

ORDINANCE 15 - 2021

AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, RESCINDING AND CANCELLING BOND ORDINANCE 01-2021, FINALLY ADOPTED ON JANUARY 19, 2021, APPROPRIATING \$4,750,000 TO AID THE LANDFILL SOLAR REDEVELOPMENT PROJECT LOCATED ON THE MOUNT ARLINGTON LANDFILL REDEVELOPMENT AREA IN AND BY THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$4,750,000 IN BONDS AND NOTES TO FINANCE SUCH PURPOSE

WHEREAS, the Borough of Mount Arlington, in the County of Morris, New Jersey (the "Borough") adopted Bond Ordinance 01-2021 on January 19, 2021 (the "Bond Ordinance") providing for an appropriation of \$4,750,000 to aid the Landfill Solar Redevelopment Project located on the Mount Arlington Landfill Redevelopment Area (the "Redevelopment Project") and authorizing the issuance of \$4,750,000 bonds or notes to finance the short-term financing of such redevelopment project; and

WHEREAS, in furtherance of the Redevelopment Project, the Redeveloper requested that the Borough provide Redeveloper with short-term financing of the Redevelopment Project through the issuance by the Borough of a one-year bond anticipation note (the "Borough Note"), the proceeds of which would be loaned to the Redeveloper and used by the Redeveloper to pay for the costs to construct the Redevelopment Project, pursuant to the terms of the Redevelopment Agreement dated May 17, 2019 (the "Redevelopment Agreement"); and

WHEREAS, upon issuance of the Borough Note and closing on the loan to the Redeveloper, Redeveloper was to pay to the Borough a financing fee equal to (x) the interest due on the Borough Note at an interest rate of 6.20% less (y) the interest due on the Borough Note issued by the Borough to fund the loan at the then prevailing interest rate and less (z) the fee paid by the Redeveloper to the letter of credit bank for the letter of credit issued to secure the loan (such resulting financing fee, the "Borough Fee"); and

WHEREAS, the Borough adopted the Bond Ordinance to authorize the issuance of the Borough Note and effectuate the loan to the Redeveloper in consideration for the Borough Fee; and

WHEREAS, subsequent to the adoption of the Bond Ordinance, the Borough and Redeveloper entered into an amendment to the Redevelopment Agreement that requires Redeveloper to make a one-time payment to the Borough in the amount of \$50,000 in lieu of the Borough issuing the Borough Note and receiving the Borough Fee; and

WHEREAS, accordingly, the Borough will not be issuing the Borough Note and wishes to cancel and rescind the Bond Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, NEW JERSEY; (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The above Recitals are incorporated herein by reference as if set forth in full herein.

Section 2. The Bond Ordinance is hereby cancelled and rescinded.

Section 3. Any and all actions taken by the officials of the Borough based on the appropriation provided for in the Bond Ordinance are hereby ratified and confirmed.

Section 4. The capital budget of the Borough is hereby amended to reflect the cancellation of the Bond Ordinance.

Section 5. The Chief Financial Officer of the Borough is authorized and directed to make any adjustments to any supplemental debt statement or annual debt statement to reflect the cancellation and rescission of the Bond Ordinance.

Section 6. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

CLERK'S CERTIFICATE

I, Matthew N. Bansch, Borough Clerk of the Borough of Mount Arlington, in the County of Morris, State of New Jersey, HEREBY CERTIFY as follows:

1. I am the duly appointed Clerk of the Borough of Mount Arlington, in the County of Morris, State of New Jersey (herein called the "Borough"). In this capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Borough and the records relative to all ordinances and resolutions of the Borough. The representations made herein are based upon the records of the Borough.

2. Attached hereto is a true and complete copy of a bond ordinance passed by the governing body of the Borough on first reading on November 9, 2021 and finally adopted by the governing body on December 7, 2021 and, where necessary, approved by the Mayor on December 7, 2021.

3. On November 17, 2021, a copy of the bond ordinance and a notice that copies of the bond ordinance would be made available to the members of the general public of the municipality who requested copies, up to and including the time of further consideration of the bond ordinance by the governing body, was posted in the principal municipal building of the Borough at the place where public notices are customarily posted. Copies of the bond ordinance were made available to all who requested them.


4. A certified copy of this bond ordinance and a copy of the amended capital budget form has been filed with the Director of the Division of Local Government Services.

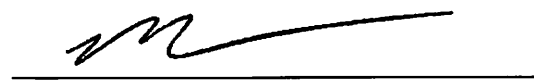
5. After final passage, the bond ordinance, a copy of which is attached hereto, was duly published on December 16, 2021. No protest signed by any person against making the improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the bond ordinance has been presented to the governing body or to me or filed in my office within 20 days after the publication or at any other time after the final passage thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this 30th day of December, 2021.

ATTEST:

BOROUGH OF MOUNT ARLINGTON
COUNTY OF MORRIS
STATE OF NEW JERSEY


Matthew N. Bansch
Borough Clerk


Michael Stanzilis, Mayor
Borough of Mount Arlington

[SEAL]

November 4, 2021

Carolyn Rinaldi
Borough Administrator/Chief Financial Officer
Borough of Mount Arlington
419 Howard Boulevard
Mount Arlington, NJ 07856

Re: Cancellation Bond Ordinance

Dear Ms. Rinaldi:

In accordance with your request, I have prepared and enclose herewith a form of bond ordinance rescinding and cancelling bond ordinance 01-2021, finally adopted on January 19, 2021. The bond ordinance should be adopted in accordance with the procedure set forth below for your convenience.

The bond ordinance may be introduced and read by title only and adopted by a majority of the members of the governing body present, assuming a quorum. **After introduction, the Notice of Pending Bond Ordinance and Summary must be published in the local newspaper, a form of which I have enclosed for your use. Also, the bond ordinance should be posted on the bulletin board customarily used for notices, together with the Notice of Pending Bond Ordinance and Summary, and copies of the bond ordinance should be made available to anyone who requests them of the Clerk after introduction.**

The bond ordinance can be considered for final adoption not less than ten days after introduction and not less than seven days after the publication of the Notice of Pending Bond Ordinance and Summary. If the bond ordinance has been posted and copies made available as indicated above, the bond ordinance can be read at the second hearing by title only. If the bond ordinance posting procedure has not been followed, the bond ordinance must be read in full at the second hearing. After the bond ordinance is read for the second time, the governing body should hold a public hearing and should give all members of the public a chance to be heard on the bond ordinance. After the public hearing, the bond ordinance can be finally adopted by the affirmative vote of not less than two-thirds of the full membership of the governing body. **After final adoption, the Bond Ordinance Statement and Summary must be published, a copy of which I have enclosed for your use.** Note that if the approval of an officer is required to make the bond ordinance effective, the bond ordinance must be approved by that officer, or passed over veto, before it is published after final adoption.

After the bond ordinance is finally adopted, it will be necessary for us to establish a record of proceedings documenting the proper adoption of the bond ordinance. In order to do this, we will need one completely executed set of the documents enumerated on the attached checklist. By copy of this letter, I am sending the Clerk a copy of the checklist along with a copy of the bond ordinance. With the exception of the Affidavits of Publication, I am also sending the Clerk the necessary certificates to be completed, executed and returned to us along with the necessary attachments to provide us with this documentation. It should be noted that the Clerk's Certificate must be executed no sooner than 21 days following the final publication in order to attest that there has been no protest within the statutory twenty-day protest period.

If you or the Clerk have any questions about the form of the bond ordinance, the adoption procedure or the form of the certificates, please call me.

Thank you for this opportunity to have been of assistance.

Very truly yours,

Matthew

Matthew D. Jessup

MDJ/ta

Enclosures

cc: Matthew Bansch, Clerk, w/encl.
Francis J. Jones, Jr., C.P.A., w/encl.