

BOROUGH OF FRENCHTOWN

ORDINANCE #882

BOND ORDINANCE PROVIDING FOR VARIOUS STREAM BANK RESTORATIONS AND/OR IMPROVEMENTS, BY AND IN THE BOROUGH OF FRENCHTOWN, IN THE COUNTY OF HUNTERDON, STATE OF NEW JERSEY; APPROPRIATING \$684,540 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$651,942 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

BE IT ORDAINED AND ENACTED BY THE BOROUGH COMMON COUNCIL OF THE BOROUGH OF FRENCHTOWN, IN THE COUNTY OF HUNTERDON, 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 a general improvements or purposes to be undertaken by the Borough of Frenchtown, in the County of Hunterdon, State of New Jersey (the "Borough"). For the said improvements or purposes stated in Section 3, there is hereby appropriated the sum of \$684,540, said sum being inclusive of the sum of \$32,598 as the amount of down payment for said improvements or purposes 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.

SECTION 2. For the financing of said improvements or purposes described in Section 3 hereof and to meet the part of said \$684,540 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$651,942 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 \$651,942 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, stream bank restorations and/or improvements at various locations throughout the Borough including, but not limited to, North of Existing Creek Road Gabion Wall, Boulder Section North of Borough Park Foot Bridge, Gas Station and Pump House Property North of Kingwood Avenue, 2 Kingwood Avenue, Little Nishisakawick Creek East of Trenton Avenue, and Nishisakawick Creek Upstream from Tow Path Bridge, said improvements to include, but not be limited to, stream bank stabilization improvements, embankment restoration and/or improvements, reinforcement improvements, vegetation clearing and sediment and debris removal; and the funding or reimbursement of any emergency appropriation to fund such improvements or purposes ;

(b) The aggregate estimated maximum amount of bonds or notes to be issued for said improvements or purposes is \$651,942.

(c) The estimated cost of said purpose is \$684,540, the excess amount thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the amount of \$651,942, is the down payment for said improvements or purposes in the amount of \$32,598.

(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. In the event the United States of America, the State of New Jersey, the County of Hunterdon and/or a private entity make a contribution or grant in aid to the Borough for the improvement and purpose 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 Hunterdon and/or a private entity. 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 Hunterdon and/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.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Acting Chief Financial Officer of the Borough (the "Acting Chief Financial Officer"), 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 Acting Chief Financial Officer. The Acting Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Acting 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(a). The Acting 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 dates to the date of delivery thereof. The Acting 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 and 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, New Jersey Department of Community Affairs, is on file in the Office of the Borough Clerk and is available for public inspection.

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

(a) The improvements or purposes described in Section 3 of this bond ordinance are not a current expense and are improvements or purposes which the Borough may lawfully undertake as a 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 average period of usefulness of said improvements or 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 Borough Clerk 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 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 \$651,942 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 \$136,908 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 improvements or purposes 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 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 purpose described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purpose of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The Borough Acting 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 Acting 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 and approval by the Mayor, as provided by the Local Bond Law.

ADOPTED ON FIRST READING

DATED: April 6, 2022

BRENDA S. SHEPHERD,
Clerk of the Borough of Frenchtown

ADOPTED ON SECOND READING

DATED: May 4, 2022

BRENDA S. SHEPHERD,
Clerk of the Borough of Frenchtown

APPROVAL BY THE MAYOR ON THIS _____ DAY OF _____, 2022.

BRAD MYHRE,
Mayor of the Borough of Frenchtown