

BOND ORDINANCE NUMBER 3819

BOND ORDINANCE PROVIDING FOR THE REPAVING OF THE MUNICIPAL COMPLEX PARKING LOT, BY AND IN THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); REPEALING BOND ORDINANCE NUMBERS 3602 AND 3671 EACH RESPECTIVELY HERETOFORE FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP, TO REAPPROPRIATE APPROPRIATIONS, AUTHORIZATIONS AND DOWN PAYMENTS SET FORTH IN EACH OF SAID BOND ORDINANCES TO IMPROVEMENTS SET FORTH IN THIS BOND ORDINANCE; REAPPROPRIATING \$2,100,000 THEREFOR AND AUTHORIZING \$1,997,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

WHEREAS, the Township Council of the Township of Franklin, in the County of Somerset, State of New Jersey (the "Township"), finally adopted the following bond ordinances on the dates set forth after each bond ordinance: Bond Ordinance Number 3602 finally adopted on March 28, 2006 and Bond Ordinance Number 3671 finally adopted on March 13, 2007 and any and all bond ordinances amending and supplementing such bond ordinances, if applicable (collectively, the "Ordinances"); and

WHEREAS, the Township Council of the Township has determined that all or a portion of the capital improvements or purposes set forth in each of the Ordinances have been completed or abandoned; and

WHEREAS, said Ordinances include appropriation amounts, authorizations of bonds and bond anticipation notes and down payment amounts; and

WHEREAS, in accordance with its statutory powers, including those powers which are set forth in the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), the Township Council has determined that it is in the best interests of the Township to appropriate the costs of the capital improvements or purposes authorized and set forth

herein, which capital improvements or purposes are those for which bonds may be issued; and

WHEREAS, the Township Council now desires to reappropriate the appropriations, authorizations of bonds and bond anticipation notes and down payment amounts in the Ordinances to the improvements or purposes set forth herein.

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 members thereof affirmatively concurring), AS FOLLOWS:

SECTION 1. The following amounts of appropriations remaining in each of the Ordinances are no longer necessary for the improvements or purposes set forth therein, and for which they were appropriated and authorized, as applicable:

Bond Ordinance Number	Appropriation Amount	Authorization Amount	Down Payment Amount
3602 (03/28/06)	\$1,000,000	\$ 950,000	\$ 50,000
3671 (3/19/07)	1,100,000	1,047,000	53,000
	<u>\$2,100,000</u>	<u>\$1,997,000</u>	<u>\$103,000</u>

SECTION 2. A reappropriation in the aggregate amount of \$2,100,000 from the Ordinances, a reappropriation of the authorization of bonds and bond anticipation notes in the aggregate amount of \$1,997,000 from the Ordinances and a reappropriation of down payments in the aggregate amount of \$103,000 from the Ordinances are hereby

reappropriated to the cost of the capital improvements or purposes described and set forth in Section 5 hereof.

SECTION 3. The capital improvements described in Section 5 of this bond ordinance are hereby authorized as general capital improvements or purposes to be undertaken by the Township. For financing such improvements or purposes, there is hereby appropriated the aggregate sum of \$2,100,000. In satisfaction of the down payment requirements set forth in section 11 of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"), the \$2,100,000 aggregate appropriation includes an aggregate down payment in the amount of \$103,000, which down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes.

SECTION 4. For the financing of the general capital improvements or purposes and to provide monies to fund the portion of the \$2,100,000 aggregate appropriation not provided for by application hereunder of the down payment, negotiable bonds of the Township are hereby authorized to be issued in the aggregate principal amount of \$1,997,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance the general capital improvements or purposes, negotiable notes of the Township in an aggregate principal amount not exceeding \$1,997,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 5. (a) The improvement hereby authorized and the purpose for the financing of which said bonds or notes are to be issued is the resurfacing and repaving of the Municipal Complex parking lot, in and by the Township; such resurfacing and repaving to consist of, as required, milling, excavation, 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, engineering, design, architectural, consulting work, preparation of plans and specifications, construction planning, surveying, permits, bid documents, construction inspection and contract administration, environmental testing, remediation and disposal, conducting and preparation of reports and studies, equipment rental, labor and appurtenances necessary therefore or 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:

(b) The aggregate estimated maximum amount of bonds or notes to be issued for the above-described general capital improvements or purposes is \$1,997,000, with the \$103,000 portion of the aggregate appropriation therefor in excess of the said maximum amount of bonds or notes to be issued therefor, being the required down payments for such general capital improvements or purposes.

(c) The aggregate estimated cost of the general capital improvements or purposes is \$2,100,000.

SECTION 6. In the event the United States of America, the State of New Jersey and/or the County of Somerset, New Jersey make a contribution or grant in aid to the Township for any of the general capital improvements or purposes authorized hereby and the same shall be received by the Township prior to the issuance of the bonds or notes authorized in Section 4 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, New Jersey. 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, New Jersey shall be received by the Township after the issuance of the bonds or notes authorized in Section 4 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 7. 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 dated date, subject to the renewal(s) thereof as authorized under the Local Bond Law. 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 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 the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at 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 dated dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Township Council of the Township 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 interest rate and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 8. 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. In the event of any such inconsistency, 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, shall be filed in the Office of the Clerk of the Township and shall be available for public inspection.

SECTION 9. The following additional matters are hereby determined, declared, recited and stated:

(a) The capital improvements or purposes described in Section 5 of this bond ordinance are not current expenses and are improvements which the Township may lawfully undertake as general improvements or purposes, 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 the capital improvements or purposes within the limitations of the Local Bond Law, according to the reasonable useful life thereof computed from the dated date of the 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, 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 \$1,997,000, which is the authorization of the bonds and notes provided for in this bond ordinance, and the said bonds and notes authorized by this bond ordinance will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$250,000 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 general capital improvements or purposes.

SECTION 10. 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 and notes authorized by this bond ordinance. The bonds and 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 and notes and the interest thereon, without limitation as to rate or amount.

SECTION 11. The Township reasonably expects to reimburse any expenditures toward the costs of the general capital improvements or purposes described in Section 5 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 has been or is 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 11 is intended to be and hereby is a declaration of the Township's official intent to reimburse any expenditures toward the costs of the general capital improvements or purposes described in Section 5 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulations 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 general capital improvements or purposes described in Section 5 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 County for any expenditure or payment that was originally paid with the proceeds of any obligation of the County (other than borrowing by the County from one of its own funds or the funds of a member of the same "Controlled Group" as the Township 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 general capital improvements or purposes described in Section 5 hereof will be issued in an amount not to exceed \$1,997,000. 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 Section 11 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 12. 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 bond ordinance.

SECTION 13. Bond Ordinance 3602 finally adopted by the Township Council on March 28, 2006 and Bond Ordinance Number 3671 finally adopted by the Township Council on March 13, 2007 are each hereby respectively repealed and cancelled.

SECTION 14. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

**ADOPTED ON FIRST READING
DATED: February 24, 2009**

**ANN MARIE MCCARTHY,
Township Clerk**

**ADOPTED ON SECOND READING
DATED: March 10, 2009**

**ANN MARIE MCCARTHY,
Township Clerk**

**TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN
PUBLIC NOTICE**

NOTICE OF PENDING BOND ORDINANCE 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 February 24, 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 Township on March 10, 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 REPAVING OF THE MUNICIPAL COMPLEX PARKING LOT, BY AND IN THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); REPEALING BOND ORDINANCE NUMBERS 3602 AND 3671 EACH RESPECTIVELY HERETOFORE FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP, TO REAPPROPRIATE APPROPRIATIONS, AUTHORIZATIONS AND DOWN PAYMENTS SET FORTH IN EACH OF SAID BOND ORDINANCES TO IMPROVEMENTS SET FORTH IN THIS BOND ORDINANCE; REAPPROPRIATING \$2,100,000 THEREFOR AND AUTHORIZING \$1,997,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

Purpose(s): To provide for the repaving of the Municipal Complex parking lot and to reappropriate appropriation amounts, authorizations of bonds and bond anticipation notes and down payments from bond ordinance numbers 3602 and 3671 to finance the costs of the aforementioned capital improvements.

Appropriation: \$2,100,000

**Bonds/Notes
Authorized:** \$1,997,000

Down Payment: \$103,000

**Grant(s)
Appropriated:** None

Section 20

Costs \$250,000

Useful Life: 5 years

**ANN MARIE MCCARTHY,
Township Clerk**

**TOWNSHIP COUNCIL OF THE TOWNSHIP OF FRANKLIN
PUBLIC NOTICE**

BOND ORDINANCE 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 March 10, 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:

Title: BOND ORDINANCE PROVIDING FOR THE REPAVING OF THE MUNICIPAL COMPLEX PARKING LOT, BY AND IN THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE "TOWNSHIP"); REPEALING BOND ORDINANCE NUMBERS 3602 AND 3671 EACH RESPECTIVELY HERETOFORE FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP, TO REAPPROPRIATE APPROPRIATIONS, AUTHORIZATIONS AND DOWN PAYMENTS SET FORTH IN EACH OF SAID BOND ORDINANCES TO IMPROVEMENTS SET FORTH IN THIS BOND ORDINANCE; REAPPROPRIATING \$2,100,000 THEREFOR AND AUTHORIZING \$1,997,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF

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Appropriation: \$2,100,000

**Bonds/Notes
Authorized:** \$1,997,000

**Down
Payment:** \$103,000

**Grant(s)
Appropriated:** None

Section 20 \$250,000

Costs

Useful Life: 5 years

**ANN MARIE MCCARTHY,
Township Clerk**

CERTIFICATE OF INTRODUCTION

I, the undersigned Clerk of Township of Franklin (the "Township"), in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Township duly called and held on February 24, 2009 at __:__ p.m. at the Township Municipal Building and that the following was the roll call:

Present:

Absent:

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 ___ day of _____, 2009.

(SEAL)

ANN MARIE MCCARTHY,
Township Clerk

CERTIFICATE OF FINAL ADOPTION

I, the undersigned Clerk of the Township of Franklin (the "Township"), in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY that the foregoing is an extract from the Minutes of a meeting of the governing body of the Township duly called and held on March 10, 2009, at __:__ p.m. at the Township Municipal Building and that the following was the roll call:

Present:

Absent:

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 ___ day of _____, 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 February 24, 2009, finally adopted on March 10, 2009.

(2) After introduction, the bond ordinance was published as required by applicable law on _____, 2009 in Courier News.

(3) Following the introduction of the bond 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 bond ordinance or a summary thereof and a notice that copies of the bond 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 bond ordinance by the governing body. Copies of the bond ordinance were made available to all who requested same.

(4) After final adoption, the ordinance was duly approved by the Mayor on _____, 2009 (if applicable) and was duly published as required by law on _____, 2009 in the Courier News. No protest signed by any person against making any improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the bond 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 bond ordinance has not been amended, added to, altered or repealed and said bond ordinance is now in full force and effect.

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

(7) The official seal of the Township is the seal, an impression of which 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 ___ day of _____, 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 Chief Financial Officer, Vandana Khurana, prepared, executed and swore to the attached Supplemental Debt Statement of the Township as of February 24, 2009, that such Supplemental Debt Statement was filed in my office on February 24, 2009 and with the Director of the Division of Local Government Services on _____, 2009.

ANN MARIE MCCARTHY,
Township Clerk

DOWN PAYMENT CERTIFICATE

I, the undersigned Chief Financial Officer of the Township of Franklin, in the County of Somerset, State of New Jersey, DO HEREBY CERTIFY that prior to final adoption of the bond ordinance entitled,

“BOND ORDINANCE PROVIDING FOR THE REPAVING OF THE MUNICIPAL COMPLEX PARKING LOT, BY AND IN THE TOWNSHIP OF FRANKLIN, IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY (THE “TOWNSHIP”); REPEALING BOND ORDINANCE NUMBERS 3602 AND 3671 EACH RESPECTIVELY HERETOFORE FINALLY ADOPTED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP, TO REAPPROPRIATE APPROPRIATIONS, AUTHORIZATIONS AND DOWN PAYMENTS SET FORTH IN EACH OF SAID BOND ORDINANCES TO IMPROVEMENTS SET FORTH IN THIS BOND ORDINANCE; REAPPROPRIATING \$2,100,000 THEREFOR AND AUTHORIZING \$1,997,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COSTS THEREOF”

there was available as a down payment for the improvement or purpose authorized by Section 5 of the bond ordinance the amount of \$103,000, which sum was made available by virtue of a provision or provisions in a previously adopted budget or budgets of the Township for down payment or capital improvement purposes.

IN WITNESS WHEREOF, I have hereunto set my hand on behalf of the Township this ___ day of _____, 2009.

VANDANA KHURANA,
Chief Financial Officer