

ORDINANCE #07-22

**AN ORDINANCE OF THE BOROUGH OF JAMESBURG,
IN THE COUNTY OF MIDDLESEX, STATE OF NEW
JERSEY, APPROVING AND AUTHORIZING THE
ENTERING INTO, EXECUTION AND DELIVERY OF A
LEASE AND AGREEMENT WITH THE MIDDLESEX
COUNTY IMPROVEMENT AUTHORITY RELATING TO
THE ISSUANCE OF COUNTY-GUARANTEED CAPITAL
EQUIPMENT AND IMPROVEMENT REVENUE BONDS,
SERIES 2022 OF THE MIDDLESEX COUNTY
IMPROVEMENT AUTHORITY**

WHEREAS, the Middlesex County Improvement Authority (the "Authority") is authorized by the County Improvement Authorities Law, chapter 183 of the Laws of New Jersey of 1960, as amended and supplemented (N.J.S.A. 40:37A-44 *et seq.*) (the "Act"), to provide within the County of Middlesex, State of New Jersey (the "County"), or any beneficiary county, public facilities for use by the State of New Jersey, the County or any municipality in the County or any beneficiary county, or any two (2) or more or any subdivisions, departments, agencies or instrumentalities of any of the foregoing for any of their respective governmental purposes; and

WHEREAS, the Authority is authorized by the Act to lease to any governmental unit or person, all or any part of any public facility, including but not limited to, capital equipment, for such consideration and for such period or periods of time and upon such other terms and conditions as it may fix and agree upon; and

WHEREAS, the Authority has determined pursuant to the Act to finance the various capital improvements to be undertaken by and the acquisition, installation and, as applicable, subsequent leasing of certain capital equipment to various governmental entities within the County, including the County and the Authority (the "2022 Program"); and

WHEREAS, such capital equipment will be financed through the issuance of County-Guaranteed Capital Equipment and Improvement Revenue Bonds, Series 2022 (the "Series 2022 Bonds"); and

WHEREAS, the Borough of Jamesburg, in the County of Middlesex, State of New Jersey (the "Municipality") has determined to participate in the 2022 Program and to lease certain capital equipment set forth in Exhibit A attached hereto and incorporated by reference herein (the "Equipment") from the Authority pursuant to the terms and conditions set forth in the hereinafter defined Lease; and

WHEREAS, there has been prepared and submitted to the Municipality the form of the Lease and Agreement (the "Lease"), to be entered into by and between the Authority and the Municipality, which Lease has been approved by the Authority and which is on file in the office of the Clerk of the Municipality, providing for the acquisition and leasing of the Equipment from the Authority; and

WHEREAS, all terms used herein and not otherwise defined shall have the same meanings ascribed to such terms under the Lease.

NOW THEREFORE, BE IT ORDAINED AND ENACTED BY THE GOVERNING BODY OF THE BOROUGH OF JAMESBURG, IN THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) **AS FOLLOWS:**

Section 1. Pursuant to Section 35 of the Act (N.J.S.A. 40:37A-78), the Municipality is hereby authorized and directed to enter into and perform the Lease, which Lease provides for the leasing of the Equipment acquired with the proceeds of the Series 2022 Bonds to be issued by the Authority under a resolution of the Authority to be adopted by the Authority entitled, "Resolution of the Middlesex County Improvement Authority Authorizing the Issuance of County-Guaranteed Capital Equipment and Improvement Revenue Bonds" (as the same may be amended and supplemented from time to time, the "General Bond Resolution"). The Lease, in the form on file in the office of the Clerk of the Municipality, is hereby approved with such changes, amendments or modifications as may be approved by counsel or bond counsel to the Municipality and bond counsel to the Authority and the County.

Section 2. The full faith and credit of the Municipality are hereby pledged to the punctual payment of the obligations set forth in the Lease authorized by this ordinance, including without limitation, (i) all Basic Rent and Rent obligations of the Municipality under the Lease, including Authority Administrative Expenses and Additional Rent, (ii) all amounts due and owing to the County as a result of payments made by the County on behalf of the Municipality under the Lease pursuant to the County Guaranty, including County Guaranty Costs and (iii) all direct and indirect costs of the Authority and the County related to the enforcement of the Lease and the County Guaranty ((i), (ii) and (iii) collectively, the "Lease Payment Obligation"). The Lease Payment Obligation under the Lease shall be a direct, unlimited and general obligation of the Municipality, not subject to annual appropriation by the Municipality pursuant to the Act, and unless paid from other sources, the Municipality shall be obligated to levy *ad valorem* taxes upon all the taxable property within the jurisdiction of the Municipality for the payment of the Lease Payment Obligation thereunder without limitation as to rate or amount.

Section 3. The Mayor or other Authorized Municipal Representative is hereby authorized and directed to execute the Lease on behalf of the Municipality and the Clerk of the Municipality is hereby authorized and directed to attest to such signature and affix the seal of the Municipality thereto and the Lease is authorized to be delivered to the Authority. All representatives, officials and employees of the Municipality are hereby authorized and directed to enforce and to implement provisions of the Lease.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(1) The maximum Lease Payment Obligation for which the Municipality shall be obligated hereunder, which, *inter alia*, will be used for the payment of principal of and interest on the Series 2022 Bonds of the Authority shall not exceed the sum necessary to (a) acquire the Municipality's Equipment which will be subject to the Lease, (b) pay interest on the Series 2022

Bonds allocated to the Municipality and used to acquire the Municipality's Equipment, and (c) pay the Municipality's share of the costs of issuance, Authority Administrative Expenses, Additional Rent, County Guaranty Costs and all other amounts required to be paid by the Municipality under the Lease.

(2) The Series 2022 Bonds allocated to the Municipality shall mature within five (5) years from the date of issue.

(3) The Lease Payment Obligation authorized herein shall remain effective until all the Series 2022 Bonds shall have been paid in full in accordance with their terms and/or when all obligations of the Municipality under the Lease have been satisfied, notwithstanding the occurrence of any other event, including but not limited to the termination of the Lease with respect to some or all of the Equipment leased thereunder.

(4) The Equipment is hereby approved to be leased from the Authority in accordance with the terms of the Lease, with such changes, amendments or modifications as may be approved by counsel or bond counsel to the Authority.

Section 5. To the extent the Municipality is an "Obligated Person" (as defined under the Rule (as hereinafter defined)), the Municipality hereby agrees to comply with the requirements of Rule 15c2-12 (the "Rule") promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended and supplemented, including the secondary market disclosure requirements contained therein, and agrees to covenant to such compliance in the Lease. The Mayor, Clerk, Chief Financial Officer or other Authorized Municipal Representative are each hereby authorized and directed to execute and deliver a Continuing Disclosure Agreement, approve and "deem final" the Official Statement of the Authority and the preliminary form thereof to the extent the information contained therein relates to the Municipality and to execute and deliver all certificates, documents and agreements to the Authority in connection therewith and to file budgetary, financial and operating data of the Municipality on an annual basis and notices of certain enumerated events as required to comply with and in accordance with the provisions of the Rule.

Section 6. The Mayor, Clerk, Chief Financial Officer or other Authorized Municipal Representative are each hereby authorized and directed to execute and deliver any and all certificates, documents and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the execution and delivery of the Lease, the leasing of the Equipment which is to be the subject of the Lease and all related transactions contemplated by this ordinance.

Section 7. Upon the payment of all amounts referenced in Section 4(3) herein, the full faith and credit pledge of the Municipality as to its Lease Payment Obligation authorized herein shall cease to exist.

Section 8. The provisions of this ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue to be in full force and effect.

Section 9. This ordinance shall take effect in accordance with applicable law.

RECORD OF VOTE:

FIRST READING: July 20, 2022

COUNCIL MEMBER	MOTION TO INTRODUCE	2nd	VOTE
Council Member Czarneski			X
Council Member Ludas		X	X
Council Member Rutsky			AB
Council Member Spillane			X
Council Member Taylor			X
Council President Rampacek	X		X
Mayor Lowande			

PUBLICATION: July 29, 2022

SECOND READING: September 21, 2022


PUBLIC HEARING: September 21, 2022

COUNCIL MEMBER	MOTION TO OPEN	2nd	VOTE	MOTION TO CLOSE	2nd	VOTE	MOTION TO ADOPT	2nd	VOTE
Council Member Czarneski			AB			AB			AB
Council Member Ludas	Y		Y			Y	Y		Y
Council Member Rutsky			Y			Y		Y	Y
Council Member Spillane			Y			Y			N
Council Member Taylor		Y	Y	Y		Y			Y
Council President Rampacek			Y		Y	Y			Y
Mayor Lowande									

Y = YES N = OPPOSED A = ABSTAINED AB = ABSENT

APPROVED:

ATTEST:


 Marlene Lowande, Mayor


 Susan Boulogne, Registered Municipal Clerk