

**ORDINANCE NO. 23-28**

**BOND ORDINANCE PROVIDING A SUPPLEMENTAL  
APPROPRIATION OF \$9,990,000 FOR THE ACQUISITION  
OF PROPERTY IN AND BY THE CITY OF OCEAN CITY,  
IN THE COUNTY OF CAPE MAY, NEW JERSEY, AND  
AUTHORIZING THE ISSUANCE OF \$9,490,500 BONDS OR  
NOTES OF THE CITY TO FINANCE PART OF THE COST  
THEREOF**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OCEAN CITY, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance has heretofore been authorized to be undertaken by the City of Ocean City, in the County of Cape May, New Jersey (the "City") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the supplemental amount of \$9,990,000, such sum being in addition to the \$6,545,000 appropriated therefor by Bond Ordinance #20-02 of the City, finally adopted February 27, 2020 (the "Original Bond Ordinance"), the \$355,000 appropriated therefor by Bond Ordinance #20-18, finally adopted December 3, 2020 (the "2020 Supplemental Bond Ordinance"), the \$3,110,000 appropriated therefor by Bond Ordinance #22-04, finally adopted March 24, 2022 (the "2022 Supplemental Bond Ordinance") and including the sum of \$499,500 as the additional own payment required by the Local Bond Law. The additional down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$9,490,500 pursuant to the Local Bond Law.

In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement heretofore authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of property located at 1601-43 Simpson Avenue, 1620 Haven Avenue, 1628-38 Haven Avenue, 1640 Haven Avenue and 1644-46 Haven Avenue, and identified as Block 1606, Lots 2, 3.01, 4, 5 and 6 on the official tax maps of the City, including all related costs and expenditures necessary therefor and incidental thereto,

as described in the Original Bond Ordinance, as supplemented by the 2020 Supplemental Bond Ordinance and the 2022 Supplemental Bond Ordinance.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$19,007,400, including the \$6,217,750 authorized by the Original Bond Ordinance, the \$337,250 authorized by the 2020 Supplemental Bond Ordinance, the \$2,961,900 authorized by the 2022 Supplemental Bond Ordinance and the \$9,490,500 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$20,000,000, including the \$6,545,000 appropriated by the Original Bond Ordinance, the \$355,000 appropriated by the 2020 Supplemental Bond Ordinance, the \$3,110,000 appropriated by the 2022 Supplemental Bond Ordinance and the \$9,990,000 appropriated herein.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes mature at such later date in accordance with applicable law. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation 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 governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. 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 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that 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 benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, 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. 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 in this bond ordinance by \$9,490,500, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$1,739,000 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. Of this amount, \$654,500 was estimated for these items of expense in the Original Bond Ordinance, \$35,500 was estimated for these items of expense in the 2020 Supplemental Bond Ordinance, \$50,000 was estimated for these items of expense in the 2022 Supplemental Bond Ordinance and an additional \$999,000 is estimated therefor herein.

Section 7. The City hereby declares the intent of the City to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. 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 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 10. 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* taxes upon all the taxable property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

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.

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Jay Gillian, Mayor

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Peter V. Madden, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the 21<sup>st</sup> day of December, 2023 and was taken up for a second reading and final passage at a meeting of said Council held on the 11<sup>th</sup> day of January, 2024 at City Council Chambers, City Hall, 861 Asbury Avenue, Ocean City, New Jersey, at 6 o'clock in the evening.

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Melissa Rasner, City Clerk



