TOWNSHIP OF BERKELEY
BOND ORDINANCE NUMBER 2020-10-OAB

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF, AND PAYMENT OF THE PURCHASE PRICE FOR, CERTAIN REAL PROPERTY (INCLUDING REAL PROPERTY COMMONLY KNOWN AS 32 FIFTH LANE) AND IMPROVEMENTS THEREON BY AND IN THE TOWNSHIP OF BERKELEY, IN THE COUNTY OF OCEAN, STATE OF NEW JERSEY; APPROPRIATING $1,750,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $1,665,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF

February 24, 2020

BE IT ORDAINED AND ENACTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERKELEY, IN THE COUNTY OF OCEAN, 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 Township of Berkeley, in the County of Ocean, State of New Jersey (the "Township"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of $1,750,000, said sum being inclusive of $85,000 as the amount of down payment for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the "Local Bond Law"). The down payment is now available therefor by virtue of either provisions or a provision in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes or from moneys actually held by the Township.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof, and to meet the part of the $1,750,000 appropriation not provided for by application hereunder of the down payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of $1,665,000 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 Township in the principal amount not exceeding $1,665,000 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 purposes for the financing of which said bonds or notes are to be issued is the acquisition of, and payment of the purchase price for, real property and improvements thereon by and in the Township to be used for municipal purposes, including but not limited to, the construction of a parking lot, community center and auxiliary municipal building, all lawful public purposes, such real property may include, but is limited to, that property designated as Block 1694, Lot 153 on the Official Tax Map of the Township, and being commonly known as 32 Fifth Lane, Berkeley, New Jersey, and all improvements thereon (the "Property").

(b) The estimated maximum amount of bonds or notes to be issued for said improvements or purposes is $1,665,000.

(c) The estimated cost of said improvements or purposes is $1,750,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the down payment available for said improvements or purposes in the amount of $85,000.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Ocean and/or a private entity make a contribution or grant in aid to the Township, for the improvements and purposes authorized hereby and the same shall be received by the Township 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, the County of Ocean and/or a private entity. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Ocean and/or a private entity, shall be received by the Township 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 Township, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable 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 of the Township 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 N.J.S.A. 40A:2-8(a). 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 Township 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 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 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 a current expense and are improvements or purposes which the Township may lawfully undertake as general improvements or purposes, 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 40 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 Township 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 Township as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by $1,665,000 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 $262,500 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 purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Township 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 Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Township hereby declares the intent of the Township to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.100-2 or any successor provisions of federal income tax law.

SECTION 10. The Township Chief Financial Officer 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 obligations of the Township and to execute such disclosure document on behalf of the Township. The Township Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 10c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township 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 Township fails to comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Township is hereby authorized to acquire the Property and to negotiate an agreement of sale or any other document for the aforesaid acquisition of the Property. The Mayor, Business Administrator, Chief Financial Officer, Township Attorney and the Township Clerk are each hereby authorized, as applicable, to negotiate, approve, execute, attest, deliver and perform said agreement of sale and any and all documents necessary to acquire said Property.

SECTION 12. The Township 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 13. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

ADOPTED ON FIRST READING
DATED: February 24, 2020

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BEVERLY M. CARLE,
Clerk of the Township of Berkeley

ADOPTED ON SECOND READING
DATED: March 23, 2020

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BEVERLY M. CARLE,
Clerk of the Township of Berkeley

APPROVAL BY THE MAYOR ON THIS 23rd **DAY OF** March**, 2020**

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CARMEN F. AMATO, JR.,
Mayor of the Township of Berkeley

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KEITH A. BUSCIO, Council President
ANGELO GUADAGNO, Council Vice President