

**BOROUGH OF NORTH PLAINFIELD
ORDINANCE NUMBER 19-05**

BOND ORDINANCE PROVIDING FOR THE 2019 SANITARY SEWER AND REPAIR PROGRAM OF THE SEWER UTILITY WITHIN THE BOROUGH OF NORTH PLAINFIELD, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "BOROUGH"); APPROPRIATING \$1,197,000 THEREFOR (INCLUDING COMMUNITY DEVELOPMENT BLOCK GRANTS IN THE AGGREGATE AMOUNT OF \$150,000) AND AUTHORIZING THE ISSUANCE OF \$1,097,000 IN BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF NORTH PLAINFIELD, IN THE COUNTY OF SOMERSET, 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 Sewer Utility of the Borough of North Plainfield, in the County of Somerset, State of New Jersey (the "Borough") as general improvements. For the said improvements or purposes stated in Section 3, there is hereby appropriated the principal amount of \$1,197,000 from the Sewer Utility of the Borough, which sum includes a \$100,000 Community Development Block Grant received from the U.S. Department of Housing and Urban Development ("HUD") (the "CDGB Grant #1) and a \$50,000 Community Development Block Grant expected to be received from HUD (the "CDBG Grant #2", and together with CDBG Grant #1, the "Grants"). Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), no down payment is required as the Sewer Utility is self-liquidating.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$1,197,000 appropriation not provided for by application hereunder of CDBG Grant #1, negotiable bonds of the Sewer Utility of the Borough are hereby authorized to be issued in the aggregate principal amount of \$1,097,000 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 Borough in an aggregate principal amount not exceeding \$1,097,000 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 are for the sanitary sewer repair program of the Borough including, but not limited to, (i) the replacement and rehabilitation of sanitary sewers along Route 22 West at the intersection of North Drive; (ii) Phase II sewer pipe replacement on West End; (iii) replacement and rehabilitation of sanitary sewers along Glenside Place; and (iv) replacement and rehabilitation of sanitary sewers along Grove Street. Such improvements shall also include, as applicable, but are not limited to, the replacement and/or rehabilitation of pipes, manholes, lateral connections, concrete curbing and sidewalk, traffic control, bypass pumping and site restoration and all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, environmental testing and remediation, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,097,000.

(c) The estimated cost of said improvements or purposes is \$1,197,000.

SECTION 4. Except for the Grants, in the event the United States of America, the State of New Jersey and/or the County of Somerset 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 Somerset. 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 Somerset 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 time 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. 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. 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, 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 a temporary capital budget, as applicable, for the Borough. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the improvements or purposes authorized herein are inconsistent with the adopted capital or temporary capital budget of the Borough, a revised capital or temporary capital budget for the Borough 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 improvements and 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 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 30 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 \$1,097,000 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 \$108,500 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 hereinbefore described.

(e) This bond ordinance authorizes obligations of the Borough solely for improvements or purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for the improvements or 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 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. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same “Controlled Group” as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to

any expenditures to be reimbursed. 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 Regulation Section 1.150-2.

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 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 and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into an 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 12. 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.

ADOPTED ON FIRST READING
DATED: May 6, 2019

**RICHARD K. PHOENIX, RMC,
Clerk of the Borough of North Plainfield**

**ADOPTED ON SECOND READING
DATED: May 20, 2019**

**RICHARD K. PHOENIX, RMC,
Clerk of the Borough of North Plainfield**

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2019.

**MICHAEL GIORDANO, JR.,
Mayor**

