

O-21-46
11/10/21

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER O-20-49 FINALLY ADOPTED BY THE CITY COUNCIL ON OCTOBER 21, 2020, TO INCREASE THE APPROPRIATION THEREIN BY \$917,214 AND TO INCREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY \$917,214 TO FINANCE PART OF THE ADDITIONAL COSTS THEREOF

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 bond ordinance of the City of Bayonne, in the County of Hudson, State of New Jersey (the "City"), heretofore finally adopted by the City Council on October 21, 2020, number O-20-49, entitled: "BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO FITZPATRICK PARK, BY AND IN THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY, APPROPRIATING \$2,082,786 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,082,786 BONDS OR NOTES TO FINANCE THE COST THEREOF" (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 \$917,214. Therefore, the total appropriation contained in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$917,214 from \$2,082,786 and shall equal the amount of \$3,000,000, said sum being inclusive of all appropriations heretofore made in the Original Ordinance, as amended and supplemented hereby, including but not limited to, a \$661,713 Hudson County Open Space Grant. Pursuant to N.J.S.A. 40A:2-11(c), as amended and supplemented, no additional down payment is required

for the improvement or purpose set forth in Section 3 hereof, as such project is expected to be funded by loans from the New Jersey Infrastructure Bank.

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, additional negotiable bonds or notes of the City in the amount of \$917,214 are hereby authorized to be issued by the City 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 City for the improvements or purposes stated in the Original Ordinance, as amended and supplemented hereby, shall be increased by \$917,214 from \$2,086,786 and shall equal the amount of \$3,000,000.

SECTION 4. The Capital Budget of the City 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 City 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 City 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 \$917,214 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 6. Section 7(d) of the Original Ordinance is hereby amended and supplemented, as follows:

“SECTION 7. (d) An aggregate amount not exceeding \$1,100,000 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 purposes or improvements herein before described.

SECTION 7. 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 the Original Ordinance, as amended and supplemented hereby. 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 property within the City for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 8. The City hereby declares the intent of the City to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of the Original Ordinance, as amended and supplemented 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 supplemented 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 City 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 City and to execute such disclosure document on behalf of the City. The City 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 10. The City 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.