**KAMPFE LAKE ROAD IMPROVEMENT AGREEMENT**

By and Between:

Borough of Bloomingdale, a Municipal Corporation

of the State of New Jersey,

-and-

Kampfe Lake Association,

a Qualified Private Community

of the State of New Jersey.

**KAMPFE LAKE ROAD IMPROVEMENT AGREEMENT**

 This Agreement made and entered into by and between the Borough of Bloomingdale, County of Passaic and State of New Jersey, a municipal corporation of the State of New Jersey, with administrative offices located at 101 Hamburg Turnpike, Bloomingdale, NJ 07403 (hereinafter referred to as “Borough”) and the Kampfe Lake Association, a qualified private community organized and existing under the laws of the State of New Jersey, with offices located at 4 West Shore Road, Bloomingdale, NJ 07403 (hereinafter referred to as “Association”);

**W I T N E S S E T H:**

 **WHEREAS**, the Association is a qualified private community pursuant to the definitions established in N.J.S.A. 40:67-23.1, in which there exists private roads; and

 **WHEREAS**, the Borough and the Association wish to enter into an agreement whereby the Borough will undertake the improvement of certain roads in the Kampfe Lake development and the Association will pay the total cost thereof to the Borough; and

 **WHEREAS**, the Borough has appropriate the sum of $90,705, $4,405 of which has been received as a down payment from the Association, negotiable bonds in the amount of $86,300 pursuant to the Local Bond Law, for a period of usefulness of ten (10) years in order to finance the cost of the improvement, and has entered into an Ordinance reflecting same.

 **NOW, THEREFORE**, in consideration of promises and of the mutual covenants and agreements hereinafter set forth, the parties hereby agree as follows:

1. **REIMBURSEMENT OF COSTS:** The Association shall reimburse the Borough for the actual, non-duplicative, reasonable and necessary costs and expenses which the Borough may incur in connection with the improvements of the following roads in the Kampfe Lake development: all or a portion of East Shore road and West Shore Road. Such costs shall include but not be limited to the actual, non-duplicative, reasonable and necessary professional fees billed to the Borough for services rendered in connection with the preparation of this Agreement, as well as an reasonable and necessary costs and expenses incurred by the Borough and not otherwise satisfied from the Ordinance adopted by the Borough in regard to this matter. The Borough’s determination concerning whether such costs, expenses and/or fees are actual, non-duplicative, reasonable or necessary shall be final.
2. **REPAYMENT OF MONIES:** Upon completion of all work, the Borough shall bill the Association. The Association shall reimburse the Borough 5% of the amount due as reflected on the invoice within thirty (30) days of receipt of the invoice. The remainder shall be paid over a period of ten (10) years in evenly divided installments on a semi-annual basis by the 1st of January and July each year.
3. **FAILURE TO REIMBURSE:** In the event that the Association defaults on its financial obligations under this Agreement, the Borough may adopt a Special Assessment Ordinance covering all of the properties belonging to the Association to set an assessment pursuant to N.J.S.A. 40:56-21 et seq. to ensure the repayment of the monies expended by the Borough on Kampfe Lake. The assessments levied under the Special Assessment Ordinance shall include all of the reasonable and necessary costs incurred by the Borough in adopting and administering the Ordinance and in making and collecting the assessments levied thereunder. All property owners of the Association shall be responsible in the event of default by the Association of its obligations under this Agreement.
4. **INSURANCE:** The Association shall pay the cost of any Borough insurance rider required by the Borough for the purpose of enabling Borough vehicles to operate on the Association’s private roads.
5. **INDEMNIFICATION:** The Association hereby agrees to indemnify the Borough against and hold the Borough harmless from any and all liabilities, claims, demands, losses, suits, causes of action, judgments, damages, costs and expenses, including reasonable attorney’s fees, arising from or as a result of any action or inaction on the part of the Association involving this Agreement and this indemnification is to be construed as broadly as possible in favor of the Borough. The Association further agrees to indemnify and hold harmless the Borough and its employees from any and all claims arising from the failure of the Association to adequately maintain the roads on which the Borough and its employees may provide services as set forth herein.
6. **ASSUMPTION OF RIGHTS AND REMEDIES:** The Association hereby acknowledges that the Borough agrees to undertake the improvements set forth herein and pay all monies associated up front, with the Association responsible to re-pay all monies to the Borough , as an accommodation to the Association. Accordingly, in the event that the Association defaults on its obligations, then in such event, the Borough shall have the right to exercise any of the rights and remedies under N.J.S.A. 40:56-21 et seq.
7. **WARRANTY OR GUARANTEE:** It is expressly understood by and between the parties that the Borough does not warranty or guaranty any of the improvements herein after five (5) years from the date of completion.
8. **NOTICES:** Any and all notices regarding the terms and provisions of this Agreement shall be effective only if the same are in writing and are sent certified mail, return receipt requested, and addressed to the Borough and the Association, and their respective attorneys at their respective addresses hereafter set forth or at such other addresses as either the borough or the Association may, from time to time, advise the other by notice in writing as aforesaid.

Borough of Bloomingdale Kampfe Lake Association

101 Hamburg Turnpike 4 West Shore Road

Bloomingdale, NJ Bloomingdale, NJ

Fred Semrau, Esq.

Dorsey & Semrau, LLC

714 Main Street

P.O. Box 228

Boonton, NJ 07005

1. **AMENDMENTS:** Any changes or amendments to this Agreement must be made in writing and signed by the Borough and the Association.
2. **ENTIRE AGREEMENT:** This Agreement contains the entire agreement between the Borough and the Association and any changes or amendments hereto must be made in accordance with the preceding paragraph 9.
3. **LAW:** This Agreement shall be interpreted and construed in accordance with the laws of the State of New Jersey.
4. **SEVERABILITY:** The terms, conditions, covenants and provisions of this Agreement shall be deemed to be severable. If any clause or provision contained herein shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision herein by such other clauses or provisions shall remain in full force and effect.
5. **CAPTIONS:** Any headings preceding the text of the several paragraphs and subparagraphs hereof are inserted solely for the convenience of reference and shall not constitute a part of this Agreement, nor affect its meaning, construction or effect.
6. **BENEFIT:** This Agreement shall be binding upon and inure to the benefit of the Borough and the Association and their respective successors and permitted assigns.
7. **EFFECTIVE DATE:** This Agreement shall become effective on the more recent of the dates of execution which hereinafter appear above the signatures of the parties.

**IN WITNESS WHEREOF,** the parties hereto have caused these presents to be executed and delivered by their proper officers and their corporate seals to be hereto affixed, all as of the dates indicated below.

**Date of Execution by the Borough: , 2016**

**ATTEST: BOROUGH OF BLOOMINGDALE**

Jane McCarthy, Borough Clerk

**Date Executed by Association: , 2016**

**ATTEST: KAMPFE LAKE ASSOCIATION**