

December 29, 2020

Mr. Michael Saraceni
Executive Director
The Merchantville-Pennsauken Water Commission
6751 Westfield Avenue
Pennsauken, New Jersey

RE: IMPACT ON TAX-EXEMPT STATUS OF EXISTING AND FUTURE FINANCING INSTRUMENTS OF WATER SERVICES MAINTENANCE AGREEMENT WITH SUEZ ADVANCED SOLUTIONS/UTILITY SERVICES CO, INC.

Dear Mr. Saraceni:

You have asked us to review the impact of the proposed Water Main Asset Management and Maintenance Agreement ("Agreement"), by and between the Merchantville-Pennsauken Water Commission ("Commission") and SUEZ Advanced Solutions/Utility Services Co, Inc. ("Company"), on the tax-exempt status of the Commission's existing and future financing instruments.

The Commission is seeking to enter into the Agreement pursuant to The New Jersey Water Supply Public-Private Contracting Act (*N.J.S.A. § 58:26-19, et seq.*) ("Act"). This opinion is being delivered pursuant to Section 58:26-23(g) of the Act, which requires a written opinion of bond counsel as to effect of the Agreement on the tax exempt status of existing and future financing instruments executed by the Commission given the terms of the Agreement and the federal laws or regulations in connection therewith. We understand that the Commission has relied upon its staff and other counsel with respect to compliance with the requirements of all aspects of the Act including, but not limited to, procurement of the Agreement.

In connection therewith, we have reviewed the proposed version of the Agreement, including the amendments and supplements thereto, as provided to us by the Commission. Additionally, we have reviewed Section 141(b)(1) of the Internal Revenue Code of 1986, as amended, as well as the Internal Revenue Service's Revenue Procedures 1997-13, 2014-67, 2016-44 and 2017-13, each relating to the use of management contracts in tax-exempt financing transactions. Finally, we have reviewed the proceedings related to the Commission's outstanding tax-exempt obligations, including: (i) multiple series of water revenue bonds issued to each of the New Jersey Environmental Infrastructure Trust and the State of New Jersey ("State"), by and through the Department of Environmental Protection, in the years 2001, 2003, 2007, 2010 and 2014 ("Outstanding Bonds"); and (ii) a series of municipally guaranteed project notes sold to 1st Colonial Community Bank, as purchaser ("Outstanding Notes"; together with the Outstanding Bonds, the "Outstanding Tax-Exempt Obligations").

COUNSEL WHEN IT MATTERS.SM

In rendering the following opinion, we have relied upon the authenticity, truthfulness and completeness of all documents examined.

Based upon and subject to the foregoing, we are of the opinion that, assuming the due authorization, execution and delivery of the Agreement by the Commission and the Company in its current proposed form, the performance by each party of their obligations thereunder will not impact the tax exempt status of the Outstanding Tax-Exempt Obligations and, assuming relevant Federal and State law remain unchanged, should not negatively impact future financing instruments executed by the Commission.

We express no opinion as to any matter not set forth in the preceding paragraph. The opinion expressed above is being rendered on the basis of federal law and the laws of the State of New Jersey, as presently enacted and construed, and we assume no responsibility to advise any party as to any changes in law or fact subsequent to the date hereof that may affect the opinions expressed in the paragraph above.

This is only an opinion letter and not a warranty or guaranty of the matters discussed above.

This letter is being provided for your exclusive benefit pursuant to the requirements of the Act and may not be provided to or relied upon by any other person, party, firm or organization without our prior written consent.

Very truly yours,



AGREEMENT REGARDING TAX TREATMENT IN CONNECTION WITH
WATER MAIN ASSET MANAGEMENT AGREEMENT

This Agreement Regarding Tax Treatment in Connection with the Water Main Asset Management Agreement ("Tax Agreement"), is entered into by and between the Merchantville-Pennsauken Water Commission ("Commission") and SUEZ Advanced Solutions/Utility Services Co, Inc. ("Service Provider"), in connection with the Water Main Asset Management Agreement, by and between the Commission and the Service Provider ("Service Agreement"), a copy of which is attached hereto as Exhibit "A". Therefore, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Commission and the Service Provider, **the parties hereto agree as follows:**

As a condition of entering into the Service Agreement, the Commission and its professional advisors must determine that the Service Agreement does not result in private business use of property financed with governmental tax-exempt bonds under §141(b) of the Internal Revenue Code or cause the modified private business use test for property financed with qualified 501(c)(3) bonds under § 145(a)(2)(B) to be met, as set forth in the Internal Revenue Service's Revenue Procedure 2017-13 ("Revenue Procedure"). As a result thereof, pursuant to Section 5.03 of the Revenue Procedure the Service Provider must agree that it is not entitled to and will not take any tax position that is inconsistent with being a service provider to the Commission with respect to the managed property.

In order to allow the Commission to enter into the Service Agreement, the Service Provider hereby agrees as follows:

1. The Service Provider acknowledges and agrees that it is not entitled to, nor shall claim federal tax benefits attributable to tax ownership of the assets under management, such as, but not exclusive to, depreciation and federal tax credits.
2. The Service Provider is aware that violation of clause 1, above may result in, (a) any debt heretofore or hereafter issued by the Commission losing its federally tax advantaged status; (b) loss of benefits (possibly retroactively) to the Commission and, or, the holder of such debt; and/or (c) fines and penalties being levied against the Commission.
3. The Service Provider agrees to indemnify and hold the Commission harmless for any damages, fines, penalties or other losses of any kind whatsoever resulting from the Service Provider's failure to comply with clause 1 hereof.
4. Failure of the Service Provider to comply with clause 1 hereof shall constitute a termination event pursuant to Section N of the Service Agreement pursuant to which the Commission may, but shall not be required to, terminate the Service Agreement upon thirty (30) days prior written notice.

This Tax Agreement may be relied on by Special Counsel in delivering an opinion regarding the Service Agreement.


In Witness whereof the parties have set their authorized signatures hereto respectively on the dates noted below. The parties hereto by their authorized representatives agree to all the above.

MERCHANTVILLE-PENNSAUKEN WATER COMMISSION

By: 
MICHAEL A. SARACENI, Chief Operating Officer



SUEZ ADVANCED SOLUTIONS/UTILITY SERVICE CO, INC.

By: 
Name: **J. Shane Albritton**
Title: **Corporate Secretary**

