

**TOWNSHIP OF FRANKLIN
ORDINANCE NUMBER 3852**

BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION OF AN INTERCONNECTION WITH THE CITY OF NEW BRUNSWICK FOR THE WATER UTILITY OF THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$750,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$750,000 BONDS OR NOTES OF THE WATER UTILITY OF THE TOWNSHIP TO FINANCE 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 to be undertaken by the Water Utility of 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 \$750,000 by the Water Utility of the Township, said sum being inclusive of all appropriations heretofore made therefor. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), no down payment is required as the Water Utility is self-liquidating.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof, negotiable bonds of the Water Utility of the Township are hereby authorized to be issued in the aggregate principal amount of \$750,000 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 an aggregate principal amount not exceeding

\$750,000 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 obligations are to be issued is for the construction of an interconnection between the Township and the City of New Brunswick including, but not limited to, the installation of a 1450 linear foot water main and a booster pump station and all equipment and accessories necessary therefor and incidental thereto, 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 \$750,000.

(b) The estimated cost of said improvement or purpose is \$750,000.

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 maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Water Utility 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 for its water utility system, 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 twenty (20) 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 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 \$750,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An amount not exceeding \$150,000 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. Unless paid from other sources, 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 this bond ordinance. Unless paid from other sources, 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 principal of the obligations 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. 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 Regulations Section 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 this bond ordinance used to reimburse the Township for costs of the improvement or purpose described in Section 3 hereof, 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 by this bond ordinance 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 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 \$750,000. 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. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than any bonds or notes authorized by this bond ordinance is paid, or (ii) the date the improvement or purpose described in Section 3 hereof is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

SECTION 10. 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 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. 3852

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

Introduced: September 22, 2009
Public Hearing: October 27, 2009
Adoption: October 27, 2009
Notice of Adoption: November 2, 2009
Effective Date: November 22, 2009

Ann Marie McCarthy, Township Clerk

TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN

PUBLIC NOTICE

NOTICE OF PENDING BOND ORDINANCE NO. 3852 AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Franklin, in the County of Somerset, State of New Jersey, on September 22, 2009. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Township Municipal Building in said County on October 27, 2009 at 7:00 p.m. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION OF AN INTERCONNECTION WITH THE CITY OF NEW BRUNSWICK FOR THE WATER UTILITY OF THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); APPROPRIATING \$750,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$750,000 BONDS OR NOTES OF THE WATER UTILITY OF THE TOWNSHIP TO FINANCE THE COSTS THEREOF

Purpose(s): The bond ordinance authorizes bonds and/or notes to finance the construction of an interconnection between the Township and the City of New Brunswick including, but not limited to, the installation of a 1450 linear foot water main and a booster pump station by the Water Utility of the Township.

Appropriation: \$750,000

**Bonds/Notes
Authorized:** \$750,000

**Section 20
Costs** \$150,000

Useful Life: 20 years

**ANN MARIE MCCARTHY,
Township Clerk**

TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN

PUBLIC NOTICE

BOND ORDINANCE NO. 3852 STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Township Council of the Township of Franklin, in the County of Somerset, State of New Jersey on October 27, 2009 and the twenty (20) day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

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Appropriation: \$750,000

**Bonds/Notes
Authorized:** \$750,000

**Section 20
Costs** \$150,000

Useful Life: 20 years

**ANN MARIE MCCARTHY,
Township Clerk**

CERTIFICATE OF INTRODUCTION

I, the undersigned Clerk of the Township of Franklin, in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the governing body of the Township duly called and held on September 22, 2009 at 7:00 p.m. at the Township Municipal Building, and that the following was the roll call:

Present: Danile, Eberle, Francois, Glicklich, Levine, Mettler, Prasad, Vassanella

Absent: Sumter

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Township this 22nd day of November, 2009.

(SEAL)

**ANN MARIE MCCARTHY,
Township Clerk**

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Clerk of the Township of Franklin, in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a regular meeting of the governing body of the Township duly called and held on October 27, 2009 at 7:00 p.m. at the Township Municipal Building and that the following was the roll call:

Present: Danile, Eberle, Francois, Glicklich, Levine, Mettler, Prasad, Sumter, Vassanella

Absent: None

I FURTHER CERTIFY that the foregoing extract has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Township this 22nd day of November, 2009.

(SEAL)

**ANN MARIE MCCARTHY,
Township Clerk**

CLERK'S CERTIFICATE

I, ANN MARIE MCCARTHY, DO HEREBY CERTIFY that I am the Clerk of the Township of Franklin, in the County of Somerset (the "Township"), a municipal corporation organized and existing under the laws of the State of New Jersey, and that as such I am duly authorized to execute and deliver this certificate on behalf of the Township. In such capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the Township and the records relative to all resolutions and ordinances of the Township. The representations made herein are based upon the records of the Township. I DO HEREBY FURTHER CERTIFY THAT:

(1) Attached hereto is the bond ordinance introduced on September 22, 2009 and finally adopted on October 27, 2009.

(2) After introduction, the bond ordinance was published as required by law on September 28, 2009 in *The Courier News*.

(3) Following the passage of the ordinance on first reading, and at least seven (7) days prior to the final adoption thereof, I caused to be posted in the principal municipal building of the Township at the place where public notices are customarily posted, a copy of said ordinance or a summary thereof and a notice that copies of the ordinance would be made available to the members of the general public of the Township who requested copies, up to and including the time of further consideration of the ordinance by the governing body. Copies of the ordinance were made available to all who requested same.

(4) After final passage, the ordinance was duly published as required by law on November 2, 2009 in *The Courier News*. No protest signed by any person against making any improvement or incurring the indebtedness authorized therein, nor any petition #3200725 (115824.012)

requesting that a referendum vote be taken on the action proposed in the ordinance has been presented to the governing body or to me or filed in my office within twenty (20) days after said publication or at any other time after the final passage thereof.

(5) The ordinance has not been amended, added to, altered or repealed and said ordinance is now in full force and effect.

(6) A certified copy of this ordinance and a copy of the amended capital budget form has been filed with the Director of the Division of Local Government Services, within the New Jersey Department of Community Affairs, as applicable.

(7) An impression of the official seal of the Township is affixed opposite my signature on this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Township this 22nd day of November, 2009.

(SEAL)

ANN MARIE MCCARTHY
Township Clerk

CERTIFICATE OF SUPPLEMENTAL DEBT STATEMENT

I, the undersigned, Clerk of the Township of Franklin, in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY, that the attached Supplemental Debt Statement was prepared, executed and sworn to by Vandana Khurana, the Chief Financial Officer of the Township as of September 22, 2009, that such Supplemental Debt Statement was filed in my office on September 22, 2009 and with the Director of the Division of Local Government Services on October 19, 2009.

**ANN MARIE MCCARTHY,
Township Clerk**