

**BOND ORDINANCE NUMBER #713**

**BOND ORDINANCE PROVIDING FOR VARIOUS ROADWAY IMPROVEMENTS AND THE ACQUISITION OF CERTAIN FIRE DEPARTMENT EQUIPMENT, BY AND IN THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY; APPROPRIATING \$515,200 THEREFOR (INCLUDING TWO GRANTS IN THE AGGREGATE AMOUNT OF \$378,199) AND AUTHORIZING THE ISSUANCE OF \$120,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF**

**BE IT ORDAINED AND ENACTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HARRINGTON PARK, IN THE COUNTY OF BERGEN, 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 as general improvements or purposes to be undertaken by the Borough of Harrington Park, in the County of Bergen, State of New Jersey (the "Borough"). For said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$515,200, said sum being inclusive of a \$212,572 grant expected to be received from the U.S. Department of Homeland Security – Federal Emergency Management Agency (the "FEMA Grant"), a \$165,627 grant expected to be received from the New Jersey Department of Transportation (the "DOT Grant") (collectively, the "Grants"), and a down payment in the amount of \$17,001 now available for said improvements or purposes required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (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 said \$515,200 appropriation not provided for by the Grants or said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$120,000 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 \$120,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**SECTION 3.** (a) The improvements hereby authorized and purposes for the financing of which said bonds or notes are to be issued are for (i) the acquisition of thirty-six (36) self-contained breathing apparatus (SCBA) bottles with spare cylinders and face masks (a \$212,572 portion of such improvement being funded by the FEMA Grant), and (ii) improvements to various roadways by and in the Borough, including, but not limited to, all or a portion of Glen Avenue East (a \$165,627 portion of such improvements being funded by the DOT Grant). All such improvements shall include, but are not limited to, excavation, milling, reconstruction, repairing and resurfacing of said roadways, pavement striping, sealing, drainage improvements and, as applicable, the replacement, restoration and/or construction of curbs, sidewalks and driveway aprons along such roadways. Such improvements or purposes shall also include, as applicable, all engineering and design work, surveying, preparation of plans and specifications, permits, bid documents, contract administration and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto, all in accordance with the plans therefor on file in the office of the Borough Clerk and available for public inspection and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$120,000.

(c) The estimated cost of said improvements or purposes is \$515,200, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefore being the amount of \$395,200, which amount is comprised of the down payment available for said improvements or purposes in the amount of \$17,001, the FEMA Grant in the amount of \$212,572 and the DOT Grant in the amount of \$165,627.

**SECTION 4.** In the event the United States of America, the State of New Jersey, and/or the County of Bergen make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby which is in addition to the Grants 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 Bergen. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey and/or the County of Bergen 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.

**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 or as otherwise authorized by the Local Bond Law. 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 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 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, and 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 to the extent of any inconsistency herewith. In the event of any such inconsistency, 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 Borough Clerk 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 the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 7.81 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 \$120,000 and the said bonds or notes

authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$6,000 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 bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the bonds or notes 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 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, 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 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 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 herein used to reimburse the Borough for any expenditures toward the costs of the improvements or purposes described in Section 3 hereof 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 Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough 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 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 \$120,000. 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 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 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 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.