

**BOROUGH OF MANASQUAN
ORDINANCE 2189-15**

**ORDINANCE PROVIDING FOR AN
INFRASTRUCTURE PROTECTION AND
STORMWATER CONVEYANCE PROJECT IN AND
BY THE BOROUGH OF MANASQUAN, IN THE
COUNTY OF MONMOUTH, NEW JERSEY,
APPROPRIATING \$4,450,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$4,450,000
BONDS OR NOTES OF THE BOROUGH TO FINANCE
PART OF THE COST THEREOF**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MANASQUAN, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. The improvement described in Section 3 of this ordinance is hereby authorized to be undertaken by the Borough of Manasquan, in the County of Monmouth, New Jersey (the "Borough"). For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$4,450,000. No down payment is required pursuant to N.J.S.A. 40A:2-11(c) since the project authorized herein is an environmental infrastructure project being funded by a loan from the New Jersey Environmental Infrastructure Trust.

Section 2. In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$4,450,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is for the Borough's Infrastructure Protection and Stormwater Conveyance Project, including reconstruction and elevation of bulkhead along Perrine Boulevard along Borough property, at Cedar Avenue and at Euclid Avenue, and along the 4th Avenue Parking Lot, stormwater conveyance improvements, additional improvements associated with restoration including milling and paving, electric and water service, sidewalk and curb, and striping, and acquisition and installation of equipment and materials and work necessary therefor or related thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one 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 notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. 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 purchasers thereof upon receipt of payment of the purchase price plus accrued interest 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 ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this 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, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake, 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 the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed electronically 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. 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 in this ordinance by \$4,450,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$890,000 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.

(e) This ordinance authorizes obligations of the Borough solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the Borough. The amounts to be expended for this purpose pursuant to this ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this ordinance will not materially impair the credit of the Borough or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. If required, the Local Finance Board, in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore

made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this ordinance as passed upon first reading.

Section 7. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The Borough hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Borough hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The Chief Financial Officer is hereby authorized to act on behalf of the Borough to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this ordinance. This Section 8 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 9. 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 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 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 10. 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 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 real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

NOTICE

PUBLIC NOTICE IS HEREBY GIVEN that Bond Ordinance No. 2189-15 was introduced at a meeting of the Mayor and Council of the Borough of Manasquan, in the County of Monmouth, and the State of New Jersey, on the 3rd day of August 2015, and was then read for the first time. The said ordinance will be further considered for final passage by the Mayor and Council at Borough Hall, 201 East Main Street, Manasquan, NJ 08736 at 8:00 pm on the 17th day of August 2015. At such time and place, or at any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance. A copy of this ordinance can be obtained without cost by any member of the general public at the office of the Municipal Clerk in Borough Hall between the hours of 9:00 a.m. and 4:00 p.m. on Monday through Friday, except on legal holidays.



BARBARA ILARIA, RMC,
Municipal Clerk

MARK KITRICK
Municipal Attorney
P.O. Box 547
Brick, NJ 08723

STATEMENT

This bond ordinance published herewith has been finally adopted on August 17, 2015, and the twenty 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 said statement.



BARBARA ILARIA, RMC
Municipal Clerk

Passed on First Reading and Introduction: August 3, 2015
Approved on Second Reading and Final Hearing: August 17, 2015



GEORGE R. DEMPSEY JR. MAYOR