

**BOROUGH OF AVON-BY-THE-SEA  
IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**ORDINANCE NUMBER 33-2021**

**BOND ORDINANCE PROVIDING FOR RENOVATIONS TO  
THE MUNICIPAL POOL, IN AND BY THE BOROUGH OF  
AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH,  
STATE OF NEW JERSEY; APPROPRIATING \$150,000  
THEREFOR AND AUTHORIZING THE ISSUANCE OF  
\$142,000 BONDS OR NOTES TO FINANCE PART OF THE  
COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF  
THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE  
OF NEW JERSEY (not less than two-thirds of all 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 Borough of Avon-By-The-Sea, in the County of Monmouth, State of New Jersey (the “Borough”) as general improvements. For the said improvements or purposes stated in Section 3 hereof, there is hereby appropriated the principal amount of \$150,000, said sum being inclusive of a down payment in the amount of \$8,000 now available for said improvements or purposes as required by the Local Bond Law, as amended and supplemented (N.J.S.A. § 40A:2-1 et seq.) (the “Local Bond Law”), by virtue of an appropriation from the Capital Improvement Fund of the Borough for down payment or capital improvement purposes in a previously adopted budget or budgets of the Borough.

**SECTION 2.** For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$150,000 appropriation not provided for by

application hereunder of said \$8,000 down payment, negotiable bonds of the Borough are hereby authorized to be issued in the aggregate principal amount of \$142,000 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 Borough in an aggregate principal amount not exceeding \$142,000 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 the purposes for the financing of which said obligations are to be issued are for renovations and improvements to the Municipal Pool located in the Borough, including, but not limited to, all facilities, real property and buildings related thereto and including all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued by the Borough for said improvements and purposes is \$142,000.

(c) The estimated cost of said improvements and purposes to the Borough is \$150,000, the excess thereof over the estimated maximum amount of bonds or notes to be issued therefor is the down payment in the amount of \$8,000 available for such improvements and purposes.

**SECTION 4.** In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the Borough for the improvements and purposes authorized in Section 3 hereof, and the same shall be received by the Borough 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 Monmouth. In the event that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Monmouth shall be received by the Borough 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 Borough 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 Borough, 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 Borough 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 the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a 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, the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

**SECTION 6.** The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough 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 improvements or purposes described in Section 3 of this bond ordinance are not current expenses and are improvements or purposes which the Borough 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 period of usefulness of said improvements or 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 fifteen (15) 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 Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services in the New Jersey Department of Community Affairs, and 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 or notes provided for in this bond ordinance by

\$142,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An amount not exceeding \$15,000 for items of expense listed in and permitted under Section 40A:2-20 of the Local Bond Law is included in the estimated cost indicated herein for the purposes or improvements hereinbefore described.

**SECTION 8.** The full faith and credit of the Borough 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 Borough and, unless paid from other sources, 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 as to rate or amount.

**SECTION 9.** The Borough 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 Borough'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 §1.150-2. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized herein 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 (3) years after the expenditure is paid.

**SECTION 10.** 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 the obligations of the Borough authorized herein 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 the obligations of the Borough 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 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 11.** The Borough covenants to maintain the exclusion from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, the interest on all tax-exempt bonds and notes issued under this bond ordinance.

**SECTION 12.** This bond ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING  
DATED: November 8, 2021

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THEA KRATOCHVIL, Borough Clerk

ADOPTED ON SECOND READING  
DATED: November 22, 2021

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THEA KRATOCHVIL, Borough Clerk

APPROVAL BY THE MAYOR ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

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EDWARD BONANNO, Mayor