



**BOROUGH OF CALDWELL
NEW JERSEY**

ORDINANCE NO. 1422-21

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$6,500,000 FOR AID TO THE DOWNTOWN CALDWELL REDEVELOPMENT PROJECT LOCATED IN THE DOWNTOWN CALDWELL REDEVELOPMENT AREA IN AND BY THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$6,500,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

Recommended for approval by:

Approved as to form and legality by:

Thomas Banker, Administrator

Title:

WHEREAS, by Resolution No. 9-205 adopted on September 17, 2019, the Borough Council of the Borough of Caldwell, in the County of Essex, New Jersey (the "Borough"), designated certain properties within the Borough's commercial downtown, predominantly but not exclusively situated on Bloomfield Avenue, and all as set forth in Appendix A to the hereinafter defined Redevelopment Plan by Block and Lot on the official Tax Maps of the Borough, as an area in need of rehabilitation (the "Redevelopment Area") in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as amended and supplemented (the "Redevelopment Law"); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, by Ordinance No. 1394-20 adopted on December 15, 2020, as amended by Ordinance No. 1410-21 adopted on May 4, 2021 and as further amended by Ordinance No. 1422-21 adopted on December 14, 2021, the Borough Council of the Borough has duly adopted, as amended from time to time, the "Downtown Caldwell Redevelopment Plan" (collectively, and as the same may be further amended from time to time, the "Redevelopment Plan"), which sets forth the Borough's plan for the redevelopment of the Redevelopment Area; and

WHEREAS, pursuant to the Redevelopment Law, the Borough has elected to act as redevelopment entity (the "Redevelopment Entity") to implement the Redevelopment Plan and carry out the hereinafter defined Redevelopment Project described therein, within the Redevelopment Area; and

WHEREAS, on June 22, 2021, the Borough finally adopted Bond Ordinance No. 1411-21, appropriating \$17,000,000 and authorizing the issuance of \$17,000,000 in bonds and bond anticipation notes to provide aid of the redevelopment project described in the Redevelopment Plan; and

WHEREAS, the Borough now wishes to provide an additional appropriation in the amount of \$6,500,000 and authorize the issuance of bonds and bond anticipation notes in a like amount to further aid the redevelopment project described in the Redevelopment Plan.

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

Section 1. The recitals to this bond ordinance are hereby incorporated as if set forth in full herein.

Section 2. The improvement described in Section 4 of this bond ordinance has heretofore been authorized to be undertaken by the Borough as a general improvement. For the improvement or purpose described in Section 4, there is hereby appropriated the supplemental amount of \$6,500,000, such sum being in addition to the \$17,000,000 appropriated therefor by Bond Ordinance No. 1411-21 of the Borough, finally adopted June 22, 2021 (the "Original Bond Ordinance"). No down payment is required pursuant to N.J.S.A. 40A:12A-37(c) as this bond ordinance authorizes obligations for the purpose of aiding the Redevelopment Entity with respect to the Redevelopment Project within the Borough.

Section 3. In order to finance the additional cost of the improvements or purposes, negotiable bonds are hereby authorized to be issued in the principal amount of \$6,500,000 pursuant to the Redevelopment Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Redevelopment Law.

Section 4. (a) The improvements hereby authorized and the purposes for which the bonds are to be issued is to aid in the redevelopment project described in the Redevelopment Plan, including, but not limited to, acquisition of land, construction and/or renovation, as applicable, of Borough Hall, Police Headquarters, Health and Human Services Center, Community Center, Library structured and surface parking, pedestrian improvements, roadways, including but not limited to the re-alignment of Bloomfield Avenue, and signalization of intersections, including all work and materials necessary therefore and incidental thereto (collectively, and as further described in the Redevelopment Plan, the "Redevelopment Project").

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$23,500,000, including the \$17,000,000 authorized by the Original Bond Ordinance and the \$6,500,000 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$23,500,000, including the \$17,000,000 appropriated by the Original Bond Ordinance and the \$6,500,000 appropriated herein.

Section 5. 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 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 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 Redevelopment 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 6. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough 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 capital budget has been filed with the Division of Local Government Services.

Section 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough 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 N.J.S.A. 40A:12A-37(c), the obligations authorized herein shall mature in annual installments ending not more than forty years from the date of issuance.

(c) The Supplemental Debt Statement required by the Redevelopment Law has been duly prepared and filed in the office of the 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. Such statement shows that the gross debt of the Borough as defined in the Redevelopment Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$6,500,000, and the obligations authorized herein will be within all debt limitations prescribed by the Redevelopment Law.

(d) An aggregate amount not exceeding \$4,500,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement. Of this amount, \$4,000,000 was estimated for these items of expense in the Original Bond Ordinance and an additional \$500,000 is estimated therefor herein.

(e) The obligations of the Borough authorized by this bond ordinance shall bear interest at a maximum rate of not to exceed six (6.00%) per centum per annum.

Section 8. Any grant moneys received for the purpose 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 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 Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 3 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 4 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 10. The chief financial officer of the Borough 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 Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 11. The full faith and credit of the Borough are 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 Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption.

DATE OF FIRST READING: **November 12, 2021**

DATE OF ADOPTION: **December 14, 2021**

MOVED: Councilman Cole

MOVED: *Councilman Cole*

SECONDED: Councilwoman DePalma-Iozzi

SECONDED: *Council President Schmidt*

RECORD OF COUNCIL VOTE

Councilman Cole presented the following ordinance - Seconded by: *Council President Schmidt*

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Schmidt	✓				Lace	✓			
Rodgers	✓				DePalma-Iozzi	✓			
Cole	✓				Gates	✓			

Brittany Heun
Brittany Heun, Deputy Clerk

John Kelley
John Kelley, Mayor

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.