CITY OF ABSECON

ORDINANCE 04-2020

BOND ORDINANCE PROVIDING FOR THE 2020 ROAD IMPROVEMENT PROGRAM, BY AND IN THE CITY OF ABSECON, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY; APPROPRIATING $133,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF $126,350 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF

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

SECTION 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the City of Absecon, in the County of Atlantic, State of New Jersey (the "City"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the amount of $133,000, said amount being inclusive of $6,650 as the amount of down payment for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). The down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the City for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof, and to meet part of said $133,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the City are hereby authorized to be issued in the principal amount of $126,350 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the City in a principal amount not exceeding $126,350 are hereby authorized to be issued pursuant to, and within the limitations prescribed by, said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purpose for the financing of which said obligations are to be issued are for the 2020 Road Improvement Program as more fully referenced on a list on file in the office of the City Clerk, which list is hereby approved and incorporated herein. 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.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is $126,350.

(c) The estimated cost of said purpose is $133,000.

SECTION 4. In the event the United States of America, the State of New Jersey and/or the County of Atlantic 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 Atlantic. 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 Atlantic 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 times as may be determined by the Chief Financial Officer of the City, 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 of the City. The Chief Financial Officer of the City shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer of the City 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 N.J.S.A. 40A:2-8.1. The Chief Financial Officer of the City 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 of the City 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 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 or temporary capital budget has been filed with the Director of the Division of Local Government Services, within the New Jersey Department of Community Affairs.

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

(a) The purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the City may lawfully undertake as a general improvement, and no part of the cost thereof has been, or shall be, specially assessed on property specially benefited thereby.

(b) The period of usefulness of said improvements within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is ten (10) 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 Department of Community Affairs of the State of New Jersey, 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 bond ordinance by $126,350, 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 $27,000 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 herein before described.

SECTION 8. 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* takes 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 reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose 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 City's official intent to reimburse any expenditures toward the costs of the improvement or purpose 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 §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 City for costs of the improvement or purpose 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 City, 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 City for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amount not to exceed $126,350. 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 improvement or purpose 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 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 bond ordinance.

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

DATED: May 21st, 2020

SIGNED: Kimberly Horton
Kimberly Horton, Mayor

ATTEST: Carie A Crone, RMC
Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on May 7th, 2020. Laid over and advertised for public hearing and final adoption on May 21st, 2020. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on May 21st, 2020.