

**BOROUGH OF HOPATCONG
ORDINANCE #37-2014**

**BOND ORDINANCE AMENDING AND SUPPLEMENTING
BOND ORDINANCE NUMBER 30-2005 (WHICH PROVIDES
FOR THE IMPROVEMENT OF THE SANITARY
SEWERAGE SYSTEM (PHASE I AND PHASE II))
HERETOFORE FINALLY ADOPTED BY THE BOROUGH
COMMON COUNCIL OF THE BOROUGH OF
HOPATCONG, IN THE COUNTY OF SUSSEX, STATE OF
NEW JERSEY, ON SEPTEMBER 7, 2005, TO INCREASE
THE APPROPRIATION BY \$250,000 AND TO INCREASE
THE AUTHORIZATION OF BONDS OR NOTES BY
\$250,000**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COMMON COUNCIL OF
THE BOROUGH OF HOPATCONG, IN THE COUNTY OF SUSSEX, STATE OF NEW
JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS
FOLLOWS:**

SECTION 1. The bond ordinance of the Borough of Hopatcong, in the County of Sussex, State of New Jersey (the "Borough"), heretofore finally adopted by the Borough Common Council thereof on September 7, 2005, numbered 30-2005 and entitled, "Bond Ordinance Making A Further Supplemental Appropriation Of \$3,900,000 For Improvement Of The Sanitary Sewerage System (Phase I and Phase II) In And By The Borough Heretofore Authorized To Be Undertaken By The Borough Of Hopatcong, In The County Of Sussex, New Jersey, And Authorizing The Issuance Of \$3,714,000 Bonds Or Notes Of The Borough For Financing Such Supplemental Appropriation." (the "Original Ordinance"), which Original Ordinance is hereby amended and supplemented, as follows:

SECTION 2. For the improvement or purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby (the "Project"), there is hereby appropriated the additional sum of \$250,000. The total appropriation of the Original

Ordinance, as amended and supplemented hereby, is equal to \$4,150,000 (or \$59,690,000 as the total appropriation for the Project), including the sum of \$186,000 (or \$244,000 as the total down payment for the Project) as the total down payment originally appropriated in the Original Ordinance and available therefor (the "Down Payment"). 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., as amended and supplemented (the "Local Bond Law"), no down payment is required for this additional appropriation or authorization of bonds or notes as the Sewer Utility of the Borough is self-liquidating.

SECTION 3. (a) In order to finance the cost of the improvement or purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, additional negotiable bonds or notes of the Borough in the amount of \$250,000 are hereby authorized to be issued by the Borough, such that the total authorization of negotiable bonds or notes to be issued by the Borough for the improvement or purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, is equal to \$3,964,000 (or \$59,446,000 as the total authorization of bonds and notes for the Project).

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose set forth in Section 3 the Original Ordinance, as amended and supplemented hereby, is equal to \$3,964,000 (or \$59,446,000 as the total authorization of bonds and notes for the Project).

(c) The estimated cost of the improvement or purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, is equal to \$4,150,000 (or \$59,690,000 as the total appropriation for the Project), the excess amount thereof over the

said estimated maximum amount of bonds or notes to be issued therefor is the Down Payment available therefor.

SECTION 4. The Capital Budget of the Borough is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental bond ordinance and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the “Director of the Division of Local Government Services”), will be on file in the office of the Clerk and will be available for public inspection.

SECTION 5. 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, 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 and notes provided for in this amendatory and supplemental bond ordinance by \$250,000 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 6. An additional amount not exceeding \$250,000 for the items of expense listed in and permitted under N.J.S.A. 40A:2-20 may be included in the estimated cost indicated herein for the improvements or purposes set forth in the Original Ordinance, as amended and supplemented hereby.

SECTION 7. 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 the Original Ordinance, as amended and supplemented hereby. 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 8. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 3 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond 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 Borough Chief Financial Officer 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 Borough 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 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 the Original Ordinance, as amended and supplemented hereby.

SECTION 11. Except as expressly amended and supplemented hereby, the Original Ordinance shall remain in full force and effect.

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

**ADOPTED ON FIRST READING
DATED: December 3, 2014**

**CATHERINE SCHULTZ,
Clerk of the Borough of Hopatcong**

**ADOPTED ON SECOND READING
DATED: December 17, 2014**

**CATHERINE SCHULTZ,
Clerk of the Borough of Hopatcong**

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____, 2014.

**SYLVIA PETILLO,
Mayor of the Borough of Hopatcong**