

**TOWNSHIP OF FRANKLIN
ORDINANCE 3841**

**ORDINANCE AUTHORIZING FIRST AMENDMENT TO THE APRIL 10, 1995 LEASE
BETWEEN THE TOWNSHIP OF FRANKLIN AND THE EAST FRANKLIN FIRE COMPANY.**

SUMMARY

An Ordinance authorizing the First Amendment to the April 10, 1995 Lease between the Township of Franklin and the East Franklin Fire Company with respect to a portion of real property identified on the Township's Tax Maps as a portion of Lot 2.01 in Block 242, to renewal same and extend the Term thereof.

WHEREAS, on April 10, 1995, the Township of Franklin ("Lessor" or "Township") and the East Franklin Fire Company ("Lessee") entered into a Lease Agreement, whereby the Lessor leased to the Lessee a portion of certain real property described in Exhibit A thereto, which is more commonly known as a portion of Lot 2.01 in Block 242 on the Tax Maps of the Township (the "Premises"); and

WHEREAS, the April 10, 1995 Lease Agreement provided, in Paragraph 2 thereof, for an initial lease term of five (5) years, which expired on April 10, 2000 and was not subsequently renewed or otherwise extended, thereby creating a hold over tenancy pursuant to Paragraph 21 of the April 10, 1995 Lease Agreement in accordance with the terms thereof; and

WHEREAS, after ensuing discussions between the Lessor and the Lessee, the Parties are desirous of renewing the April 10, 1995 Lease Agreement, and amending and extending the Term thereof to provide for an initial Term of five (5) years, which shall be automatically renewed for additional, incremental Terms of five (5) years each thereafter, provided that the aggregate of the initial Term and any automatic renewals thereof shall not exceed twenty five (25) years, and provided further that the Lease is not otherwise terminated by notice given by either Party on 60 days written notice in accordance with Paragraph 27 of the April 10, 1995 Lease Agreement prior to the expiration of the initial Term or any automatic renewal thereof; and

WHEREAS, in order to effectuate the foregoing described renewal of the April 10, 1995 Lease Agreement, and the extension of the Term pursuant to the First Amendment to the Lease Agreement which appears in substantially the form appended to this Ordinance, the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq. (the "LLBL") authorizes municipalities such as the Township to adopt an ordinance authorizing the lease of real property such as the Premises to nonprofit entities such as the East Franklin Fire Company for public purposes; and

WHEREAS, the Township Council is desirous of authorizing the First Amendment to the Lease Agreement appended hereto since same will serve a public purpose, namely, providing assistance to a volunteer fire company of this Township by continued lease of real property for parking purposes; and

WHEREAS, on the basis of all of the foregoing Recitals, the Township Council desires to approve this Ordinance renewing and extending the Term of the April 10, 1995 Lease Agreement with the East Franklin Fire Company, all in accordance with the First Amendment appended hereto.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Franklin, County of Somerset and State of New Jersey as follows:

SECTION I

The First Amendment to the April 10, 1995 Lease Agreement between the Township of Franklin and the East Franklin Fire Company be and hereby is, approved in substantially the form appended hereto, for the reasons set forth in the above Recitals, which are incorporated herein by reference as if set forth at length.

SECTION II

The Mayor and the Township Clerk be and hereby are authorized and directed to execute, on the Township's behalf, the First Amendment to the April 10, 1995 Lease Agreement in substantially the form appended hereto.

SECTION III

Each clause, section or subsection of this Ordinance shall be deemed a separate provision to the extent that if any such clause, section or subsection should be declared invalid, the remainder of the Ordinance shall not be affected.

SECTION IV

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION V

This Ordinance shall take effect immediately upon adoption and publication according to law.

ORDINANCE NO. 3841

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

Introduced: July 14, 2009
Public Hearing: August 11, 2009
Adoption: August 11, 2009
Notice of Adoption: August 18, 2009
Effective Date: August 31, 2009

Ann Marie McCarthy, Township Clerk

**FIRST AMENDMENT TO THE
LEASE AGREEMENT**

By and Between

THE TOWNSHIP OF FRANKLIN

And

THE EAST FRANKLIN FIRE COMPANY

SOMERSET, NEW JERSEY

Dated as of August 11, 2009

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO THE LEASE AGREEMENT dated April 10, 1995 by and between the Township of Franklin, a municipal corporation of the State of New Jersey located in the County of Somerset (the "Township" or "Lessor"), having its offices at 475 DeMott Lane, Somerset, New Jersey 08873, and the East Franklin Fire Company, a non-profit corporation organized and existing under the laws of the State of New Jersey (the "Lessee") having its offices at 121 Pine Grove Avenue, Somerset, New Jersey 08873 (The Lessor and Lessee each, a "Party" and, together, the "Parties"), is made as of this ___ day of _____, 2009 (the "First Amendment to the Lease Agreement"). Any terms used herein, and not otherwise defined herein, shall have the meanings prescribed to them in the Lease Agreement dated April 10, 1995.

WITNESSETH

WHEREAS, on April 10, 1995, Lessor and Lessee entered into a Lease Agreement, whereby the Lessor leased to the Lessee a portion of certain real property described in Exhibit A thereto, which is more commonly known as a portion of Lot 2.01 in Block 242 on the Tax Maps of the Township (the "Premises"); and

WHEREAS, the April 10, 1995 Lease Agreement provided, in Paragraph 2 thereof, for an initial lease term of five (5) years, which expired on April 10, 2000 and was not subsequently renewed or otherwise extended, thereby creating a hold over tenancy pursuant to Paragraph 21 of the April 10, 1995 Lease Agreement in accordance with the terms thereof; and

WHEREAS, after ensuing discussions between the Lessor and the Lessee, the Parties are desirous of renewing the April 10, 1995 Lease Agreement, and amending and extending the Term thereof to provide for an initial Term of five (5) years, which shall be automatically renewed for additional, incremental Terms of five (5) years each thereafter, provided that the aggregate of the initial Term and any automatic renewals thereof shall not exceed twenty five (25) years, and provided further that the Lease is not otherwise terminated by notice given by either Party on 60 days written notice in accordance with Paragraph 27 of the April 10, 1995 Lease Agreement prior to the expiration of the initial Term or any automatic renewal thereof; and

WHEREAS, in order to effectuate the foregoing renewal of the April 10, 1995 Lease Agreement, and the extension of the Term pursuant to this First Amendment to the Lease Agreement, the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq. authorizes municipalities such as the Lessor to adopt an ordinance authorizing the lease of real property such as the Premises to nonprofit entities such as Lessee for public purposes; and

WHEREAS, the governing body of the Lessor, on August 11, 2009, did adopt Ordinance No. 3841 on second reading authorizing this First Amendment to the Lease Agreement; and

WHEREAS, on the basis of all of the foregoing Recitals, the Parties are desirous of entering into this First Amendment to the Lease Agreement to memorialize the foregoing.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and in the April 10, 1995 Lease Agreement as amended and supplemented by this First Amendment to the Lease Agreement, and the undertakings of each Party to the other and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, mutually covenant, promise and agree as follows:

Section 1. Amendment to Paragraph 2 of the April 10, 1995 Lease Agreement. Paragraph 2 of the April 10, 1995 Lease Agreement is hereby deleted in its entirety, and amended to read as follows:

"2. INITIAL LEASE TERM; AUTOMATIC RENEWAL THEREOF; LIMITATIONS.

The Parties hereby agree that the April 10, 1995 Lease Agreement be and hereby is renewed, and the Term thereof shall be as provided for in this Paragraph. The initial Term shall be for a period of five (5) years from the execution of this Lease Agreement, which Term shall be automatically renewed at the end thereof for additional, incremental Terms of five (5) years each thereafter, provided that the aggregate of the initial Term and any automatic renewals thereof shall not exceed twenty five (25) years as set forth in the New Jersey Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et. seq., and provided further that the Lease is not otherwise terminated by notice given by either Party on 60 days written notice in accordance with Paragraph 27 of the April 10, 1995 Lease Agreement prior to the expiration of the initial Term or any automatic renewal thereof."

Section 2. Reaffirmation of April 10, 1995 Lease Agreement. Except as amended by this First Amendment to the Lease Agreement, the April 10, 1995 Lease Agreement is hereby reaffirmed and ratified in its entirety.

Section 3. Counterparts. This First Amendment to the Lease Agreement may be executed and delivered in any number of counterparts, and such counterparts taken together shall constitute one and the same instrument.

Section 4. Governing Law. This First Amendment to the Lease Agreement shall be construed in accordance with, and governed by, the Applicable Law of the State of New Jersey, without consideration given to choice of law principles.

IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to the Lease Agreement to be executed as of the day and year first above written.

LESSOR:

THE TOWNSHIP OF FRANKLIN

By: _____
Brian D. Levine
Mayor

Attest: _____

LESSEE:

THE EAST FRANKLIN FIRE COMPANY

By: _____

Name: _____

Title: _____

Attest: _____