

# Egg Harbor Township

## Ordinance No. 3

2018

**A Local Improvement-Special Assessment Bond Ordinance providing for the dredging of Block 9405 Lot 17 and all related appurtenances, in and by the Township of Egg Harbor, in the County of Atlantic, New Jersey, appropriating \$922,000 therefor and authorizing the issuance of \$710,000 assessment bonds or bond anticipation notes to finance part of the cost thereof.**

**BE IT ORDAINED**, by the Township Committee of the Township of Egg Harbor, County of Atlantic and State of New Jersey (not less than two-thirds of all members thereof affirmatively concurring) as follows:

**SECTION 1: Appropriation for Project - Down Payment.** The improvements described in Section 3 (a) of this bond ordinance are hereby authorized to be undertaken by the Township of Egg Harbor, Atlantic County, New Jersey as local improvements. For the improvements or purposes described in Section 3 (a), there is hereby appropriated the sum of \$922,000, including the sum of \$212,000 as the down payment required by the Local Bond Law of New Jersey *N.J.S.A. 40A:2-1*, et seq. (the "**Local Bond Law**"). The down payment is now available from monies now actually held by the Township and previously contributed for such purpose.

**SECTION 2: Authorization of Bonds and Notes.** In order to finance the cost of the improvements or purposes not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$710,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued in the principal amount of \$710,000, pursuant to and within the limitations prescribed by the Local Bond Law.

**SECTION 3: Description of Project.**

(a) The several improvements hereby authorized and the several purposes of the financing for which the bonds are to be issued to dredge municipal owned lands lying under tidal flowed water within the Township, including, and installation of all appurtenances needed for a completely functioning system subject to availability of funds.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes is as stated in Section 2 hereof.

(c) The properties affected or specially benefited by the several improvements are identified on the Tax Map of the Township of Egg Harbor as Block 9405, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 16.01 and 34; Block 9406, Lots 1-C001, C002, C003, C004, C005, C006, C007, C008, C009, C0010, C0011, C0012, C0013, C0014, C0015, and C0016.

(d) The estimated costs of the improvements or purposes are equal to the amount of the appropriation herein made therefor.

(e) The aggregate estimated costs of the improvements or purposes to be specially assessed against the real estate which is to be specially benefited thereby are \$710,000.

(f) The estimated cost of the improvement or purposes to be borne by the Township is \$48,000, representing a portion of the down payment of \$212,000.

**SECTION 4: Issuance of Notes.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Township's 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 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 NJSA 40A:2-8(a). 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 ordinance is made. Such report shall include the amount, the description, the interest rate and the maturity scheduled of the notes sold, the price obtained and the name of the purchaser.

**SECTION 5: Capital Budget.** The capital budget of the Township of Egg Harbor is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The 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 is on file with the Clerk and is available there for public inspection.

**SECTION 6: Special Assessment Notice.** (a) Notice is hereby given to the owners of all lots and parcels of real estate benefited by the improvements described in Section 3(a) hereof and affected by the improvements described herein that the Township of Egg Harbor intends to make and levy special assessments against all such lots and parcels of real estate in an aggregate maximum amount not exceeding \$710,000. Such special 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 peculiar benefit, advantage or increase in value that the respective lots and parcels of real estate shall be deemed to receive by reason of the improvements. The Township will contribute a portion

of the down payment in the amount of \$48,000 to the cost of the improvements. The balance of the down payment amount has been paid by the property owners to the Township.

(b) If the amount of the special assessments as finally confirmed is less than \$710,000, then the Township will contribute the difference between such reduced special assessments and the cost of the improvements, such difference to be financed by the issuance of general improvement bonds or notes of the Township.

**SECTION 7: Additional Matters.** (a) The owner of any land upon which an assessment for the local improvements shall have been made may 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 (2) months after the confirmation of the assessment, and such subsequent annual installment and interest shall be payable in each successive year at such time as the governing body shall by resolution determine, 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 many be permitted by law.

(b) The purpose described in Section 3(a) of this bond ordinance are not current expenses. They are improvements that the Township may lawfully undertake as local improvements, the cost of which shall partially be specially assessed on property specially benefited thereby, and partially paid for by the Township.

(c) The period of usefulness of the purposes 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 ten (10) years.

(d) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the Office of the Township Clerk, and a complete executed duplicate thereof has been electronically 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 above 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 \$710,000 and the obligations authorized herein will be within all debt limitations prescribed by that law.

(e) An aggregate amount not exceeding \$97,000 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 purposes or improvements.

(f) The number of annual installments within which the special assessments are to be levied on the lots and parcels of real estate benefited by the improvements is eight (8) years or the period for which bonds are issued for the improvements authorized by this bond ordinance, whichever shall be less.

**SECTION 8: Application of Grants.** Any grant monies received for the purposes described in Section 3 (a) hereof shall be applied to reduce the general obligations of the Township incurred in connection with the cost of the improvements. When and if such obligations shall be completely retired, any additional monies received shall be applied to reduce the obligations of the specially assessed property owners. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such monies are so used.

**SECTION 9: Official Intent to Reimburse Expenditures.** The Township reasonably expects to reimburse any expenditures towards the costs of the improvements or purpose described in Section 3 of this ordinance and paid prior to the issuance of any bonds or notes authorized by this ordinance with the proceeds of such bonds and notes. No funds from sources other than the bonds or notes authorized herein has been or is reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Township, or any member of the same “control group” as the Township, within the meaning of Treasury Regulations Section 1.150-1(f), pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This Section is intended to be and hereby is a declaration of the Township’s official intent to reimburse any expenditures towards 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 the Treasury Regulations Section 1.103-18, and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section yield restrictions or arbitrage rebate requirements.

**SECTION 10: Full Faith and Credit.** The full faith and credit of the Township are 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 as to rate or amount.

**SECTION 11: Tax Covenant.** The governing body of the Township hereby covenants on behalf of the Township that to the extent any debt obligations are issued as tax-exempt debt

obligations to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of such debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, including compliance with said Code with regard to the use, expenditure, investment, timely reporting and the rebate of investment earnings as may be required thereunder.

**SECTION 12: Severability.** The provisions of this ordinance are severable, to the extent that any clause, phrase, sentence, paragraph, or provision of this ordinance shall be declared void, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

**SECTION 13: Repeal of Inconsistent Ordinances.** To the extent that any previous ordinance or resolution is inconsistent with or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

**SECTION 14: Effective Date.** This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE TOWNSHIP COMMITTEE OF EGG HARBOR TOWNSHIP, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, HELD FEBRUARY 7, 2018 AND WILL BE FURTHER CONSIDERED FOR FINAL PASSAGE AFTER A PUBLIC HEARING THEREON AT A REGULAR MEETING OF SAID TOWNSHIP COMMITTEE TO BE HELD IN THE TOWNSHIP HALL, IN SAID TOWNSHIP ON MARCH 21, 2018.

Dated: February 7, 2018

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Eileen M. Tedesco, RMC  
Township Clerk

**NOTICE OF PENDING BOND ORDINANCE**

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Committee of the Township of Egg Harbor, in the County of Atlantic, State of New Jersey, held February 7, 2018. It was be further considered for final passage after a public hearing, at a meeting of the Township Committee to be held in the Municipal Building in said Township on March 21, 2018 at 5:30 o'clock p.m. Copies of said Ordinance will be made available during the week prior to and up to and including the date of such meeting at the Clerk's Office in said municipal building to the members of the general public shall request the same.

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Eileen M. Tedesco, RMC  
Township Clerk

**NOTICE OF ADOPTION STATEMENT**

The Bond Ordinance published herewith has been finally adopted on March 21, 2018 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such Ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement.

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Eileen M. Tedesco, RMC  
Township Clerk