

ORDINANCE NO. 18-2020

BOND ORDINANCE PROVIDING FOR VARIOUS 2020 ROAD IMPROVEMENTS BY AND IN THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$245,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$245,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COMMISSIONERS OF THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The improvements described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey (the "Borough") as general improvements. For the said improvements stated in Section 3, there is hereby appropriated the aggregate sum of \$245,000, which sum includes a \$180,000 New Jersey Department of Transportation Grant (the "Grant"). Pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), specifically, N.J.S.A. 40A:2-11(c), as amended and supplemented, no down payment is required for the improvements and purposes set forth in Section 3, hereof, as such project is being partially funded by the Grant.

SECTION 2. For the financing of said improvements and purposes described in Section 3 hereof, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$245,000 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 Borough in a principal amount not exceeding

\$245,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvements and purposes hereby authorized and purposes for the financing of which said bonds or notes are to be issued are various road improvements and related drainage and stormwater repairs and improvements to, but not limited to, the First Avenue from Washington Avenue to Shark River and Second Avenue from Washington Avenue to Shark River and additional drainage repair to Lincoln Avenue and including such other streets as on file with the Borough Clerk. Such improvements or purposes are to include, as applicable, milling, construction, reconstruction, repairing and resurfacing, drainage improvements, inlet, manhole and water valve replacements, the restoration or construction of or improvements to curbs, sidewalks, traffic line striping, driveway aprons or barrier-free ramps along such roadways, the acquisition and installation of traffic signals and signage and 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.

a. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$245,000.

b. The aggregate estimated cost of said improvements and purposes is \$245,000.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a loan, contribution or grant-in-aid to the Borough for the improvements authorized hereby and the same shall be received by the Borough 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 Monmouth. In the event, however, that any amount so loaned, contributed or granted by the United States of America, the State of New Jersey, and/or the County of Monmouth shall be received by the Borough 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 Borough as a result of using such 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 times as may be determined by the Chief Financial Officer of the Borough, 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 of the Borough 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 Section 8.1 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, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Borough 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 budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk of the Borough and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

a. The purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, 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 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 15 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 Borough 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 Borough as defined in the Local Bond Law is

increased by the authorization of the bonds or notes provided for in this bond ordinance by \$245,000 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 \$45,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the improvements hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the debt obligations authorized by this bond ordinance. The debt obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the debt obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 150-2. No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized by this bond ordinance used to reimburse the Borough for costs of the improvements or purposes

described in Section 3 hereof, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized by this bond ordinance or another issue of debt obligations of the Borough, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$245,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized by this bond ordinance is paid, or (ii) the date the improvements or purposes described in Section 3 hereof is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three years after the expenditure is paid.

SECTION 10. The Borough 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 11. The Chief Financial Officer is hereby authorized and directed to perform all acts and things, to do all that is necessary and proper and to execute and deliver all agreements and certificates required to comply with the provisions of Rule 15c2-12, as amended and supplemented, promulgated by the Securities and Exchange Commission, relating to secondary market disclosure.

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.

ADOPTED ON FIRST READING

DATED: October 13, 2020

THEA KRATOCHVIL, Acting Borough Clerk

ADOPTED ON SECOND READING

DATED: October 26, 2020

THEA KRATOCHVIL, Acting Borough Clerk

APPROVAL BY THE MAYOR ON THIS 26th DAY OF October, 2020

EDWARD BONANNO, Mayor

CERTIFICATE OF INTRODUCTION

I, the undersigned Clerk of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the governing body of the Borough duly called and held on October 13, 2020 at the Avon Municipal Building Building, 301 Main Street, in said County, New Jersey and that the following was the roll call:

Present:

Absent:

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this ____ day of _____, 2020.

(SEAL)

THEA KRATOCHVIL,
Clerk of the Borough of Avon-By-The-Sea

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Clerk of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the governing body of the Borough duly called and held on _____, 2020 at the Avon Municipal Building, 301 Main Street, in said County, New Jersey, and that the following was the roll call:

Present:

Absent:

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this ____ day of _____, 2020.

(SEAL)

THEA KRATOCHVIL,
Clerk of the Borough of Avon-By-The-Sea

CERTIFICATE OF SUPPLEMENTAL DEBT STATEMENT

I, the undersigned, Clerk of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey (the "Borough"), DO HEREBY CERTIFY, that the attached Supplemental Debt Statement was prepared, executed and sworn to by John Antonides, the Chief Financial Officer of the Borough as of October 13, 2020, that such Supplemental Debt Statement was filed in my office on October 13, 2020 and with the Director of the Division of Local Government Services, New Jersey Department of Community Affairs on _____, 2020.

THEA KRATOCHVIL,
Clerk of the Borough of Avon-By-The-Sea

CLERK'S CERTIFICATE

I, THEA KRATOCHVIL, DO HEREBY CERTIFY that I am the Clerk of the Borough of Avon-By-The-Sea, in the County of Monmouth (the "Borough"), a municipal corporation organized and existing under the laws of the State of New Jersey, and that as such I am duly authorized to execute this certificate on behalf of the Borough. In such 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 resolutions and ordinances of the Borough. The representations made herein are based upon the records of the Borough.

I DO HEREBY FURTHER CERTIFY THAT:

1. Attached hereto is the bond ordinance introduced on October 13, 2020 and finally adopted on _____, 2020 and approved by the Mayor on _____, 2020 (if applicable).

2. After introduction, the bond ordinance was published as required by law in _____ (name of newspaper) on _____, 2020.

3. Following the passage of the ordinance on first reading, and at least seven (7) days prior to the final adoption thereof, I caused to be posted in the principal municipal building of the Borough at the place where public notices are customarily posted, a copy of said ordinance and a notice that copies of the ordinance would be made available to the members of the general public of the Borough who requested copies, up to and including the time of further consideration of the ordinance by the governing body. Copies of the ordinance were made available to all who requested same.

4. After final passage, the ordinance was duly approved by the Mayor of the Borough on _____, 2020 (if applicable) and was duly published as required by law in _____ (name of newspaper) on _____,

2020. No protest signed by any person against making any improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the ordinance has been presented to the governing body or to me or filed in my office within twenty (20) days after said publication or at any other time after the final passage thereof.

5. The ordinance has not been amended, added to, altered or repealed and said ordinance is now in full force and effect.

6. 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, as applicable.

7. The official seal of the Borough is the seal, an impression of which is affixed opposite my signature on this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Borough this ____ day of _____, 2020.

(SEAL)

THEA KRATOCHVIL,
Clerk of the Borough of Avon-By-The-Sea

BOARD OF COMMISSIONERS OF THE BOROUGH OF AVON-BY-THE-SEA
PUBLIC NOTICE
NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey, on October 13, 2020. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held via teleconference on _____, 2020 at 7:00 p.m. Information regarding remote access to the meeting may be found on the Borough's website at www.avonbytheseanj.com. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR VARIOUS 2020 ROAD IMPROVEMENTS BY AND IN THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$245,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$245,000 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF

Purpose(s): Various road improvements and related drainage and stormwater repairs and improvements to, but not limited to, the First Avenue from Washington Avenue to Shark River and Second Avenue from Washington Avenue to Shark River and additional drainage repair to Lincoln Avenue and including such other streets as on file with the Borough Clerk

Appropriation: \$245,000

Bonds/Notes Authorized: \$245,000

Grant: A Grant in the amount of \$180,000 expected to be received from the New Jersey Department of Transportation.

Section 20 Costs: \$45,000

Useful Life: 15 years

THEA KRATOCHVIL,
Borough Clerk

**BOARD OF COMMISSIONERS OF THE BOROUGH OF AVON-BY-THE-SEA
PUBLIC NOTICE**

BOND ORDINANCE STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the governing body of the Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey on _____, 2020 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

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Borough Clerk**