

**COUNTY OF SUSSEX
BOROUGH OF FRANKLIN
ORDINANCE NO. 10-2022**

BOND ORDINANCE PROVIDING FOR VARIOUS 2022 CAPITAL IMPROVEMENTS, BY AND IN THE BOROUGH OF FRANKLIN, IN THE COUNTY OF SUSSEX, STATE OF NEW JERSEY (THE "BOROUGH"); APPROPRIATING \$1,345,083 THEREFOR (INCLUDING A GRANT FROM THE NEW JERSEY DEPARTMENT OF TRANSPORTATION) AND AUTHORIZING THE ISSUANCE OF \$1,159,883 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COSTS THEREOF

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

SECTION 1. The improvements or purposes described in Section 3 of this bond ordinance are hereby authorized as general improvements or purposes to be undertaken by the Borough of Franklin, in the County of Sussex, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the aggregate sum of \$1,345,083, which sum is inclusive of a grant from the New Jersey Department of Transportation in the amount of \$141,000 (the "Grant") and the amount of \$44,200 as the down payment for said improvements or purposes as required by the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the "Local Bond Law"). The down payment is now available by virtue of a provision or provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. 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., as amended and supplemented (the "Local Bond Law"), no down payment is allocated for the Water/Sewer Utility improvements (as set forth in Section 3(a)(i) herein), as the Water/Sewer Utility of the Borough of self-liquidating, and no down payment is allocated for the Maple Road improvements (as set forth in Section 3(a)(ii) herein) as said improvement will be funded, in part, by the Grant.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the said \$1,345,083 appropriation not provided for by application hereunder of the Grant and down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$1,159,883 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvements or purposes, negotiable notes of the Borough in a principal amount not exceeding \$1,159,883 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. (a) The improvements hereby authorized and purposes for the financing of which said obligations are to be issued include, but are not limited to, as follows:

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
(i) <u>Water/Sewer Utility</u> – Improvements To An Existing Elevated Water Storage Tank Located At 19 Highpoint Circle (Block 709, Lot 53) In The Borough, Such Improvements To Include, But Not Be Limited To, As Applicable, Interior And Exterior Tank Coating, And Improvements To And/Or Replacement Of Grouting And Sealants, Batten Access Tubes, Screens And Splash Pads, Condensate With Overflow, Manhole, Roof Vents, Gaskets, Studs, Handrails, Ladders, Inlet And Distribution Pipe Expansion Joints, Insulation, Lighting, Light Covers, Nameplate And Site Restoration	\$839,685	\$839,685	\$0	20 years
(ii) <u>Maple Road Improvements</u> – Including, But Not Limited To, As Applicable, Excavation, Milling, Paving, Reconstruction And Boxing Out And Resurfacing Or Full Depth Pavement Replacement Using Flexible Pavement As Defined Under The Local Bond Law And, Where Necessary, The Repairing And/Or Installation Of Associated Curbs, Curb Ramps, Sidewalks And Driveway Aprons, Resetting Utility Castings, Associated Drainage Work And Improvements, Roadway Painting, Landscaping And Aesthetic	\$238,408 (including the Grant)	\$97,408	\$0	20 years

<u>Description</u>	<u>Appropriation</u>	<u>Authorization</u>	<u>Down Payment</u>	<u>Useful Life</u>
Improvements;				
(iii) <u>Various Roadway Improvements</u> – Improvements To Various Roadways In and Throughout the Borough Including, But Not Limited To, Pvt. Joseph Auché Drive, Ginter Street, Lozaw Road, McCann Street, Mabie Street and John Wilton Street, Such Improvements To Include, But Not Be Limited To, As Applicable, Excavation, Milling, Paving, Reconstruction And Boxing Out And Resurfacing Or Full Depth Pavement Replacement Using Flexible Pavement As Defined Under The Local Bond Law And, Where Necessary, The Repairing And/Or Installation Of Associated Curbs, Curb Ramps, Sidewalks And Driveway Aprons, Resetting Utility Castings, Associated Drainage Work And Improvements, Roadway Painting, Landscaping, Aesthetic Improvements and Traffic Control; And	\$247,790	\$222,790	\$44,200	20 years
(iv) <u>Fire Department</u> – Acquisition and Installation, As Applicable, Of Various Communication Equipment For Fire Vehicles Including, But Not Limited To Radios, Computers And Other Miscellaneous Equipment.	\$19,200	\$0	\$19,200 (Capital Improvement Fund)	N/A
TOTALS	<u>\$1,345,083</u>	<u>\$1,159,883</u>	<u>\$44,200</u>	

(b) The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$1,159,883.

(c) The aggregate estimated cost of said improvements or purposes is \$1,345,083, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor is the Grant in the amount of \$141,000 and the down payment available for said purposes in the amount of \$44,200.

(d) All such improvements or purposes set forth in Section 3(a) shall include, but are not limited to, as applicable, all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection

and contract administration, and also shall include all work, materials, equipment, accessories, labor and appurtenances necessary therefor or incidental thereto.

SECTION 4. Except for the Grant, in the event the United States of America, the State of New Jersey, the County of Sussex or a private entity make a contribution or grant in aid to the Borough for the improvements and purposes authorized hereby and the same shall be received by the Borough 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, the County of Sussex or a private entity. Except for the Grant, in the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, the County of Sussex or a private entity, shall be received by the Borough 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. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable 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 of the Borough 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 Borough 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, Department of Community Affairs, State of New Jersey, is on file in the Office of the Clerk of the Borough and is available for public inspection.

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

(a) The purposes described in Section 3 of this bond ordinance are not current expenses and are improvements which the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness of said purposes 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 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 Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, Department of Community Affairs, State of New Jersey, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$1,159,883 and the said obligations

authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$269,016 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements herein before described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the principal of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Borough Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a

nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The Borough 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 12. 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: July 26, 2022**



**DARLENE J. TREMONT,
Clerk of the Borough of Franklin**

**ADOPTED ON SECOND READING
DATED: August 16, 2022**



**DARLENE J. TREMONT,
Clerk of the Borough of Franklin**

APPROVAL BY THE MAYOR ON THIS 16th DAY OF AUGUST, 2022.



**JOHN M. SOWDEN, IV,
Mayor of the Borough of Franklin**