

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2021-4

DOC ID: 3423

**Amending and Supplementing Bond Ordinance 2020-18
Finally Adopted by the Borough Council on December 14,
2020, to Increase the Appropriation Therein by \$83,578 and to
Increase the Authorization of Bonds or Notes Therein by
\$79,598 to Finance Part of the Additional Costs Thereof**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, 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 Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"), heretofore finally adopted by the Borough Council on December 14, 2020, number 2020-18, entitled: "BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,671,550 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,591,952 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" (the "Original Ordinance"), is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvements or purposes described in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of \$83,578, said sum being inclusive of \$3,980 as the amount of an additional down payment as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"), now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. Therefore, the total appropriation contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$83,578 from \$1,671,550 and shall equal the amount of \$1,755,128, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, including the total amount of down payment increased by \$3,980 from \$79,598 to equal \$83,578. The total appropriation including the total amount of down payment is \$1,755,128.

SECTION 3. In order to finance the additional cost of the improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, not covered by the additional down payment, additional negotiable bonds or notes of the Borough in the amount of \$79,598 are hereby authorized to be issued by the Borough for such improvements or purposes in Section 3(a)(i) of the Original Ordinance, as amended and supplemented, such that the total authorization of negotiable bonds or notes to be issued by the Borough for the improvements or purposes stated in the Original Ordinance, as amended and

supplemented hereby, shall be increased by \$79,598 from \$1,591,952 and shall equal the amount of \$1,671,550.

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, 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 and notes provided for in this amendatory and supplemental bond ordinance by \$79,598 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 6. For the improvements or purposes set forth in the Original Ordinance, as amended and supplemented hereby, the additional sum of \$16,715 is hereby included for the items of expense listed in and permitted under N.J.S.A. 40A:2-20, making the total amount for such items of expense \$351,025 (increased from \$334,310), such total amount being 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 2 of the Original Ordinance, as amended and supplemented hereby, and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby. 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 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, as provided by the Local Bond Law.

ADOPTED ON FIRST READING

DATED: February 8, 2021

SALLIE GRAZIANO,
Clerk of the Borough of Flemington

ADOPTED ON SECOND READING

DATED: March 8, 2021

SALLIE GRAZIANO,
Clerk of the Borough of Flemington

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____, 2021.

BETSY DRIVER,
Mayor of the Borough of Flemington

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/8/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

INTRODUCED

ORDINANCE 2021-5

DOC ID: 3436

Ordinance to Repeal and Replace Chapter 21 of the Code of the Borough of Flemington Entitled "Stormwater Control," to Reflect Amendments to the New Jersey Stormwater Management Rules at N.J.A.C. 7:8, Adopted March 2, 2020

Borough of Flemington, County of Hunterdon

WHEREAS, the Borough of Flemington has a Stormwater Management Ordinance that codifies the stormwater management rules contained in N.J.A.C. 7:8 in furtherance of its Municipal Stormwater Permit; and

WHEREAS, the Stormwater Control Ordinance is subject to change when the State amends N.J.A.C. 7:8; and

WHEREAS, the State of New Jersey amended its Stormwater Management Rules at N.J.A.C. 7:8 on March 2, 2020; and

WHEREAS, the municipalities in the State of New Jersey are required to amend their Stormwater Control Ordinances to align with the updated Stormwater Management Rules at N.J.A.C. 7:8 on or before March 2, 2021;

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Flemington, County of Hunterdon, State of New Jersey that Chapter 21 of the Code of the Borough of Flemington, entitled "Stormwater Management," is repealed and replaced as shown in the attached document.

Introduced: February 22, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

ORDINANCE 2021-6

DOC ID: 3444

**Bond Ordinance Providing for Sewer Utility Improvements,
by and in the Borough of Flemington, in the County of
Hunterdon, State of New Jersey; Appropriating \$827,499
Therefor and Authorizing the Issuance of \$827,499 in Bonds
or Notes to Finance the Cost Thereof**

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

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough") as general improvements. For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$827,499 from the Sewer Utility of the Borough, said sum being inclusive of all appropriations heretofore made therefor. 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 as the Sewer Utility of the Borough is self-liquidating.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the said \$827,499 appropriation, negotiable bonds of the Sewer Utility of the Borough are hereby authorized to be issued in the aggregate principal amount not exceeding \$827,499 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements

or purposes, negotiable notes of the Borough in an aggregate principal amount not exceeding \$827,499 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued are sewer utility improvements on Dewey Avenue (from Mine Street to Bonnell Street); Corcoran Street (from Park Avenue to Allen Street); Hopewell Avenue (from East Main Street to North Main Street), said improvements to include, but not limited to, improvements to and/or replacement of sewer pipes, laterals and manholes; sewer utility improvements on Main Street (from Route 12 to Church Street) including, but not limited to, sewer clean out improvements; and, as applicable, associated traffic control, roadway pavement restoration, curb, sidewalk and driveway repairs and lawn restoration; and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$827,499.

(c) The aggregate estimated cost of said improvements or purposes is \$827,499.

(d) The above improvements and purposes set forth in Section 3(a) shall also include, but are not limited to, the following, as applicable, construction planning, engineering and design work, preparation of plans and specifications, permits, bid documents, inspections and contract administration, and also including all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity make a contribution or grant in aid, as applicable, to the Borough for the improvements or purposes 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, the County of Hunterdon and/or a private entity. In the event, however, that any amount so contributed or granted, as applicable, by the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity, 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 purposes. 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 unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable 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 public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Sewer Utility 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 of the Sewer Utility 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 and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements or purposes which the

Borough may lawfully undertake as a general improvements, 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 improvements or purposes within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 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 \$827,499 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$181,000 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 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 obligations authorized by this bond ordinance. 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 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 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 9 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 10. 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 11. 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 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: March 8, 2021**

**SALLIE GRAZIANO,
Borough Clerk**

**ADOPTED ON SECOND READING
DATED: March 22, 2021**

**SALLIE GRAZIANO,
Borough Clerk**

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021

**BETSY DRIVER,
Mayor**

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Bond Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

ORDINANCE 2021-7

DOC ID: 3445

**Bond Ordinance Providing for Water Utility Improvements, by
and in the Borough of Flemington, in the County of
Hunterdon, State of New Jersey; Appropriating \$1,472,501
Therefor and Authorizing the Issuance of \$1,402,381 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 FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW
JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS
FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Flemington, in the County of Hunterdon, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$1,472,501, which sum includes \$70,120 as the amount of down payment for said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). Said down payment is now available therefor by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$1,472,501 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,402,381 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$1,402,381 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued are various water utility improvements on Dewey Avenue (from Mine Street to Bonnell Street); Corcoran Street (from Park Avenue to Allen Street); Shields Avenue (from Mine Street to end of Main Street); Pennsylvania Avenue Extension (from Route 31 to end of Main Street); Hopewell Avenue (from East Main Street to North Main Street) said improvements to include, but not be limited to, as applicable, water main line improvements and/or replacement including, but not limited to, acquisition and installation, as applicable, of cement lined duct iron and/or copper piping; valve improvements; and acquisition and installation, as applicable, of fire hydrant assemblies; and, as applicable, associated traffic control, roadway pavement restoration, curb, sidewalk and driveway repairs and lawn restoration; and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,402,381.

(c) The estimated cost of said improvements or purposes is \$1,472,501, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$70,120, is the down payment for said improvements or purposes.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Hunterdon, and/or a private entity make a contribution or grant in aid to the Borough, for the improvements and purposes 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, the County of Hunterdon and/or a private entity. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity, 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.

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 unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable 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 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 public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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, and 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 to the extent of any inconsistency herewith. In the event of any such inconsistency, 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 and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes 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 improvements or purposes within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 40 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 \$1,402,381 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 aggregate amount not exceeding \$324,000 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 purposes or improvements 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 bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 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 9 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 10. 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 11. 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 12. 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: March 8, 2021

SALLIE GRAZIANO, Borough Clerk

ADOPTED ON SECOND READING

DATED: March 22, 2021

SALLIE GRAZIANO, Borough Clerk

APPROVAL BY THE MAYOR ON THIS ____ DAY OF _____, 2021.

BETSY DRIVER
Mayor

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Council Ordinance
Prepared By: Sallie Graziano

Initiator: Sallie Graziano

Sponsors:

SCHEDULED

ORDINANCE 2021-8

DOC ID: 3446

**An Ordinance Effectuating and Regulating Expanded
Outdoor Dining in Compliance with Chapter 15, Senate Bill
3340**

WHEREAS, the State of New Jersey has enacted Chapter 15, Senate Bill No. 3340, creating opportunities for restaurants, bars, distilleries, and breweries to adjust operations in response to the COVID-19 public health emergency through expanded outdoor dining; and

WHEREAS, the Borough of Flemington wishes to support its restaurants, bars, distilleries and breweries in operating expanded outdoor dining in compliance with Chapter 15, Senate Bill No. 3340.

NOW BE IT ORDAINED, the Borough of Flemington shall enact this ordinance to effectuate and regulate the increase for outdoor dining.

1. As used in this ordinance, and only for the purposes of this ordinance:

“Brewery” means a brewery operating under a brewery license pursuant to R.S.33:1-10.

“Distillery” means a distillery that has been issued, and is in compliance with, a distillery license pursuant to R.S.33:1-10.

“Food” means food that is cooked, prepared, sold, served, and consumed on the business premises.

“Outdoor space” means a patio or deck, whether covered or uncovered, a yard, a walkway, or a parking lot, or a portion of any such space, that is located on or adjacent to the business premises, which space is owned, leased, or otherwise in the lawful control of the owner or operator of the business premises.

“Public sidewalk” means a sidewalk on the locally or county owned public right-of-way which is adjacent to the business premises, or a portion thereof.

“Special Ruling No. 2020-10” means Special Ruling No. 2020-10, issued by the Acting Director of the Division of Alcoholic Beverage Control on June 3, 2020.

2. a. Notwithstanding the provisions of any law to the contrary, during the period that this Ordinance is in effect, the owner or operator of a restaurant, bar, distillery, or brewery may use outdoor spaces which they own or lease and which are located

either on, or adjacent to, their business premises, as an extension of their business premises for the purpose of conducting sales of food and beverages.

- b. The owner or operator of a restaurant, bar, distillery, or brewery desiring to utilize outdoor spaces as an extension of their businesses shall file an application with the municipal Zoning Officer of the Borough of Flemington that includes: (1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the outdoor spaces; and (2) a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and grounds. If a business premises' parking lot is used for the service and sale of either food or beverages, or both, the restaurant, bar, distillery, or brewery shall not encumber more than 75 percent of the lot's total parking spaces for such service and sale, unless the parking lot contains less than eight parking spaces, and shall maintain at least one handicapped parking space in the parking lot.
- c. The applicant shall provide all of the following: (1) written consent of the owner of the premises, if other than the applicant, (2) an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility, or (3) an indemnification agreement with the municipality with respect to losses arising solely from the operation of the outdoor dining facility.
- d.
 - 1) The Zoning Officer shall issue an approval to the applicant within 15 business days of the application being submitted and deemed complete provided that the applicant meets and abides by all qualifications and requirements of this ordinance, with the exception that the Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit, that is not otherwise directly superseded by this section or Special Ruling No. 2020-10. An application under this section shall not be considered a variance under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).
 - 2) The Borough of Flemington may deny, revoke or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of Chapter 15, Senate 3340, or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control, and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law

or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.

- 3) An appeal to any approval, denial, revocation or suspension may be filed through the municipal clerk with the Common Council of the Borough of Flemington. The Council, or its designee shall conduct a hearing and render a decision within 30 days of the filing of the appeal. The Council may designate a municipal official or an attorney licensed in the State of New Jersey to serve as a hearing officer in place of the Council for the purpose of conducting said hearing and rendering said decision. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.
- e. The Borough of Flemington shall require that any restaurant, bar, distillery, or brewery operating pursuant to this section shall follow, maintain, and enforce protocols promulgated by the Commissioner of Health or Executive Order of the Governor in response to the COVID- 19 public health emergency, concerning social distancing and use of personal protective equipment during the period those protocols are in effect.
3. a. Notwithstanding the provisions of any law to the contrary, during the period that this ordinance is in effect, the owners and operators of restaurants, bars, distilleries, and breweries may use public sidewalks as an extension of their business premises for the purpose of conducting sales of food and beverages.
- b. The owner or operator of a restaurant, bar, distillery, or brewery desiring to utilize public sidewalks as an extension of their businesses shall file an application with the Borough Zoning Officer that includes: (1) a plan, sketch, picture, or drawing that depicts the design, dimensional boundaries, and placement of tents, canopies, umbrellas, tables, chairs, and other fixtures of the public sidewalks; and (2) a plan for the control of litter, the removal and storage of garbage, and the cleaning of fixtures and public sidewalks.
- c. All applicants shall provide all of the following: (1) written consent of the owner of the premises, if other than the applicant, (2) an insurance certificate naming the municipality as an additional insured, with general liability on an occurrence with a limit of liability of at least \$1,000,000, with respect to losses arising solely from the operation of the outdoor dining facility located on public sidewalks, or (3) an indemnification agreement with the municipality with respect to losses arising solely from the operation of the outdoor dining facility on public sidewalks.
- d. 1) The Zoning Officer shall issue an approval to the applicant within 15 business days of the application being submitted and deemed complete provided that the applicant meets and abides by all qualifications and requirements of this

ordinance, with the exception that the Zoning Officer may deny an application based on current violations of any other health, safety, fire, permitted use, or zoning regulation, or upon any applicable law permitting the denial of a zoning permit that is not otherwise directly superseded by Chapter 15, Senate 3340 or Special Ruling No. 2020-10. An application under this section shall not be considered a variance under the "Municipal 2 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

- 2) The Borough of Flemington may deny, revoke or temporarily suspend the permit of any applicant or permittee that violates, or is not in compliance with, any provision of this act or any provision of a law, ordinance, or regulation related to health, safety, fire, permitted use, zoning, or the consumption or control of alcoholic beverages not otherwise under the jurisdiction of the Division of Alcoholic Beverage Control, and may also deny, revoke, or temporarily suspend the permit of any applicant or permittee based on any action taken against the applicant or permittee by the Division of Alcoholic Beverage Control related to the Division's enforcement of any law or regulation related to the consumption or control of alcoholic beverages under its jurisdiction.
 - 3) An appeal to any approval, denial, revocation, or suspension may be filed through the municipal clerk with the Common Council of the Borough of Flemington. The Council, or its designee, shall conduct a hearing and render a decision within 30 days of the filing of the appeal. The Council may designate a municipal official or an attorney licensed in the State of New Jersey to serve as a hearing officer in place of the governing body for the purpose of conducting said hearing and rendering said decision. Nothing in this act shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction, according to law.
- e. Owners and operators of restaurants, bars, distilleries, or breweries desiring to utilize outdoor spaces are subject to the following conditions: (1) a walking path not less than four feet wide must be maintained on the public sidewalk at all times so as to not obstruct pedestrian traffic; (2) all fixtures must be removed from public sidewalks at the conclusion of each day, if so required by the municipality; and (3) the Borough of Flemington reserves the right to order the temporary suspension of outdoor dining and the removal of all fixtures from public sidewalks due to road or utility construction, predicted high winds or severe weather, predicted snow or ice storms, the need to remove snow or ice from the sidewalks, or any other public emergency that may arise.
 - f. The Borough of Flemington shall require that any restaurants, bars, distilleries, or breweries operating pursuant to this section shall follow, maintain, and enforce protocols promulgated by the Commissioner of Health or Executive Order of the

Governor in response to the COVID-19 public health emergency, concerning social distancing and use of personal protective equipment during the period those protocols are in effect.

4. a. The common Council of the Borough of Flemington may file with the Division of Alcoholic Beverage Control an objection to the continued operation under subsection a. of this section by any licensee or permittee the governing body finds to have:

- 1) Failed to follow, maintain, and enforce protocols promulgated by the Commissioner of Health or by Executive Order of the Governor in response to the COVID-19 public health emergency concerning social distancing and the use of personal protective equipment; or
- 2) Violated any other health, safety, fire permitted use or zoning regulations or ordinances not otherwise directly superseded by this section or Special Ruling No. 2020-10.

Any decision rendered, or action taken, by the of the Division of Alcoholic Beverage Control as a result of an objection filed by the governing body of the municipality pursuant to this subsection shall be a final agency action subject to judicial review in the Appellate Division of the Superior Court of New Jersey in accordance with the Rules of Court.

- c. Nothing in this ordinance shall preclude or limit the authority provided to the Director of the Division of Alcoholic Beverage Control pursuant to the provisions of Title 33 of the Revised Statutes or the exercise of such authority thereby.
5. A public sidewalk or an outdoor space shall be considered a portion of the premises which is open to the public for the purposes 30 of section 5 of P.L.1999, c.90 (C.2C:33-27).
6. This ordinance shall expire on November 30, 2022, or on the date of the resumption, pursuant to an executive order issued by the Governor, of indoor dining without capacity limitations, whichever is later.
7. All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.
8. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

9. This Ordinance shall take effect upon final passage, publication, and filing, all in accordance with the law.

Introduced: March 8, 2021

Adopted:

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-67

DOC ID: 3437

**Resolution Reaffirming the Commitment and Objectives of
the Flemington Green Team**

WHEREAS, Flemington adopted Resolution No. 2019-84, "Designating the Environmental Commission as Flemington Borough's Green Team," at a regular meeting conducted on March 27, 2019; and

WHEREAS, Flemington resolved in that resolution that they wished to pursue local initiatives and actions that would lead to Sustainable Jersey Municipal Certification; and

WHEREAS, Flemington further resolved in that resolution to re-establish the Flemington Green Team, to serve as Flemington's agents for the Sustainable Jersey municipal certification process; and

WHEREAS, the Green Team is comprised of members of the Environmental Commission, who are interested in advancing the efforts of Flemington in the Sustainable Jersey municipal certification program; and

WHEREAS, that group has been creating and cataloging significant sustainability actions so that Flemington may obtain Sustainable Jersey certification;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington reaffirm that:

- 1) The Green Team of Flemington is active in the community and advancing sustainable practices and actions included in the Sustainable Jersey municipal certification program;
- 2) The Green Team has been and shall continue to be comprised of individuals who have demonstrated interest in advancing the efforts of Flemington to pursue certification through the Sustainable Jersey municipal certification program;
- 3) The role of the Green Team has been and shall continue to be to lead and coordinate the sustainability activities of the community;

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-68

DOC ID: 3441

**Recognizing the Accomplishments and Potential of Women,
During Women's History Month**

Flemington Borough, Hunterdon County

Whereas National Women's History Month recognizes and spreads awareness of the importance of women in the history of the United States; and

Whereas, throughout the history of the United States, whether in the home, workplace, school, the courts, or in wartime, women have fought for themselves, their families, and all people of the United States; and

Whereas women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in the United States; and

Whereas women led the efforts to secure suffrage and equal opportunity for women, and also served in the abolitionist movement, the emancipation movement, labor movements, civil rights movements, and other causes to create a more fair and just society for all; and

Whereas women have been and continue to be leaders in the forefront of social change efforts, business, science, government, math, art, literature, music, film, athletics, and more; and

Whereas women now represent approximately half of the workforce of the United States; and

Whereas women have been vital to the mission of the Armed Forces since the American Revolution, serving in volunteer and enlisted positions; and

Whereas, despite the advancements of women in the United States, much remains to be done to ensure that women realize their full potential as equal members of society;

Now, therefore, be it resolved that the Mayor and Council of the Borough of Flemington hereby take the opportunity provided by the observation of Women's History Month to recognize the accomplishments and potential of women.

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-69

DOC ID: 3442

Marking the First Anniversary of the COVID-19 Pandemic

Flemington Borough, Hunterdon County

WHEREAS, nearly a year has passed since March 16, 2020, when the Borough of Flemington declared a local public health emergency and state of emergency due to a pandemic caused by Coronavirus disease 2019, known as COVID-19; and

WHEREAS, 362 residents of the Borough have contracted COVID-19 over the past year, and the disease has taken the lives of three Borough residents; and

WHEREAS, the pandemic has changed the way Borough residents live and work and how children are educated; and

WHEREAS, healthcare workers and first responders have faced unprecedented challenges due to this pandemic; and

WHEREAS, business owners have had to respond creatively to ever-changing restrictions aimed at controlling the spread of this contagious and at time fatal respiratory disease; and

WHEREAS, the COVID-19 pandemic continues to cause significant risk to public health and safety;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington honor the sacrifices made by residents, first responders, healthcare workers, businesspeople, educators, front-line workers and all who have been affected by the COVID-19 pandemic; and

BE IT FURTHER RESOLVED that a moment of silence be observed to mark this moment.

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-70

DOC ID: 3438

Waiving the Outdoor Dining Permit Fee for the Remainder of the Year 2021

WHEREAS, pursuant to Ordinance 2020-07 adopted on May 26, 2020, the Borough amended its zoning ordinances to permit outdoor dining as an accessory use to all restaurants, breweries, hotels, and other retail food establishments; and

WHEREAS, Ordinance 2020-07 requires an annual permit fee in the amount of \$50, which can be waived by the Borough Council; and

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, on March 9, 2020 Governor Phil Murphy declared that a Public Health Emergency and State of Emergency exist in the State of New Jersey; and

WHEREAS, on March 16, 2020 the Borough of Flemington declared that a local public health emergency and state of emergency exist in the Borough of Flemington; and

WHEREAS, on-premises dining has been prohibited or restricted at all retail food establishments since such time; and

WHEREAS, the Borough Council anticipates that as retail food establishments are permitted to reopen for on-premises dining, they will have to strictly adhere to social distancing guidelines; and

WHEREAS, the Borough Council anticipates that outdoor dining will be essential to the success of the Borough's retail food establishments in the wake of the COVID-19 pandemic; and

WHEREAS, in an effort to aid in the recovery of local retail food establishments in the wake of the COVID-19 pandemic, the Borough Council desires to waive the permit fee for outdoor dining for the remainder of the year 2021;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, hereby waive collection of the outdoor dining permit fee for restaurants, breweries, hotels, and all other retail food establishments for the remainder of the year 2021.

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-71

DOC ID: 3440

**Authorizing Town Wide Yard Sales to be Held on May 1-2,
2021 and October 2-3, 2021**

BOROUGH OF FLEMINGTON
COUNTY OF HUNTERDON

WHEREAS, the Borough holds annual town wide yard sales in the spring and fall; and

WHEREAS, the dates that are preferable to hold these sales in 2021 are May 1st and 2nd, with a rain date of May 8th and 9th; and October 2nd and 3rd, with a rain date of Oct. 9th and 10th;

NOW THEREFORE BE IT RESOLVED, by the Mayor and Common Council of the Borough of Flemington, County of Hunterdon, State of New Jersey, that the annual town wide yard sales be held on May 1st and 2nd of 2021 and October 2nd and 3rd of 2021 with rain dates as specified above.

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, R.M.C, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-72

DOC ID: 3439

**Expressing Opposition to Assembly Bill ACS-1571/1576 and
Companion Senate Bill S-1956, to Impose Prevailing Wage
Requirements on Certain Redevelopment Projects**

WHEREAS, New Jersey General Assembly Bills ACS 1571 and 1576 and Senate Bill S-1956 seek to impose prevailing wage requirements on any property where a public body has provided, approved, or authorized a tax abatement or tax exemption; and

WHEREAS, Payments in lieu of taxes (PILOTS) are the single-most powerful tool available to municipalities to encourage property owners and developers to make improvements to property or to locate a project in a distressed or blighted area and are granted only where the municipality has determined that the project would not occur but for the PILOT; and

WHEREAS, PILOTS have been instrumental in the construction of affordable housing, environmental remediation, historic preservation, and the installation of infrastructure, and

WHEREAS, Increasing the cost of already challenged projects by requiring a private property owner to pay prevailing wages for improvements on their property, as is contemplated by the above bills, will prompt a greater demand on the municipality to provide additional concessions, such as increased density or building heights, in the PILOT at the expense of property taxpayers, which will diminish municipal revenue and property tax relief, and may even prevent projects from moving forward; and

WHEREAS, COVID-19 has not only affected the public health, it has impacted our main street businesses and halted development, requiring municipalities to use every tool available to encourage and spur post-COVID development, without the economy-stunting limitations of ACS 1571/1576 and S-1956; and

WHEREAS, the Bills, as currently configured, do not appear to ensure that the State provide the gap financing necessary to make municipal redevelopment projects financially viable, or to provide funding to municipalities to re-engage professional services in order to restructure and amend redevelopment plans, redevelopers agreements and financial agreements (costs already born by local taxpayers), nor to address settlements impacting the much needed and long overdue construction of affordable housing units as those agreements will need to be renegotiated at the local level; and

WHEREAS, the Borough of Flemington is concerned that towns will be responsible for these added costs by reducing project revenue to taxpayers or by increasing density, intensity and height of projects and plans moving forward without an assurance in this proposed legislation that the State is considering new financial tools for local municipalities to attract investment and make projects financially viable; and

WHEREAS, it is unclear from the proposed legislation the impact to community givebacks that were already negotiated in the best interest of local municipalities and under local control (infrastructure upgrades, workforce development programs, environmental remediation, contributions to Affordable Housing Trust Funds, etc.), and whether an economic impact assessment has been conducted, especially in light of the pandemic and urgent need for economic recovery.

NOW THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Flemington that the Borough of Flemington opposes the passage of ACS 1571/1576 and S-1956 for the above stated reasons.

BE IT FURTHER RESOLVED, that the Borough Clerk is hereby directed to forward a certified copy of the within Resolution to its Representative to the New Jersey Assembly and to its State Senator.

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk

Mayor and Common Council

38 Park Avenue
Flemington, NJ 08822

Meeting: 03/08/21 07:30 PM
Department: Clerk of the Borough
Category: Board Policy
Prepared By: Sallie Graziano
Initiator: Sallie Graziano
Sponsors:

SCHEDULED

RESOLUTION 2021-73

DOC ID: 3443

**Amending and Restating Resolution Number 2021-48
Heretofore Duly Adopted by the Borough of Flemington, in
the County of Hunterdon, State of New Jersey on January 25,
2021 and Entitled "Resolution of the Borough of Flemington,
in the County of Hunterdon, New Jersey, Determining the
Form and Other Details of Its "Note Relating to the
Transportation Bank Short-Term Loan Program of the New
Jersey Infrastructure Bank", to be Issued in One or More
Series in the Aggregate Principal Amount of Up to
\$1,591,952, and Providing for the Issuance and Sale of Such
Note to the New Jersey Infrastructure Bank, and Authorizing
the Execution and Delivery of Such Note by the Borough of
Flemington in Favor of the New Jersey Infrastructure Bank,
All Pursuant to the New Jersey Infrastructure Bank's
Transportation Bank Short-Term Loan Program"**

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit (as defined herein), as follows:

Section 1. Resolution Number 2021-48 heretofore duly adopted by the Local Unit on January 25, 2021 and entitled, "RESOLUTION OF THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, NEW JERSEY, DETERMINING THE FORM AND OTHER DETAILS OF ITS "NOTE RELATING TO THE TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK", TO BE ISSUED IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$1,591,952, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE BY THE BOROUGH OF FLEMINGTON IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK'S TRANSPORTATION BANK SHORT-TERM LOAN PROGRAM", is hereby amended and restated in its entirety, as follows:

WHEREAS, the Borough of Flemington (the "Local Unit"), in the County of Hunterdon, New Jersey, has determined that there exists a need within the Local Unit to design, construct, renovate, acquire and/or install a project consisting of Various Roadway Improvements to Corcoran Street, South Main Street and Dewey Avenue including, but not limited to, as applicable, excavation, milling, paving, reconstruction and boxing out and resurfacing or full

depth pavement replacement, and where necessary, the sealing of pavement cracks, storm drainage improvements, the repairing and/or installation of or improvements to curbs, sidewalks and driveway aprons, ADA access improvements, resetting utility castings, improvements to and/or construction of retaining walls, traffic signal improvements, traffic striping and pavement markings, and associated lawn restoration, landscaping and aesthetic improvements (the "Project"), and it is the desire of the Local Unit to obtain financing for all or any portion of such Project through participation in the transportation financing programs (the "Transportation Bank") of the New Jersey Infrastructure Bank (the "I-Bank") as established pursuant to, and in satisfaction of, the "New Jersey Infrastructure Trust Act," constituting Chapter 334 of the Laws of New Jersey of 1985 (codified at N.J.S.A. 58:11B-1 *et seq.*), as the same has been, and in the future may from time to time be, amended and supplemented (the "I-Bank Act");

WHEREAS, the Local Unit has determined to short-term finance the design and construction of all or any portion of such Project through the Transportation Bank short-term loan program (the "Transportation Short-Term Loan Program") with proceeds of one or more short-term loan(s) (the "Transportation Short-Term Loan") from the I-Bank;

WHEREAS, in order to (i) evidence and secure the repayment obligation of the Local Unit to the I-Bank with respect to the Transportation Short-Term Loan, and (ii) satisfy the requirements of the Transportation Short-Term Loan Program, it is the desire of the Local Unit to issue and sell to the I-Bank the "Note Relating to the Transportation Bank Short-Term Loan Program of the New Jersey Infrastructure Bank" in an aggregate principal amount of up to \$1,671,550 (to be issued in one or more series, as applicable) (the "Note");

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest and deliver each Note to the I-Bank pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the "Local Bond Law"), and other applicable law; and

WHEREAS, Section 28 of the Local Bond Law and Section 9 of the I-Bank Act permit the sale of each Note to the I-Bank (in one or more series), without any public offering, all pursuant to the terms and conditions set forth, respectively, therein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Local Unit as follows:

Section 1. The obligation represented by the Note has been appropriated and authorized by bond ordinance #2020-18 of the Local Unit, which bond ordinance (i) is entitled "BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS, BY AND IN THE BOROUGH OF FLEMINGTON, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$1,671,550 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,591,952 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF" and was finally adopted by the Local Unit at a meeting duly called and held on December 14, 2020, as amended and supplemented by bond ordinance # 2021-4 of the Local Unit which bond ordinance is entitled "BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2020-18 FINALLY ADOPTED BY THE BOROUGH COUNCIL ON DECEMBER 14, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$83,578 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES

THEREIN BY \$79,598 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF", and was finally adopted by the Local Unit at a meeting duly called and held on March 8, 2021, at which time quorums were present and acted throughout, respectively (ii) each thereafter duly published as required, and (iii) each are in full force and effect, all pursuant to and in satisfaction of the terms of the Local Bond Law and other applicable law. In accordance with Section 28 of the Local Bond Law and Section 9 of the I-Bank Act, the Local Unit hereby authorizes the issuance, sale and award of the Note (in one or more series) to the I-Bank in accordance with the provisions hereof.

Section 2. The Chief Financial Officer of the Local Unit (the "Chief Financial Officer") is hereby authorized to determine, in accordance with the Local Bond Law, the I-Bank Act, other applicable law and pursuant to the terms and conditions hereof, (i) the final principal amount(s) (if sold in one or more series, as applicable) of each Note (subject to the maximum limitation set forth in Section 4(a) hereof), (ii) the dated date(s) (if sold in one or more series, as applicable) of each Note and (iii) the interest rate(s) (if sold in one or more series, as applicable) of each Note.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of each Note by the parties authorized pursuant to Section 4(h) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Note shall be as follows:

- (a) the aggregate principal amount of the Notes to be issued to the I-Bank, shall be an amount up to \$1,671,550 and may be issued in more than one series provided the combined principal amounts do not exceed \$1,671,550;
- (b) the maturity or maturities of each Note (if sold in more than one series) shall be as determined by the I-Bank pursuant to the terms and provisions of the Transportation Short-Term Loan Program;
- (c) the interest rate or rates of each Note (if sold in more than one series) shall be as determined by the I-Bank pursuant to the terms and provisions of the Transportation Short-Term Loan Program;
- (d) the purchase price or prices (if sold in more than one series) for each Note shall be par;
- (e) each Note shall be subject to prepayment prior to its stated maturity and to repayment at or prior to its stated maturity, each in accordance with the terms and provisions of the Transportation Short-Term Loan Program;
- (f) each Note shall be issued in a single denomination and shall be numbered "NJTB-STLP-2021-__" (or such other year or designation at the time of issuance);
- (g) each Note shall be issued in fully registered form and shall be payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) each Note shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer under official seal or facsimile thereof affixed, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. Each Note shall be substantially in the form attached hereto as Exhibit A.

Section 6. The law firm of Archer & Greiner P.C. is hereby authorized to arrange for the drafting, preparation and printing of each Note, which law firm may authorize Chiesa Shahinian & Giantomasi PC, bond counsel to the I-Bank for the Transportation Short-Term Loan Program, to arrange for same.

Section 7. The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers, in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit and after further consultation with the I-Bank and its representatives, agents, counsel and advisors, to be executed in connection with the issuance and sale of the Note and the participation of the Local Unit in the Transportation Short-Term Loan Program, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution, issuance and delivery of the Note and the participation of the Local Unit in the Transportation Short-Term Loan Program.

Section 8. This resolution shall take effect upon the effective date of Bond Ordinance #2021-4.

Section 9. Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to John M. Cantalupo, Esq., Archer & Greiner P.C., bond counsel to the Local Unit; David E. Zimmer, Executive Director of the I-Bank; and Tricia M. Gasparine, Esq., Chiesa Shahinian & Giantomasi PC, bond counsel to the I-Bank for the Transportation Short-Term Loan Program."

Adopted: March 8, 2021

Attest:

Betsy Driver, Mayor

Sallie Graziano, Borough Clerk