

**ORDINANCE 2009-13**

**AN ORDINANCE OF THE TOWNSHIP OF HILLSBOROUGH, IN THE COUNTY OF SOMERSET, NEW JERSEY, AMENDING ORDINANCE 2007-43 AS PREVIOUSLY AMENDED BY ORDINANCE 2008-45, PROVIDING FOR THE INSTALLATION OF SANITARY SEWER SYSTEM AND OTHER RELATED EXPENSES IN AND FOR THE TOWNSHIP OF HILLSBOROUGH AND APPROPRIATING \$5,805,000 THEREFORE, AND PROVIDING FOR THE ISSUANCE OF \$5,775,000 IN BONDS OR NOTES OF THE TOWNSHIP OF HILLSBOROUGH TO FINANCE THE SAME AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF**

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HILLSBOROUGH, IN THE COUNTY OF SOMERSET, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section A. Bond Ordinance No. 2007-43 of the Township of Hillsborough, in the County of Somerset, New Jersey (the "Township"), as previously amended by Bond Ordinance No. 2008-45 of the Township, finally adopted December 9, 2008 (collectively, the "Prior Ordinance"), is hereby amended in full to read as follows:

Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Township as a local improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the sum of \$5,805,000 (representing an increase of \$5,205,000 from the \$600,000 appropriated by the Prior Ordinance), said sum being inclusive of all appropriations heretofore made therefor and including \$30,000 (representing no increase from the \$30,000 appropriated by the Prior Ordinance) as the down payment for the prior appropriation for the improvement or purpose required by the Local Bond Law. Said prior down payment was made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets. No down payment is required in connection with the authorization of bonds

and notes pursuant to N.J.S.A. 40A:2-11(c) with respect to the appropriation increase of \$5,205,000 provided for herein, as the appropriation increase portion of this bond ordinance involves a project funded by State grants or other similar programs, within the meaning of N.J.S.A. 40A:2-11(c).

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$5,775,000 (representing an increase of \$5,205,000 from the \$570,000 authorized by the Prior Ordinance) pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, 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 which the bonds or notes are to be issued is the installation of sanitary sewer extension in the Claremont section, located in an area of the Township, as more fully described in Exhibit A attached hereto and in the concept plans on file in the office of the Township Clerk, including all work and services necessary therefor or incidental 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 bond 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 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 not less than par and accrued interest, 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 bond 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 capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. Pursuant to an executed Sanitary Sewer Extension Assessment Agreement, the property owners whose properties are benefited from the improvements described in Section 3 hereof have or will have executed a petition, as required by N.J.S.A. 40:56-3, requesting the Township undertake this improvement at the expense of the benefited property owners. Notice is hereby given to the owners of all lots and parcels of real estate, as more specifically described in Exhibit A hereof, benefited by the improvements described in Section 3 hereof and affected by the improvement described therein that the Township intends to make and to levy special assessments against all such lots and parcels of real estate in an aggregate amount of not exceeding \$5,805,000. Such assessments shall be made and levied in the manner provided by law and shall be as nearly as possible in proportion to and not in excess of the particular benefit, advantage or increase in value that the respective lots and parcels of real estate shall be deemed to receive by reason of the improvement. It is expected that the Township will not contribute to the final cost of the improvement and that the benefited property owners will execute a Sanitary Sewer Extension Assessment Agreement; however, if the amount of the special assessments as finally confirmed is less than the costs of the improvements, then the Township will contribute the difference to the cost of the improvement.

Section 7. The owner of any land upon which an assessment for the local improvement shall have been made shall pay such assessment in accordance with the terms set forth in the executed Sanitary Sewer Extension Assessment Agreement, however, under no circumstances shall the payment term exceed the term set forth in Section 8 hereof. However, should an owner of benefited property not execute a Sanitary Sewer Extension Assessment Agreement then the owner of any land upon which an assessment for the local improvement shall have been made shall pay such assessment in the number of equal yearly installments determined herein with legal

interest on the unpaid balance of the assessment. The first of such installments shall be due and payable two months after the confirmation of the assessment, and each subsequent installment and interest shall be payable in each year at such time as the governing body shall determine by resolution, provided that any owner of land so assessed shall have the privilege of paying the whole of any assessment or any balance of installments with accrued interest thereon at one time. In case any such installment shall remain unpaid for thirty (30) days after the time it shall become due and payable, the whole assessment or the balance thereof shall become and be immediately due and payable, shall draw interest at the rate imposed upon the arrearage of taxes in the Township and shall be collected in the same manner as provided by law for other past-due assessments. Such assessment shall remain a lien upon the land described herein until the assessment, with all installments and accrued interest thereon, shall be paid and satisfied. Notwithstanding anything herein to the contrary, the Township shall have the right to waive default as may be permitted by law.

Section 8. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose the Township may lawfully undertake as a local improvement, the cost of which shall be specially assessed on property specially benefitted 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 bond ordinance, is 40 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 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 Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$5,205,000 (representing an increase of \$5,205,000 from the \$570,000 authorized by the Prior Ordinance), and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding \$1,400,000 (representing an increase of \$1,216,000 from the \$184,000 authorized by the Prior Ordinance) 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 improvement or purpose.

(e) The period over which installments for the special assessments are to be levied on the lots and parcels of real estate benefited by the improvement is twenty (20) years.

(f) The Township reasonably expects to commence the purpose described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the Township further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 9. Any grant moneys or contributions from developers or otherwise, received for the purposes 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 bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 10. The full faith and credit of the Township is 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 Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. The Township Committee of the Township hereby covenants on behalf of the Township to take any action necessary or refrain from taking

such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section B. After passage upon first reading of this bond ordinance, the Township Clerk is hereby directed to publish the full text of the bond ordinance, together with the notice set forth below entitled: "NOTICE OF PENDING BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19, at least ten days prior to the date set for public hearing and further consideration for final passage (which date shall be at least ten days after introduction and first reading). The Township Clerk is further directed to mail a copy of the ordinance together with notice of the introduction thereof to every person whose lands may be affected by the ordinance or any assessment which may be made in pursuance thereof, so far as the same may be ascertained, directed to his last known post-office address. The Township Clerk is further directed to comply with all provisions of N.J.S.A. 40A:2-17(b), 40:49-2 and 40:49-6 regarding postings, publications, mailing and the provision of copies of this bond ordinance.

Section C. After final adoption of this bond ordinance by the Township Committee, the Township Clerk is hereby directed to publish the full text of this bond ordinance, as finally adopted, together with the notice set forth below entitled: "NOTICE OF ADOPTION OF BOND ORDINANCE" (with appropriate completions, insertions and corrections), at least once in a newspaper qualified under N.J.S.A. 40A:2-19.

Section D. This ordinance amends the Prior Ordinance. Any inconsistencies shall be resolved by reference to this amending ordinance. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section E. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by Section C hereof and the Local Bond Law.

## EXHIBIT A

### CLAREMONT SEWER PROJECT

BLOCK LOT STREET ADDRESS

183.01	41	1188 Millstone River Road
183.01	41.01	1194 Millstone River Road
183.01	42	4 Franklin Drive
183.01	43	14 Franklin Drive
183.01	44	24 Franklin Drive
183.01	45	32 Franklin Drive
183.01	46	36 Franklin Drive
183.01	47	40 Franklin Drive
183.01	48	44 Franklin Drive
183.01	49	48 Franklin Drive
183.01	50	52 Franklin Drive
183.01	53	91 Anne Street
183.01	55	83 Anne Street
183.01	56	79 Anne Street
183.01	58	71 Anne Street
183.01	59	67 Anne Street
183.01	60	63 Anne Street
183.01	61	59 Anne Street
183.01	62	55 Anne Street
183.01	63	51 Anne Street
183.01	65	39 Anne Street
183.01	66	33 Anne Street
183.01	67	27 Anne Street
183.01	68	21 Anne Street
183.01	69	15 Anne Street
183.01	70	11 Anne Street
183.01	71	251 Hamilton Road
183.02	1	57 Franklin Drive
183.02	10	32 Sunnyside Lane
183.02	11	62 Claremont Drive
183.02	12	58 Anne Street

183.02	13	64 Anne Street
183.02	14	68 Anne Street
183.02	15	72 Anne Street
183.02	3	45 Franklin Drive
183.02	5	29 Franklin Drive
183.02	6	12 Sunnyside Lane
183.02	7	18 Sunnyside Lane
183.02	9	28 Sunnyside Lane
183.03	1	3 Franklin Drive
183.03	10	40 Claremont Drive
183.03	11	54 Claremont Drive
183.03	14	17 Sunnyside Lane
183.03	12	25 Sunnyside Lane
183.03	13	21 Sunnyside Lane
183.03	15	13 Sunnyside Lane
183.03	16	7 Sunnyside Lane
183.03	17	3 Sunnyside Lane
183.03	18	25 Franklin Drive
183.03	2	1212 Millstone River Road
183.03	4	12 Claremont Drive
183.03	5	16 Claremont Drive
183.03	6	20 Claremont Drive
183.03	7	24 Claremont Drive
183.03	8	28 Claremont Drive
183.03	9	32 Claremont Drive
183.04	1	69 Claremont Drive
183.04	10	17 High Acre Drive
183.04	11	21 High Acre Drive
183.04	12	23 High Acre Drive
183.04	13	25 High Acre Drive
183.04	14	29 High Acre Drive
183.04	15	30 Anne Street
183.04	16	34 Anne Street
183.04	17	40 Anne Street
183.04	2	65 Claremont Drive
183.04	3	61 Claremont Drive
183.04	4	57 Claremont Drive
183.04	5	53 Claremont Drive
183.04	6	49 Claremont Drive
183.04	7	45 Claremont Drive

183.04	9	15 High Acre Drive
183.05	11	1246 Millstone River Road
183.05	12	1258 Millstone River Road
183.05	12.02	1262 Millstone River Road
183.05	13	1266 Millstone River Road
183.05	16	1290 Millstone River Road
183.05	18	273 Hamilton Road
183.05	20	267 Hamilton Road
183.05	22	263 Hamilton Road
183.05	24	259 Hamilton Road
183.05	25	42 High Acre Drive
183.05	26	38 High Acre Drive
183.05	27	34 High Acre Drive
183.05	28	30 High Acre Drive
183.05	29	26 High Acre Drive
183.05	3	33 Claremont Drive
183.05	30	22 High Acre Drive
183.05	31	18 High Acre Drive
183.05	33	10 High Acre Drive
183.05	4	29 Claremont Drive
183.05	5	25 Claremont Drive
183.05	8	9 Claremont Drive
183.05	9	1230 Millstone River Road
191	20	1189 Millstone River Road
191	23	6 Plumstead Way
191	24	1211 Millstone River Road
191	26F	1301 Millstone River Road
191	28	1311 Millstone River Road
191	28.01	1309 Millstone River Road
192	1	1213 Millstone River Road
192	10	19 Onka Drive

192	12	21 Onka Drive
192	13	23 Onka Drive
192	14	25 Onka Drive
192	2	3 Onka Drive
192	3	5 Onka Drive
192	6	11 Onka Drive
192	7	13 Onka Drive
192	8	15 Onka Drive
192	9	17 Onka Drive
194	1	15 Theodora Drive
194	11	30 Onka Drive
194	12	32 Onka Drive
194	13	34 Onka Drive
194	14	36 Onka Drive
194	3	14 Craig Drive
194	5	16 Craig Drive
194	7	20 Craig Drive
195	1	10 Onka Drive
195	12	16 Onka Drive
195	13	14 Onka Drive
195	2	3 Theodora Drive
195	3	5 Theodora Drive
195	4	7 Theodora Drive
195	6	11 Theodora Drive
195	8	17 Craig Drive
195	9	19 Craig Drive
196	1	3 Craig Drive
196	12	12 Theodora Drive
196	13	7 Craig Drive
196	2	1243 Millstone River Road
196	4	1235 Millstone River Road
196	5	1229 Millstone River Road
196	6	2 Onka Drive
196	7	6 Onka Drive
196	8	4 Theodora Drive
196	9	6 Theodora Drive
197	3	6 Craig Drive
197	4	8 Craig Drive

183.01	51	56 Franklin Drive
183.01	52	60 Franklin Drive
183.01	54	87 Anne Street
183.01	57	75 Anne Street
183.01	64	45 Anne Street
183.02	16	76 Anne Street
183.02	2	49 Franklin Drive
183.02	4	39 Franklin Drive
183.02	8	22 Sunnyside Lane
183.03	20	13 Franklin Drive
183.03	3	8 Claremont Drive
183.03	19	19 Franklin Drive
183.05	12.01	1248 Millstone River Road
183.05	17	1296 Millstone River Road
183.05	19	269 Hamilton Road
183.05	2	37 Claremont Drive
183.05	21	265 Hamilton Road
183.05	6	21 Claremont Drive
183.05	7	13 Claremont Drive
183.05	32	14 High Acre Drive
183.05	23	261 Hamilton Road
183.05	13.01	1274 Millstone River Road
183.05	14	1278 Millstone River Road
183.05	15	1284 Millstone River Road
191	27	1307 Millstone River Road
191	26.19	1265 Millstone River Road
191	26A	1273 Millstone River Road
191	26C	1279 Millstone River Road
191	26D	1283 Millstone River Road
191	23A	1201 Millstone River Road
192	5	9 Onka Drive
192	4	7 Onka Drive

192	17	33 Onka Drive
192	15	29 Onka Drive
193	4	41 Onka Drive
193	3	39 Onka Drive
193	2	37 Onka Drive
193	1	35 Onka Drive
194	9	24 Craig Drive
194	8	22 Craig Drive
194	6	18 Craig Drive
194	2	12 Craig Drive
195	7	15 Craig Drive
195	5	9 Theodora Drive
195	11	20 Onka Drive
195	10	23 Craig Drive
196	10	8 Theodora Drive
196	11	10 Theodora Drive
197	1	1259 Milstone River Road
197	2	2 Craig Drive
183.05	10	1238 Millstone River Road

**Attest:**

**Township Of Hillsborough**

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**Kevin P. Davis, Township Clerk**

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**Frank Delcore, Mayor**

*Introduced: 03/10/09*

*Published: 03/19/09*

*Public Hearing: 04/14/09*

*Adoption: 04/14/09*

*Published: 04/23/09*