Ordinance

Ordinance No. 12 OF THE Date. 02-10-2015
CITY OF ATLANTIC CITY, N.J. Date to Mayor 02-24-2015

Approved as to Form and Legality on Basis of Facts Set Forth

Deputy City Solicitor /s/ Irving B. Jacoby

Factual contents certified to by

Business Administrator /s/ Arthur M. Liston

Prepared by the City Solicitor's Office

Council Member TIBBITT & MOORE Presents the following Ordinance:

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 2013-33 FINALLY ADOPTED BY THE CITY COUNCIL OF THE CITY OF ATLANTIC CITY, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY, ON JUNE 12, 2013, TO PROVIDE FOR THE ISSUANCE OF QUALIFIED BONDS UNDER THE MUNICIPAL QUALIFIED BOND ACT, N.J.S.A. 40A:3-1, TO DECREASE THE APPROPRIATION THEREIN BY $800,000 AND TO DECREASE THE AUTHORIZATION OF BONDS OR NOTES THEREIN BY $800,000

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

SECTION 1. The bond ordinance of the City of Atlantic City, in the County of Atlantic, State of New Jersey (the "City"), heretofore finally adopted by the City Council on June 12, 2013, number 2013-33, entitled: "BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE CITY OF ATLANTIC CITY, IN THE COUNTY OF ATLANTIC, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF $12,800,000 AND AUTHORIZING THE ISSUANCE OF $12,800,000 BONDS OR BOND ANTICIPATION NOTES OF THE CITY TO FINANCE THE COST THEREOF" (the "Original Ordinance"), is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, the sum of $800,000 is hereby deducted and reduced from the appropriation amount, making the total appropriation of the Original Ordinance, as amended and supplemented hereby, equal to the aggregate amount of $12,000,000 (decreased from $12,800,000).

SECTION 3. In order to finance the cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, negotiable bonds or notes of the City in the reduced aggregate amount of $12,000,000 (decreased by $800,000 from $12,800,000) are hereby authorized to be issued by the City for such improvements or purposes in Section 3 of the Original Ordinance, as amended and supplemented.

SECTION 4. Section 3 of the Original Ordinance shall be amended to read in its entirety as follows:

Description	Appropriation	Authorization	Down Payment	Useful Life
"(a) Improvements to the boardwalk, dunes and outfalls consisting of local share of Inlet Seawall and Bulkhead Project and Boardwalk Reconstruction and Construction; and provide for local share of all projects related to Super Storm Sandy Mitigation.	$10,300,000	$10,300,000	$0	15 years
(b) Five-Year Special Emergency to fund infrastructure repair or reconstruction related to Super Storm Sandy.	$1,700,000	$1,700,000	$0	5 years
TOTALS	**$12,000,000**	**$12,000,000**	**$0"**	

SECTION 5. The Capital Budget of the City is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental 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 Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the "Director of the Division of Local Government Services"), will be on file in the office of the Clerk and will be available for public inspection.

SECTION 6. 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 decreased by the reduction in the aggregate authorization of the bonds and notes provided for in this amendatory and supplemental bond ordinance by $800,000 (to an authorization of $12,000,000) and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 7. The period of usefulness of said improvements or purposes set forth in Section 3(a) of the Original Ordinance, as amended and supplemented hereby, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by the Original Ordinance, as amended and supplemented hereby, is fifteen (15) years. The period of usefulness of said special emergency improvements or purposes set forth in Section 3(b) of the Original Ordinance, as amended and supplemented hereby, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by the Original Ordinance, as amended and supplemented hereby, is five (5) years.

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 the Original Ordinance, as amended and supplemented hereby. 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 as to rate or amount.

SECTION 9. The City reasonably expects to reimburse any expenditures toward the cost of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the City, or any member of the same "Controlled Group" as the City, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the City's official intent to reimburse any expenditures toward the cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, to be incurred and paid prior to the issuance of bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code").

The proceeds of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, used to reimburse the City for any expenditures toward the cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds "replacement proceeds", within the meaning of Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the City for any expenditure or payment that was originally paid with the proceeds of any obligation of the City (other than borrowing by the City from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, to reimburse the City for any expenditures toward the cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, will be issued in an amount not to exceed $12,000,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, will be "capital expenditures" in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

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 the Original Ordinance, as amended and supplemented hereby.

SECTION 11. The bonds authorized under the Original Ordinance, as amended and supplemented hereby, shall be designated as "Qualified Bonds" pursuant to the Municipal Qualified Bond Act, N.J.S.A. 40A:3-1 et seq. (the "Municipal Qualified Bond Act"), and each bond shall contain a recital that it is issued pursuant to Title 40A of the New Jersey Statutes and is entitled to the benefits of the provisions of the Municipal Qualified Bond Act. The City shall certify to the State Treasurer the name and address of the paying agent, the maturity schedule, the interest rate and the dates of payment of debt service on such Qualified Bonds within ten (10) days after the date of issuance of such Qualified Bonds.

SECTION 12. Except as expressly amended and supplemented hereby, the Original Ordinance shall remain in full force and effect.

SECTION 13. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

February 24, 2015 10:32 AM 3-A

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
DELGADO				X			MOORE	X				X	
MALIK				X			RANDOLPH				X		
MANCUSO	X						SMALL	X					
MARSH	X					X	TIBBITT	X					
							GILLIAM, PRESIDENT	X					

X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J. on …FEBRUARY 10, 2015.....

Adopted on second and final reading after hearing on…FEBRUARY 24, 2015.....

Approved By.../s/.....Date.....2/26(R)/15.....By Council.....Ride Reconsidered Over

Mayor Aye Nay

This is a Certified True copy of the Original Ordinance on file in the City Clerk's Office.

/s/.....City Clerk