BOND ORDINANCE 15-2021 PROVIDING FOR VARIOUS 2021 WATER CAPITAL IMPROVEMENTS BY AND IN THE BOROUGH OF AVON-BY-THE-SEA, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING $243,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $230,850 BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH 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 the members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The improvements and 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, there is hereby appropriated the aggregate sum of $243,000, which sum includes $12,150 as the aggregate amount of down payments for said improvements or purposes 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 a provision or provisions in a previously adopted budget or budgets of the Borough 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 $243,000 appropriation not provided for by said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of $230,850 pursuant to 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 a principal amount not

exceeding $230,850 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvements hereby authorized and purposes for the financing of which said debt obligations are to be issued, include, but are not limited to, as follows:

Description	Total Appropriation	Debt Authorization	Down Payment	Useful Life
(i) Acquisition of Meter Reading System; and	$ 14,000	$ 13,300	$ 700	10 years
(ii) Improvements to the Water System within the Borough, including, but not limited to, improvements, repairs and upgrades to the Water Plant in order to comply with the N.J. Water Quality Accountability Act, and the acquisition of a filter media.	$229,000	$217,550	$11,450	20 years
Total:	**$243,000**	**$230,850**	**$12,150**	

Such improvements or purposes shall also include, as applicable, all engineering and design work, surveying, construction management services, preparation of plans and specifications, permits, bid documents, contract administration, environmental testing and remediation, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans and specifications therefor on file in the office of the Borough Clerk and available for public inspection and hereby approved.

a. The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is $230,850.

b. The aggregate estimated cost of said improvements and purposes is $243,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the down payment in the aggregate amount of $12,150 available for said improvements or purposes.

SECTION 4. In the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a loan, contribution or grant-in-aid to the Borough for the improvements authorized hereby 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, 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 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 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 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 of the Borough. 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 of the Borough 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 of the Borough 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 of the Borough 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 capital budget of the Borough is hereby amended to conform with the provisions of this 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 programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk of the Borough and will be available for public inspection.

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 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 average 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 19.42 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, 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 $230,850 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 $10,000 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 or purposes 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 debt obligations authorized by this bond ordinance. The debt 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 debt 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 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 Borough 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 Borough, 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 Borough 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 $230,850. 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 Borough 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 this bond ordinance.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
DATED: May 10, 2021

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THEA KRATOCHVIL, Borough Clerk

ADOPTED ON SECOND READING

DATED: May 24, 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