

Borough of Franklin, County of Sussex

Resolution #2022-108

RESOLUTION OF THE BOROUGH OF FRANKLIN, COUNTY OF SUSSEX, NEW JERSEY, DECLARING ITS OFFICIAL INTENT TO REIMBURSE EXPENDITURES FOR EQUIPMENT COSTS FROM THE PROCEEDS OF TAX EXEMPT DEBT OBLIGATIONS

WHEREAS, the Borough of Franklin, County of Sussex, New Jersey (the “Borough”) has, pursuant to Resolution No. 2022-107, determined that an immediate need exists for the acquisition of a non-passenger vehicle and related equipment for Police Department (the “Equipment”); and

WHEREAS, the Borough intends to acquire the Equipment, as more fully described in **Exhibit A** attached hereto; and

WHEREAS, the Borough intends to finance the Equipment with tax-exempt debt obligations of the Borough (the “Debt Obligations”) but due to the emergent need intends to pay for certain costs of the Equipment (the “Equipment Costs”) prior to the issuance of the Debt Obligations with funds of the Borough that are not borrowed funds; and

WHEREAS, the Borough desires to preserve its right to treat an allocation of proceeds of the Debt Obligations to the reimbursement of Equipment Costs paid prior to the issuance of the Debt Obligations as an expenditure for such Equipment Costs to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive, of the Code;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough as follows:

Section 1. The Borough proclaims that the statements contained in the foregoing preambles be and are hereby incorporated into this resolution as if more fully set forth herein at length.

Section 2. The Borough reasonably expects to reimburse its expenditure of Equipment Costs paid prior to the issuance of the Debt Obligations with proceeds of its Debt Obligations.

Section 3. This resolution is intended to be and hereby is a declaration of the Borough's official intent to reimburse the expenditure of Equipment Costs paid prior to the issuance of the Debt Obligations with the proceeds of a borrowing to be incurred by the Borough, in accordance with Treasury Regulations §150-2.

Section 4. The aggregate maximum principal amount of the Debt Obligations expected to be issued to finance the Equipment is not to exceed \$55,000.

Section 5. The Equipment Costs to be reimbursed with the proceeds of the Debt Obligations will be “capital expenditures” in accordance with the meaning of Section 150 of the Code.

Section 6. No reimbursement allocation will employ an “abusive arbitrage device” under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Code. The proceeds of the Debt Obligations used to reimburse the Borough for Equipment Costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of “replacement proceeds”, including “sinking funds”, “pledged funds” or funds subject to a “negative pledge” (as such terms are defined in Treasury Regulations §1.148-1), of the Debt Obligations.

Section 7. All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Debt Obligations is paid, or (ii) the date the Equipment is “placed in service” (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

Section 8. This resolution shall take effect immediately.

BE IT FURTHER RESOLVED by the Borough of Franklin, County of Sussex, New Jersey that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length.

I hereby certify that the above resolution was duly adopted by the Borough Council of the Borough of Franklin, County of Sussex, New Jersey at a meeting held on October 25, 2022.

It is hereby certified that this is a true copy of the Resolution adopted at a public meeting held on October 25, 2022.

DARLENE J. TREMONT,
Clerk of the Borough of Franklin

RECORD OF COUNCIL VOTES				
COUNCIL MEMBER	AYES	NAYES	ABSTAIN	ABSENT
CONCETTO FORMICA	X			
RACHEL HEATH	X			
JOSEPH LIMON	X			
JOHN POSTAS	X			
STEPHEN SKELLENGER	X			
GILBERT SNYDER	X			
MAYOR SOWDEN (Tie Only)				