

**TOWNSHIP OF DOWNE
COUNTY OF CUMBERLAND**

ORDINANCE NO. 2024-01

AN ORDINANCE REPLACING AND SUPERCEDING IN ALL RESPECTS BOND ORDINANCE NO. 2020-7, ADOPTED ON MAY 11, 2020, BY THE TOWNSHIP OF DOWNE, IN THE COUNTY OF CUMBERLAND, NEW JERSEY, TO INCREASE THE APPROPRIATION AMOUNT FOR THE CONSTRUCTION OF PHASE I OF THE NEW WASTEWATER TREATMENT FACILITY AND SEWER SYSTEM TO SERVE THE FORTESCUE SECTION OF THE TOWNSHIP

WHEREAS, the Township Committee of the Township of Downe, in the County of Cumberland, New Jersey (the "**Township**"), heretofore adopted Bond Ordinance No. 2020-7, entitled:

"BOND ORDINANCE APPROPRIATING FIFTEEN MILLION ONE HUNDERED FORTY-ONE THOUSAND DOLLARS (\$15,141,000) AND AUTHORIZING THE ISSUANCE OF UP TO FIFTEEN MILLION ONE HUNDERED FORTY-ONE THOUSAND DOLLARS (\$15,141,000) AGGREGATE PRINCIPAL AMOUNT GENERAL OBLIGATION BONDS OR NOTES OF THE TOWNSHIP OF DOWNE, COUNTY OF CUMBERLAND, NEW JERSEY FOR THE CONSTRUCTION OF A NEW WASTEWATER TREATMENT FACILITY TO SERVE THE FORTESCUE AND GANDY'S BEACH SECTIONS OF THE TOWNSHIP"

(**"Ordinance No. 7"**), pursuant to which the Township authorized the issuance of bonds or notes in the aggregate principal amount of \$15,141,000 for the purpose of financing the costs of construction of a Wastewater Treatment Plant and installation of a centralized sewer system in the Fortescue and Gandy's Beach sections of the Township (the "**WWTP Project**"); and

WHEREAS, the bids received by the Township for the WWTP Project demonstrate that the construction costs associated with the WWTP Project have substantially increased over original project cost estimates; and

WHEREAS, the Township Committee still believes it to be in the best interests of the residents of the Township to move forward with construction of the WWTP Project, which project must now be completed in two phases due to the increased construction costs; and

WHEREAS, through the adoption of the within Bond Ordinance, the Township Committee intends to replace and supercede Ordinance No. 7 to increase the appropriation for the construction of Phase I of the WWTP Project as hereinafter set forth.

BE IT ORDAINED BY THE COMMITTEE OF THE TOWNSHIP OF DOWNE, IN THE COUNTY OF CUMBERLAND, AND STATE OF NEW JERSEY, (with the affirmative concurrence of not less than two-thirds of all the members thereof) **AS FOLLOWS:**

Section 1. Description of Project.

The Township of Downe (the "**Township**") hereby authorizes the following project to maintain and support compliance by the Township with the clean water regulations of the State of New Jersey and thereby improve and protect the health, safety and welfare of the inhabitants of the Fortescue section of the Township:

IMPROVEMENT OR PURPOSE

**APPROPRIATION AND
ESTIMATED COST**

Construction of Phase I of the Wastewater Treatment Plant and installation of centralized sewer system in the Fortescue section of the Township, and including all costs of surveying, construction, planning, design, engineering, preparation of plans and specifications, permits, bid documents, construction inspection, administration, accounting, architectural, financial and legal ("**Phase I of the WWTP Project**").

\$25,000,000

Section 2. Permanent Funding of Appropriation.

(a) To provide funds to permanently fund the costs of Phase I of the WWTP Project as set forth in Section 1, above (the "**Project Costs**"), the issuance by the Township of bonds in the aggregate principal amount of up to Twenty-Five Million Dollars (\$25,000,000) is hereby authorized, approved, ratified and confirmed.

(b) The Project Costs are intended to be permanently financed through a combination of (i) the issuance of bonds by the Township to the County of Cumberland, New Jersey in the amount of Nine Million One Hundred Fifty-One Thousand Dollars (\$9,151,000) (the "**Township Bonds**"), which will mirror the principal amount of the loan to be received by the County of Cumberland from the New Jersey Infrastructure Bank and the State of New Jersey, the proceeds of which loan shall be made available to the Township to permanently fund the Project Costs, and which is anticipated to be reduced upon permanent financing to Six Million Six Hundred Fifty-One Thousand Dollars (\$6,651,000) by the application of a grant from the New Jersey Department of Environmental Protection in the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000) (the "**NJDEP Grant Amount**"); (ii) the issuance of bonds by the Township to the United States Department of Agriculture ("**USDA**") in return for a permanent loan under the United States Department of Agriculture Rural Development Water and Waste Disposal Loan and Grant Program (the "**USDA Program**"), which program is administered by the USDA, in the aggregate principal amount of One Million Five Hundred Eighteen Thousand Dollars (\$1,518,000) (the "**USDA Bond**"; and together with the Township Bonds being collectively referred to hereinafter as the "**Bonds**"); and (iii) grants to be funded from the USDA Program in the aggregate amount of Thirteen

Million Six Hundred Thirty-Nine Thousand Dollars (\$13,639,000) (the "**Aggregate USDA Grant Amount**").

(c) In accordance with N.J.S.A. 40A:2-11(c), no down payment shall be required in connection with the issuance of the Bonds for the clean water project as this Bond Ordinance authorizes an obligation referred to in N.J.S.A. 40A:2-7(h) for purposes that are deemed to be self-liquidating as described in N.J.S.A. 40A:2-46.

Section 3. Temporary Construction Financing Prior to Issuance of Bonds.

In anticipation of the issuance of the Township Bonds and the USDA Bond and receipt of the NJDEP Grant Amount and USDA Grant Amount, the Township hereby authorizes the issuance, sale and award of temporary notes (the "**County Construction Loan Notes**") to the County of Cumberland, New Jersey (the "**County**") in the aggregate principal amount of up to Twenty-Five Million Dollars (\$25,000,000). The execution and delivery of the County Construction Loan Notes and all additional documents and instruments related thereto by the Mayor, Chief Financial Officer and Municipal Clerk (collectively, the "**Authorized Officials**") is hereby authorized. The Authorized Officials are each hereby authorized to determine, pursuant to the terms and conditions established by the USDA and the New Jersey Infrastructure Bank (the "**I-Bank**") under the I-Bank's Construction Financing Program's loan agreement and the terms and conditions of this Ordinance and any subsequent resolution of the Township Committee, the following items with respect to the County Construction Loan Notes: (a) the aggregate principal amount of the County Construction Loan Notes to be issued, which amount shall not exceed \$25,000,000; (b) the maturity of the County Construction Loan Notes; (c) the date of the County Construction Loan Notes; (d) the interest rate of the County Construction Loan Notes; (e) the purchase price for the County Construction Loan Notes; and (f) such other matters with respect to the County Construction Loan Notes as may be necessary, desirable or convenient in connection with the sale, issuance and delivery thereof. The Authorized Officials are hereby further authorized to manually execute and deliver and the Municipal Clerk is hereby further authorized to attest by manual signature to such execution and to affix, imprint, engrave or reproduce the corporate seal of the Township to any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officials in their respective sole discretion, after consultation with the Township's bond counsel and auditor, to be executed in connection with the execution and delivery of the County Construction Loan Notes and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such document, instrument or closing certificate by the party authorized under this resolution to execute such document, instrument or closing certificate.

Section 4. Authorization of Bond Anticipation Notes.

To the extent the Project Costs are not covered by the issuance of Notes by the Township pursuant to Section 3, above, and prior to the issuance of permanent bonds, the Township is hereby authorized to temporarily finance Phase I the WTTP Project through the

issuance of negotiable bond anticipation notes of the Township in a principal amount not to exceed Twenty-Five Million (\$25,000,000) (the "**Bond Anticipation Notes**"), pursuant to the limitations prescribed by the Local Bond Law, which amount shall be reduced by the principal amount of any County Construction Loan Notes issued pursuant to Section 3, above. All such Bond Anticipation Notes shall mature at such time as may be determined by the Chief Financial Officer or such other Financial Officer designated by Resolution for these purposes (both being hereinafter referred to in this Section as Chief Financial Officer); provided that no Bond Anticipation Note shall mature later than one (1) year from its issue date. Such Bond Anticipation Notes shall bear interest at a rate or rates and shall be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with any Bond Anticipation Notes issued pursuant to this Ordinance, and the signature of the Chief Financial Officer upon such Bond Anticipation Notes shall be conclusive evidence as to all such determinations. The Chief Financial Officer is hereby authorized to sell the Bond Anticipation Notes from time to time at public or private sale in such amounts as the Chief Financial Officer may determine and not less than par, and to deliver the same from time to time to the purchasers thereof upon receipt of the purchase price plus accrued interest from their dates to the date of delivery thereof as payment thereof. Such Chief Financial Officer is authorized and directed to report in writing to the Mayor and the Committee of the Township at the meeting next succeeding the date when any sale or delivery of the Bond Anticipation Notes pursuant to this Ordinance is made. Such report shall include the amount, the description, the interest rate, the maturity schedule of the note(s) sold, price obtained and the name of the purchaser. All Bond Anticipation Notes issued hereunder may be renewed from time to time for periods not exceeding one (1) year for the time period specified in and in accordance with the provisions and limitations of N.J.S.A. 40A:2-8(a) of the Local Bond Law. The Chief Financial Officer is further directed to determine all matters in connection with said Bond Anticipation Notes not determined by this Ordinance. The Chief Financial Officer's signature upon said Bond Anticipation Notes shall be conclusive evidence of such determination.

Section 5. Additional Matters.

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

(a) The said purposes described in Section 1 of this Bond Ordinance are not current expenses and are improvements which the Township may lawfully require or make and no part of the costs thereof has been or shall be specifically assessed on property specifically benefited thereby.

(b) The average period of usefulness of said purposes authorized herein, taking into consideration the respective amounts of said obligations authorized for such purposes, computed in accordance with N.J.S.A. 40A:2-22 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 Township 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, 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 and notes provided for in this Bond Ordinance by a maximum amount of Twenty-Five Million Dollars (\$25,000,000), and that the net debt of the Township determined as provided in the Local Bond Law is not increased by this Bond Ordinance. The said Bonds authorized by this Bond Ordinance will be within all debt limitations prescribed by the Local Bond Law.

(d) Amounts not exceeding **One Million Nine Hundred Thousand Dollars (\$1,900,000)** in the aggregate for interest on said Bonds, costs of issuing said Bonds, engineering and inspection costs, legal expenses, a reasonable proportion of the compensation and expenses of employees of the Township in connection with the improvements as authorized herein, and other items of expense listed in and permitted under N.J.S.A. 40A:2-20 of the Local Bond Law have been included as part of the costs of said improvement and are included in the foregoing estimate thereof.

Section 6. Maturity of Bonds.

The Bonds shall mature at such time or times not exceeding forty (40) years from the date thereof as may be approved by the Local Finance Board of the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey ("**Local Finance Board**") pursuant to N.J.S.A. 58:11B-9(a) and 40A:2-26 of the Local Bond Law. All other terms of the Bonds, including, without limitation, the dates thereof, the rate or rates of interest to be paid thereon, the provisions for redemption prior to maturity thereof, and the place or places for payment thereof, shall be as determined by subsequent resolution or resolutions of the Township Committee as permitted by N.J.S.A. 40A:2-16 of the Local Bond Law.

Section 7. Execution of Bonds.

The Bonds shall be executed in the name of the Township by the manual or facsimile signatures of the Mayor and Chief Financial Officer under the affixed, imprinted, engraved or reproduced seal of the Township attested by the manual or facsimile signature of the Township Clerk.

Section 8. Authorization to Contract.

The Township is hereby authorized and directed to enter into any and all contracts or agreements necessary, desirable or convenient to effectuate the financing programs as authorized by this Bond Ordinance.

Section 9. Execution of Documents.

The Mayor, Chief Financial Officer and Clerk of the Township are hereby jointly and severally authorized and directed to take all actions and execute all documents and instruments necessary or appropriate to carry out the purposes of this Bond Ordinance, including, without limitation, the furnishing of such documentation and information as may

be required by the Director of the Local Finance Board. All prior actions taken by such officials in connection with the financing programs authorized by this Bond Ordinance are hereby ratified and confirmed.

Section 10. Covenants.

The Township hereby covenants to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder 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 11. Ratification of Prior Actions.

Any action taken by any officials of the Township in connection with the improvements described in Section 1 hereof are hereby ratified and confirmed notwithstanding that such actions may have been taken prior to the effective date of this Bond Ordinance and shall be deemed to have been taken pursuant to this Bond Ordinance.

Section 12. Application of Grants.

Any grant moneys received for the purposes described in Section 1 hereof, including without limitation the NJDEP Grant and the Aggregate USDA Grant Amount, shall be pledged by the Township to the direct payment of all obligations issued by the County for the construction of Phase I of the Project.

Section 13. Full Faith and Credit.

The full faith and credit of the Township are hereby pledged to the punctual payment of the principal and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all of the taxable property within the Township for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 14. Official Intent to Reimburse Expenditures.

The Township reasonably expects to reimburse any expenditures towards the cost of the improvements or purposes described in Section 1 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 has been or is reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Township, or any member of the same "control group" as the Township, within the meaning of Treasury Regulations Section 1.150-1(f), pursuant to their budget or financial policies with respect to any expenditures to be reimbursed. This Section is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 1

hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.103- 18, and no action (or inaction) will be an artifice or device in accordance with Treasury Regulation Section yield restrictions or arbitrage rebate requirements.

Section 15. Effective Date.


Neither this Bond Ordinance nor any resolution of the Township Committee performing, determining or authorizing matters or acts in connection with the issuance of the Bonds shall take effect until such time as a resolution shall have been adopted by the Local Finance Board determining that the municipal utility of the Township shall have income sufficient to make it self-liquidating in accordance with the provisions of N.J.S.A. 40A:2-46 and such approval shall be been endorsed upon a certified copy hereof; in no event shall this Bond Ordinance be effective earlier than twenty (20) days after the adoption and publication of this Bond Ordinance as required by law.

Section 16. Cancellation of Prior Bond Ordinance No. 7.

Upon the effective date of this Bond Ordinance, Ordinance No. 7, adopted on May 11, 2020, appropriating the sum of \$15,141,000 shall be deemed cancelled and superseded by this Bond Ordinance. All actions previously taken pursuant to the prior bond ordinance shall be deemed taken pursuant to this Bond Ordinance and are hereby ratified and confirmed to the extent consistent with the terms of this Bond Ordinance.

ATTEST:


NADINE E. LOCKLEY, RMC, CMR
CLERK


MICHAEL L. ROTHMAN
MAYOR

FIRST READING: JANUARY 8, 2024
PUBLICATION: JANUARY 12, 2024
FINAL READING: JANUARY 22, 2024
PUBLICATION: JANUARY 26, 2024

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The Bond Ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a regular meeting of the Township Committee held on Monday, January 8, 2024, at the Downe Township Municipal Complex. It will be further considered for final passage, after public hearing thereon, at a special meeting of the Township Committee to be held on January 22, 2024, at 7:00 o'clock P.M. at the Downe Township Municipal Complex. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office located in the Downe Township Municipal Complex, 288 Main Street, Newport, New Jersey, for the members of the general public who shall request the same. The summary of the terms of such Bond Ordinance follows:

Title: "AN ORDINANCE REPLACING AND SUPERCEDING IN ALL RESPECTS BOND ORDINANCE NO. 2020-7, ADOPTED ON MAY 11, 2020, BY THE TOWNSHIP OF DOWNE, IN THE COUNTY OF CUMBERLAND, NEW JERSEY, TO INCREASE THE APPROPRIATION AMOUNT FOR THE CONSTRUCTION OF PHASE I OF THE NEW WASTEWATER TREATMENT FACILITY AND SEWER SYSTEM TO SERVE THE FORTESCUE SECTION OF THE TOWNSHIP"

Purpose: Construction of Phase I of the new Wastewater Treatment Plant Facility and Sewer System Lines to Serve Fortescue Section of the Township

Appropriation: \$25,000,000

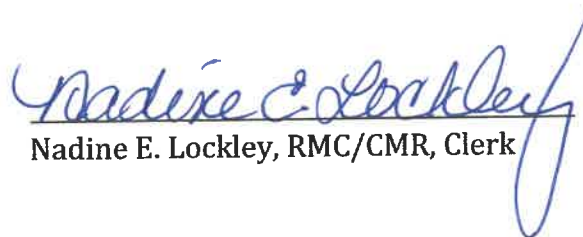
Bonds/Notes Authorized: \$25,000,000

Grants (if any) Appropriated: (i) \$13,639,000 (United States Department of Agriculture Rural Development Water and Waste Disposal Loan and Grant Program); and

(ii) \$2,500,000 New Jersey Department of Environmental Protection

Section 20 Costs: \$1,900,000

Useful Life: 40 years


Nadine E. Lockley, RMC/CMR, Clerk

This Notice is published pursuant to N.J.S.A. 40A:SA-20.

BOND ORDINANCE STATEMENTS AND SUMMARY

The Bond Ordinance, the summary terms of which are included herein, has been finally adopted by the Township of Downe, in the County of Cumberland, State of New Jersey on January 22, 2024, and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such Bond Ordinance follows:

Title: "AN ORDINANCE REPLACING AND SUPERCEDING IN ALL RESPECTS BOND ORDINANCE NO. 2020-7, ADOPTED ON MAY 11, 2020, BY THE TOWNSHIP OF DOWNE, IN THE COUNTY OF CUMBERLAND, NEW JERSEY, TO INCREASE THE APPROPRIATION AMOUNT FOR THE CONSTRUCTION OF PHASE I OF THE NEW WASTEWATER TREATMENT FACILITY AND SEWER SYSTEM TO SERVE THE FORTESCUE SECTION OF THE TOWNSHIP"

Purpose: Construction of Phase I of the new Wastewater Treatment Plant Facility and Sewer System Lines to Serve Fortescue Section of the Township

Appropriation: \$25,000,000


Bonds/Notes Authorized: \$25,000,000

Grants (if any) Appropriated: (i) \$13,639,000 (United States Department of Agriculture Rural Development Water and Waste Disposal Loan and Grant Program); and

(ii) \$2,500,000 New Jersey Department of Environmental Protection

Section 20 Costs: \$1,900,000

Useful Life: 40 years


Nadine E. Lockley, RMC/CMR, Clerk

This Notice is published pursuant to N.J.S.A. 40A:SA-20.



TOWNSHIP OF DOWNE
CUMBERLAND COUNTY, NEW JERSEY
RECORD FOR ORDINANCE # 2024-01

Introduce Ordinance on First Reading

Motion: CAMPBELL

Second: BYRNE

Introduce Ordinance / First Reading Date: January 8, 2024
 Ordinance Published: January 8, 2024
 Ordinance Posted: January 12, 2024
 Public Hearing / Second Reading Date: January 22, 2024

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Jordan, L.	X			
Byrne, S.	X			
Rothman, M.	X			
Bart, E.	X			
Campbell, R.	X			

Adoption of Ordinance

Motion: CAMPBELL

Second: JORDAN

ROLL CALL	YES	NO	ABSTAIN	ABSENT
Jordan, L.	X			
Byrne, S.	X			
Rothman, M.	X			
Bart, E.	X			
Campbell, R.	X			

Final Adoption Date: January 22, 2024
 Notice of Final Passage Published: January 30, 2024
 Notice of Final Passage Posted: January 22, 2024

January 27, 2024

 Date

Nadine E. Lockley

 Nadine E. Lockley, Municipal Clerk