

TOWN OF PHILLIPSBURG
COUNTY OF WARREN, NEW JERSEY
ORDINANCE NUMBER 2023-12

BOND ORDINANCE PROVIDING FOR VARIOUS 2023 SEWER UTILITY CAPITAL IMPROVEMENTS IN AND BY THE TOWN OF PHILLIPSBURG, IN THE COUNTY OF WARREN, STATE OF NEW JERSEY; APPROPRIATING \$4,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$4,000,000 BONDS OR NOTES 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 to be undertaken by the Sewer Utility (the “Sewer Utility”) of the Town of Phillipsburg, in the County of Warren, State of New Jersey (the “Town”) as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the principal amount of \$4,000,000. Pursuant to the provisions of N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the “Local Bond Law”), specifically 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 Sewer Utility of the Town is self-liquidating.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the \$4,000,000 appropriation, negotiable bonds of the Town are hereby authorized to be issued in the principal amount of \$4,000,000 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 improvements or purposes, negotiable notes of the Town in a principal amount not exceeding \$4,000,000 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, the Local Bond Law.

SECTION 3. The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued, include but are not limited to, the following:

Description	Total Appropriation	Debt Authorization	Useful Life
(a) the purchase of various equipment for the Sewer Utility;	\$390,000	\$390,000	5 years
(b) the replacement of a blower motor at the Wastewater Treatment Plant;	\$160,000	\$160,000	5 years
(c) various electrical improvements to the Pump Station located on Mercer Street;	\$31,500	\$31,500	10 years
(d) various improvements to the UV chamber at the Wastewater Treatment Plant;	\$245,000	\$245,000	10 years
(e) various upgrades to the sewer line located at Saw Mill Road;	\$965,000	\$965,000	20 years
(f) various repairs to the pipe and sewer pipe bridge located at Lopatcong Creek;	\$170,000	\$170,000	20 years

<u>Description</u>	<u>Total Appropriation</u>	<u>Debt Authorization</u>	<u>Useful Life</u>
(g) the replacement of the headworks pump and variable frequency drive at the Wastewater Treatment Plant;	\$140,000	\$140,000	30 years
(h) the replacement of various generators at the Wastewater Treatment Plant; and	\$1,025,000	\$1,025,000	15 years
(i) investigation and repairs to various sewer lines within the Town.	\$873,500	\$873,500	10 years
TOTALS	<u>\$4,000,000</u>	<u>\$4,000,000</u>	

All such improvements or purposes set forth in Section 3 shall include, but are not limited to, 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.

The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$4,000,000.

The estimated cost of said improvements or purposes is \$4,000,000.

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. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Town 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 Town, provided that no note shall mature later than one (1) year from its date, unless such bond anticipation 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 (“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 Town 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 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 Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable, for the Sewer Utility of the Town. The capital or temporary capital budget of the Sewer Utility of Town 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 Sewer Utility, 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 or purposes which the Town may lawfully undertake as general improvements or purposes for the Sewer Utility of the Town, 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 14.17 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 in the 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 \$4,000,000, and the obligations authorized herein will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$485,000 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 purposes or improvements hereinbefore described.

(e) This bond ordinance authorizes obligations of the Town solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for purposes that are deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

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, unless paid from other sources, 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 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 Town'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. 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 Town 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 Town, which are authorized herein, and to execute such disclosure document on behalf of the Town. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Town 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 Town, 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 Town fails to comply with its undertaking, the Town shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Town covenants to maintain the exclusion from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, the interest on all bonds and notes issued on a tax-exempt basis under this ordinance.

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

ADOPTED ON FIRST READING DATED: AUGUST 1, 2023

MATTHEW C. HALL, Acting Clerk Town of Phillipsburg

ADOPTED ON SECOND READING DATED: AUGUST 15, 2023

MATTHEW C. HALL, Acting ClerkTown of Phillipsburg