

CITY OF BAYONNE

BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS, BY AND IN THE CITY OF BAYONNE, IN THE COUNTY OF HUDSON, STATE OF NEW JERSEY, APPROPRIATING \$2,500,000 THEREFOR (INCLUDING A NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF \$802,443) AND AUTHORIZING THE ISSUANCE OF \$1,697,557 BONDS OR NOTES TO FINANCE THE COST 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 the members thereof affirmatively concurring), **AS FOLLOWS:**

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the City of Bayonne, in the County of Hudson, State of New Jersey (the "City"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$2,500,000, which appropriation is inclusive of a \$802,443 grant from the New Jersey Department of Transportation Municipal Aid Grant Program (the "Grant"). No down payment is required pursuant to the provisions of N.J.S.A. 40A:2-11(c) of the Local Bond Law (the "Local Bond Law"), as a portion of the improvements or purposes described in Section 3 of this bond ordinance shall be funded by a loan from the New Jersey Infrastructure Bank.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof, and to meet the part of said \$2,500,000 appropriation not provided for by application hereunder of the Grant, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$1,697,557 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 City in a principal amount not exceeding \$1,697,557 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued are various roadway improvements in and throughout the City, said improvements to include, but not be limited to, all or portions, as applicable, of the following roadways: W. 4th Street from J.F.K. Boulevard (C.R. 501) to Avenue C; W. 9th Street from Avenue A to J.F.K Boulevard (C.R. 501) and from Avenue C to Broadway; W. 11th Street from Avenue A to J.F.K. Boulevard (C.R. 501); E. 18th Street from Broadway to Avenue E; W. 25th Street from J.F.K. Boulevard (C.R. 501) to Avenue C; W. 38th Street from Avenue C to Broadway; W. 39th Street from Avenue C to Broadway; Avenue A from the railroad crossing near North Street to W. 17th Street and from W. 27th Street to J.F.K. Boulevard (C.R. 501); and Prospect Avenue from E. 21st Street to E. 25th Street, which improvements shall include, 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 improvements including, but not limited to, storm and sanitary sewer structure improvements, resetting utility castings, repairing and/or installation of curbs, sidewalks and driveway aprons, installation of curb ramps in compliance with ADA, drainage work, landscaping and aesthetic improvements; 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, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,697,557.

(c) The estimated cost of said improvements or purposes is \$2,500,000, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the Grant in the amount of \$802,443.

SECTION 4. Except for the Grant, in the event the United States of America, the State of New Jersey, the County of Hudson and/or a private entity make a contribution or grant in aid to the City for the improvements and purposes 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, the County of Hudson and/or a private entity. 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, the County of Hudson and/or a private entity, 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 5. All bond anticipation notes issued hereunder shall mature at such time as may be determined by the Chief Financial Officer, 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 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 Capital Fund of the City 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 Fund 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 City 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 20 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 City 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 City as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,697,557 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 \$600,000 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 hereinbefore described.

SECTION 8. Unless paid from other sources, 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. Unless paid from other sources, 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 9. 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 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 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 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 11. Should the bonds or notes issued hereunder be issued on a tax-exempt basis, 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 this ordinance.

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