

CITY OF ABSECON

ORDINANCE 05-2022

**BOND ORDINANCE PROVIDING FOR VARIOUS 2022 CAPITAL ACQUISITIONS
AND IMPROVEMENTS BY AND IN THE CITY OF ABSECON, COUNTY OF
ATLANTIC, STATE OF NEW JERSEY; APPROPRIATING \$1,755,000
THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,363,250 BONDS
OR NOTES 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 improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City of Absecon, in the County of Atlantic, State of New Jersey (the "City") as general improvements. For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$1,755,000, which sum includes a grant in the amount of \$270,000 expected to be received from the New Jersey Department of Transportation (the "DOT Grant") and a grant in the amount of \$50,000 expected to be received from the Community Development Block Grant Program (the "CDBG Grant" and together with the DOT Grant, the "Grants") and \$71,750 as the aggregate amount of down payments for said improvements required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), and now available therefor by virtue of 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 improvements or purposes described in Section 3 hereof, and to meet the part of the \$1,755,000 appropriation not provided for by application hereunder of the Grants and said down payment, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$1,363,250 pursuant to, and within the limitations prescribed by, 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 \$1,363,250 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 debt obligations are to be issued, including, but not limited to, as follows:

<u>Description</u>	<u>Total Appropriation</u>	<u>Debt Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
(i) 2022 Road Improvement Program to the entire length or portions thereof various roads, including but not limited to Cordova Drive, Seminole Avenue, Stone Circle and Ambassador Avenue. Such roadway improvements shall include, but are not limited to, as applicable, milling, construction,	\$1,655,000 (including the Grants)	\$1,268,250	\$66,750	10 years

<u>Description</u>	<u>Total Appropriation</u>	<u>Debt Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
reconstruction, repairing, restriping and resurfacing of said roadways, streetscape improvements, drainage improvements to said roadways, and the repair, restoration or construction of or improvements to curbs, sidewalks, driveway aprons, barrier free handicapped accessible ramps along various roadways in the City; and				
(ii) Various recreation improvements as more fully set forth on a list on file in the Office of Clerk, which list is hereby approved.	<u>\$100,000</u>	<u>\$95,000</u>	<u>\$5,000</u>	15 years
Total:	<u>\$1,755,000</u>	<u>\$1,363,250</u>	<u>\$71,750</u>	

The appropriations set forth above also include the following, as applicable, surveying, construction planning, engineering and design work, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, environmental testing and remediation and also all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

a. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,363,250.

b. The aggregate estimated cost of said improvements and purposes is \$1,755,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the down payments in the aggregate amount of \$71,750 and the Grants in the amount of \$320,000.

SECTION 4. Except for the Grants, in the event the United States of America, the State of New Jersey, and/or the County of Atlantic make a loan, contribution or grant-in-aid to the City for the improvements 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. Except for the Grants, 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 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 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 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. 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 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 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 Division of Local Government Services.

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 City 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 10.34 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, 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 \$1,363,250 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 \$175,500 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 City 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 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 debt 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 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 City'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 City 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 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 improvements or purposes described in Section 3 hereof will be issued in an amount not to exceed \$1,363,250. 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 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, which are authorized herein, 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. The City covenants to maintain the exclusion from gross income under section 103(a) of the Internal Revenue Code of 1986, as amended, of the interest on all bonds and notes issued under this ordinance.

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: April 21st, 2022

SIGNED: 
Kimberly Horton, Mayor

ATTEST: 
Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on April 7th, 2022.
Laid over and advertised for public hearing and final adoption on April 21st, 2022. 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 April 21st, 2022.