

**CITY OF CAPE MAY, COUNTY OF CAPE MAY, STATE OF NEW JERSEY**

**ORDINANCE NO. 402-2020**

**BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION OF A STATE OF THE ART NEW FIRE STATION IN AND BY THE CITY OF CAPE MAY, APPROPRIATING FIVE MILLION DOLLARS (\$5,000,000.00) THEREFOR AND AUTHORIZING THE ISSUANCE OF FOUR MILLION SEVENTY HUNDRED FIFTY THOUSAND DOLLARS (\$4,750,000.00) IN BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF**

**WHEREAS**, in 2017 the Cape May City Volunteer Fire Company sought plans and cost estimates for the construction of a new fire station (the “Fire Station”); and

**WHEREAS**, the architect Robert Connelly provided plans for an estimated 13,000 square foot fire station at an estimated cost of 4.3 million dollars (\$4,300,000.00); and

**WHEREAS**, the City Council subsequently abandoned plans for replacement of the fire station in favor of a proposed Public Safety Building (the “Public Safety Building”); and

**WHEREAS**, the City issued requests for proposals with a budget of TEN MILLION DOLLARS (\$10,000,000.00) for the Public Safety Building project. In time, the anticipated cost of the Public Safety Building doubled to approximately TWENTY MILLION DOLLARS (\$20,000,000.00); and

**WHEREAS**, in 2020 the City Council proposed an ordinance to fund the cost with a \$15,000,000 bond. The bond ordinance failed to pass through City Council; and

**WHEREAS**, the “Citizens’ Initiative for the Public Safety Building” formed in order to present the \$15,000,000 bond ordinance as a General Election ballot question on November 3, 2020; and

**WHEREAS**, the Responsible Citizens Group Initiative for a State-of-the-Art Fire Station (the “Responsible Citizens”) formed in order to propose a less costly alternative that would address the need for improvement, concerns for historic preservation, and provide the citizens of Cape May with a viable alternative choice at the polls. The Responsible Citizens propose a bond ordinance for a new Fire Station that will (1) advance the goal of providing a State-of-the-Art facility for the Fire Department; (2) preserve the Firefighter’s Memorial Museum in its current location and (3) reduce and control the cost of a needed improvement; and

**WHEREAS**, at the November 3, 2020 general election, the voters of the City of Cape May (the “City”) (1) rejected a public question that the City should adopt Ordinance 392-2020 (which

provides for the construction of a new public safety building and appropriating \$15,000,000 therefor and authorizes the issuance of \$14,285,714 in bonds or notes of the City to finance part of the cost thereof), and (2) approved a public question that the City should adopt this Ordinance 402-2020 (which provides for the construction of a new state of the art fire station in the City and appropriates \$5,000,000 therefor and authorizes the issuance of \$4,750,000 in bonds or notes of the City to finance part of the cost thereof); and

**WHEREAS**, the City hereby desires to adopt this Ordinance 402-2020 pursuant to the aforesaid approved public question.

Now, therefore be it ordained and enacted by the City Council of the City of Cape May, in the County of Cape May, State of New Jersey (not less than two-thirds of all members thereof affirmatively concurring), as follows:

#### SECTION 1.

(a) The improvement hereby authorized and the purpose for the financing of which bonds are to be issued is the construction of a new Fire Station (to be located at Lots 4, 5, and 6, in Block 1059 on the Official Tax Map of the City and being commonly known as 712 Franklin Street in the City), including all work and materials necessary therefor and incidental thereto and including all related costs and expenditures necessary therefor and incidental thereto. In connection with this proposed construction, the Firefighter's Memorial Museum shall be preserved in its current location.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the aforesaid improvement or purpose is as stated in Section 3 hereof (\$4,750,000).

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation stated in Section 2 hereof (\$5,000,000).

#### SECTION 2.

For the improvement or purpose described above in Section 1, there is hereby appropriated the sum of FIVE MILLION DOLLARS (\$5,000,000), including the sum of \$250,000.00 which incorporates the down payment required by the Local Bond Law N.J.S.A. 40A:2-11. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

#### SECTION 3.

In order to finance the cost of the improvement or purposes not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$4,750,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds,

negotiable bond anticipation notes in the principal amount of \$4,750,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

#### 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 bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation 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 bond anticipation notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The Chief Financial Officer is hereby authorized to sell part or all of the bond anticipation notes from time to time 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 bond anticipation 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 bond anticipation notes sold, the price obtained and the name of the purchaser.

#### SECTION 5.

The City hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the City 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 budget has been filed with the Division of Local Government Services.

#### SECTION 6.

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

(a) The improvement or purpose described in Section 1 of this ordinance is not a current expense. It is an improvement that the City may lawfully undertake as a general improvement and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) Pursuant to the Local Bond Law, the improvement or purpose exceeds the minimum period of usefulness pursuant to N.J.S.A. 40A:2-21. The reasonable life of the improvement computed from the date of the bonds authorized by this bond ordinance is 30 years. An aggregate amount not exceeding \$750,000 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 improvement hereinbefore described.

(c) The Supplemental Debt Statement required by the Local Bond Law shall be duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof shall be 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 shall show that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$4,750,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

#### SECTION 7.

The City hereby declares the intent of the City to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 1 of this bond ordinance. This section is a declaration of intent within the meaning and for purposes of the Treasury Regulations or any successor provisions of federal income tax law. Additionally, the City 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 8.

Any grant moneys received for the purposes described in Section 1 hereof 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 but not issued hereunder shall be reduced to the extent that such funds are so used.

#### SECTION 9.

The Chief Financial Officer of the City 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 City and to execute such disclosure document on behalf of the city. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission for the benefit of holders and beneficial owners of obligations of the city and to amend such undertaking for time to time in connection with any change in law or interpretation thereof, and provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule 15c2-12. In the event the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

#### SECTION 10.

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

**SECTION 11.**

All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency. Should any section, paragraph, sentence, clause or phase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

**SECTION 12.**

This Ordinance shall become effective 20 days after final passage and publication, according to law.

ATTEST:

CITY OF CAPE MAY, a municipal corporation of the State of New Jersey

Erin C. Burke, City Clerk

BY:

Zachary Mullock, Mayor

**NOTICE**

Ordinance 402-2020 was introduced at a regular meeting of the City Council of the City of Cape May, held on January 19, 2021 and was further considered for final passage during a meeting of the City Council, held virtually via Zoom on February 16, 2021 at 6:00 P.M. at which time a Public Hearing was held.

Erin C. Burke, City Clerk

Roll Call	Ayes	Nays	Absent	Abstain	Motion	Second
Baldwin	X				X	
Bezaire	X					
Meier	X					
Sheehan	X					X
Mullock	X					

**ESTIMATED ADOPTION TIMELINE:**

Introduced: January 19, 2021  
 First Publication: January 27, 2021  
 2nd Reading & Adoption: February 16, 2021  
 Final Publication: February 24, 2021  
 Effective Date: March 16, 2021

