officers of the Authority as may be requested are authorized and directed to execute and deliver a tax compliance or non-arbitrage certificate or agreement in relation to the Note in the form approved by the Chairman or Vice Chairman of the Board or the Executive Director, or any of them, in collaboration with the Authority’s bond counsel, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the officers of the Authority executing such document, whose approval shall be evidenced conclusively by the execution and delivery thereof.

12. Private Activity Bond Covenant. The Authority covenants that it shall not permit the proceeds of the Note or the Project to be used in any manner that would result in (a) 5% or more of such proceeds or the Project being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or the Project being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code, or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the Authority receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Note from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the Authority need not comply with such covenants.

13. SNAP Investment Authorization and Master Agreement for Cash Management and Transaction Services. The Board hereby authorizes the use of the State Non-Arbitrage Pool in connection with the investment of the proceeds of the Note, if so determined by the Chairman. The Board also authorizes the execution and delivery of a Master Agreement for Cash Management and Transaction Services with the Lender relating to cash management of proceeds from the Note, if so determined by the Chairman.

14. Other Actions. All other actions of Authority officials in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Note are ratified, approved and confirmed. The Authority officials are authorized and directed to

execute and deliver all agreements, certificates and other instruments considered necessary or desirable in connection with the issuance, sale and delivery of the Note and the execution and delivery of the Documents pursuant to this Resolution, including, but not limited to the Documents and any other agreements. A certified copy of this Resolution shall be filed with the Clerk of the Circuit Court of Middlesex County, Virginia in accordance with Section 15.2-5126 of the Code of Virginia of 1950, as amended.

15. Effective Date. This Resolution shall take effect immediately.

ADOPTED THIS 4th DAY OF AUGUST, 2021.

The members of the Board of Directors of the Authority voted as follows on the adoption of this Resolution:

Ayes

Carlton S. Revere
James M. Reed
Greg R. Chambers

Nays

Absent

Lud H. Kimbrough III
Janet S. Riggs

Abstentions

CERTIFICATE

I, the undersigned Secretary of the Board of Directors of the Middlesex Water Authority (the "Authority"), hereby certify that attached hereto is a true and correct copy of a Resolution adopted by the Authority on August 4, 2021, during an open meeting in which a quorum was present, which Resolution has not been amended, modified or repealed as of the date hereof.

Secretary
Middlesex Water Authority

SEAL

MWA PLEDGE TO PROJECT

Mr. Walker noted that a portion of the connection fees that have been pledged to the project along with a portion of the reimbursed reserves will be paid out with the next

payment application. The USDA requires an amount equal to the operating budget to be held in reserves.

PUBLIC COMMENT

The public comment section was opened. No one presented a request to speak, and the public comment period was closed.

ADJOURN

There being no further business, the motion to adjourn until a meeting scheduled for September 15, 2021, at 6:00 p.m. was made by motion of Mr. Revere, seconded by Mr. Reed, and carried unanimously.

Greg Chambers, Chair