

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

ORDINANCE NUMBER 2018-27

**BOND ORDINANCE OF THE BOROUGH OF RED BANK,
COUNTY OF MONMOUTH, STATE OF NEW JERSEY,
AMENDING AND SUPPLEMENTING BOND ORDINANCE
NUMBER 2017-21 FINALLY ADOPTED ON JULY 26, 2017 AND
FURTHER AMENDED BY BOND ORDINANCE NUMBER 2018-09
FINALLY ADOPTED ON MARCH 28, 2018 TO INCREASE THE
TOTAL APPROPRIATION THEREIN FROM \$825,000 TO
\$1,400,000, TO INCREASE THE TOTAL DEBT AUTHORIZATION
THEREIN FROM \$825,000 TO \$1,400,000, AND TO AMEND AND
SUPPLEMENT OTHER PROVISIONS THEREIN**

Councilman Ballard offered a motion to adopt the following ordinance:

**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 bond ordinance of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"), heretofore finally adopted by the Borough Council on July 26, 2017, numbered 2017-21 and entitled, "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 \$600,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$600,000 BONDS OR NOTES TO FINANCE THE COST THEREOF" as further amended by Bond Ordinance Number 2018-09 finally adopted by the Borough Council on March 28, 2018 (collectively, the "Prior Ordinance"), is hereby amended and supplemented to the extent and with the effect as set forth below:

(a) The total appropriation in the Prior Ordinance is hereby increased by \$575,000, from \$825,000 to \$1,400,000. 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., as amended and supplemented (the "Local Bond Law"), no down payment is required as the Water/Sewer Utility of the Borough is self-liquidating.

(b) The total bonds/notes debt authorization in the Prior Ordinance is hereby increased by \$575,000, from \$825,000 to \$1,400,000.

(c) The permitted costs under Section 40A:2-20 of the Local Bond Law as set forth in Section 7(d) of the Prior Ordinance are increased by \$315,000, from \$185,000 to \$500,000.

SECTION 2. 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 by the Prior Ordinance, as amended and supplemented hereby, and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in the Prior

Ordinance, as amended and supplemented hereby, 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, however, 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 the Prior Ordinance, as amended and supplemented hereby, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 2 shall not apply, however, with respect to any contribution or grant-in-aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant-in-aid.

SECTION 3. The Capital Budget of the Borough is hereby amended, as necessary, to conform with the provisions of this bond ordinance and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, will be on file in the office of the Clerk and will be available for public inspection.

SECTION 4. The following additional matters are hereby determined, declared, recited and stated:

(a) 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, Department of Community Affairs, State of New Jersey, 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 \$575,000, but such amount shall constitute a deduction from gross debt to the extent permitted by law, and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law

(b) For the improvement or purpose set forth in the Prior Ordinance, as amended and supplemented hereby, an additional sum of \$315,000 is hereby included for items of expense listed in and permitted under N.J.S.A. 40A:2-20, making the total amount for such items of expense equal to an aggregate amount not exceeding \$500,000, such total amount being included in the estimated cost indicated herein for the improvement or purpose set forth in the Prior Ordinance, as amended and supplemented hereby.

SECTION 5. 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 the Prior Ordinance, as amended and supplemented hereby. 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 principal of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 6. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in the Prior Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Prior Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. This Section 6 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 the Prior Ordinance, as amended and supplemented hereby, 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 in the Prior Ordinance, as amended and supplemented hereby, used to reimburse the Borough for costs of the improvements or purposes described in the Prior Ordinance, as amended and supplemented hereby, 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 in the Prior Ordinance, as amended and supplemented hereby, 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 in the Prior Ordinance, as amended and supplemented hereby, to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in the Prior Ordinance, as amended and supplemented hereby, will be issued in an additional amount not to exceed \$575,000 and a total amount not to exceed \$1,400,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized in the Prior Ordinance, as amended and supplemented hereby, 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 in the Prior Ordinance, as amended and supplemented hereby, is paid, or (ii) the date

the improvements or purposes described in the Prior Ordinance, as amended and supplemented hereby, 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 7. 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 the Prior Ordinance, as amended and supplemented hereby.

SECTION 8. Except as expressly amended and supplemented hereby, the Prior Ordinance shall remain in full force and effect.

SECTION 9. This amendatory and supplemental bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

Seconded by Councilman Zipprich and introduced on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Taylor	(X)	()	()	()
Councilman Whelan	(X)	()	()	()
Councilman Yngstrom	(X)	()	()	()
Councilman Ballard	(X)	()	()	()
Councilman Zipprich	(X)	()	()	()
Councilwoman Horgan	(X)	()	()	()

Dated: October 10, 2018

**ADOPTED ON FIRST READING
DATED: September 26, 2018**

Pamela Borghi

**PAMELA BORGHI
Borough Clerk**

**ADOPTED ON SECOND READING
DATED: October 10, 2018**

Pamela Borghi

**PAMELA BORGHI
Borough Clerk**

APPROVAL BY THE MAYOR ON THIS ___ DAY OF _____, 2018.

PASQUALE MENNA, Mayor
Borough of Red Bank

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

PUBLIC NOTICE

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a regular meeting of the governing body of the Borough of Red Bank, in the County of Monmouth, State of New Jersey on September 26, 2018. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Borough's Municipal Building, Council Chambers, 90 Monmouth Street, Red Bank, New Jersey 07701, October 10, 2018 at 6:30 p.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2017-21 FINALLY ADOPTED ON JULY 26, 2017 AND FURTHER AMENDED BY BOND ORDINANCE NUMBER 2018-09 FINALLY ADOPTED ON MARCH 28, 2018 TO INCREASE THE TOTAL APPROPRIATION THEREIN FROM \$825,000 TO \$1,400,000, TO INCREASE THE TOTAL DEBT AUTHORIZATION THEREIN FROM \$825,000 TO \$1,400,000, AND TO AMEND AND SUPPLEMENT OTHER PROVISIONS THEREIN**

Purpose(s): To increase the total appropriation from \$825,000 to \$1,400,000, increase the total bonds/notes debt authorization from \$825,000 to \$1,400,000, and increase the Section 2-20 costs from \$185,000 to \$500,000

Appropriation: Increase of \$575,000 from \$825,000 to \$1,400,000

Bonds/Notes Authorized: Increase of \$575,000 from \$825,000 to \$1,400,000

Grants Appropriated None

Down Payment: None

Section 2-20 Costs: Increase of \$315,000 from \$185,000 to \$500,000

Useful Life: No Change (20 years)

**PAMELA BORGHI,
Borough Clerk**

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

PUBLIC NOTICE

NOTICE OF FINAL ADOPTION OF BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by Borough Council of the Borough of Red Bank, in the County of Monmouth, State of New Jersey on October 10, 2018 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title: **BOND ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2017-21 FINALLY ADOPTED ON JULY 26, 2017 AND FURTHER AMENDED BY BOND ORDINANCE NUMBER 2018-09 FINALLY ADOPTED ON MARCH 28, 2018 TO INCREASE THE TOTAL APPROPRIATION THEREIN FROM \$825,000 TO \$1,400,000, TO INCREASE THE TOTAL DEBT AUTHORIZATION THEREIN FROM \$825,000 TO \$1,400,000, AND TO AMEND AND SUPPLEMENT OTHER PROVISIONS THEREIN**

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Appropriation: Increase of \$575,000 from \$825,000 to \$1,400,000

Bonds/Notes Authorized: Increase of \$575,000 from \$825,000 to \$1,400,000

Grants Appropriated None

Down Payment: None

Section 2-20 Costs: Increase of \$315,000 from \$185,000 to \$500,000

Useful Life: No Change (20 years)

**PAMELA BORGHI,
Borough Clerk**

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

CERTIFICATE OF INTRODUCTION OF BOND ORDINANCE

I, the undersigned Clerk of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"), DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the Borough Council of the Borough duly called and held on September 26, 2018 at 6:30 p.m. at the Borough's Municipal Complex and that the following was the roll call:

Present:

Absent:

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the Borough Council and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough as of this ___ day of _____, 2018.

(SEAL)

PAMELA BORGHI,
Borough Clerk

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

CERTIFICATE OF FINAL ADOPTION OF BOND ORDINANCE

I, the undersigned Clerk of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"), DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the Borough Council of the Borough duly called and held on October 10, 2018 at 6:30 p.m. at the Borough's Municipal Complex and that the following was the roll call:

Present:

Absent:

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the Borough Council and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Borough as of this __ day of _____, 2018.

(SEAL)

**PAMELA BORGHI,
Borough Clerk**

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

**CERTIFICATE AS TO BOND ORDINANCE
ADOPTION PROCESS**

I, PAMELA BORGHI, DO HEREBY CERTIFY that I am the Clerk of the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"), a municipal corporation organized and existing under the laws of the State of New Jersey, and that as such I am duly authorized to execute and deliver this certificate on behalf of the Borough. In such capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Borough and the records relative to all resolutions and Ordinance of the Borough. The representations made herein are based upon the records of the Borough. I DO HEREBY FURTHER CERTIFY THAT:

1. Attached hereto is the bond ordinance introduced on September 26, 2018 and finally adopted on October 10, 2018 and approved by the Mayor on _____, 2018.

2. After introduction, the bond ordinance was published as required by law on _____, 2018 in The Asbury Park Press.

3. Following the passage of the bond ordinance on first reading, and at least seven (7) days prior to the final adoption thereof, I caused to be posted in the principal municipal building of the Borough at the place where public notices are customarily posted, a copy of said bond ordinance or a summary thereof and a notice that copies of the bond ordinance would be made available to the members of the general public of the Borough who requested copies, up to and including the time of further

consideration of the bond ordinance by the governing body. Copies of the bond ordinance were made available to all who requested same.

4. After final passage, the bond ordinance was duly approved by the Mayor of the Borough and published as required by law on _____, 2018 in The Asbury Park Press. No protest signed by any person against making any improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the bond ordinance has been presented to the governing body or to me or filed in my office within twenty (20) days after said publication or at any other time after the final passage thereof.

5. The bond ordinance has not been amended, added to, altered, or repealed and said bond ordinance is now in full force and effect.

6. A certified copy of this bond ordinance and a copy of the amended capital budget form have been filed with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, as applicable.

7. The official seal of the Borough is the seal, an impression of which is affixed opposite my signature on this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Borough as of this ___ day of _____, 2018.

PAMELA BORGHI,
Borough Clerk

(SEAL)

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

**CERTIFICATE OF SUPPLEMENTAL DEBT STATEMENT
FOR BOND ORDINANCE**

I, the undersigned, clerk of the Borough of Red Bank, in the County of Monmouth, State of New Jersey, DO HEREBY CERTIFY, that the attached Supplemental Debt Statement was prepared, executed and sworn to by Eugenia Poulos, the Chief Financial Officer of the Borough as of September 26, 2018, that such Supplemental Debt Statement was filed in my office on or by September 26, 2018 and with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs on _____, 2018.

**PAMELA BORGHI,
Borough Clerk**