

ORDINANCE 2011-11

**BOROUGH OF DUNELLEN,
IN THE COUNTY OF MIDDLESEX**

**BOND ORDINANCE PROVIDING IMPROVEMENTS TO
DUNELLEN AVENUE IN THE BOROUGH OF DUNELLEN,
APPROPRIATING THE SUM OF \$450,000 THEREFOR AND
AUTHORIZING THE ISSUANCE OF \$95,000 OF BONDS AND/OR
NOTES OF THE BOROUGH FOR FINANCING THE COST THEREOF
AND MAKING THE DOWN PAYMENT FOR SAID IMPROVEMENTS
AUTHORIZED TO BE UNDERTAKEN IN AND BY THE BOROUGH OF
DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY**

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

Section 1. The improvement and purpose described in Section 3 of this Bond Ordinance is hereby authorized as a general improvement to be made or acquired by the Borough of Dunellen, County of Middlesex, New Jersey (hereinafter referred to as the "Borough"). For the said improvement or purpose stated in Section 3 of this Bond Ordinance, there is hereby appropriated the sum of \$450,000, said sum being inclusive of all appropriations heretofore made therefor including a \$5,000 appropriation from the Capital Improvement Fund or other available funds of the Borough, appropriated herein as the down payment for said improvement or purpose as is required by N.J.S.A. 40A:2-1 et seq. Said \$5,000 is hereby appropriated and is now available by virtue of a provision in the currently adopted budget or a previously adopted budget of the Borough and is currently available for down payment or capital improvement purposes, as required by the Local Bond Law of New Jersey, N.J.S.A. 40A:2-1, et seq. (the "Local Bond Law").

Section 2. For the financing of said improvement or purpose and to meet the part of the \$450,000 appropriation not otherwise provided for hereunder, negotiable Bonds of the Borough are hereby authorized to be issued in a principal amount not to exceed \$95,000 pursuant to the Local Bond Law. In anticipation of the issuance of said Bonds, negotiable notes of the Borough in a principal amount not exceeding \$95,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law. In the event that Bonds are issued pursuant to this Ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the Bonds so issued. If the aggregate amount of outstanding Bonds and notes issued pursuant to this Ordinance shall at any time exceed \$95,000, the moneys raised by the issuance of said Bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding, at maturity. Each Bond anticipation note issued pursuant to this Ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within the limitations prescribed by the Local Bond Law. Each note shall

be signed and shall be under the seal of said Borough and attested as permitted by law. The appropriate Borough officers are hereby authorized to execute the notes and to issue same in such form as they may adopt in conformity with law. The power to determine all matters in connection with this Ordinance and also the power to sell the notes, is hereby delegated to the Chief Financial Officer of the Borough (the "Financial Officer"), who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law and the Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. The Financial Officer is authorized and directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of notes pursuant to this Ordinance is made, such report to include the principal amount, description, interest rate and maturity of the notes sold, the price obtained and the name of the purchaser.

Section 3. The improvement hereby authorized and the purpose for the financing of which said obligations are to be issued is as follows:

Improvement/ <u>Acquisition</u>	Estimated <u>Cost</u>	DOT <u>Grant</u>	Down Payment (Capital Improvement <u>Fund</u>)	Estimated Amount of Bonds & <u>Notes</u>	Period of <u>Usefulness</u>
Improvements to Dunellen Avenue, said improvements to include all costs, equipment and/or improvements necessary therefore or related thereto.	\$450,000	\$350,000	\$5,000	\$95,000	10 years

Section 4. The following additional matters are hereby determined, declared, recited and stated:

- (a) The purpose described in Section 3 of this Bond Ordinance is not a current expense and is property or an improvement which the Borough may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The period of usefulness of said purpose is within the limitations of the Local Bond Law taking into consideration the amount of the obligations authorized for the purpose, according to the reasonable life thereof computed from the date of the Bonds authorized by this Bond Ordinance, the period of usefulness is 10 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough 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 Borough determined as provided in said Law is increased by this Bond Ordinance by \$95,000 and obligations authorized hereunder will be within all debt limitations prescribed by said

Law.

- (d) Amounts not exceeding \$90,000 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed and permitted under N.J.S.A. 40A:2-20 of the Local Bond Law may be included as part of the costs of said improvement and are included in the foregoing estimates thereof.

Section 5. Any grant or other moneys received for the purposes described in Section 3 hereof, shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this Ordinance and the amount of the obligations authorized herein for such purpose shall be reduced accordingly.

Section 6. The governing body of the Borough hereby covenants on behalf of the Borough to take any action necessary or to refrain from taking action in order to preserve the tax exempt status of the debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, including compliance with said code with regard to the use, expenditure, investment, timely reporting and the rebate of investment earnings as may be required thereunder.

Section 7. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this Bond Ordinance. Said obligations shall be direct, unlimited obligations of the Borough, and, unless paid from other revenues of the Borough, the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of said obligations and interest thereon without limitation as to rate or amount.

Section 8. The Capital Budget of the Borough is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board of the New Jersey Department of Community Affairs showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services, is on file with the Borough Clerk and is available there for public inspection.

Section 9. The Borough reasonably expects to reimburse any expenditures towards the costs of the improvement or purpose described in Section 3 of this ordinance and paid prior to the issuance of any bonds or notes authorized by this 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 Borough, or any member of the same "control group" as the Borough, within the meaning of Treasury Regulations Section 1.150-1, 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 Borough's official intent to reimburse any expenditures towards the costs of the improvements or purposes described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations Section 1.150-2, and no action (or inaction) will be an artifice or device in accordance with Treasury regulation 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate

requirements.

Section 10. The provisions of this bond ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this ordinance shall be declared invalid, illegal, or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 11. To the extent that any previous Ordinance or resolution is inconsistent with or contradictory hereto, said Ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 12. This Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.