

**TOWNSHIP OF MENDHAM
ORDINANCE 20-2009**

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWNSHIP OF MENDHAM , IN THE COUNTY OF MORRIS , NEW JERSEY , APPROPRIATING THE AGGREGATE AMOUNT OF \$579,081.11 THEREFOR, INCLUDING \$14,081.11 REAPPROPRIATED PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSES, AND AUTHORIZING THE ISSUANCE OF \$537,900 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MENDHAM, IN THE COUNTY OF MORRIS, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$14,081.11 of the proceeds of obligations originally made available pursuant to Section 3(b) of bond ordinance #13-2009 of the Township of Mendham, in the County of Morris, New Jersey (the "Township") finally adopted May 11, 2009 for the acquisition of equipment for the Public Works and Buildings and Grounds Department are no longer necessary for the purpose for which the obligations previously were authorized. The \$14,081.11 proceeds described herein are hereby reappropriated to provide for improvements to municipally-owned buildings as described in Section 4(c) of this ordinance.

Section 2. The several improvements described in Section 4 of this bond ordinance are hereby respectively authorized to be undertaken by the Township as general improvements. For the several improvements or purposes described in Section 4, there are hereby appropriated the respective sums of money therein stated as the

appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$579,081.11, including \$14,081.11 reappropriated funds and the aggregate sum of \$27,100 as the down payment for the improvements or purposes required by the Local Bond Law. \$24,100 of the down payment has been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets. \$3,000 of the down payment has been made available from capital reserve available for the project described in Section 4(a) hereof.

Section 3. In order to finance the cost of the several improvements or purposes not covered by application of the down payment or reappropriated funds, negotiable bonds are hereby authorized to be issued in the principal amount of \$537,900 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 4. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or <u>Notes</u>	<u>Period of Usefulness</u>
<p>a) Supplemental appropriation for new emergency services building (this supplements bond ordinance #19-2006 finally adopted 9/11/06 as supplemented by ordinance #2-2007 finally adopted 1/23/07 , bond ordinance #7-2007 finally adopted 5/22/07 , bond ordinance #13-2007 finally adopted 11/27/07 , bond ordinance #1-2008 finally adopted 2/11/08 and bond ordinance #9-2008 finally adopted 7/22/08)</p>	<p>\$65,000 (includes \$3,000 from capital reserve available for the project) (in addition to \$3,300,000 appropriated by bond ordinance #19-2006 finally adopted 9/11/06 , \$196,000 appropriated by ordinance #2-2007 finally adopted 1/23/07 , \$150,000 appropriated by Section 3(m) of bond ordinance #7-2007 finally adopted 5/22/07 , \$100,000 appropriated by bond ordinance #13-2007 finally adopted 11/27/07 , \$175,000 appropriated by Section 3(a) of bond ordinance #1-2008 finally adopted 2/11/08 and \$250,000 appropriated by Section 3(m) of bond ordinance #9-2008 finally adopted 7/22/08 , for a total appropriation of \$4,236,000)</p>	<p>\$61,900 (in addition to \$3,142,000 bonds or notes authorized by bond ordinance #19-2006 finally adopted 9/11/06 , \$132,500 bonds or notes authorized by Section 3(m) of bond ordinance #7-2007 finally adopted 5/22/07 , \$166,250 bonds or notes authorized by Section 3(a) of bond ordinance #1-2008 finally adopted 2/11/08 and \$237,500 bonds or notes authorized by Section 3(m) of bond ordinance #9-2008 finally adopted 7/22/08 , for a total authorized debt of \$3,740,150)</p>	<p>40 years</p>

<u>Purpose</u>	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or <u>Notes</u>	<u>Period of Usefulness</u>
b) Local share of cost of acquisition of real property known as Lots 16 and 17, Block 147 and Lot 3, Block 149 on the official tax map of the Township for open space and other municipal purposes (The County of Morris will contribute \$1,850,000, the Morris County Park Commission will contribute \$1,000,000 and the Morris County Municipal Utilities Authority will contribute \$500,000, for a total cost of \$3,350,000)	\$500,000	\$476,000	40 years
c) Improvements to municipally-owned buildings consisting of roof work, window replacement and Code, health and safety improvements at the ancillary building at 4 West Main Street, the municipal building at 2 West Main Street and the police building at 3 Cherry Lane	\$14,081.11 (reappropriated as described in Section 2 hereof)	\$0	5 years
TOTALS	<u>\$579,081.11</u>	<u>\$537,900</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the reappropriated funds and the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one 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 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 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 purchasers thereof upon receipt of payment of the purchase price plus accrued interest 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 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.

Section 6. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

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. They are all improvements that the Township may lawfully undertake as

general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, 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 . 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 and notes provided in this bond ordinance by \$537,900, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$65,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 8. The Township hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Township hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the notes, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the notes. The Chief Financial Officer is hereby authorized

to act on behalf of the Township to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 4 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 4 of this bond ordinance. This Section 8 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 9. Any grant moneys received for the purposes described in Section 5 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 10. The chief financial officer of the Township 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 Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township 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 Township 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 Township fails to comply with its

undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 11. 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. 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 real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Introduced: September 14, 2009

Adopted: September 29, 2009

Effective: October 22, 2009

Attest:

TOWNSHIP OF MENDHAM
IN THE COUNTY OF MORRIS

By _____

Ann L. Carlson, RMC

Frank V. Cioppettini, Jr.

Township Clerk

Mayor