

ORDINANCE NO. 2022-12

**AMENDED AND RESTATED ORDINANCE OF THE TOWNSHIP OF
PLUMSTED, IN THE COUNTY OF OCEAN, NEW JERSEY, PROVIDING
FOR THE SPECIAL ASSESSMENT OF THE COST RELATING TO
SANITARY SEWER INSTALLATIONS**

WHEREAS, as provided in more detail in the remaining recitals to this ordinance:

- A. The Township of Plumsted, in the County of Ocean, New Jersey (the "Township") is installing a sanitary sewer system, consisting of a wastewater treatment plant and sewer collection system, that will service approximately 600 existing property owners within the Township;
- B. The sanitary sewer system will also service the planned residential retirement community being constructed by an affiliate of Lennar Corporation;
- C. The Township has and will issue bonds and notes to finance the cost of constructing the sanitary sewer system, and the Township anticipates using payments-in-lieu-of-taxes paid by the residents of the Lennar planned residential retirement community to make debt service payments due on such bonds and notes;
- D. The approximately 600 existing property owners are required to connect to the sanitary sewer system and abandon in place their existing septic or cesspool system, all at their own cost;
- E. The Township and the Plumsted Municipal Utilities Authority are offering each existing property owner who is eligible to connect to the sanitary sewer system a loan to assist with the funding of the construction of the lateral connection of the property to the Township's sanitary sewer system and the cost to abandon in place the existing septic or cesspool system, and, if applicable, the cost to acquire and install a grinder pump in accordance with the terms of the hereinafter defined PMUA Rules and Regulations;
- F. The maximum loan amount shall be \$4,000 for property owners whose main building is located within 150 lineal feet of the Township's sanitary sewer system and \$6,000 for property owners whose main building is located in excess of 150 lineal feet of the Township's sanitary sewer system, plus, in each case, an additional loan amount of \$6,000 if a grinder pump is being acquired and installed;
- G. The loan shall be interest-free for a term not to exceed 20 years;
- H. The Township will place a lien on the property in an amount not to exceed the amount of the loan for such property;
- I. The loan shall be repaid in full and the lien on the property discharged upon the earlier to occur of the following events:
 - a. Sale of the property, including an estate sale;
 - b. Refinancing of any mortgage or other loan recorded against the property (except for a refinancing for interest rate savings only);
 - c. Receipt of a property casualty insurance payment that is not reinvested into said property;
 - d. Death of the loan recipient, except that the loan may remain outstanding if and for the time period that a surviving family member (which shall include and be

- limited to a spouse, domestic partner, child, parent and sibling) continues to own the property;
- e. Upon condemnation of the property by a public or private entity exercising eminent domain;
 - J. If upon the 20th anniversary of the connection to the Township's sanitary sewer system, none of the above-referenced loan repayment events have occurred, then the loan will be forgiven in full and the lien on the property discharged;
 - K. The Township anticipates funding loans through the issuance of one or more series of bonds and notes, which the Township intends to repay from the payments-in-lieu-of-taxes paid by the residents of the Lennar planned residential retirement community; and

WHEREAS, the Township Committee of the Township previously designated the "Town Center" as an area in need of rehabilitation (the "Rehabilitation Area") in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the "Redevelopment Law"); and

WHEREAS, the Township Committee of the Township previously designated the C-4 Zoning District as an area in need of redevelopment (the "Redevelopment Area") in accordance with the Redevelopment Law; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, by Ordinance No. 2004-5 adopted on March 22, 2004, as amended by Ordinance No. 2005-15 adopted on August 8, 2005 and by Ordinance No. 2014-07 adopted on August 6, 2014, the Township Committee has duly adopted, as amended from time to time, the "New Egypt Redevelopment Plan" (collectively, and as the same may be further amended, the "Redevelopment Plan"), which sets forth the Township's plan for the rehabilitation and redevelopment of the Rehabilitation Area and Redevelopment Area; and

WHEREAS, the Redevelopment Plan (i) calls for "the installation of a sanitary sewer system in the Town Center area", (ii) notes that residential and commercial reliance on septic systems is a "significant barrier to development", (iii) quotes the conclusion reached by The National Main Street Center in its report entitled, "Getting the Ducks in a Row", which reads, "Desired improvements to the Main Street district will be greatly expedited with the introduction of a municipal sewer system. This planned improvement should be a priority", (iv) highlights that costs of property owners to connect to the new sanitary sewer system could be financed through low-interest loans, (v) notes public health concerns caused by the current septic systems, including failed compliance with modern health codes by grandfathered buildings, septic system leakage and risk of septic system failure that would cause problems for surrounding properties with intact systems and (vi) recollects that the Township tried for 10 years prior to the adoption of the Redevelopment Plan to "address the substandard on-site septic systems within the downtown with no definite solution"; and

WHEREAS, the Redevelopment Plan also describes the benefits of a sanitary sewer system to all residents of the Township, including (i) the deterred development of areas outside of the "Town Center" area which will "preserve the surrounding open spaces and the rural character that makes Plumsted a unique and beautiful place" through "Smart Growth" principles and (ii) the

fiscal benefits provided by the sanitary sewer system, including the revitalization of the "Town Center" and the development of and tax revenue provided by the hereinafter defined Lennar Redevelopment Project which would not be constructed without the sanitary sewer system; and

WHEREAS, on October 15, 2014, the Township and Lennar Plumsted Urban Renewal, LLC (then known as Lennar Plumsted, LLC) (the "Redeveloper") entered into a Redevelopment Agreement (as amended on October 8, 2018, and as the same may be further amended, modified or supplemented from time to time, the "Redevelopment Agreement"), in order to implement the development, design, financing and construction of the Lennar Redevelopment Project on a portion of the Redevelopment Area now commonly known as Block 40, Lots 10 and 18 on the tax maps of the Township (the "Project Area") pursuant to the Redevelopment Plan; and

WHEREAS, the Redevelopment Agreement provides for, among other things, the acquisition by the Redeveloper of all of the Project Area, and the development and construction thereon of a redevelopment project, including but not limited to the construction by the Redeveloper of a minimum of four hundred (400) and a maximum of five hundred (500) units in an "active adult community", which the Redeveloper intends as a for-sale, age-restricted project, with private interior roadways and a private amenity complex in the Project Area, together with onsite water and sewer utility systems (the "Lennar Redevelopment Project"); and

WHEREAS, the Redevelopment Agreement requires the design and construction, by or at the direction of the Plumsted Municipal Utilities Authority ("PMUA"), on behalf of, and at the cost of, the Township, of certain sewer infrastructure improvements as more fully set forth in the Redevelopment Plan and Redevelopment Agreement, which will serve the Lennar Redevelopment Project together with other portions of the Redevelopment Area and which will also serve other areas of the Township (the "Township Sanitary Sewer System"); and

WHEREAS, pursuant to and in accordance with the provisions of the New Jersey Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 et seq., as amended and supplemented (the "RAB Law"), the Township authorized, has issued and may issue one or more series of bonds and/or notes to finance the costs incurred in connection with the acquisition, design, development and construction of the Township Sanitary Sewer System (the "Sanitary Sewer System Bonds"), which Sanitary Sewer System Bonds shall be paid from, among other sources, Annual Service Charges paid by the Redeveloper pursuant to the terms of an Amended and Restated Financial Agreement dated as of January 28, 2021 (as the same may be amended, modified or supplemented from time to time, the "Financial Agreement") by and between the Township and the Redeveloper; and

WHEREAS, on March 21, 2017, the PMUA adopted Resolution # 2017-20, adopting and approving the "Plumsted Municipal Utilities Authority Rules and Regulations Governing Approval of Sewer Lateral Connections into the System of the Authority, Approval of Sewer Extensions to the Existing System, Sewer Systems in Subdivisions, and the Regulation and Discharge of Industrial Wastes to Said System" (as amended by Resolution # 2017-20A, adopted on April 18, 2017, by Resolution # 2021-25, adopted on March 16, 2021 and by Resolution # 2022-10 adopted on November 15, 2022, and as the same may be further amended and supplemented from time to time, the "PMUA Rules and Regulations"), which PMUA Rules and

Regulations are incorporated as if set forth in full herein and which are on file in the office of the Township Clerk; and

WHEREAS, pursuant to Article 2, Section 1 of the PMUA Rules and Regulations, each owner (each, a "Property Owner") of improved property within the Township which is adjoining or adjacent to or whose principal building is within 200 lineal feet of the Township Sanitary Sewer System (as listed on **Exhibit A** attached hereto, each a "Property") is required to connect to the Township Sanitary Sewer System (i) by December 31, 2022 or (ii) immediately upon notice to do so if such owner's septic or cesspool system is failing as determined by the Township's Construction Official or the Ocean County Health Department; and

WHEREAS, pursuant to Article 2 of the PMUA Rules and Regulations, each Property and/or building located on such Property is required to be connected to the Township Sanitary Sewer System through a Building Sewer (as defined in the PMUA Rules and Regulations) and, once connected, the septic system or cesspool located on such Property is required to be abandoned in place and cleansed and filled under the direction and supervision of the Township's Construction Official or the Ocean County Health Department (for each Property, all such work, the "Property Owner Sewer Connection Project"); and

WHEREAS, pursuant to Article 2 of the PMUA Rules and Regulations, all expenses in connection with a Property Owner Sewer Connection Project shall be borne by the Property Owner; and

WHEREAS, on April 5, 2017, the Township Committee of the Township finally adopted Ordinance No. 2017-07, creating a Township Sanitary Sewer System mandatory connection requirement in accordance with Article 2 of the PMUA Rules and Regulations; and

WHEREAS, on March 4, 2020, the Township Committee of the Township finally adopted Ordinance No. 2020-06, as amended by Ordinance No. 2022-13, adopted on December [28], 2022, amending Ordinance No. 2017-07 and setting a per diem fine for a property owner failing to connect to the Township Sanitary Sewer System in an amount up to \$100; and

WHEREAS, pursuant to N.J.S.A. 40:14B-20(15), the PMUA has the power to "make loans to any person for the planning, designing, acquiring, constructing reconstructing, improving, equipping, furnishing, and operating by that person of any part of a . . . wastewater treatment or collection system" which loans may be "secured by loan and security agreements, mortgages, leases and any other instruments, upon such terms as the authority shall deem reasonable"; and

WHEREAS, pursuant to Article 2, Section 3 of the PMUA Rules and Regulations, the PMUA has established the "Loan Assistance Incentive Program", pursuant to which the PMUA may make a loan to eligible Property Owners in the amounts and on the terms and conditions set forth in the PMUA Rules and Regulations (each, a "Property Owner Sewer Connection Loan"), including but not limited, (i) the term of the Property Owner Sewer Connection Loan shall be for not more than 20 years, commencing on the date of connection to the Township Sanitary Sewer System, (ii) the Property Owner Sewer Connection Loan will bear interest at zero percent per annum, (iii) the Property Owner Sewer Connection Loan shall be secured by a lien on the subject

Property in an amount equal to such Property Owner Sewer Connection Loan, (iv) all Property Owner Sewer Connection Loan proceeds shall be paid directly to the Property Owner, (v) the Property Owner of the subject Property shall execute the hereinafter defined Sewer Connection Loan Authorization and Consent Form, (vi) the Property Owner Sewer Connection Loan shall be repaid in full upon the occurrence of the events enumerated in the PMUA Rules and Regulations and (vii) the Property Owner Sewer Connection Loan shall be forgiven in full on the 20th anniversary of the date of connection of the subject Property to the Township Sanitary Sewer System, if not required to be paid prior to such date; and

WHEREAS, the PMUA shall make each Property Owner Sewer Connection Loan from the proceeds of the sale of bonds to be issued by the Township pursuant to the RAB Law, which bonds shall be secured by the Annual Service Charges paid pursuant to the Financial Agreement and/or by the Township's power to levy *ad valorem* taxes upon all the taxable real property within the Township; and

WHEREAS, pursuant to N.J.S.A. 40:56-1, "[a] local improvement is one, the cost of which, or a portion thereof, may be assessed upon the lands in the vicinity thereof benefitted thereby"; and

WHEREAS, pursuant to N.J.S.A. 40:56-1(i), the Township may assess Property Owners in connection with the "construction, reconstruction, enlargement or extension of a sewer or drain . . . in, under or along any . . . private lands"; and

WHEREAS, the Township desires to impose a special assessment on each Property for which such Property Owner elects to receive a Property Owner Sewer Connection Loan and executes a Sewer Connection Loan Authorization and Consent Form (each, a "Loan Recipient Property") in an amount equal to the lesser of the benefit conferred on such Loan Recipient Property or the amount of the Property Owner Sewer Connection Loan; and

WHEREAS, the Loan Improvement Incentive Program is a voluntary program being made available to Property Owners by the PMUA, and accordingly, the Township will only impose a special assessment on a Loan Recipient Property owned by a Property Owner who elects to receive a Property Owner Sewer Connection Loan and executes a Sewer Connection Loan Authorization and Consent Form; and

WHEREAS, the PMUA intends to conduct public outreach to determine which Property Owners desire to participate in the Loan Assistance Incentive Program and, thus, will be subject to the special assessment; and

WHEREAS, the Township desired to impose a special assessment against each Loan Recipient Property to evidence and secure the timely repayment of related Property Owner Sewer Connection Loan; and

WHEREAS, on April 7, 2021, the Township Committee adopted Ordinance 2021-02, entitled, "An Ordinance of the Township of Plumsted, in the County of Ocean, New Jersey,

Providing for the Special Assessment of the Cost Relating to Sanitary Sewer Installations" (the "Original Assessment Ordinance"); and

WHEREAS, the Township now desires to amend the Original Assessment Ordinance in its entirety in order to, among other things, (i) increase the maximum amount of the special assessment on those properties that have a grinder pump installed and that choose to have the cost of such grinder pump included in a Property Owner Sewer Connection Loan, and (ii) make other changes consistent with the PMUA's amendments to the PMUA Rules and Regulations adopted on November 15, 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF PLUMSTED, IN THE COUNTY OF OCEAN, NEW JERSEY, AS FOLLOWS:

Section 1. The recitals hereof are incorporated by reference as it is set forth at length herein.

Section 2. The Township hereby makes and levies a special assessment against each Loan Recipient Property. Such special assessment shall be made by the Township's tax assessor, pursuant to N.J.S.A. 40:56-21, and levied in the manner provided by law. Such special assessment shall be as nearly as possible in proportion to and not in excess of the lesser of (i) the peculiar benefit, advantage or increase in value that the Loan Recipient Property shall be deemed to receive by reason of the Property Owner Sewer Connection Project, or (ii) the amount of the Property Owner Sewer Connection Loan issued for such Loan Recipient Property.

Section 3. Notice is hereby given to the owner of each Loan Recipient Property that, at the time the Property Owner Sewer Connection Project has been completed with respect to such Loan Recipient Property, the Township intends to make and levy a special assessment, in the amount set forth in Section 2 hereof, on the parcels identified in **Exhibit A** attached hereto whose Property Owner subsequently notifies the Township they desire to participate in the Loan Assistance Incentive Program as evidenced by execution of a Sewer Connection Loan Authorization and Consent Form in the form set forth on file in the office of the Township Clerk and the office of the Secretary of the PMUA (the "Sewer Connection Loan Authorization and Consent Form"), which Sewer Connection Loan Authorization and Consent Form is hereby approved.

Section 4. The number of installments within which the special assessment is levied on each Loan Recipient Property benefited by the Property Owner Sewer Connection Project is twenty (20), it being intended that the assessment shall be payable in accordance with the repayment requirements set forth in the PMUA Rules and Regulations. In case any such special assessment shall remain unpaid for thirty (30) days after the time it shall become due and payable, unless otherwise provided by subsequent resolution of the Township Committee pursuant to N.J.S.A. 40:56-35, 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 Loan Recipient Property from the effective date of this

ordinance until the assessment, with all installments and accrued interest thereon, if any, 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. Any Property Owner shall have the right to pay the whole of any assessment or any balance of installments with accrued interest thereon, if any, at one time.

Section 5. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 6. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.

NAME	CALABRESE	CUOZZO	GRILLETTO	MARINARI	BOWEN
AYES		12/1/22 12/28/22	12/1/22 12/28/22	12/1/22 12/28/22	12/1/22 12/28/22
ABSTAIN					
NAYS					
ABSENT	12/1/22 12/28/22				

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Plumsted held on the **1st day of DECEMBER, 2022** and will be considered for second reading and final passage at a regular meeting of the Township Committee to be held on the **28th day of December, 2022** at 5:00 PM, at the Municipal Building, 121 Evergreen Road, New Egypt, NJ 08533, at which time and place any person desiring to be heard upon the same will be given the opportunity to be so heard.

Pursuant to N.J.S.A. 40:49-2, as amended, further notice is hereby given that the purpose of the foregoing ordinance is to revise the sewer loan amounts available to property owners with regard to the sewer installation.

Members of the general public may obtain a copy of the ordinance without cost during normal business hours from the Municipal Clerk's Office, 121 Evergreen Road, New Egypt, New Jersey.

JENNIFER WITHAM, RMC, CMR
Municipal Clerk

Exhibit A

List of Eligible Loan Recipient Properties