BOROUGH OF RIVERTON
ORDINANCE 5-09

BOND ORDINANCE PROVIDING FOR THE 2009 ROAD PROGRAM OF THE BOROUGH OF RIVERTON, IN THE COUNTY OF BURLINGTON, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF $542,000 AND AUTHORIZING THE ISSUANCE OF $344,000 BONDS OR NOTES TO FINANCE A PORTION OF THE COST

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF RIVERTON, IN THE COUNTY OF BURLINGTON, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Riverton, in the County of Burlington, New Jersey (the "Borough") as general improvements. For the improvements or purposes described in Section 3, there are hereby appropriated the sum $542,000, including the sum of $180,000 expected to be received as a New Jersey Department of Transportation grant and $18,000 as the down payment for the improvements or purposes required by the *Local Bond Law*. 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.

Section 2. In order to finance the cost of the improvements or purposes not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of $344,000 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 3. The improvements hereby authorized and to be financed with bonds are the "2009 Road Program," all as shown on and in accordance with the plan and specifications on file in the office of the Clerk, which plans are hereby approved.

Section 4. 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 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough 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 6. 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 Borough 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 15 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 Borough as defined in the *Local Bond Law* is increased by the authorization of the bonds and notes provided in this bond ordinance by $344,000. and the obligations authorized herein will be within all debt limitations prescribed by that *Law*.

(d) An aggregate amount not exceeding $125,000 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 7. The Borough 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 Borough 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 Borough to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 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 8. Any grant moneys received for the purposes described in Section 3 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 9. The chief financial officer of the Borough 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 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 10. 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 real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the *Local Bond Law*.