

ORDINANCE NO. 10-3

AN ORDINANCE OF THE BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, NEW JERSEY, PROVIDING FOR THE 2010 ROADWAY IMPROVEMENT PROGRAM FOR THE BOROUGH OF WESTWOOD AND APPROPRIATING \$450,000 (INCLUDING A GRANT IN THE AMOUNT OF \$200,000 EXPECTED TO BE RECEIVED FROM THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION) THEREFOR AND PROVIDING FOR THE ISSUANCE OF \$237,500 IN BONDS OR NOTES OF THE BOROUGH OF WESTWOOD TO FINANCE THE SAME

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

Section 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Borough of Westwood, in the County of Bergen, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3 hereof, there is hereby appropriated the sum of money therein stated as the appropriation made for the improvement or purpose, such sum amounting to \$450,000 (including a grant in the amount of \$200,000 expected to be received from the State of New Jersey Department of Transportation) and including the sum of \$12,500 as the down payment for the improvement or purpose required by the Local Bond Law. The down payment has been made 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 cost of the improvement or purpose not covered by application of the down payment or otherwise provided for hereunder, negotiable bonds or notes are hereby authorized to be issued in the principal amount of \$237,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds or notes, 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 hereby authorized and the purpose for which the bonds or notes are to be issued is the 2010 Roadway Resurfacing Program, consisting of resurfacing and other improvements to various roads and streets located in the Borough, and including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

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 note shall mature later than one 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 shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A.

40A:2-8.1. The chief financial officer is hereby authorized to sell part or all of the notes from time to time, at not less than par and accrued interest, 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 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 notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) 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 and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

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

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose the Borough may lawfully undertake as a general improvement, and no part of the costs thereof have 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 10 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 Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$237,500, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding \$100,000 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 improvement or purpose.

(e) The Borough reasonably expects to commence the purpose described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the Borough further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof (other than the grant in the amount of \$200,000 expected to be received from the State of New Jersey, Department of Transportation which shall be applied to direct payment of the cost of the improvement) 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 hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Borough is 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 the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. The Borough hereby covenants to take any action necessary or refrain from taking such action in order to preserve the exclusion from gross income of interest on the bonds and notes authorized hereunder which are issued as tax-exempt bonds as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 10. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

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.

The foregoing bond ordinance is hereby approved.

Adopted: _____

Approved:

Attest:

John Birkner, Jr., Mayor

Karen Hughes, Borough Clerk

NOTICE OF PENDING BOND ORDINANCE

PUBLIC NOTICE IS HEREBY GIVEN that the foregoing bond ordinance was duly introduced and passed upon first reading at a regular meeting of the Borough Council of the Borough of Westwood, in the County of Bergen, New Jersey, held on _____, 2010. Further notice is hereby given that said bond ordinance will be considered for final passage and adoption, after public hearing thereon, at a regular meeting of said Borough Council to be held in the Municipal Complex, 101 Washington Avenue, Westwood, New Jersey on _____, 2010 at _____ o'clock p.m., and during the week prior to and up to and including the date of such meeting, copies of said bond ordinance will be made available at the Borough Clerk's Office in the Municipal Complex to the members of the general public who shall request the same.

Karen Hughes, Borough Clerk

NOTICE OF ADOPTION OF BOND ORDINANCE

PUBLIC NOTICE IS HEREBY GIVEN that the bond ordinance published herewith has been finally adopted by the Borough Council of the Borough of West wood, in the County of Bergen, New Jersey on _____, 2010, and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such bond ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this notice.

Karen Hughes, Borough Clerk

CLERK'S CERTIFICATE

I, Karen Hughes, Clerk of the Borough of Westwood, in the County of Bergen, State of New Jersey, HEREBY CERTIFY as follows th at:

1. The attached copy of Ordinance No. _____ of said Borough entitled as set forth below and finally adopted on _____, 2010, has been compared by me with the original thereof officially recorded in the Ordinance Book of the Borough and is a tr ue and correct copy thereof and of the whole of said original Ordinance. The title of said Ordinance is as follows:

AN ORDINANCE OF THE BOROUGH OF WESTWOOD, IN THE COUNTY OF BERGEN, NEW JERSEY, PROVIDING FOR THE 2010 ROADWAY IMPROVEMENT PROGRAM FOR THE BOROUGH OF WESTWOOD AND APPROPRIATING \$450,000 (INCLUDING A GRANT IN THE AMOUNT OF \$200,000 EXPECTED TO BE RECEIVED FROM THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION) THEREFOR AND PROVIDING FOR THE ISSUANCE OF \$237,500 IN BONDS OR NOTES OF THE BOROUGH OF WESTWOOD TO FINANCE THE SAME

2. Said Ordinance was introduced in writing and read and passed on first reading at a regular meeting of the Borough Council of said Borough duly called and held on _____, 2010 (a true and correct copy of an extract of the minutes of the meeting is attached hereto), and was passed on second reading and finally adopted by the recorded affirmative vote of at least two -thirds of all the members of said Borough Council, at a regular meeting thereof duly called and held on _____, 2010 (a true and correct copy of an extract of the minutes of the meeting is attached hereto), following the holding of a public hearing thereon at which all interested persons were given an opportunity to be heard. Said Ordinance was approved by (or passed over the veto of) the Mayor of said Borough on _____, 2010.

3. Said Ordinance was published after first reading on _____, 2010 in the _____, a newspaper published and circulating in the Borough (or, if there be none, a newspaper published in the County of Bergen and circulating in the Borough), together with notice of the introduction and the date and the time and place of further consideration of said Ordinance (a true and correct copy of the affidavit of publication of said Ordinance is attached hereto).

4. On _____, 2010, said Ordinance was posted on the bulletin board in the Municipal Complex of the Borough together with notice of the availability of copies of said Ordinance at the Office of the Clerk, and such copies of said Ordinance were made available to all members of the general public requesting the same.

5. After final passage, said Ordinance was duly published, together with the Notice of Adoption of Bond Ordinance, on _____, 2010 in _____, a newspaper circulating in the Borough, and no protest by any person against making the improvement or issuing the indebtedness authorized in said Ordinance, nor any petition requesting that a referendum vote be taken on the action proposed in the Ordinance has been presented to the governing body or to me or filed in my office nor has any such action or proceeding questioning the validity of such Ordinance has been commenced within 20 days after such publication (a true and correct copy of the affidavit of publication of said Ordinance is attached hereto).

6. Said Ordinance when introduced was complete in the form in which it was finally adopted and remained on file in the Office of the Clerk for public inspection from the date of introduction to the date of final adoption.

7. The Ordinance appropriated a down payment of not less than 5% of the obligations thereby authorized to the purpose, or ratably to the purposes, to be financed pursuant to the Ordinance, and such sum was made available ~~(strike out inapplicable language)~~ (a) by provision in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes, (b) from moneys then actually held by the Borough and previously contributed for such purposes other than by the Borough; and/or (c) by emergency appropriation.

8. The attached copy of a Supplemental Debt Statement has been compared by me with the original Supplemental Debt Statement of said Borough, prepared as of _____, 2010, and sworn to on _____, 2010, by Raymond Herr, who was then the Chief Financial Officer of said Borough, and filed in the office of said Clerk on _____, 2010, and that the same is a true and complete copy of said original Supplemental Debt Statement.

9. A complete, executed duplicate of the said original Supplemental Debt Statement was duly filed (before final adoption of the bond ordinance by the Borough Council) in the Office of the Director of the Division of Local Government Services of the State of New Jersey on _____, 2010.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said Borough this ____ day of _____, 2010.

(SEAL)

Karen Hughes, Borough Clerk

ATTACHMENTS

- A) Ordinance
- B) Extract of minutes of Borough Council meeting at which Ordinance was introduced
- C) Extract of minutes of Borough Council meeting at which Ordinance was finally adopted
- D) Affidavit of First Publication of Ordinance after introduction
- E) Affidavit of Second Publication of Ordinance after final adoption
- F) Supplemental Debt Statement