

# BOROUGH OF FANWOOD, UNION COUNTY, NEW JERSEY

ORDINANCE: O-2021-03-S

## BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$120,000 FOR ROAD IMPROVEMENTS (SEWER CAPITAL) FOR AND BY THE BOROUGH OF FANWOOD IN THE COUNTY OF UNION, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$114,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION

**BE IT ORDAINED** by the Mayor and Council of the Borough of Fanwood, County of Union, State of New Jersey as follows:

(not less than two-thirds of all members thereof affirmatively concurring)

### SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough as general improvements. For the said Improvements there is hereby appropriated the amount of \$120,000, such sum includes the sum of \$6,000 as the down payment (the "Down Payment") required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law"). The Down Payment is now available by virtue of provisions in one or more previously adopted budgets for down payments for capital improvement purposes.

### SECTION 2:

In order to finance the additional cost of the Improvements not covered by application of the Down Payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$114,000 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$114,000 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

### SECTION 3:

(a) The Improvements authorized and the purposes for which obligations are to be issued is for road improvements to Gere Place and Morse Avenue (Sewer Capital), including curbing and drainage, and including all work or materials necessary therefor or incidental thereto, all as shown on and in accordance with the plans and specifications thereon on file in the Office of the Borough Clerk.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$114,000.

(c) The estimated cost of the Improvements is \$120,000 which amount represents the initial appropriation made by the Borough.

#### SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough (the "Chief Financial Officer"); provided that no Note shall mature later than one 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 Notes issued pursuant to this 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 subject to the provisions of Section 8(a) 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 purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

#### SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The 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, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

#### SECTION 6:

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

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Borough may lawfully make or acquire as general improvements, 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 the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. 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 and Notes provided in this bond ordinance by \$114,000 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$30,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

#### SECTION 7:

Any funds received from time to time by the Borough as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Borough authorized

therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

**SECTION 8:**

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The 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 obligations and the interest thereon without limitation of rate or amount.

**SECTION 9:**

The Chief Financial Officer of the Borough 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 Borough and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough 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 Borough 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 Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

**SECTION 10:**

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$114,000.

**SECTION 11:**

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Certified to be a true copy of an ordinance introduced and adopted upon first reading by the Council of the Borough of Fanwood at the duly held Meeting on the 16<sup>th</sup> day of February, 2021.

<b>Introduction:</b> February 16, 2021
<b>MOTION:</b> McElroy Barker <b>SECOND:</b> Mitchell
<b>YES:</b> Councilmembers Carter, Banks, Glaser, McElroy-Barker, Mitchell, Walsh
<b>NO:</b> None
<b>ABSTAIN:</b> None
<b>ABSENT:</b> None
<b>Public Hearing:</b> March 15, 2021
<b>Adoption:</b> March 15, 2021
<b>Motion: Second:</b> Carter
<b>YES:</b> Councilmembers Carter, Glaser, McElroy-Barker, Mitchell, Walsh
<b>NO:</b>
<b>ABSTAIN:</b>
<b>ABSENT:</b>

  
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**APPROVAL:** Colleen Mahr, Mayor

  
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**ATTEST:** Kathleen Holmes, Borough Clerk