TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE NUMBER 2018-05

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2015-10 FINALLY ADOPTED BY THE TOWNSHIP COUNCIL ON OCTOBER 19, 2015, AS PREVIOUSLY AMENDED AND SUPPLEMENTED, TO INCREASE THE APPROPRIATION THEREIN BY $4,200,000 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY $3,990,000 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF

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

SECTION 1. The bond ordinance of the Township of Lower, in the County of Cape May, State of New Jersey (the "Township"), heretofore finally adopted by the Township Council on October 19, 2015, number 2015-10, entitled: "BOND ORDINANCE PROVIDING FOR DRAINAGE AND STORMWATER MANAGEMENT IMPROVEMENTS AND ASSOCIATED ROAD WORK TO ROSEANN AVENUE AND BAYSHORE ESTATES, BY AND IN THE TOWNSHIP OF LOWER, IN THE COUNTY OF CAPE MAY, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING $4,750,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $4,520,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF", as previously amended and supplemented by a bond ordinance finally adopted by the Township Council on April 4, 2016 (collectively, 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 $4,200,000, said sum being inclusive of $210,000 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 Township 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 $4,200,000 from $4,750,000 and shall equal the amount of $8,950,000, 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 $210,000 from $230,000 to equal $440,000. The total appropriation including the total amount of down payment is $8,950,000.

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 Township in the amount of $3,990,000 are hereby authorized to be issued by the Township for such improvements or purposes in Section 3(a) of the Original Ordinance, as amended and supplemented, such that the total authorization of negotiable bonds or notes to be issued by the Township for the improvements or purposes stated in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, shall be increased by $3,990,000 from $4,520,000 and shall equal the amount of $8,510,000.

SECTION 4. The Capital Budget of the Township 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 Township 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 Township 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 $3,990,000 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 items of expense listed in and permitted under N.J.S.A. 40A:2-20, shall be increased by $840,000 from $750,000 and shall equal the amount of $1,590,000, 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 7. The full faith and credit of the Township 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 Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 8. The Township hereby declares the intent of the Township to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of the Original Ordinance, as amended and supplement 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 supplement 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 Township 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 Township and to execute such disclosure document on behalf of the Township. The Township Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township 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 Township 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 Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10. The Township 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.

Thomas Conrad, Councilman

David Perry, Councilman

Roland Roy, Jr., Councilman

Frank Sippel, Deputy Mayor

Erik Simonsen, Mayor

Adopted on First Reading
March 5, 2018

Julie A Picard, Township Clerk

Adopted on Second Reading
March 19, 2018

Julie A Picard, Township Clerk