

**O-17-28
06/21/17**

CITY OF BAYONNE

BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS TO LEFANTE WAY IN AND BY THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY, APPROPRIATING \$1,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$550,000 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF AND DIRECTING THE SPECIAL ASSESSMENT OF THE COST THEREOF UPON COMPLIANCE WITH CERTAIN CONDITIONS

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

Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a local improvement. or purpose to be undertaken by the City of Bayonne, in the County of Hudson, State of New Jersey (the "City"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$1,000,000, which sum includes \$200,000 as the amount of a contribution from the Bayonne Golf Club (the "Contribution") and \$250,000 as the amount of grants received or expected to be received from the Urban Enterprise Zone Program and Community Development Block Grant and contributed by the City (collectively, the "Grant") which Grant is inclusive of \$47,619 as the amount of down payment for said improvement or purpose required by the Local Bond Law. Said down payment is now available therefor by virtue of moneys held by the City and previously contributed for such purpose other than by the City (through the Grant).

Section 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$1,000,000 appropriation not provided for by application hereunder of said Contribution, Grant and down payment, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$550,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds, negotiable bond anticipation notes of the City are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and purpose for the financing of which said bonds are to be issued is various roadway improvements to a portion of LeFante Way along the following properties designated on the Official Tax Map of the City, which properties include, but are not limited to, Block 412 (Lot 3), Block 412 (Lots 4.01 and 4.02), Block 414 (Lot 2), Block 415 (Lots 1 and 2), and Block 416 (Lots 1, 2 and 3) and a portion of Avenue "J" (the "Program") (Block 412 (Lots 4.01 and 4.02) are hereby excluded from the special assessment as the owners of such parcel is making the Contribution), said Program to include, but is not 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, the repairing and/or installation of curbs, sidewalks and driveway aprons, installation of curb ramps, resetting utility castings, drainage work, roadway painting, landscaping and

aesthetic improvements including, but not limited to, seeding and installing top soil, and also including 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, the portions and percentages of which are all in accordance with the plans therefor on file in the office of the City Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for said improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of said improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date. The bond anticipation 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 shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest 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 bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The City hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the New Jersey Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement that the City lawfully may undertake as a local improvement upon obtaining those approvals set forth in N.J.S.A. 40:56-1. The cost of the local improvements will be specially assessed on properties specially benefitted thereby, which properties are designated on the Official Tax Map of the City and include, but are not limited to, Block 412 (Lot 3), Block 412 (Lots 4.01 and 4.02), Block 414 (Lot 2), Block 415 (Lots 1 and 2), and Block 416 (Lots 1, 2 and 3) and a portion of Avenue "J" (Block 412 (Lots 4.01 and 4.02) and Avenue "J" are hereby excluded from the special assessment as the owners of such parcels are making the Contribution and the Grant, as applicable).

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$550,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$200,000 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 purpose or improvement.

Section 7. Notice is hereby given to the owners of all lots and parcels of real estate benefitted by the improvement described in Section 3 hereof and affected by the improvement described therein that the City intends to make and to levy special assessments against all such lots and parcels of real estate in an aggregate amount of not exceeding \$550,000 subject to the receipt of certain approvals set forth in N.J.S.A. 40:56-1 et seq. and for not to exceed annual installments over 20 years. Accordingly, the estimated maximum amount of special assessments shall not exceed \$550,000 and shall be paid in not to exceed 20 annual installments. Such special assessments shall be made and levied in the manner provided by law and shall be as nearly as possible in proportion to and not in excess of the peculiar benefit, advantage or increase in value that the respective lots and parcels of real estate shall be deemed to receive by reason of the improvement. It is expected that the City is contributing the Grant in the amount of \$250,000 (or 25% of the cost of said improvement) to the cost of the improvement. The cost of the local improvements will be specially assessed on properties specially benefitted thereby, which properties are designated on the Official Tax Map of the City and include, but are not limited to, Block 412 (Lot 3), Block 412 (Lots 4.01 and 4.02), Block 414 (Lot 2), Block 415 (Lots 1 and 2), and Block 416 (Lots 1, 2 and 3) and a portion of Avenue "J" (Block 412 (Lots 4.01 and 4.02) and Avenue "J" are hereby excluded from the special assessment as the owners of such parcels are making the Contribution and the Grant, as applicable).

Section 8. The owner of any land upon which an assessment for the local improvement shall have been made may pay such assessment in the number of equal yearly installments determined herein with legal interest on the unpaid balance of the assessment. The first of such installments shall be due and payable two months after the confirmation of the assessment, and each subsequent annual installment and interest shall be payable in each successive year at such time as the governing body shall determine by resolution, provided that any owner of land so assessed shall have the privilege of paying the whole of any assessment or any balance of installments with accrued interest thereon at one time. In case any such installment shall remain unpaid for thirty (30) days after the time it shall become due and payable, it shall draw interest at the rate imposed upon the arrearage of taxes in the City and shall be collected in the same manner as provided by law for other past-due assessments. Such assessment shall remain a lien upon the land described herein until the assessment, with all installments and accrued interest thereon, shall be paid and satisfied. Notwithstanding anything herein to the contrary, the City shall have the right to waive default as may be permitted by law.

Section 9. The City hereby declares the intent of the City to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 10. Except for the Grant, in the event the United States of America, the State of New Jersey, and/or the County of Hudson make a contribution or grant in aid to the City, for the improvement and purpose authorized hereby and the same shall be received by the City 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 and/or the County of Hudson. Except for the Grant, 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 Hudson, shall be received by the City 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. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the City as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

Section 11. The chief financial officer of the City 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 City and to execute such disclosure document on behalf of the City. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City 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 City 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 City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 12. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 13. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.