

ORDINANCE 14-2022

**BOROUGH OF EATONTOWN
COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**BOND ORDINANCE PROVIDING FOR VARIOUS 2022 GENERAL CAPITAL IMPROVEMENTS,
BY AND IN THE BOROUGH OF EATONTOWN, IN THE COUNTY OF MONMOUTH, STATE OF
NEW JERSEY; APPROPRIATING \$2,747,100 THEREFOR (INCLUDING THREE GRANTS IN
THE AGGREGATE AMOUNT OF \$680,100) AND AUTHORIZING THE ISSUANCE OF
\$1,963,650 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE
BOROUGH OF EATONTOWN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY
(not less than two-thirds of all the 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 Eatontown, in the County of Monmouth, State of New Jersey (the "Borough") as general capital improvements. For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$2,747,100, which is inclusive of a grant from the New Jersey Department of Transportation, associated with the Downtown Greenway Improvements, Phase II, in the amount of \$300,000, a grant from the County of Monmouth Open Space Program associated with the Nicodemus Park Splash Pad in the amount of \$48,000, a grant from the New Jersey Department of Transportation associated with the Industrial Way West Improvements, Phase III, in the amount of \$332,100 (collectively, the "Grants"), and \$103,350 as the aggregate 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 \$2,747,100 appropriation not provided for by application hereunder of said down payments or the Grants, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,963,650 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 \$1,963,650 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 bonds or notes are to be issued, include, but are not limited to, as follows:

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
(i) <u>Roadways and Drainage Improvements</u> - Improvements To Roadways In And Throughout The Borough Which Roadways Include, But Shall Not Be Limited To, Holly Glenn Way, Downtown Eatontown Greenway and Industrial Way West, and Drainage Improvements In And Throughout The Borough Which Drainage Improvements Include, But Shall Not Be Limited To, the Municipal Parking Lot, Wolcott Park and Husky Brook Park, Which Improvements Shall Include, But Not Be 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, And Associated Repairing And/Or Installation Of Curbs, Curb Ramps, Sidewalks, Driveway Aprons, Resetting Of Utility Castings And Drainage Improvements, Roadway Painting, And Aesthetic Improvements;	\$1,466,100 (Includes the Grants for Downtown Eatontown Greenway Improvements, Phase II and Industrial Way West Improvements, Phase III)	\$792,300	\$41,700	20 years
(ii) <u>Machinery and Equipment</u> - Acquisition And Installation, And/Or Improvements To, As Applicable, Machinery And Equipment For Various Divisions Of The Public Works Department Including, But Not Limited To, A Hook Lift Truck With Dump Body, Plow And Spreader, Street Sweeper, Mini Excavator, 30 Yard Open Top Dumpsters, Refurbishment of Truck 59 And Improvements to Fuel Management System;	\$779,100	\$740,145	\$38,955	14.59 years
(iii) <u>Public Buildings and Facilities</u> - General Capital Improvements To Exteriors And Interiors of Various Public Buildings And Facilities, And/Or Acquisition And Installation Of Equipment And Non-Passenger Vehicles, As Applicable, In And Throughout The Borough Including, But Not Limited To, Installation Of New Key System for Borough Hall, Renovations and/or Repairs to Maintenance Shop and Historical Museum, Replacement Of Carpets And Installation of Fire Doors and Walls At Municipal Building, Construction of An Out Door Shed For Community Center And Pre-School, Replacement of Tables and Chairs at Senior Center, Acquisition of a Scanner for Tax Assessor And Chair for Tax Collector, Replacement of Recreational	\$240,200 (Includes the Grant for Nicodemus Park Splash Pad)	\$182,590	\$9,610	9.18 years

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
Equipment at Various Parks and Improvements to Nicodemus Park Splash Pad, and				
(iv) Vehicles and Equipment – Acquisition and Installation, As Applicable, Of Non-Passenger Vehicles And Equipment For Various Departments Throughout The Borough Including, But Not Limited To, Office Furniture and Various Computer Hardware And Software, Mobile Video Recorders, Various Non-Passenger Vehicles And Less Lethal Weapons For The Police Department; Self-Contained Breathing Apparatus, Thermal Imaging Cameras, a New Fire Hose, Turn Out Gear And a Sport Utility Vehicle For The Fire Department; And Road Barricades, Communication Board With Radar And Warning Lights And Traffic Control Devices For The Office Of Emergency Management.	\$261,700	\$248,615	\$13,085	5.00 years
Totals	<u>\$2,747,100</u>	<u>\$1,963,650</u>	<u>\$103,350</u>	

(b) All such improvements or purposes set forth in Section 3(a) shall include, but are not limited to, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto. All or any portion of the appropriations, authorizations and downpayments set forth in each of the subsections in Section 3(a)(i) through (v) herein may be moved among and added or decreased to and from each of the subsections in Section 3(a)(i) through (v).

(c) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,963,650.

(d) The aggregate estimated cost of said improvements or purposes is \$2,747,100, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the Grants in the amount of \$680,100 and the down payments available for said purposes in the aggregate amount of \$103,350.

SECTION 4. Except for the Grants, in the event the United States of America, the State of New Jersey, the County of Monmouth, 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 Monmouth, and/or a private entity. 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, the County of Monmouth, 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 time 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. 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, 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, 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 as approved by the Director of the Division of Local Government Services in the 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 general improvements or purposes, 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 15.05 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 in the 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 \$1,963,650 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 \$550,000.00 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. Unless paid from other sources, 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. Unless paid from other sources, 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 Commission⁴ (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 is hereby authorized to acquire the Property and to negotiate an agreement of sale or any other document for the aforesaid acquisition of the Property. The Mayor, Business Administrator, Chief Financial Officer, Borough Attorney and the Borough Clerk are each hereby authorized, as applicable, to negotiate, approve, execute, attest, deliver and perform said agreement of sale and any and all documents necessary to acquire the Property.

SECTION 12. 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 13. This bond ordinance shall take effect twenty (20) days after final adoption, and approval by the Mayor, as provided by the Local Bond Law.

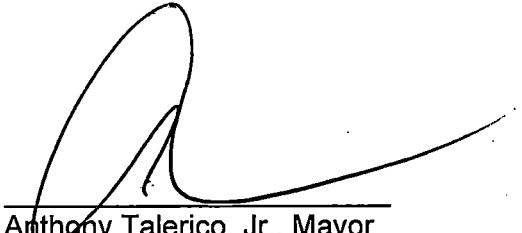
DATE INTRODUCED: JULY 13, 2022
PUBLIC HEARING: JULY 27, 2022

ATTEST:


Julie Martin, Municipal Clerk

Date: 7-28-2022

APPROVED:


Anthony Talerico, Jr., Mayor

7-28-2022