**ORDINANCE NO. 23-2016**

**OF THE GOVERNING BODY**

**OF THE BOROUGH OF BLOOMINGDALE**

**BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 14-2016 FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY ON MAY 17, 2016, TO INCREASE THE APPROPRIATION REFERRED TO IN SECTION 3(a)(ii) BY $100,000, TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES BY $95,000 AND TO AMEND THE DESCRIPTION OF THE IMPROVEMENT THEREIN**

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

**SECTION 1.** Bond Ordinance Number 14-2016 finally adopted on May 17, 2016 by the Borough Council of the Borough of Bloomingdale, in the County of Passaic, State of New Jersey (the “Borough”) entitled, “BOND ORDINANCE PROVIDING VARIOUS 2016 CAPITAL IMPROVEMENTS, BY AND IN THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY; APPROPRIATING $1,024,850 THEREFOR AND AUTHORIZING THE ISSUANCE OF $975,000 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)(ii) of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of $100,000, said sum being inclusive of $5,000 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. The appropriation for the improvements or purposes contained in Section 3(a)(ii) of the Original Ordinance, as amended and supplemented hereby, shall be increased by $100,000 from $236,050 (including the grant in the amount of $99,000 (the “Grant”) received or expected to be received from the County of Passaic Open Space and Farmland Preservation Trust Fund Program) to equal the amount of $336,050, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, for the improvements or purposes contained in said Section 3(a)(ii), including the amount of down payment increased by $5,000 from $11,250 to equal $16,250. Therefore, the total appropriation contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by $100,000 from $1,024,850 and to equal the amount of $1,124,850, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, including the Grant and the total amount of down payment increased by $5,000 from $49,850 to equal the amount of $54,850. The total appropriation including the total amount of down payment is $1,124,850.

**SECTION 3.** In order to finance the additional cost of the improvements or purposes set forth in Section 3(a)(ii) of the Original Ordinance, as amended and supplemented hereby, not covered by the additional down payment or the Grant, additional negotiable bonds or notes of the Borough in the amount of $95,000 are hereby authorized to be issued by the Borough for such improvements or purposes set forth in Section 3(a)(ii) 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 Section 3(a)(ii) of the Original Ordinance, as amended and supplemented hereby, shall be increased by $95,000 from $224,800 to equal the amount of $319,800. Therefore, the total authorization of negotiable bonds or notes to be issued by the Borough for the improvements or purposes contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by $95,000 from $975,000 and to equal the amount of $1,070,000.

**SECTION 4.** (a) Section 3(a)(ii) of the Original Ordinance shall be amended and restated to read in its entirety as follows:

| “Description | Appropriation | Debt  Authorization | Down  Payment | Useful  Life |
| --- | --- | --- | --- | --- |
| (i) Phase I drainage improvement project at Walter T. Bergan Field, drainage improvements to Walter Drive, Andrews Place, Clark Street, Catherine Street, Elizabeth Street, Star Lake Road, Van Dam Avenue, and Valley View Street. Said improvement shall also include, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration; and” | $336,050  (including a $99,000  grant expected to  be received from  the County of Passaic  Open Space and  Farmland Preservation  Trust Fund Program) | $319,800 | $16,250 | 15 years |

(b) The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is $1,070,000.

(c) The aggregate estimated cost of said improvements or purposes is $1,124,850, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the Grant and the aggregate down payments available for said purposes in the amount of $54,850.

(d) All such improvements or purposes set forth in Section 4 shall include all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

**SECTION 5.** Except for the Grants (as defined in the Original Ordinance), in the event the United States of America, the State of New Jersey, and/or the County of Passaic make a contribution or grant in aid to the Borough for the improvements and purposes authorized in the Original Ordinance, as amended and supplemented hereby, and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 of the Original Ordinance, as amended and supplemented hereby, 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, and/or the County of Passaic. Except for the Grants, in the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Passaic shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 of the Original Ordinance, as amended and supplemented hereby, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 5 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 6.** The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith and a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or temporary capital budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, is on file in the office of the Clerk and is available for public inspection.

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

(a) 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, Department of Community Affairs, State of New Jersey, 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 amendatory and supplemental bond ordinance by $95,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(b) For the improvements or purposes set forth in the Original Ordinance, as amended and supplemented hereby, an additional sum of $5,000 is hereby included for items of expense listed in and permitted under N.J.S.A. 40A:2-20, making the total amount for such items of expense equal to an aggregate amount not exceeding $79,000, 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 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 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 principal of the obligations and the interest thereon without limitation as to rate or amount.

**SECTION 9.** The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations §1.150-2. No reimbursement allocation will employ an “abusive arbitrage device” under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the “Code”). The proceeds of any bonds or notes authorized in the Original Ordinance, as amended and supplemented hereby, used to reimburse the Borough for costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, or funds corresponding to such amounts, will not be used in a manner that results in the creation of “replacement proceeds”, including “sinking funds”, “pledged funds” or funds subject to a “negative pledge” (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized in the Original Ordinance, as amended and supplemented hereby, or another issue of debt obligations of the Borough other than amounts deposited into a “bona fide debt service fund” (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized in the Original Ordinance, as amended and supplemented hereby, to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, will be issued in an amount not to exceed $1,070,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized in the Original Ordinance, as amended and supplemented hereby, will be "capital expenditures" in accordance with the meaning of section 150 of the Code. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized in the Original Ordinance, as amended and supplemented hereby, is paid, or (ii) the date the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, is “placed in service” (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid.

**SECTION 10.** The Borough covenants to maintain the exclusion from gross income for Federal income tax purposes 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 amendatory and supplemental bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

NOTICE

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a regular meeting of the governing body of the Borough of Bloomingdale, in the County of Passaic, State of New Jersey on August 16, 2016. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Borough Municipal Building, 101 Hamburg Turnpike, Bloomingdale, in said County on September 6, 2016 at 7:00 p.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk’s office for the members of the general public who shall request the same.

Jane McCarthy, RMC

Municipal Clerk