

TOWNSHIP OF DOWNE
CUMBERLAND COUNTY, NEW JERSEY

ORDINANCE 2024-10

ORDINANCE OF THE TOWNSHIP OF DOWNE, IN THE COUNTY OF
CUMBERLAND, NEW JERSEY AUTHORIZING THE EXECUTION OF A
SHARED SERVICE AGREEMENT WITH THE COUNTY OF CUMBERLAND IN
CONNECTION WITH CERTAIN SEWER IMPROVEMENTS TO BE
CONSTRUCTED WITHIN THE TOWNSHIP

WHEREAS, the Township of Downe (the "**Township**") plans to undertake the construction of a new sewer and wastewater treatment plant and installation of a centralized sewer system in the Fortescue and Gandy's Beach sections of the Township (the "**Project**"); and

WHEREAS, the Project has been determined to be necessary because many of the homes located in the Fortescue and Gandy's Beach communities (the "**Affected Area**") have inadequate or deteriorated on-site sewage disposal systems consisting of disposal fields or seepage pits that provide insufficient sewage treatment because of a very shallow water table and/or frequent inundation by flood waters; and

WHEREAS, other homes in the Affected Area utilize sewage holding tanks that require regular pumping but are now in disrepair and leak due to years of lack of maintenance and inundation by flood waters; and

WHEREAS, due to these conditions, long-term untreated wastewater discharges to the Delaware Bay endanger the public health and safety, and adversely impact the local economy by restricting or eliminating local recreational and commercial use of the Delaware Bay for activities such as swimming, fishing and shellfish harvesting; and

WHEREAS, the Project is anticipated to cost \$33,674,200 (the "**Project Cost**") which is an amount the Township is unable to finance on its own as such amount would exceed the debt service limitation of the Township; and

WHEREAS, in order to reduce the amount to be financed for the Project, the Township has secured a combination of (i) low interest loans from the New Jersey Infrastructure Bank ("**NJIB**"), with some of the loaned amounts being subject to principal forgiveness, (ii) low interest loans from the United State Department of Agriculture (the "**USDA**"), which shall be provided along with grant funding for the Project, and (iii) a stand-alone grant through a Federal earmark; as part of the preceding funding package, the Township has obtained conditional grant financing and/or loan forgiveness for an aggregate amount of \$23,169,000 of the Project Cost (the "**Grant Funds**");

WHEREAS, the remaining amount of \$10,505,200 shall be financed by the Township (the "**Financed Amount**") and paid from the revenues of a self-liquidating municipal sewer utility (the "**Utility**") created pursuant to N.J.S.A. 40:62 et seq, and approved by the Local Finance Board Division of

Local Government Services (the "**LFB**") on both January 10, 2024, and April 10, 2024; and

WHEREAS, because most of the Grant Funds are only available on a reimbursement basis virtually all of the entire Project Cost must initially be made available; and

WHEREAS, the County of Cumberland (the "**County**") has determined that the Project has significant importance to the local economy and to the residents of the Township and the County; and

WHEREAS, the Uniform Shared Service and Consolidation Act, N.J.S.A. 40A:65-1 et seq. (the "**Shared Services Act**"), authorizes local units of the State of New Jersey, including counties and municipalities, to enter into agreements with any other local unit or units for the joint provisions within their several jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "**Local Bond Law**"), further authorizes counties and municipalities to issue bond anticipation notes and bonds to fund sewer system improvements; and

WHEREAS, the NJIB has made financing available for the Project on the condition that such financing be administered through the County; and

WHEREAS, the County has determined to assist the Township in the financing and provision of the improvements for the Project necessary to improve the sewer services in the Affected Area, through the execution of a shared services agreement (the "**Shared Services Agreement**") with the Township and the issuance of a project note of the County to the NJIB to make the funds needed for the Project available to the Township; and

WHEREAS, such project note issued by the County shall be secured by a project note of the Township issued to the County in like amount; and

WHEREAS, the County will issue its project note for the full cost of the Project in the anticipated amount \$33,674,200, which amount shall be available to be drawn down on a requisition basis for the construction of the Project; and

WHEREAS, during construction of the Project USDA will make funds available in the aggregate amount of \$6,972,000 to the Township for the Project, leaving the County to draw down the difference of \$26,672,200; and

WHEREAS, upon completion of the Project it is anticipated that (i) principal forgiveness from the NJIB in the aggregate amount of \$5,500,000, (ii) a USDA grant of \$6,667,000, (iii) a federal earmark of \$4,000,000, (iv) USDA loans in the aggregate amount of \$3,854,200 (the "**USDA Loan**"), and (v) an NJIB loan through the County (the "**NJIB Loan**") in the amount of \$6,651,000, will be available to pay the existing County project note in full; and

WHEREAS, the USDA loan and the NJIB loan shall be paid by the Township from the sewer utility rates charged by the Township's self-liquidating Utility to the ratepayers of the Township Utility in such amounts as have

been approved by the LFB, and the respective loans shall ultimately be secured by the *ad valorem* taxing power of the Township; and

WHEREAS, the County and the Township have determined that it will be most cost-effective and in the best interest of the County and the Township to enter into the Shared Services Agreement pursuant to the Shared Services Act so that; (i) the Township may undertake and complete the Project, (ii) the County may make NJIB funding available to the Township to undertake and complete the Project, (iii) the Township may finance and pay the NJIB Loan through the County, and (iv) the County may apply principal forgiveness in the amount of \$5,500,000 (which is part of the Grant Funds) that the County has been able to secure, to the Project on behalf of the Township:

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWNSHIP OF DOWNE, IN THE COUNTY OF CUMBERLAND, NEW JERSEY AS FOLLOWS:

Section 1. The recitals hereof are incorporated by reference as if set forth at length herein.

Section 2. The Mayor is hereby authorized and directed to execute the Shared Service Agreement, a form of which shall be on file with the Clerk, together with such additions, deletions and modifications as deemed necessary by the Mayor upon consultation with the Municipality's legal counsel. The Clerk is hereby authorized and directed to attest to the signature of the Mayor on the Shared Service Agreement and to deliver same to the County.

Section 3. The Mayor, Chief Financial Officer and Clerk are each hereby authorized and directed to take any and all action and execute and deliver any and all documents, certificates, agreements or instruments necessary to effectuate the transactions contemplated by this ordinance and the Shared Service Agreement.

Section 4. This ordinance shall take effect upon final adoption and publication according to law.

TOWNSHIP OF DOWNE

BY: 
Michael L. Rothman, Mayor


Nadine E. Lockley, Municipal Clerk

CERTIFICATION

I, Nadine Lockley, Municipal Clerk, do hereby certify that the foregoing is a correct and true copy of an Ordinance adopted by the Township Committee of the Township of Downe at a special business meeting held on the 22nd day of April, 2024.


Nadine E. Lockley, Municipal Clerk

[SEAL]



**TOWNSHIP OF DOWNE
CUMBERLAND COUNTY, NEW JERSEY
RECORD FOR ORDINANCE # 2024-10**

Introduce Ordinance on First Reading

Motion: CAMPBELL

Second: BYRNE

Introduce Ordinance / First Reading Date: APRIL 8, 2024

Ordinance Published: APRIL 15, 2024

Ordinance Posted: APRIL 8, 2024

Public Hearing / Second Reading Date: APRIL 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: JORDAN

Second: CAMPBELL

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

Final Adoption Date: APRIL 22, 2024

Notice of Final Passage Published: APRIL 29, 2024

Notice of Final Passage Posted: APRIL 22, 2024

April 22, 2024
Date

Nadine E. Lockley, Municipal Clerk