

**TOWN OF PHILLIPSBURG
BOND ORDINANCE (O: 2014-20)**

BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO THE TOWN SEWAGE TREATMENT PLANT, BY THE SEWER UTILITY OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY; APPROPRIATING \$2,077,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,077,000 BONDS OR NOTES OF THE TOWN TO FINANCE THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Sewer Utility of the Town of Phillipsburg, in the County of Warren, State of New Jersey (the "Town"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$2,077,000. Pursuant to Sections 40A:2-7d and 40A:2-11c of the Local Bond Law (N.J.S.A. 40A:2-1 et seq.) (the "Local Bond Law"), the Town is not required to provide for a down payment for such improvements or purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the \$2,077,000 appropriation provided for therein, negotiable bonds of the Sewer Utility of the Town are hereby authorized to be issued in the aggregate principal amount of \$2,077,000 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 Sewer Utility of the Town in an aggregate principal amount not exceeding \$2,077,000 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 purposes for the financing of which said obligations are to be issued is improvements to the Town Sewage Treatment Plant, including but not limited to UV disinfection improvements.

(b) The above improvements and purposes set forth in Section 3(a) shall also include the following, as applicable, surveying, construction planning, engineering and design work, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, environmental testing and remediation and also all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

(c) The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$2,077,000.

(d) The aggregate estimated cost of said improvements or purposes is \$2,077,000.

SECTION 4. In the event the United States of America, the State of New Jersey and/or the County of Warren make a contribution or grant in aid to the Town for the improvements and purposes authorized hereby and the same shall be received by the Town *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 Warren. 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 Warren shall be received by the Town 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; provided further, however, that any “debt forgiveness” provided to the Town by the New Jersey Environmental Infrastructure Trust shall be effectuated as a reduction in the outstanding principal amount of bonds or notes issued by the Sewer Utility of the Town to the State of New Jersey under the New Jersey Environmental Infrastructure Trust Financing Program.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Town (the “Chief Financial Officer”), 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 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 N.J.S.A. 40A:2-8.1. The Chief Financial Officer 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 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 capital budget of the Sewer Utility of the Town is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith and 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, is on file in the office of the Clerk and is available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements or purposes which the Sewer Utility of the Town may lawfully undertake as general improvements or purposes, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average 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 40 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 Town and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement

shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$2,077,000 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 \$250,000 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 improvements or purposes herein before described.

SECTION 8. The full faith and credit of the Town 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 Town, and the Town shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Town for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Town 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 Town'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 Section 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 by this bond ordinance used to reimburse the Town for costs of the improvement or purpose 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 by this bond ordinance or another issue of debt obligations of the Town, 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 Town for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amount not to exceed \$2,077,000. 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 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 3 years after the expenditure is paid.

SECTION 10. The Town 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 ordinance.

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

**ADOPTED ON FIRST READING
DATED: September 16, 2014**

/s/

**VICTORIA L. KLEINER,
Acting Clerk of the Town of Phillipsburg**

**ADOPTED ON SECOND READING
DATED: October 7, 2014**

/S/

**VICTORIA L. KLEINER,
Acting Clerk of the Town of Phillipsburg**

**TOWN OF PHILLIPSBURG
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 meeting of the governing body of the Town of Phillipsburg, in the County of Warren, State of New Jersey, on September 16, 2014. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Phillipsburg Municipal Building, 675 Corliss Avenue, Phillipsburg, in said County on October 7, 2014 at 7:00 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 PROVIDING FOR IMPROVEMENTS TO THE TOWN SEWAGE TREATMENT PLANT, BY THE SEWER UTILITY OF THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY; APPROPRIATING \$2,077,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,077,000 BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF

Purpose(s): Improvements to the Town Sewage Treatment Plant, including UV disinfection improvements

Appropriation: \$2,077,000

Bonds/Notes Authorized: \$2,077,000

Grants Appropriated: -0-

Section 20 Costs: \$250,000

Useful Life: 40 years

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg

**TOWN OF PHILLIPSBURG
PUBLIC NOTICE
BOND ORDINANCE STATEMENT AND SUMMARY**

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Town of Phillipsburg, in the County of Warren, State of New Jersey on October 7, 2014, 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:

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Useful Life: 40 years

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg

CERTIFICATE OF INTRODUCTION

I, the undersigned Acting Clerk of the Town of Phillipsburg, in the County of Warren, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Town duly called and held on September 16, 2014 at 7:00 p.m. at the Phillipsburg Municipal Building, 675 Corliss Avenue, Phillipsburg, in said County, 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 governing body of the Town 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 Town this 16 day of September, 2014.

(SEAL)

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Acting Clerk of the Town of Phillipsburg, in the County of Warren, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Town duly called and held on October 7, 2014 at 7:00 p.m. at the Phillipsburg Municipal Building, 675 Corliss Avenue, Phillipsburg, in said County, and that the following was the roll call:

Present:

Absent:

I DO 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 governing body of the Town 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 Town this ____ day of _____, 2014.

(SEAL)

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg

CLERK'S CERTIFICATE

I, VICTORIA L. KLEINER, DO HEREBY CERTIFY that I am the Acting Clerk of the Town of Phillipsburg, in the County of Warren (the "Town"), State of New Jersey, and that as such I am duly authorized to execute and deliver this certificate on behalf of the Town. In such capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Town and the records relative to all resolutions and ordinances of the Town. The representations made herein are based upon the records of the Town.

I DO HEREBY FURTHER CERTIFY THAT:

1. Attached hereto is the bond ordinance introduced on September 16, 2014 and finally adopted on October 7, 2014 and approved by the Mayor, as applicable, on October 7, 2014.
2. After introduction, the bond ordinance was published as required by applicable law on September __, 2014 in The Star Gazette.
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 Town 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 Town who requested copies, up to and including the time of further consideration of the bond ordinance by the governing body of the Town. Copies of the bond ordinance were made available to all who requested same.

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4. After final adoption, the bond ordinance was duly approved by the Mayor of the Town (if applicable) and duly published as required by law on October __, 2014 in The Star Gazette. 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 of the Town or to me or filed in my office within twenty (20) days after said publication or at any other time after the final adoption 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 the bond ordinance and a copy of the amended capital budget form has 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 Town 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 corporate seal of the Town this ____ day of _____, 2014.

(SEAL)

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg

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CERTIFICATE OF SUPPLEMENTAL DEBT STATEMENT

I, the undersigned, Acting Clerk of the Town of Phillipsburg, in the County of Warren, State of New Jersey, DO HEREBY CERTIFY, that the attached Supplemental Debt Statement was prepared, executed and sworn to by Robert J. Merlo, the Chief Financial Officer as of September 16, 2014, that such Supplemental Debt Statement was filed in my office on September 16, 2014 and with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs on September 16, 2014.

VICTORIA L. KLEINER
Acting Clerk of the Town of Phillipsburg