

Mayor Nolan offered the following ordinance as amended and moved on its public hearing date for December 18, 2013 at 8:00 p.m.

**O-13-31**

**BOND ORDINANCE OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, IN FURTHERANCE OF THE DISSOLUTION OF THE ATLANTIC HIGHLANDS - HIGHLANDS REGIONAL SEWERAGE AUTHORITY, APPROPRIATING \$5,872,520 THEREFOR AND AUTHORIZING NOT TO EXCEED \$5,872,520 PRINCIPAL AMOUNT OF BONDS OR NOTES IN CONNECTION THEREWITH**

**WHEREAS**, the governing body of the Borough of Highlands, in the County of Monmouth, New Jersey ("Highlands"), by ordinance duly adopted by Highlands on May 21, 1968, and the governing body of the Borough of Atlantic Highlands, in the County of Monmouth, New Jersey ("Atlantic Highlands"), by ordinance duly adopted by Atlantic Highlands on March 26, 1968 jointly created the Atlantic Highlands - Highlands Regional Sewerage Authority (the "Authority"), in accordance with the "Sewerage Authorities Law", constituting Chapter 138 of the Pamphlet Laws of 1946 of the State (codified at N.J.S.A. 40:14A-1 et seq.), as the same may from time to time be amended and supplemented (the "Act"); and

**WHEREAS**, the Authority is responsible for the ownership, operation and maintenance of two pump stations, one in each of Highlands and Atlantic Highlands, force mains between the two pump stations and force mains from the pump station in Atlantic Highlands to the discharge point at the Township of Middletown Sewerage Authority ("TOMSA") trunkline (collectively, the "System"); and

**WHEREAS**, the collection systems located in Highlands and Atlantic Highlands are owned by each of Highlands and Atlantic Highlands, respectively; and

**WHEREAS**, in order to fund various capital improvements to the System, or refund outstanding bonds originally issued to fund such various capital improvements, the Authority has previously issued the following outstanding debt:

1. \$753,305.11 outstanding principal amount of Sewer Revenue Bonds, Series 2010, consisting of \$195,000 outstanding principal amount of Sewer Revenue Bonds, Series 2010A (the "Series 2010A Bonds"), issued to the New Jersey Environmental Infrastructure Trust (the "NJEIT") and \$558,305.11 outstanding principal amount of Sewer Revenue Bonds, Series 2010B (the "Series 2010B Bonds" and, together with the Series 2010A Bonds, the "Series 2010 Bonds"), issued to the State of New Jersey, Acting by and through the Department of Environmental Protection;
2. \$7,400,000 outstanding principal amount of Sewer Revenue Refunding Bonds, Series 2011, dated and issued on or about January 24, 2011 and maturing on January 15 in each of the years 2014 through 2032, inclusive (the "Series 2011 Bonds"), issued to

the Monmouth County Improvement Authority County-Guaranteed Pooled Loan Program; and

3. \$2,833,082 New Jersey Environmental Infrastructure Trust Interim Financing Note, dated and issued on August 22, 2013 to the NJEIT, maturing on May 21, 2014, and bearing interest at a rate of zero per centum (0.00%) per annum (the "Interim Note" and, together with the Series 2010 Bonds and the Series 2011 Bonds, the "Authority Debt"); and

**WHEREAS**, the Authority Debt is secured by, among other things, Revenues (as defined in the Authority's resolution adopted October 2, 1986, as amended and supplemented (the "General Bond Resolution")), and a Service Contract dated October 6, 1970, as amended and supplemented (the "Service Contract"), by and among Highlands, Atlantic Highlands and the Authority, which Service Contract requires each of Highlands and Atlantic Highlands to make certain payments to the Authority from any available funds, including from the levy of *ad valorem* taxes upon all the taxable real property within Highlands and Atlantic Highlands, respectively; and

**WHEREAS**, Highlands, after a careful examination and analysis, has determined that it is in the best interests of the residents of Highlands to dissolve the Authority; and

**WHEREAS**, Atlantic Highlands, after a careful examination and analysis, has determined that it is in the best interests of the residents of Atlantic Highlands to dissolve the Authority; and

**WHEREAS**, Highlands has determined that dissolving the Authority will provide substantial annual operating savings to Highlands and will allow Highlands full control of the portion of the System that services the residents of Highlands and others (the "Highlands System"); and

**WHEREAS**, Highlands has further determined that dissolving the Authority will not materially impact the residents of Highlands nor the financial operations of Highlands, as Highlands has previously created a separate sewer utility within its municipal budget and has always collected service fees from residents through the utility and paid Highlands obligations to the Authority through such utility; and

**WHEREAS**, section 20 of the Local Authorities Fiscal Control Law (the "Fiscal Control Law") grants to a municipality the power to dissolve an authority, by ordinance, provided that the ordinance makes adequate provision for the payment of all creditors or obligees of the authority and further makes adequate provision for the assumption of services provided by the authority which are necessary for the health, safety and welfare of the recipients of such services; and

**WHEREAS**, by ordinance of Highlands, entitled, "AN ORDINANCE OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, DISSOLVING THE ATLANTIC HIGHLANDS - HIGHLANDS REGIONAL SEWERAGE AUTHORITY PURSUANT TO N.J.S.A. 40A:5A-20" (the "Highlands Dissolution Ordinance"), and by a parallel ordinance of Atlantic Highlands, entitled, "AN ORDINANCE OF THE BOROUGH OF ATLANTIC HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, DISSOLVING THE ATLANTIC HIGHLANDS - HIGHLANDS REGIONAL SEWERAGE AUTHORITY PURSUANT TO N.J.S.A. 40A:5A-20" (the "Atlantic Highlands Dissolution Ordinance"); and

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TO N.J.S.A. 40A:5A-20" (the "Atlantic Highlands Dissolution Ordinance"), Highlands and Atlantic Highlands have dissolved the Authority, subject to the terms and conditions of the Highlands Dissolution Ordinance and the Atlantic Highlands Dissolution Ordinance; and

**WHEREAS**, pursuant to the Fiscal Control Law and the applicable provisions of the Local Bond Law, N.J.S.A. 40A:2-1 at seq. (the "Local Bond Law"), Highlands is authorized to assume all or a certain portion of the outstanding debt of the Authority and/or issue obligations in furtherance of the dissolution of the Authority; and

**WHEREAS**, Highlands, as part of the dissolution of the Authority and in connection with the provision for the payment of all creditors or obligees of the Authority, has initially assumed the responsibility for and payment of fifty-two percent (52.0%) of the Authority Debt payment obligations, as calculated and shown in **Exhibit A** attached hereto (the "Highlands Debt"); and

**WHEREAS**, Highlands has further determined to authorize the issuance of bonds and, in anticipation thereof, bond anticipation notes to (i) currently refund Highlands' portion of the Interim Note, in the amount of \$1,473,203 (which amount is included in the Highlands Debt), and (ii) provide new money in the amount of \$159,597 to finance the cost (as defined in the Act) of capital improvements to the System not previously financed by the issuance of the Interim Note (together, the "2014 NJEIT Project").

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Highlands, in the County of Monmouth, New Jersey (not less than two-thirds of all members thereof affirmatively concurring), as follows:

**Section 1.** Highlands hereby initially assumes the responsibility for and payment of the Highlands Debt (in the aggregate principal amount of \$5,712,923). Highlands hereby determines that the initial assumption by Highlands of the Highlands Debt is a cost effective means of meeting such obligations.

**Section 2.** Highlands is hereby authorized to issue bonds and, in anticipation thereof, bond anticipation notes, in order to finance and re-finance the 2014 NJEIT Project as and when it deems appropriate and to evidence the assumption of the Highlands Debt, in order to provide for such financing and re-financing, and the costs of issuance associated therewith, Highlands hereby appropriates the aggregate amount of \$5,872,520 (consisting of Highlands' portion of the Interim Note, in the amount of \$1,473,203, the balance of the Highlands Debt, in the amount of \$4,239,720, plus new money in the amount of \$159,597), and authorizes the issuance of such bonds and bond anticipation notes in one or more series in the aggregate principal amount of not exceeding \$5,872,520. As provided in N.J.S.A. 40A:5A-20, no down payment is required in connection with this bond ordinance.

**Section 3.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation 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 bond anticipation notes issued pursuant to this

bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation 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 bond anticipation 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 bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

**Section 4.** Highlands hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of Highlands 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, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

**Section 5.** The following additional matters are hereby determined, declared, recited and stated:

(a) The purpose described in Section 1 hereof is authorized to be undertaken by Highlands as a result of the dissolution of the Authority and is an authorized purpose for which the bonds or notes may be issued. 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 bonds issued in furtherance of the dissolution of the Authority is not exceeding 40 years from the date of issuance of such bonds.

(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 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 Highlands as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$5,872,520, but that the net debt of Highlands is not increased by this bond ordinance, as \$5,712,923 of such bonds and notes authorized may be deducted as provided in section 20 of the Fiscal Affairs Law and Section 5(e) hereof, and \$159,597 of such bonds and notes authorized may be deducted as provided in Section 5(f) hereof. The obligations authorized herein will be within all debt limitations prescribed by the Fiscal Affairs Law and the Local Bond Law.

(d) No amount 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 described in Section 1 hereof.

(e) This bond ordinance authorizes obligations of Highlands in the amount of \$5,712,923 solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is

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for the health, welfare, convenience or betterment of the inhabitants of Highlands. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of Highlands 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. The Local Finance Board in the Division of Local Government Services, Department of Community Affairs of the State of New Jersey (the "Local Finance Board"), has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

(f) This bond ordinance authorizes obligations of Highlands in the amount of \$159,597 solely for purposes described in N.J.S.A. 40A:2-7(h). Such amount of the obligations authorized herein are to be issued for a purpose that is 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 6.** The chief financial officer of Highlands 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 Highlands and to execute such disclosure document on behalf of Highlands. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of Highlands pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of Highlands 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 Highlands fails to comply with its undertaking, Highlands shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

**Section 7.** The full faith and credit of Highlands are hereby pledged to the punctual payment of the principal of and the interest on (a) the Highlands Debt, upon assumption of same by Highlands as and to the extent set forth in **Exhibit A** attached hereto and (b) the bonds and bond anticipation notes authorized by this bond ordinance. The Highlands Debt and the bonds and bond anticipation notes authorized herein shall be direct, unlimited obligations of Highlands, and Highlands shall be obligated to levy *ad valorem* taxes upon all the taxable real property within Highlands for the payment of the Highlands Debt and the bonds and bond anticipation notes authorized herein and the interest thereon without limitation as to rate or amount.

**Section 8.** If any section, subsection, sentence, clause or phrase of this bond ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this bond ordinance.

**Section 9.** This bond ordinance shall take effect immediately upon adoption and shall not be subject to referendum, provided, however, that the Local Finance Board has approved this bond ordinance in accordance with N.J.S.A. 40A:5A-20.

Seconded by Mr. Francy and adopted on the following roll call vote:

**ROLL CALL:**

**AYES:** Ms. Ryan, Mr. Redmond, Mr. Francy, Mayor Nolan

**NAYES:** None

**ABSENT:** Ms. Kane

**ABSTAIN:** None

**DATE:** December 10, 2013

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of Ordinance O-13-31 as amended by the governing body of the borough of Highlands on December 10, 2013.

\_\_\_\_\_  
Borough Clerk/Deputy Clerk

**EXHIBIT A**

**Highlands Debt**

HIGHLANDS.NJ.US

- 1 Certified copy of the Supplemental Debt Statement prepared as of the date of introduction of the bond ordinance, together with the electronic confirmation of filing provided by the Division of Local Government Services and evidence of filing in the Clerk's Office.
- 2 Certified copy of the minutes of the meeting of the Borough Council held on \_\_\_/\_\_\_/\_\_\_ showing introduction of the ordinance.
- 3 Affidavit of Publication in local newspaper following introduction of the ordinance.
- 4 Certified copy of the minutes of the meeting of the Borough Council held on \_\_\_/\_\_\_/\_\_\_ showing public hearing and final adoption of the ordinance.
- 5 Affidavit of Publication in local newspaper following final adoption of the ordinance.
- 6 Clerk's Certificate.

**BELOW FOR McMANIMON, SCOTLAND & BAUMANN, LLC USE ONLY**

Grant Moneys Expected: N/A

NOTES/BONDS ISSUED HEREUNDER						
AMOUNT	DATE	MATURITY	RATE	PAYDOWN	NEW/ RENEWAL	REMAINING AUTHOR- IZATION



DEBT STATEMENT CERTIFICATE

I, Carolyn Cummins, Clerk of the Borough of Highlands, in the County of Monmouth, New Jersey (herein called the "Borough"), HEREBY CERTIFY that annexed hereto is a true and complete copy of the Supplemental Debt Statement of the Borough that was prepared as of \_\_\_\_\_, 2013 by the chief financial officer of the Borough and filed in my office on \_\_\_\_\_, 2013, and that a complete, executed copy of such statement was filed in the office of the Director of the Division of Local Government Services of the State of New Jersey on \_\_\_\_\_, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Borough this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

(SEAL)

EXTRACT from the minutes of a \_\_\_\_\_ meeting of the Borough Council of  
the Borough of Highlands, in the County of Monmouth, New Jersey held at the  
\_\_\_\_\_ in the Borough on \_\_\_\_\_, 2013 at \_\_\_\_\_ o'clock  
\_\_\_\_.m.

PRESENT:

ABSENT:

[Attach appropriate minutes hereto]

## CERTIFICATE

I, Carolyn Cummins, Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the Borough duly called and held on \_\_\_\_\_, 2013 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body 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 Borough this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

(SEAL)

EXTRACT from the minutes of a \_\_\_\_\_ meeting of the Borough Council of  
the Borough of Highlands, in the County of Monmouth, New Jersey held at the  
\_\_\_\_\_ in the Borough on \_\_\_\_\_, 2013 at \_\_\_\_\_ o'clock  
\_\_\_\_.m.

PRESENT:

ABSENT:

[Attach appropriate minutes hereto]

## CERTIFICATE

I, Carolyn Cummins, Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the Borough duly called and held on \_\_\_\_\_, 2013 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body 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 Borough this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

(SEAL)

CLERK'S CERTIFICATE

I, Carolyn Cummins, Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey, HEREBY CERTIFY as follows:

1. I am the duly appointed Clerk of the Borough of Highlands, in the County of Monmouth, State of New Jersey (herein called the "Borough"). In this capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Borough and the records relative to all ordinances and resolutions of the Borough. The representations made herein are based upon the records of the Borough.

2. Attached hereto is a true and complete copy of a bond ordinance passed by the governing body of the Borough on first reading on \_\_\_\_\_, 2013 and finally adopted by the governing body on \_\_\_\_\_, 2013 and, where necessary, approved by the Mayor on \_\_\_\_\_, 2013.

3. On \_\_\_\_\_, 2013, a copy of the bond ordinance and a notice that copies of the bond ordinance would be made available to the members of the general public of the municipality who requested copies, up to and including the time of further consideration of the bond ordinance by the governing body, was posted in the principal municipal building of the Borough at the place where public notices are customarily posted. Copies of the bond ordinance were made available to all who requested them.

4. 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.

5. After final passage, the bond ordinance, a copy of which is attached hereto, was duly published on \_\_\_\_\_, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of  
the Borough this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Carolyn Cummins, Borough Clerk

[SEAL]

## NOTICE OF PENDING AMENDED 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 Borough of Highlands, in the County of Monmouth, State of New Jersey, on \_\_\_\_\_, 2013 and amended by such governing body on \_\_\_\_\_, 2013. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the \_\_\_\_\_, in the Borough on \_\_\_\_\_, 2013 at \_\_\_\_\_ o'clock \_\_\_\_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 amended bond ordinance follows:

Title: BOND ORDINANCE OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, IN FURTHERANCE OF THE DISSOLUTION OF THE ATLANTIC HIGHLANDS - HIGHLANDS REGIONAL SEWERAGE AUTHORITY, APPROPRIATING \$5,872,520 THEREFOR AND AUTHORIZING NOT TO EXCEED \$5,872,520 PRINCIPAL AMOUNT OF BONDS OR NOTES IN CONNECTION THEREWITH

Purposes: To authorize the assumption by the Borough of the responsibility for and payment of the Highlands Debt (as defined in the bond ordinance); to authorize the issuance of bonds and, in anticipation thereof, bond anticipation notes, in order to finance and re-finance the 2014 NJEIT Project (as defined in the bond ordinance) as and when the Borough deems appropriate and, in order to provide for such financing and re-financing, and the costs of issuance associated therewith.

Appropriation: \$5,872,520

Bonds/Notes Authorized: \$5,872,520

Grant Appropriated: N/A

Section 20 Costs: \$0

Useful Life: 40 years

Carolyn Cummins, Borough Clerk

This Notice is published pursuant to N.J.S.A. 40A:2-17.



## BOND ORDINANCE SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Borough of Highlands, in the County of Monmouth, State of New Jersey on \_\_\_\_\_, 2013. 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:

Title: BOND ORDINANCE OF THE BOROUGH OF HIGHLANDS, IN THE COUNTY OF MONMOUTH, NEW JERSEY, IN FURTHERANCE OF THE DISSOLUTION OF THE ATLANTIC HIGHLANDS - HIGHLANDS REGIONAL SEWERAGE AUTHORITY, APPROPRIATING \$5,872,520 THEREFOR AND AUTHORIZING NOT TO EXCEED \$5,872,520 PRINCIPAL AMOUNT OF BONDS OR NOTES IN CONNECTION THEREWITH

Purposes: To authorize the assumption by the Borough of the responsibility for and payment of the Highlands Debt (as defined in the bond ordinance); to authorize the issuance of bonds and, in anticipation thereof, bond anticipation notes, in order to finance and re-finance the 2014 NJEIT Project (as defined in the bond ordinance) as and when the Borough deems appropriate and, in order to provide for such financing and re-financing, and the costs of issuance associated therewith.

Appropriation: \$5,872,520

Bonds/Notes Authorized: \$5,872,520

Grant Appropriated: N/A

Section 20 Costs: \$0

Useful Life: 40 years

Carolyn Cummins, Borough Clerk