

**TOWNSHIP OF FRANKLIN
ORDINANCE NUMBER 3922-11**

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 3911-10 (WHICH PROVIDES FOR THE ACQUISITION AND INSTALLATION OF A NEW TELEPHONE SYSTEM) HERETOFORE FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY, ON NOVEMBER 9, 2010, TO INCREASE THE APPROPRIATION THEREIN BY \$46,500 AND TO INCREASE THE AUTHORIZATION OF BONDS AND NOTES THEREIN BY \$45,000

BE IT ORDAINED AND ENACTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The bond ordinance of the Township of Franklin, in the County of Somerset, State of New Jersey (the "Township"), heretofore finally adopted by the Township Council thereof on November 9, 2010, numbered 3911-10 and entitled, "BOND ORDINANCE PROVIDING FOR THE ACQUISITION AND INSTALLATION OF A NEW TELEPHONE SYSTEM, IN AND BY THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$300,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$285,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF" (the "Original Ordinance"), is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of \$46,500, said sum to be inclusive of \$1,500 as the amount of an additional down payment required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), now available by virtue of a provision or provisions in a previously adopted budget or budgets of the Township for down payments or for capital improvement purposes. The total appropriation for the purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, shall be increased by \$46,500 from \$300,000 and shall equal the amount of \$346,500. The amount of down payment required by the Local Bond Law for the improvement or purpose contained in Section 3 of the Original Ordinance shall be increased by \$1,500 from \$15,000 and shall equal the amount of \$16,500.

SECTION 3. (a) In order to finance the cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, not

covered by the additional down payment, additional negotiable bonds or notes of the Township in the amount of \$45,000 are hereby authorized to be issued by the Township, such that the total authorization of negotiable bonds or notes to be issued by the Township for the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, shall be increased by \$45,000 from \$285,000 and shall equal the amount of \$330,000.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, is equal to \$330,000, including the \$45,000 authorized herein, as stated in Section 3(a) hereof.

(c) The estimated cost of the improvements or purposes set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, is equal to \$346,500, which is equal to the amount of the \$46,500 additional appropriation herein made therefore and the \$300,000 appropriation made by the Original Ordinance.

SECTION 4. The Capital Budget of the Township is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental bond ordinance and to the extent of any inconsistency herewith, a resolution in the form 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, New Jersey Department of Community Affairs (the "Director of the Division of Local Government Services"), will be on file in the office of the Clerk and will be available for public inspection.

SECTION 5. In the event the United States of America, the State of New Jersey, and/or the County of Somerset make a contribution or grant in aid to the Township for the improvement and purpose authorized hereby and the same shall be received by the Township prior to the issuance of the bonds or notes authorized in Section 3 of the Original Ordinance, as amended and supplemented hereby, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Somerset. In the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Somerset shall be received by the Township after the issuance of the bonds or notes

authorized in Section 3 of the Original Ordinance, as amended and supplemented hereby, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Township as a result of using funds from this bond ordinance as “matching local funds” to receive such contribution or grant in aid.

SECTION 6. The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Township and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, 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 amendatory and supplemental bond ordinance by \$45,000 and the said obligations authorized herein will be within all debt limitations prescribed by law.

SECTION 7. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by the Original Ordinance, as amended and supplemented hereby. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Township for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 8. The Township reasonably expects to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. This Section 8 is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, to be incurred and paid prior to the issuance of bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, in accordance with Treasury Regulations §1.150-2. No reimbursement allocation will employ an “abusive arbitrage device” under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Internal Revenue Code of 1986, as amended (the “Code”). The proceeds of any bonds or notes

authorized by the Original Ordinance, as amended and supplemented hereby, used to reimburse the Township for costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, or funds corresponding to such amounts, will not be used in a manner that results in the creation of “replacement proceeds”, including “sinking funds”, “pledged funds” or funds subject to a “negative pledge” (as such terms are defined in Treasury Regulations §1.148-1), of any bonds or notes authorized herein or another issue of debt obligations of the Township other than amounts deposited into a “bona fide debt service fund” (as defined in Treasury Regulations §1.148-1). The bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, to reimburse the Township for any expenditures toward the costs of the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, will be issued in an amount not to exceed \$330,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, will be "capital expenditures" in accordance with the meaning of section 150 of the Code. All reimbursement allocations will occur not later than eighteen (18) months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized herein is paid, or (ii) the date the improvements or purposes described in Section 3 of the Original Ordinance, as amended and supplemented hereby, is “placed in service” (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than three (3) years after the expenditure is paid. The Township covenants to maintain the exclusion from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended, of the interest on all bonds and notes issued under this ordinance.

SECTION 9. The Township covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bonds and notes issued under the Original Ordinance, as amended and supplemented hereby.

SECTION 10. Except as expressly amended and supplemented hereby, the Original Ordinance shall remain in full force and effect.

SECTION 11. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication hereof after final adoption, as provided by the Local Bond Law.

ORDINANCE NO. 3922-11

This is a true copy of an ordinance adopted by the Township Council Township of Franklin, Somerset County, New Jersey.

Introduced: January 25, 2011
Public Hearing: February 22, 2011
Adoption: February 22, 2011
Notice of Adoption: February 28, 2011
Effective Date: March 20, 2011

Ann Marie McCarthy, Township Clerk