

**BOROUGH OF RED BANK  
ORDINANCE NUMBER 2019-72**

**BOND ORDINANCE PROVIDING FOR THE FUNDING OF  
STREETSCAPE AND DRAINAGE IMPROVEMENTS  
PURSUANT TO A SHARED SERVICES AGREEMENT WITH  
A SPECIAL IMPROVEMENT DISTRICT, BY AND IN THE  
BOROUGH OF RED BANK, IN THE COUNTY OF  
MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING  
\$180,000 THEREFOR AND AUTHORIZING THE ISSUANCE  
OF \$180,000 BONDS OR NOTES OF THE BOROUGH TO  
FINANCE PART OF THE COST THEREOF**

**WHEREAS**, the Borough of Red Bank, in the County of Monmouth, New Jersey (the "Borough") has entered into a Shared Services Agreement (the "Agreement") with the Special Improvement District Borough of Red Bank, Inc. D/B/A Red Bank RiverCenter ("River Center") for the undertaking of streetscape, lighting and drainage improvements within the Borough's English Plaza Parking Lot and surrounding properties located on and around the English Plaza Parking Lot and White Street (the "Project") ; and

**WHEREAS**, the Project's cost is approximately \$1.5 million which is being funded through various sources; and

**WHEREAS**, pursuant to the Agreement, the Borough has agreed to provide a \$180,000 loan (the "Loan") to River Center, the proceeds of which will be used towards the cost of the Project; and

**WHEREAS**, the repayment of the Loan and the corresponding payment of the obligations authorized herein will be the responsibility of River Center.

**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 the members thereof affirmatively concurring) **AS  
FOLLOWS:**

SECTION 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Red Bank, in the County of Monmouth, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the amount of \$180,000. Pursuant to the provisions of Section 40A:2-11(c) of the Local Bond Law (N.J.S.A. 40A:2-1 et seq.) (the "Local Bond Law"), the Borough is not required to provide for a down payment for such improvements or purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof, and to meet part of said \$180,000 appropriation, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$180,000 pursuant to, and within the limitations prescribed by, the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding \$180,000 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 purpose for the financing of which said obligations are to be issued are for the provision of a loan to River Center the proceeds of which will be used towards the undertaking of streetscape, lighting and drainage improvements within the Borough's English Plaza Parking Lot and surrounding properties located on and around the English Plaza Parking Lot and White Street, including any structures, buildings, improvements, personal property, fixtures, easements, rights-of-way or other property rights currently located thereon.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$180,000.

(c) The estimated cost of said improvement or purpose is \$180,000.

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 improvement and purpose authorized hereby 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, 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 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. This Section 4 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 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 of the Borough. 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 of the Borough 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 N.J.S.A. 40A:2-8.1. The Chief Financial Officer of the Borough is hereby authorized to sell part or all of the notes from time to time at 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 of the Borough 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, and 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 temporary capital budget, as applicable. The capital budget of the Borough is hereby amended 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 programs 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 purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully undertake as a general improvement, 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 within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is fifteen (15) 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 Department of Community Affairs of the 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 and notes provided for in this bond ordinance by \$180,000, 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 \$10,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement herein before described.

SECTION 8. 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. 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 improvement or purpose 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 improvement or purpose 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. 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 by this bond ordinance is paid, or (ii) the date the improvement or purpose 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 of the interest on all bonds and notes issued under this bond ordinance.

SECTION 11. 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 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin	Second	X			
Councilwoman Triggiano		X			
Councilman Ballard					X
Councilman Yngstrom		X			
Councilman Zipprich	Motion	X			
Councilwoman Horgan		X			

Introduction: November 26, 2019  
Public Hearing/Adoption: December 11, 2019