

**TOWNSHIP OF FRANKLIN
BOND ORDINANCE NUMBER 3811**

BOND ORDINANCE PROVIDING FOR THE 2009 ROAD OVERLAY PROGRAM, IN AND BY THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$2,100,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,000,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

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 improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Township of Franklin, in the County of Somerset, State of New Jersey (the "Township"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$2,100,000, said sum being inclusive of \$100,000 as the amount of down payment for said improvement or purpose as required by the Local Bond Law, N.J.S.A. § 40A:2-1, et seq. as amended and supplemented (the "Local Bond Law"). The down payment is now available by virtue of a provision or provisions in the Capital Improvement Fund of the Township in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said \$2,100,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$2,000,000 pursuant to the Local Bond

Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Township in the principal amount not exceeding \$2,000,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvement hereby authorized and the purpose for the financing of which said bonds or notes are to be issued is for the overlay and resurfacing of Bennetts Lane from State Route 27 to Clyde Road, Delmonico Avenue from Annapolis Street to the end, Fountain Drive from Emerald Place to 150 feet from Emerald Place, Lafayette Avenue from Park Street to Ralph Street, North Lawrence Avenue from Park Street to Ralph Street, Pershing Avenue from Hamilton Street to Mark Street and Smith Road from Doria Road to the end, the entire lengths of Angel Place, Baldwin Avenue, Colby Road, Como Drive, Cypress Road, Dahmer Road, Davis Avenue, Denise Court, Emerald Place, Equator Avenue, Fraley Drive, Frank Street, Freeman Road, French Street, Fuller Street, Hart Road, Irving Street, Kathryn Street, Lebed Drive, Liberty Lane, Lilac Lane, Mark Street, Marvin Avenue, Meister Street, Myrtle Street, Orchid Court, Rodgers Street, Rodney Avenue, Samuel Place, Seelys Run, South Lawrence Avenue, Suydam Road, Sweetbriar Road and Thomas Road, all such roadways being located within the Township; such resurfacing to consist of, as required, milling, excavation, as required, repaving with pavement having a useful life or durability at least equal to that of a Class C Roadway (as defined under the Local Bond Law) and striping, including minor drainage and curbing work, as needed, and all work, materials, equipment and appurtenances necessary therefor and incidental thereto and all in accordance with the

plans and specifications therefor on file in the Office of the Clerk of the Township and available for public inspection and hereby approved.

(a) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$2,000,000.

(b) The estimated cost of said purpose is \$2,100,000, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of \$100,000, representing the down payment available for said improvement or purpose.

SECTION 4. 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 2 hereof, 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 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Township, provided that

no note shall mature later than one (1) year from its date. The 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 of the Township shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of N.J.S.A. 40A:2-8.1. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at a public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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 notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, the price obtained, the name of the purchaser, and the maturity schedule of the notes so sold.

SECTION 6. The capital budget of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith and a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs as approved by the Director of the Division of Local Government Services, within the New Jersey Department of Community Affairs, is on file in the office of the Clerk and is available for public inspection.

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

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is five (5) years.

(c) 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, within the New Jersey Department of Community Affairs, 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 or notes provided for in this bond ordinance by \$2,000,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An amount not exceeding \$200,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement described in Section 3 hereof.

SECTION 8. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes 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 principal of the bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Township reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Township, or any member of the same "Controlled Group" as the Township, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under Section 148 of the Internal Revenue Code of 1986, as amended (the

"Code"). The proceeds of any bonds or notes authorized herein used to reimburse the Township for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-(1)(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds, "replacement proceeds" within the meaning of Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the Township for any expenditure or payment that was originally paid with the proceeds of any obligation of the Township (other than borrowing by the Township from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Township for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amount not to exceed \$2,000,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of Section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 10. 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 11. 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. 3811

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

Introduced:	January 6, 2009
Public Hearing:	January 27, 2009
Adoption:	January 27, 2009
Published:	February 3, 2009
Effective Date:	February 23, 2009

Ann Marie McCarthy, Township Clerk