BOROUGH OF CLAYTON, NEW JERSEY

ORDINANCE NO. 11-2013

BOND ORDINANCE AUTHORIZING THE CONSTRUCTION OF AN ELEVATED WATER STORAGE TANK IN THE BOROUGH OF CLAYTON, COUNTY OF GLOUCESTER, NEW JERSEY; APPROPRIATING THE SUM OF $2,890,000 THEREFOR; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OR BOND ANTICIPATION NOTES OF THE BOROUGH OF CLAYTON, COUNTY OF GLOUCESTER, NEW JERSEY IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO $2,890,000; MAKING CERTAIN DETERMINATIONS AND COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING

BE IT ORDAINED by the Borough Council of the Borough of Clayton, County of Gloucester, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, constituting Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the Borough of Clayton, County of Gloucester, New Jersey ("Borough").

Section 2. It is hereby found, determined and declared as follows:

(a) the estimated amount to be raised by the Borough from all sources for the purposes stated in Section 7 hereof is $2,890,000; and

(b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is $2,890,000.

Section 3. The sum of $2,890,000, to be raised by the issuance of bonds or bond anticipation notes is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

Section 4. The issuance of negotiable bonds of the Borough in an amount not to exceed $2,890,000 to finance the costs of the purposes described in Section 7 hereof is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law. All or a portion of the bonds authorized to be issued hereunder may evidence one or more loans from the United States Department of Agriculture, Rural Division, under an Application for Financial Assistance ("USDA Application"), and/or the New Jersey Department of Environmental

Protection and/or the New Jersey Environmental Infrastructure Trust ("NJEIT"), under an Application for Financial Assistance (NJEIT Project No. 0801001-001) ("NJEIT Application", and together with the USDA Application, the "Applications") submitted by the Borough to said entities.

Section 5. In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the Borough in an amount not to exceed $2,890,000 is hereby authorized. Pursuant to 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 the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby 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 6. The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, N.J.S.A. 40A:2-20, shall not exceed the sum of $580,000.

Section 7. The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

	Purpose/Improvement	Estimated Total Cost	Down Payment	Amount of Obligations	Period of Usefulness
A.	Construction of an Elevated Water Storage Tank, together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto, all as more particularly described in the Applications on file in the Borough Clerk's office.	$2,890,000	$0	$2,890,000	40 years

Section 8. Grants or other monies received from any governmental entity, if any, will be applied to the payment of, or repayment of obligations issued to finance, the costs of the purposes described in Section 7. above.

Section 9. The supplemental debt statement provided for in Section 10 of the Local Bond Law, N.J.S.A. 40A:2-10, was duly filed in the office of the Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original 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. The supplemental debt statement shows that the gross debt of the Borough, as defined in Section 43 of the Local Bond Law, N.J.S.A. 40A:2-43, is increased by this Bond Ordinance by $2,890,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 10. The full faith and credit of the Borough are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance and, to the extent payment is not otherwise provided, the Borough shall levy ad valorem taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

Section 11. The Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution 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 available for inspection.

Section 12. The Borough hereby declares its intent to reimburse itself from the proceed of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code") for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the Borough prior to the issuance of such bonds or bond anticipation notes.

Section 13. The Borough hereby covenants as follows:

(a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;

(b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;

(c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;

(d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and

(e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 14. The improvements authorized hereby are not current expenses and are improvements that the Borough may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 15. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 16. In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

Date of Introduction: **August 8, 2013**

Date of Final Adoption: Sept. 12, **2013**

THOMAS BIANCO, Mayor

ATTEST:

Christine Newcomb

CHRISTINE NEWCOMB, Clerk

ORDINANCE 11-2013

Bond Ordinance Statements and Summary

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Borough Council of the Borough of Clayton, in the County of Gloucester, State of New Jersey on September 12, 2013 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. Copies of the full ordinance are available at no cost and during regular business hours, at the Borough Clerk's office in the Clayton Municipal Building, 125 North Delsea Drive, Clayton, New Jersey 08312, for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

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Appropriation:	$2,890,000
Bonds/Notes Authorized:	$2,890,000
Grants (if any) Appropriated:	None
Section 20 Costs:	$580,000
Useful Life:	40.00 years

CHRISTINE NEWCOMB, Borough Clerk

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