

Ordinance #14-1393

BOND ORDINANCE PROVIDING FOR PHASE II OF THE SOUTH STREET AREA ROADWAY IMPROVEMENTS, BY AND IN THE BOROUGH OF MILLTOWN, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY; APPROPRIATING \$396,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$396,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

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

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Milltown, in the County of Middlesex, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$396,000, said sum being inclusive of a \$360,000 New Jersey Transportation Trust Fund Grant expected to be received from the New Jersey Department of Transportation (the "Trust Fund Grant"). Pursuant to Section 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 the improvement or purpose described in Section 3 hereof, as such project is to be funded in part by the Trust Fund Grant.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the aggregate principal amount of \$396,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in an aggregate principal amount not to exceed \$396,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. The improvement hereby authorized and the purpose for the financing of which said bonds or notes are to be issued is the undertaking of Phase II of the South Street Area Roadway Improvements (consisting of South Street, Clay Street, West Church Street, Sherman Avenue, Sheridan Avenue, Broad Street & Lafayette Avenue) within the Borough, all such improvements to include, but are not limited to, as required, roadway milling and/or surface grinding, installation of Portland cement or hot mix asphalt pavements, as applicable, for repairs and resurfacing of the roadway(s), removal and replacement and/or construction of concrete sidewalk and curbing, where necessary, maintenance, landscaping, restoration and site work, including all other work and materials necessary therefor and incidental thereto.

The improvement or purpose set forth above shall also include, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

a. The aggregate estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$396,000.

b. The aggregate estimated cost of said improvement and purpose is \$396,000.

SECTION 4. In the event the United States of America, the State of New Jersey and/or the County of Middlesex make a contribution or grant in aid to the Borough (including than the Trust Fund Grant expected to be received) 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 Middlesex. 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 Middlesex (including than the Trust Fund Grant expected to be received), 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 times 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 or otherwise authorized by the Local Bond Law. 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 a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon, if any, 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 capital budget of the Borough is hereby amended to conform with the provisions of this 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 programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, will be on file in the office of the Clerk of the Borough and will be available for public inspection.

SECTION 7. 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 and is an improvement which the Borough may lawfully undertake as a general improvement, 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 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 20 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, 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 \$396,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

d. An amount not exceeding \$90,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvement or purpose hereinbefore described.

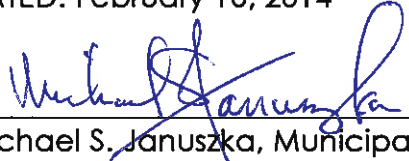
SECTION 8 The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of the bonds or notes and the interest thereon without limitation as to rate or amount.

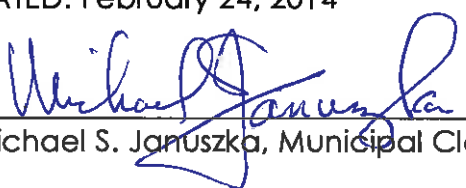
SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by

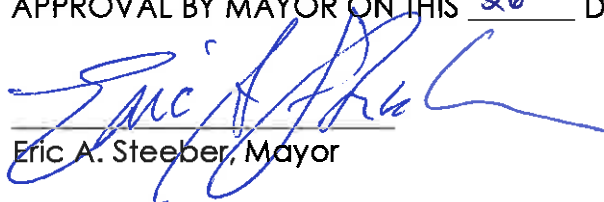
this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as 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 improvement or purpose 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, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended and supplemented (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Borough for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year following the reimbursement of any expenditures of any bond proceeds, "replacement proceeds", within the meaning of Treasury Regulation Section 1.148-1, of the bonds or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvement described in Section 3 hereof will be issued in an amount not to exceed \$396,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(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. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
 DATED: February 10, 2014

 Michael S. Januszka, Municipal Clerk

ADOPTED ON SECOND READING
 DATED: February 24, 2014

 Michael S. Januszka, Municipal Clerk

APPROVAL BY MAYOR ON THIS 26th DAY OF February, 2014.

 Eric A. Steeber, Mayor