

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

ORDINANCE NUMBER 2018-34

**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 \$1,450,000
THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,450,000
BONDS OR NOTES TO FINANCE THE COST THEREOF**

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 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 \$1,450,000, said sum being inclusive of all appropriations heretofore made therefor. Pursuant to the provisions of N.J.S.A. 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 this bond ordinance authorizes obligations for environmental infrastructure projects which are funded by a loan from the New Jersey Infrastructure Bank (the "I-Bank"). Additionally, pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of 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 \$1,450,000 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 \$1,450,000 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 improvements at various locations throughout the Borough, including but not limited to, the identification and exercising of water valves, design and construction of new/replacement water/sewer infrastructure on White Street and water and sewer lining. 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 \$1,450,000.

(d) The estimated cost of said improvements or purposes is \$1,450,000.

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, unless such notes are permitted to mature at such later date in accordance with the provisions of the New Jersey Infrastructure Trust Act, N.J.S.A. 58:11B-1 (the "NJIT Act"). 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, and, as applicable, the provisions of the NJIT Act. 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 Capital Budget of the 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 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 \$1,450,000, 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 \$400,000 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 \$1,450,000. 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 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 11. 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.

Seconded by Councilman Zipprich and adopted 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: November 28, 2018

First Reading/Introduction: November 10, 2018

Second Reading/Public Hearing: November 28, 2018

Adoption: November 28, 2018

I hereby certify the above to be a true copy.

Pamela Borghi

Pamela Borghi, Municipal Clerk

**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 November 7, 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 on November 28, 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: **ORD NO. 2018-34 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 \$1,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,450,000 BONDS OR NOTES TO FINANCE THE COST THEREOF**

Purpose(s): Various water/sewer improvements at various locations throughout the Borough, including but not limited to, the identification and exercising of water valves, design and construction of new/replacement water/sewer infrastructure on White Street and water and sewer lining

Appropriation: \$1,450,000

Bonds/Notes Authorized: \$1,450,000

Grants Appropriated: None

Down Payment: None (Self-Liquidating)

Section 20 Costs: \$400,000

Useful Life: 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 November 28, 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 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 \$1,450,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,450,000 BONDS OR NOTES TO FINANCE THE COST THEREOF**

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Bonds/Notes
Authorized: \$1,450,000

Grants
Appropriated: None

Down Payment: None (Self-Liquidating)

Section 20
Costs: \$400,000

Useful Life: 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 November 7, 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 November 28, 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 ordinances 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 November 7, 2018 and finally adopted on November 28, 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 November 7, 2018, that such Supplemental Debt Statement was filed in my office on November 7, 2018 and with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs on _____, 2018.

**PAMELA BORGHI,
Borough Clerk**