

TOWNSHIP OF BERWICK
Adams County, Pennsylvania

ORDINANCE NO. 51

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF BERWICK, ADAMS COUNTY, PENNSYLVANIA, AUTHORIZING AND DIRECTING ISSUANCE OF A GUARANTEED SEWER REVENUE NOTE OF THIS TOWNSHIP IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$1,430,891, PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT, AS AMENDED, OF THE PENNSYLVANIA GENERAL ASSEMBLY, FOR THE PURPOSE OF PROVIDING FUNDS TO BE APPLIED FOR AND TOWARD A CERTAIN CAPITAL PROJECT OF THIS TOWNSHIP; DETERMINING THAT SAID NOTE SHALL BE SOLD AT PRIVATE NEGOTIATED SALE; DETERMINING THAT SAID DEBT SHALL BE NONELECTORAL DEBT OF THIS TOWNSHIP; DESCRIBING THE CAPITAL PROJECT TO BE UNDERTAKEN BY THIS TOWNSHIP AND SPECIFYING THE ESTIMATED USEFUL LIFE OF SAID CAPITAL PROJECT; ACCEPTING A COMMITMENT FOR PURCHASE OF SAID NOTE AT PRIVATE NEGOTIATED SALE AND AWARDED SAID NOTE AND SETTING FORTH RELATED PROVISIONS; PROVIDING THAT SAID NOTE, WHEN ISSUED, SHALL BE A GUARANTEED SEWER REVENUE NOTE OF THIS TOWNSHIP; FIXING THE SUBSTANTIAL FORM, MATURITY DATE, INTEREST RATE, PAYMENT DATES AND PREPAYMENT PROVISIONS OF SAID NOTE; AUTHORIZING EXECUTION AND ATTESTATION OF SAID NOTE; PROVIDING COVENANTS RELATED TO DEBT SERVICE APPLICABLE TO SAID NOTE AS REQUIRED BY SAID ACT AND THE PENNSYLVANIA CONSTITUTION AND PLEDGING THE FULL FAITH,

CREDIT AND TAXING POWER OF THIS TOWNSHIP IN SUPPORT THEREOF; GRANTING A FIRST LIEN ON AND SECURITY INTEREST IN THE GROSS RECEIPTS AND REVENUES GENERATED OR PRODUCED FROM OR BY THE SEWER SYSTEM OF THIS TOWNSHIP; CREATING A SINKING FUND IN CONNECTION WITH SAID NOTE AS REQUIRED BY SAID ACT; APPOINTING A SINKING FUND DEPOSITARY; PROVIDING A COVENANT TO INSURE PROMPT AND FULL PAYMENT OF ALL OBLIGATIONS OF SAID NOTE WHEN DUE; AUTHORIZING AND DIRECTING SPECIFIED OFFICERS OF THIS TOWNSHIP TO DO AND PERFORM CERTAIN SPECIFIED, REQUIRED OR APPROPRIATE ACTS AND THINGS; SETTING FORTH THAT SAID NOTE HAS BEEN SOLD AT PRIVATE NEGOTIATED SALE; DECLARING THAT THE DEBT TO BE INCURRED IS WITHIN THE LIMITATION IMPOSED BY SAID ACT UPON THE INCURRING OF SUCH DEBT BY THIS TOWNSHIP; AUTHORIZING AND APPROVING A LOAN AGREEMENT BETWEEN THIS TOWNSHIP AND THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY; AUTHORIZING PROPER OFFICERS OF THIS TOWNSHIP TO EXECUTE, ATTEST AND DELIVER SAID LOAN AGREEMENT AND ALL RELATED DOCUMENTS IN BEHALF OF THIS TOWNSHIP; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HEREWITH.

WHEREAS, The Township of Berwick, Adams County, Pennsylvania (the "Township"), is a municipality existing under laws of the Commonwealth of Pennsylvania (the "Commonwealth") and is a Local Government Unit, as defined in

the Local Government Unit Debt Act, as amended, 53 Pa. C.S. Chs. 80-82 (the "Act"), of the Commonwealth; and

WHEREAS, The Board of Supervisors of this Township has determined to undertake the acquisition and construction of a complete sanitary sewage collection, transportation, treatment and disposal system for providing sanitary sewage service in portions of this Township, which undertakings herein are referred to as the "Project"; and

WHEREAS, This Township has obtained cost estimates with respect to the Project from actual bids and from professional estimates from its registered engineers and other persons qualified by experience; and

WHEREAS, The Board of Supervisors of this Township has determined to incur nonelectoral debt by issuance of its Guaranteed Sewer Revenue Note, dated as of the date of delivery thereof, in a principal amount not to exceed \$1,430,891 (the "Note"), in accordance with provisions of the Act, with proceeds from the sale thereof, together with certain legally available funds of this Township, a capital contribution from the Township of Hamilton, Adams County, Pennsylvania, and a grant from the Pennsylvania Infrastructure Investment Authority (the "PennVest"), to be applied for

and toward payment of costs and expenses of the Project and related costs and expenses, including costs and expenses incident to issuance of the Note; and

WHEREAS, The Board of Supervisors of this Township desires that the proposed Note be sold at private negotiated sale, pursuant to the Act; and

WHEREAS, PennVest has submitted a commitment for purchase of the Note; and such commitment has been opened, read and considered by the Board of Supervisors of this Township as required by the Act; and

WHEREAS, The Board of Supervisors of this Township desires to accept the commitment of PennVest, to award the Note to PennVest and to incur nonelectoral debt, as set forth herein, pursuant to provisions of the Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of the Township of Berwick, Adams County, Pennsylvania, as follows:

Section I. The Board of Supervisors of this Township hereby determines that the Note shall be sold at private negotiated sale and hereby determines that private negotiated sale of the Note is in the best financial interest of this Township.

Section 2. The Board of Supervisors of this Township does authorize and direct the issuance of a guaranteed sewer revenue note of this Township, pursuant to this Ordinance, in a principal amount not to exceed \$1,430,891, to be designated generally as "Guaranteed Sewer Revenue Note", in accordance with the Act, to provide funds which, together with other available funds, will be applied for and toward payment of the costs and expenses of the Project and related costs and expenses, including costs and expenses incident to issuance of the Note.

Section 3. The Board of Supervisors of this Township determines that the debt in the principal amount of \$1,430,891 to be incurred pursuant to this Ordinance, shall be nonelectoral debt of this Township and shall be evidenced by the Note.

Section 4. A realistic estimated useful life of the Project is specified to be not less than 25 years.

Section 5. The Board of Supervisors of this Township accepts the commitment of PennVest to purchase the Note; and the Note is awarded to PennVest, in accordance with terms and conditions of its commitment, at a dollar price equal to 100% of the principal amount of the Note. Proper officers of this Township are

authorized and directed to approve any amendment to the Commitment Letter of PennVest with respect to terms and conditions of the Note.

Section 6. The Note, when issued, will be a guaranteed sewer revenue note of this Township.

Section 7. The Note shall be fully registrable as to principal and interest, shall be in a principal amount not to exceed \$1,430,891, shall be dated as of the date of delivery thereof, shall bear interest payable on the first day of each month, beginning the first day of the month following the month in which the first advance of principal is made by PennVest, at the rate of 1% per annum until maturity on October 1, 2022, or until prepaid in full.

Section 8. The maximum annual aggregate principal payments applicable to the Note are set forth in Exhibit A attached hereto and thereby made a part hereof.

Section 9. The Note is subject to prepayment with the prior written consent of PennVest, subject to terms and conditions set forth in the Note.

Section 10. The principal of and interest on the Note shall be payable to PennVest at such office of PennVest or such other place as PennVest may designate

from time to time in writing, in lawful moneys of the United States of America and in such mode of payment as shall provide same day funds to PennVest as registered owner of the Note.

Section 11. The form of the Note shall be substantially as follows, with appropriate insertions, omissions and variations: