

**BOROUGH OF RED BANK
MONMOUTH COUNTY, NEW JERSEY**

ORDINANCE NUMBER 2021-02

**BOND ORDINANCE PROVIDING FOR VARIOUS
IMPROVEMENTS BY THE WATER/SEWER UTILITY OF THE
BOROUGH OF RED BANK, IN THE COUNTY OF
MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING
\$1,757,000 THEREFOR AND AUTHORIZING THE
ISSUANCE OF \$1,757,000 BONDS OR NOTES TO FINANCE
THE COST THEREOF**

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF RED BANK, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough") as general improvements. For the said improvements or purposes stated in Section 3 hereof, there is hereby appropriated the principal amount of \$1,757,000. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), no down payment is required as the Water/Sewer Utility is self-liquidating.

SECTION 2. For the financing of said improvements described in Section 3 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the aggregate principal amount of \$1,757,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in an aggregate principal amount not exceeding \$1,757,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and the purposes for the financing of which said obligations are to be issued are for various water/sewer acquisitions and/or improvements including, but not limited to, utility improvements on Broad Street, lift station on High Street, water main improvements on Alston Court, sewer improvements on Hubbard Park, purchase of a generator at the Bodman Pump Station and the purchase of a sewer jet truck. Such improvements or purposes shall also include, but are not limited to, as required, removal and replacement of, as applicable, sidewalks, concrete curbing, curb ramps, driveway aprons, regrading, landscaping, excavation, pavement striping, installation of traffic calming devices, resetting manholes and inlets, and various other curb, sidewalk and parking lot maintenance.

(b) The above improvements and purposes set forth in Section 3(a) shall also include the following, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents,

construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(c) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,757,000.

(d) The estimated cost of said improvements or purposes is \$1,757,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the Borough for the improvements and purposes authorized in Section 3 hereof, and the same shall be received by the Borough 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, the State of New Jersey, and/or the County of Monmouth. In the event that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Monmouth shall be received by the Borough 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.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date. The 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 Borough shall determine all matters in connection with the notes issued pursuant to this bond ordinance and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a 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 notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget of the Borough, as applicable. The capital budget of the Borough 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 of the Borough, 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 Borough 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 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 20 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 Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,757,000, but such amount shall constitute a deduction from gross debt to the extent permitted by law, 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 \$350,000 for items of expense listed in and permitted under Section 40A:2-20 of the Local Bond Law is included in the estimated cost indicated herein for the purposes or improvements hereinbefore described.

SECTION 8. Unless paid from other sources, the full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. Unless paid from other sources, the obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough 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 Borough's official intent to reimburse any expenditures 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 §1.150-2. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for costs of the improvements or purposes described in Section 3 hereof, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized herein or another issue of debt obligations of

the Borough other than amounts deposited into a “bona fide debt service fund” (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$1,757,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of section 150 of the Code. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized herein is paid, or (ii) the date the improvements or purposes described in Section 3 hereof is “placed in service” (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid.

SECTION 10. The Chief Financial Officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough, which are authorized herein, and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough, which are authorized herein, and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Code the interest on all bonds and notes issued under this bond ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, and approval by the Mayor, as provided by the Local Bond Law.

| | Motion | Yes | No | Abstain | Absent |
|------------------------|--------|-----|----|---------|--------|
| Councilman Yassin | | | | | |
| Councilwoman Triggiano | | | | | |
| Councilman Ballard | | | | | |
| Councilman Yngstrom | | | | | |
| Councilman Zipprich | | | | | |
| Councilwoman Horgan | | | | | |

Dated: January 13, 2021