

ORDINANCE



Approved as to Form and Legality

Date Adopted

Committee

December 5, 2018

Administrative

**COUNTY OF SALEM, NEW JERSEY
ORDINANCE No. 2018-004**

**AMENDED AND RESTATED BOND ORDINANCE AUTHORIZING
THE COMPLETION OF VARIOUS RAILROAD IMPROVEMENTS IN
AND FOR THE COUNTY OF SALEM, NEW JERSEY;
APPROPRIATING THE SUM OF \$3,800,000 THEREFOR;
AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS
OR BOND ANTICIPATION NOTES OF THE COUNTY OF SALEM,
NEW JERSEY, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP
TO \$3,800,000; MAKING CERTAIN DETERMINATIONS AND
COVENANTS; AND AUTHORIZING CERTAIN RELATED ACTIONS
IN CONNECTION WITH THE FOREGOING**

BACKGROUND

WHEREAS, the Board of Chosen Freeholders of the County of Salem, New Jersey ("County"), has duly and finally adopted bond ordinance 2017-01 ("Ordinance"), authorizing the completion of various railroad improvements (collectively, the "Improvements"); and

WHEREAS, the County received a grant from the New Jersey Department of Transportation in the amount of \$3,000,000 ("Grant"), as previously appropriated in both the Ordinance and the County's Grant Fund;

WHEREAS, it is necessary for the County to amend and restate the Ordinance to (i) remove the double appropriation for the Grant, and (ii) increase the amount of bonds and/or bond anticipation notes authorized to be issued in order to meet newly identified needs of the County.

BE IT ORDAINED by the Board of Chosen Freeholders of the County of Salem, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The purposes described in Section 7 hereof are hereby authorized as general improvements to be made or acquired by the County.

Section 2. It is hereby found, determined and declared as follows:

- (a) the estimated amount to be raised by the County from all sources for the purposes stated in Section 7 hereof is \$3,800,000; and
- (b) the estimated amount of bonds or bond anticipation notes to be issued for the purposes stated in Section 7 hereof is \$3,800,000.

Section 3. The sum of \$3,800,000, to be raised by the issuance of bonds or bond anticipation notes, is hereby appropriated for the purposes stated in this bond ordinance ("Bond Ordinance").

Section 4. The issuance of negotiable bonds of the County in an amount not to exceed \$3,800,000 to finance the costs of the purposes described in Section 7 hereof is hereby authorized. Said bonds shall be sold in accordance with the requirements of the Local Bond Law.

Section 5. In order to temporarily finance the purposes described in Section 7 hereof, the issuance of bond anticipation notes of the County in an amount not to exceed \$3,800,000 is hereby authorized. Pursuant to the Local Bond 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 the same to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their date to delivery thereof. The Chief Financial Officer is hereby 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 6. The amount of the proceeds of the obligations authorized by this Bond Ordinance which may be used for the payment of interest on such obligations, accounting, engineering, legal fees and other items as provided in Section 20 of the Local Bond Law, *N.J.S.A. 40A:2-20*, shall not exceed the sum of \$750,000.

Section 7. The improvements hereby authorized and the purposes for which said obligations are to be issued; the estimated costs of each said purpose; the amount of down payment for each said purpose; the maximum amount obligations to be issued for each said purpose and the period of usefulness of each said purpose within the limitations of the Local Bond Law are as follows:

<u>Purpose/Improvement</u>	<u>Estimate d Total Cost</u>	<u>Down Paymen t</u>	<u>Amount of Obligati ons</u>	<u>Period of Usefulnes s</u>
A . Completion of Various Railroad Improvements, all as more particularly described in the plans and specifications on file and available for review in the office of the County Treasurer, together with the acquisition of all materials and equipment and completion of all work necessary therefor or related thereto	\$3,800,000	\$0	\$3,800,000	27.50 years

Section 8. The supplemental debt statement provided for in Section 10 of the Local Bond Law, *N.J.S.A. 40A:2-10*, was duly filed in the office of the Clerk prior to the passage of this Bond Ordinance on first reading and a complete executed duplicate original 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. The supplemental debt statement shows that the gross debt of the County, as defined in Section 43 of the Local Bond Law, *N.J.S.A. 40A:2-43*, is increased by this Bond Ordinance by \$3,800,000 and that the obligations authorized by this Bond Ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 9. The full faith and credit of the County are irrevocably pledged to the punctual payment of the principal of and interest on the bonds or bond anticipation notes authorized by this Bond Ordinance, and to the extent payment is not otherwise provided, the County shall levy *ad valorem* taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

Section 10. The Capital Budget is hereby amended to conform with the provisions of this Bond Ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board 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 Clerk and available for inspection.

Section 11. The County hereby declares its intent to reimburse itself from the proceeds of the bonds or bond anticipation notes authorized by this Bond Ordinance pursuant to Income Tax Regulation Section 1.150-2(e), promulgated under the Internal Revenue Code of 1986, as amended ("Code"), for "original expenditures", as defined in Income Tax Regulation Section 1.150-2(c)(2), made by the County prior to the issuance of such bonds or bond anticipation notes.

Section 12. The County hereby covenants as follows:

- (a) it shall take all actions necessary to ensure that the interest paid on the bonds or bond anticipation notes authorized by the Bond Ordinance is exempt from the gross income of the owners thereof for federal income taxation purposes, and will not become a specific item of tax preference pursuant to Section 57(a)(5) of the Code;
- (b) it will not make any use of the proceeds of the bonds or bond anticipation notes or do or suffer any other action that would cause the bonds or bond anticipation notes to be "arbitrage bonds" as such term is defined in Section 148(a) of the Code and the Regulations promulgated thereunder;
- (c) it shall calculate or cause to be calculated and pay, when due, the rebatable arbitrage with respect to the "gross proceeds" (as such term is used in Section 148(f) of the Code) of the bonds or bond anticipation notes;
- (d) it shall timely file with the Internal Revenue Service, such information report or reports as may be required by Sections 148(f) and 149(e) of the Code; and
- (e) it shall take no action that would cause the bonds or bond anticipation notes to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 13. The improvements authorized hereby are not current expenses and are improvements that the County may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 14. All ordinances or other proceedings making appropriations or authorizing the issuance of bonds or bond anticipation notes for the improvements or purposes described in Section 7 of this Bond Ordinance, particularly, the improvements previously authorized by Ordinance 2017-01, are hereby repealed to the extent of any inconsistency herewith and to the extent, if any, that they authorize the issuance hereafter of bonds or bond anticipation notes for the purpose of financing such improvements or purposes, or that they make appropriations for such improvements or purposes in excess of the amounts herein stated as the appropriations therefor. Any such bonds or bond anticipation notes heretofore issued and now outstanding pursuant to these ordinances, any moneys expended and any expenses incurred pursuant to appropriations made by these ordinances or other proceedings shall be accounted and deemed to have been issued, expended or incurred pursuant to this Bond Ordinance.

Section 15. In accordance with the Local Bond Law, this Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

MELISSA L. DECASTRO, Freeholder Director
Board of Chosen Freeholders

I hereby certify the foregoing to be a true Ordinance adopted by the Board of Chosen Freeholders of the County of Salem on December 5, 2018.

BRENDA P. BANKS
Clerk of the Board

Date of Introduction: November 7, 2018
Date of Hearing/ Adoption: December 5, 2018

RECORD OF VOTE

FREEHOLDER	AYE	NAY	ABSTAIN	ABSENT	RESOLUTION MOVED	RESOLUTION SECONDED
L. Ware						
C. Hassler						
B. Laury						
S. Griscom						
M. DeCastro						

✓ Indicates Vote

Department Initials _____