

**BOROUGH OF FRANKLIN LAKES
ORDINANCE NO. 1922**

A BOND ORDINANCE AUTHORIZING PURCHASE OF FIRE APPARATUS BY AND FOR THE BOROUGH OF FRANKLIN LAKES, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING AN AGGREGATE AMOUNT OF \$1,690,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$1,590,000 IN AGGREGATE PRINCIPAL AMOUNT OF BONDS OR NOTES TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF FRANKLIN LAKES IN THE COUNTY OF BERGEN, NEW JERSEY, THAT:

SECTION 1. There is hereby authorized, pursuant to the applicable statutes of the State of New Jersey, the improvements set forth below in, by and for the Borough of Franklin Lakes (the "Borough"), County of Bergen, State of New Jersey, together with other purposes necessary, appurtenant or incidental thereto or thereof:

| Purposes | Reserve from Sale of Assets | Estimated Maximum Bonds & Notes | Useful Life (Years) | Appropriation |
|----------------------------|-----------------------------|---------------------------------|---------------------|---------------|
| Purchase of Fire Apparatus | \$100,000 | \$1,590,000 | 10 | \$1,690,000 |

SECTION 2. It is hereby determined and declared by this Borough Council as follows:

A. The estimated aggregate maximum amount of money to be raised from all sources for the purposes stated in Section 1 is \$1,590,000.

B. The estimated aggregate maximum amount of bonds or notes to be issued for the purposes stated in Section 1 is \$1,590,000.

C. The sum of \$100,000 is hereby appropriated from the Reserve from Sale of Assets for the purposes stated in Section 1.

SECTION 3. The sum of \$1,690,000, including said sum of \$100,000, is hereby appropriated for the purposes stated in Section 1.

SECTION 4. For the purpose of financing part of the cost of the improvements described in Section 1, exclusive of said \$100,000 from the Reserve from Sale of Assets, the issuance of bonds of said Borough in an aggregate principal amount not exceeding \$1,590,000 is hereby authorized pursuant to the provisions of the Local Bond Law, N.J.S.A. 40A:2-1 et seq. The rate or rates of interest, maturities, method of sale and other details of said bonds not determined herein shall be determined by subsequent resolution or resolutions adopted by this Borough Council pursuant to law.

SECTION 5. Pending the receipt of any grant or other moneys for the purposes described in Section 1 hereof or the issuance of the bonds authorized in Section 4 hereof, bond anticipation notes of the Borough may be issued pursuant to said Local Bond Law in an aggregate principal amount not exceeding \$1,590,000. Each such bond anticipation note shall be designated "Bond Anticipation Note." 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 year from its date. All such bond anticipation notes may be executed in the name of the Borough by the manual or facsimile signatures of the Mayor and Chief Financial Officer or such other official of the Borough as may hereafter be designated by resolution or otherwise as provided by law and shall be under the seal of the Borough and attested by the Borough Clerk. The notes shall bear interest at such rate or rates and shall be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to 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 public

or private sale and to deliver such notes to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest, if any, from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council at the meeting next succeeding the date when any sale or delivery of notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser or purchasers thereof.

SECTION 6. It is hereby further determined and declared by this Borough Council as follows:

A. The improvements or purposes described in Section 1 are not current expenses; they are improvements or purposes that 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 for the improvements described in Section 1 shall not exceed 10 years.

C. All bonds or notes issued pursuant to this ordinance shall bear interest at a rate not to exceed the maximum rate permitted by law.

D. The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Borough Clerk prior to the passage of this ordinance on first reading, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to the passage of this ordinance on final reading, and such statement shows that the gross debt of said Borough, as defined in N.J.S.A. 40A:2-43, is increased by this ordinance by \$1,590,000.00 and that the issuance of the obligations

authorized by this ordinance will be within all debt limitations contained in the Local Bond Law.

E. The aggregate amount of the proceeds of the obligations authorized by this ordinance to be expended for interest on the obligations authorized herein until the end of the fiscal year in which the obligations are issued or until six months after the completion of acquisition, legal expenses, and the costs of issuance of the obligations authorized by this ordinance, including printing, advertisement of ordinances and notices of sale and legal expenses, and other expenses as provided in N.J.S.A. 40A:2-20 does not exceed \$50,000.

SECTION 7. The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith, and the resolutions 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 are on file with the Borough Clerk and are available for public inspection.

SECTION 8. In the event that any other moneys are lawfully received from any source for the purposes provided in this ordinance, such moneys shall be used for the purposes authorized herein and to reduce the amount of bonds or notes authorized to be issued by this ordinance by the amount so received, or if such other moneys are received after the issuance of the bonds or notes authorized by this ordinance, such moneys shall be used solely for the payment of the debt service on said bonds or notes as the same become due and payable.

SECTION 9. The full faith and credit of the Borough is hereby pledged for the payment of the principal of and interest on all bonds and notes issued pursuant to this ordinance, and as long as such bonds or notes are outstanding there shall be levied in each

year ad valorem taxes on all taxable property within said Borough without limitation as to rate or amount sufficient to pay principal of and interest on such bonds and notes maturing in said year.

SECTION 10. (a) The Borough shall comply with all provisions of the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder or applicable thereto (the "Code") applicable to the bonds or notes issued pursuant to this bond ordinance and shall not take any action, or fail to take any action, if any such action or failure to take action would cause interest on the bonds or notes issued pursuant to this bond ordinance to lose the exclusion from gross income under Section 103 of the Code or cause interest on the bonds or notes issued pursuant to this bond ordinance to be treated as an item of tax preference under Section 57 of the Code. The Borough shall not directly or indirectly use or permit the use of any proceeds of such obligations or any other funds of the Borough, or take or omit to take any action, that would cause such obligations to be "arbitrage bonds" within the meaning of Section 148(a) of the Code, and will comply with all requirements of Section 148 of the Code to the extent applicable to the bonds and notes authorized hereby and all proceeds thereof, including without limitation, restricting the yield on the investment of any moneys and the payment of the rebate amount to the United States in the manner and to the extent necessary to comply with said Section 148 of the Code.

(b) The Borough reasonably expects to reimburse the Borough's expenditure of certain costs of the improvements or purposes described in Section 1 of this bond ordinance ("Project Costs") incurred 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 is intended to be and hereby is a declaration of the Borough's official intent to reimburse

any expenditure of Project Costs incurred and paid prior to the issuance of bonds or notes authorized herein with the proceeds of such bonds or notes in accordance with Treasury Regulations Section 1.183-2(e), and no reimbursement allocation will employ an abusive arbitrage device under Treasury Regulations Section 1.148-10 to avoid the arbitrage restrictions. The maximum principal amount of obligations expected to be issued pursuant to this bond ordinance to pay Project Costs does not exceed \$1,590,000.00. The Project Costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be “capital expenditures” as defined in Treasury Regulations Section 1.183-1(b), a cost of issuance for the bonds or notes herein authorized or an expenditure described in Treasury Regulations Section 1.148-6(d)(3)(ii)(B). The allocation of proceeds of the bonds or notes issued pursuant to this bond ordinance to reimburse Project Costs incurred prior to the issuance of such bonds or notes shall be effected no later than 18 months after the later of the date the Project Costs are paid or the date the improvements are placed in service or abandoned, but in no event more than 3 years after the original Project Costs to be reimbursed are paid.

SECTION 11. This ordinance shall take effect twenty days after the first publication hereof after final adoption, in the manner provided by law.

APPROVED: _____
Charles J. X. Kahwaty, Mayor

ATTEST: _____
Gail M. Rulli, Borough Clerk

Introduced: 06-20-2023
Adopted: 07-18-2023