

"A Historic Past"



"A Bright Future"

THE CITY OF DELAWARE CITY

407 Clinton Street – P.O. Box 4159

Delaware City, Delaware 19706

Phone: 302-834-4573 Fax: 302-832-5545

Resolution 18-0521-01

APPROVING ISSUANCE OF UP TO \$790,000 MAXIMUM PRINCIPAL AMOUNT GENERAL OBLIGATION BOND, SERIES 2018-SRF, TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DELAWARE WATER POLLUTION CONTROL REVOLVING FUND, AS REGISTERED OWNER, FOR THE PURPOSE OF FINANCING THE ADDITIONAL CONSTRUCTION COSTS ASSOCIATED WITH IMPROVEMENTS TO THE CITY'S WASHINGTON STREET FLOOD MITIGATION PROJECT AS APPROVED BY THE CITY COUNCIL; SETTING FORTH THE SUBSTANTIAL FORM OF THE BOND, INCLUDING THE INTEREST RATE, THE TIMES OF PAYMENT, THE MATURITY DATE, AND OTHER DETAILS OF THE BOND; DETERMINING THAT THE BOND WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY FOR THE BOND; AND AUTHORIZING OTHER NECESSARY ACTION

WHEREAS, The City of Delaware City, Delaware (the "City") pursuant to Section 6-07, 61 Del. Laws Ch. 251, as amended (the "Charter"), is authorized to borrow, for the exclusive purpose of financing a capital asset, a sum or sums of money not exceeding one and a quarter percent (1.25%) of the total assessed property value, exclusive of borrowing against current expenses, when in the opinion of the majority of City Council the needs of the City demand such borrowing, and City Council may secure such sum or sums of money by promissory note or notes, or certificates of indebtedness of the City of Delaware City, provided, however, that any such sum of money borrowed by City Council on the full faith and credit of the City shall be repaid in full, together with all interest and charges thereon, within a period not to exceed the estimated useful life of the capital asset or twenty (20) years, whichever is less and shall be repaid in equal annual installments; and

WHEREAS, the City proposes to borrow up to \$790,000.00 aggregate principal amount for the purpose of providing funds to finance the Washington Street Flood Mitigation Project (the “Project”), consisting of (i) the installation of a new storm sewer main along Washington Street and which will be interconnected with the existing storm sewer system to increase conveyance capacity and (ii) the construction of a triplex, submersible pumping station, with a peak flow capacity of 18,000 gpm at the end of Washington Street adjacent to the existing seawall to pump storm water over the existing seawall and into the Delaware River, such Project constituting a proper municipal purpose under the Charter; and

WHEREAS, the Delaware Department of Natural Resources and Environmental Control (the “Department”) has authorized a loan (the “Loan”) to the City from the Delaware Water Pollution Control Revolving Fund (the “Fund”) in an amount not to exceed \$790,000.00, for a term of 20 years, at an interest rate of 2.0% and the City shall pay semi-annual interest only payments during project construction at the 2.0% interest rate and at project completion, semi-annual interest and principal payments shall be paid by the City sufficient to amortize the remaining principal loan balance over the loan term and interest rate stated above; and

WHEREAS, City Council desires to authorize the Mayor and Secretary of City Council to take such action on behalf of the City as deemed necessary or desirable to effect the purposes of this Resolution and to consummate the proposed borrowing; and

WHEREAS, pursuant to this Resolution, the Mayor and the Secretary of City Council are authorized and directed to enter into all agreements on behalf of the City as they shall determine are necessary or appropriate to carry out the intent of this Resolution; and

WHEREAS, the City now proposes to issue its General Obligation Bond (Washington Street Flood Mitigation Project), Series 2018-SRF (the “Bond”), in an aggregate principal amount not to exceed \$790,000, to finance the Project and pay the costs of issuance of the Bond as approved by City Council and the Mayor; and

WHEREAS, on advice of legal counsel, City Council desires to formalize, ratify, and confirm such action by adoption of a formal written resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND DETERMINED by the Mayor and Council of The City of Delaware City, Delaware, as follows:

Section 1. Authorization of the Incurrence of Indebtedness as Approved by the Mayor and City Council. The City shall borrow the sum of up to Seven Hundred Ninety Thousand Dollars (\$790,000.00), by the issuance of the Bond, which shall not exceed one and a quarter percent (1.25%) of the total assessed property value, exclusive of borrowing against current expenses, as provided in the Charter.

During construction of the Project, the City shall pay semi-annual interest only payments on amounts advanced under the Bond at a rate of two percent (2.0%) per annum. Upon completion of the Project, semi-annual interest and principal payments shall be paid by the City sufficient to amortize the remaining principal loan balance over the remaining loan term that does not exceed twenty (20) years from the date of issuance at an interest rate of two percent (2.0%) per annum.

Section 2. Authorization of Issuance of the Bond. The City shall issue, pursuant to the Charter and this Resolution, its General Obligation Bond (Washing Street Flood Mitigation Project), Series 2018-SRF, in an aggregate principal amount not to exceed \$790,000, to provide funds for the Project and to pay the costs of issuance of the Bond.

Section 3. Form and Terms of the Bond. The Bond shall be substantially in the Form of Bond provided in Exhibit A with appropriate omissions, insertions and variations. The actual Bond will contain the terms of the Bond as required by Section 6-07 of the Charter. The Bond will be issued for a term of twenty (20) years from the date of issuance, at an interest rate of two percent (2.0%) per annum. Such interest shall be payable semi-annually during Project construction. Upon project completion, semi-annual interest and principal payments shall be paid by the City sufficient to amortize the remaining principal loan balance over the loan term and interest rate stated above.

Section 4. Sale of the Bond. The Bond shall be sold at a private sale by negotiation to the Delaware Department of Natural Resources and Environmental Control, Delaware Water Pollution Control Revolving Fund, pursuant to the terms of the Bond and the Financing Agreement, as defined below.

Section 5. Covenant to Pay Debt Service - Pledge of Full Faith, Credit and Taxing Power. The City hereby covenants with the registered owner of the Bond (the Department) pursuant to this Resolution as follows: that the City will include in its budget for each fiscal year during the life of the Bond, the amount of the debt service on the Bond issued hereunder which will be payable in each such fiscal year so long as the Bond shall remain outstanding; that the City shall appropriate such amounts from its general revenues to the payment of such debt service; that the City shall duly and punctually pay or cause to be paid the principal of the Bond and the interest and fee thereon at the dates and places and in the manner stated in the Bond according to the true intent and meaning thereof; and for such budgeting, appropriation and payment, the City hereby pledges its full faith, credit and taxing power. The principal of, premium, if any, and interest on the Bond, if not paid from other sources, shall be paid by ad valorem taxes levied on all real property subject to taxation by the City without limitation as to rate or amount. Any sum of money borrowed by City Council on the full faith and credit of the City shall be repaid in full, together with all interest and charges thereon, within a period not to exceed the estimated useful life of the capital asset or twenty (20) years whichever is less and shall be repaid in equal annual installments.

Section 6. Authorization of the Financing Agreement. The Mayor and City Council are hereby authorized to execute and deliver a Financing Agreement (the "Financing Agreement") by and between the City and the Department setting forth the terms of the Loan and the City's obligation to repay the Loan, if the Project is not completed, which will be evidenced by the execution of the Financing Agreement and delivery of the Bond.

Section 7. Further Action. The proper officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and/or record all such documents, publish all notices and otherwise comply with the provisions of this Resolution and the Charter in the name and on behalf of the City.

Section 8. Charter Applicable to Bond. This Resolution is adopted pursuant to, and the Bond issued hereunder shall be subject to, the provisions of the Charter and all of the mandatory provisions thereof shall apply hereunder whether or not explicitly stated herein.

Section 9. Contract with Bondholder. This Resolution constitutes a contract with the Department as registered owner of the Bond and shall be enforceable in accordance with the provisions of the laws of the State of Delaware.

Section 10. Severability. In case any one or more of the provisions contained in this Resolution or in the Bond issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Resolution or of said Bond and this Resolution or said Bond shall be construed and enforced as if such invalid, illegal or unenforceable provisions had never been contained therein.

Section 11. Repealer. All Resolutions and parts of Resolutions heretofore adopted to the extent that the same are inconsistent herewith are hereby repealed.

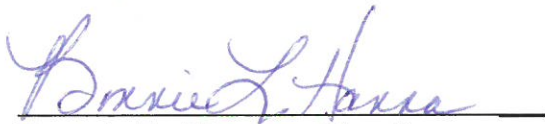
Section 12. Effective Date. This Resolution shall take effect on the date this Resolution is adopted by the Mayor and City Council.

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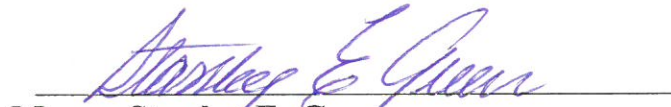
IN WITNESS WHEREOF, WE, THE UNDERSIGNED Mayor and Councilmembers of The City of Delaware City, Delaware, hereby execute the foregoing Resolution and further certify that the foregoing Resolution was duly moved and seconded and adopted by a majority vote of all of the members of City Council at a duly called and convened public meeting of said City Council held on May 21, 2018, at which a quorum was present and acting throughout and that the same is in full force and effect.

This Resolution is passed by the Mayor and Council of the City of Delaware City on this 21st day of May, 2018.

ATTEST:



Bonnie L. Hanna, City Secretary



Mayor Stanley E. Green

Betty Barrett, Council Member



Elizabeth Konkus, Council Member

Robert Malinowski, Council Member



Chase E. Renoll, Council Member



Margaret C. Titus, Council Member

Exhibit A
Form of Bond

REGISTERED

R-1

\$790,000

UNITED STATES OF AMERICA

STATE OF DELAWARE

CITY OF DELAWARE CITY

GENERAL OBLIGATION BOND

(WASHINGTON STREET FLOOD MITIGATION PROJECT)

SERIES 2018-SRF

Final Maturity Date: _____, 20__

REGISTERED OWNER: Delaware Water Pollution Control Revolving Fund, Delaware
Department of Natural Resources and Environmental Control

PRINCIPAL AMOUNT: Seven Hundred Ninety Thousand Dollars (\$790,000.00)

THE CITY OF DELAWARE CITY, DELAWARE, a municipal corporation and political subdivision of the State of Delaware (hereinafter referred to as the “Borrower” or the “City”), for value received hereby acknowledges itself indebted and promises to pay, as hereinafter set forth if necessary, to the DELAWARE WATER POLLUTION CONTROL REVOLVING FUND, or to any other registered owner hereof, the principal sum of SEVEN HUNDRED NINETY THOUSAND DOLLARS (\$790,000.00) or so much thereof as shall actually be advanced to the Borrower by the Delaware Water Pollution Control Revolving Fund, acting by and through the Delaware Department of Natural Resources and Environmental Control (the “Department”) pursuant to the Financing Agreement dated _____, 2018 (the “Financing Agreement”) between the Borrower and the Department.

This Bond is being issued in order to provide funds to finance all or a portion of:

- (i) the construction costs associated with the City’s Washington Street Flood Mitigation Project, as more fully described in Exhibit A to the Financing Agreement (collectively, the “Project”);
- and (ii) the costs of issuing the Bond.

The Borrower shall pay to the Department, on the principal amount drawn down and outstanding hereunder from the date(s) drawn, interest at the rate of 1.00% per annum and an administrative fee at the rate of 1.00% per annum (collectively, interest and the administrative fee are referred to herein as “Fee”). Such Fee shall accrue starting on the date hereof (the “Closing”) through the completion of the Project or through the final maturity date or prepayment in full hereof. The Borrower shall pay Fee hereunder initially on _____, 2018 and semiannually thereafter on each _____ 1 and _____ 1 (each, a “Payment Date”). The Borrower shall pay only Fee and no principal during the period commencing with the Closing through the

Payment Date next succeeding the date on which the Project is actually completed (currently expected to be _____, 20____ as of the Closing).

The Borrower expects to complete the project by _____, 20__ (herein referred to as the "Amortization Start Date"). This projected date of completion of the Project is subject to an extension if such extension is mutually agreed upon by the Department and the Borrower.

After the Amortization Start Date, Fee and principal shall be payable on the outstanding principal amounts drawn hereunder semiannually, on each Payment Date, commencing on the Payment Date next succeeding the Amortization Start Date and continuing on each of the next _____ () following Payment Dates, in an amount sufficient to amortize all principal drawn with substantially equal semiannual payments of principal and Fee until the Final Maturity Date. Once determined, Payment Dates shall remain the same throughout the term of this Bond.

The Amortization Start Date is based on the expected Project completion date, as of the Closing, of _____, 20____ and is subject to change should the actual completion date of the Project vary from the expected date of completion. Once the Borrower has confirmed the Project is completed and/or notified the Department that no additional funds will be drawn or requested for the Project, the Amortization Start Date will commence.

If by _____, 2019, which is one year from the date of Closing, (i) the Borrower has not drawn down the principal amount of this Bond by more than ten percent (10%) of the Project costs, and (ii) the Department has not received a Notice to Proceed as required by

the Financing Agreement, the Department may in its discretion assess a penalty of one percent (1%) of the total principal amount authorized by this Bond (the "Penalty"). Such Penalty may be drawn by the Department from the principal amount allocated to this Bond. It is within the Department's complete discretion whether to impose the Penalty based upon its review of affirmative steps taken by the Borrower to complete the Project and the totality of the circumstances surrounding any such delay in making draws on the principal amount of this Bond.

Notwithstanding the foregoing, all unpaid principal and Fee shall be paid in full on the Final Maturity Date. The Fee hereon shall be calculated on the basis of a 360-day year consisting of twelve 30-day months. Both the principal of and Fee on this Bond are payable in lawful money of the United States of America. Principal of and Fee on this Bond shall be paid by check or draft mailed or remitted electronically on the payment date to the Registered Owner, as shown on the books and records of the Borrower.

This Bond is authorized and issued pursuant to the Laws of the State of Delaware, including 61 Del. Laws Ch. 251, as amended, and a resolution adopted by the Borrower on May 21, 2018.

At the option of the Borrower and upon providing prior written notice to the Registered Owner hereof, as shown on the books and records of the Borrower, this Bond may be prepaid or redeemed in whole or in part, without penalty, at any time, and any prepayment in part of this Bond shall be applied to all or a portion of the principal installments then outstanding as shall be specified by the Borrower. If all or a portion of this Bond is called for redemption, it or the

portion so called will cease to bear Fee on the specified redemption date provided that funds for the payment of the principal amount of the portion of this Bond so called for redemption and the accrued Fee thereon to the redemption date are on deposit at the place of payment on the redemption date.

It is hereby certified and recited that all conditions, acts, and things required by the Constitution, statutes or laws of the State of Delaware to exist, be performed or happen, precedent to or in the issuance of this Bond, do exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the Borrower, is within every debt and other limit prescribed by said Constitution, statutes or laws. This Bond is a valid and legally binding general obligation of the Borrower and, unless paid from other sources, the principal and Fee payable hereon will be paid from ad valorem taxes levied upon all real property subject to taxation by the Borrower. The full faith and credit of the Borrower are hereby pledged to the punctual payment of the principal of and Fee on this Bond according to its terms.

This Bond may be transferred by the Registered Owner hereof in person or by its attorney duly authorized in writing. The Borrower may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal hereof and for all other purposes.

The provisions of this Bond shall be construed and enforced under the laws of the State of Delaware.

IN WITNESS WHEREOF, the Borrower has caused this Bond to be signed by the Mayor and attested by the Secretary of City Council, and the official corporate seal of the Borrower to be imprinted or impressed hereon, and this Bond to be dated _____, 2018.

THE CITY OF DELAWARE CITY,
DELAWARE

(SEAL)

Stanley E. Green,
Mayor

ATTEST:

Bonnie Hanna,
City Secretary

[END OF FORM OF BOND]