

TOWNSHIP OF BERWICK
Adams County, Pennsylvania

ORDINANCE NO. 33—96

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF BERWICK, ADAMS COUNTY, PENNSYLVANIA DETERMINING TO INCUR NONELECTORAL DEBT IN THE PRINCIPAL AMOUNT OF \$550,000 TO BE EVIDENCED BY A GENERAL OBLIGATION NOTE, SERIES OF 1996, DATED AS OF THE DATE OF DELIVERY (THE "1996 NOTE") FOR THE PURPOSE OF CURRENTLY REFUNDING THE TOWNSHIP'S GENERAL OBLIGATION NOTE, SERIES OF 1995 AND TO PROVIDE FUNDS FOR THE PREPARATION OF AMENDMENTS TO THE TOWNSHIP'S ACT 537 PLAN AND DESIGN MODIFICATIONS TO THE SEWER SYSTEM UNDER DEVELOPMENT BY THE BERWICK TOWNSHIP MUNICIPAL AUTHORITY (COLLECTIVELY, THE "1996 PROJECT"); SPECIFYING THE USEFUL LIFE OF THE 1996 PROJECT; PROVIDING FOR MATURITIES, INTEREST RATE AND REDEMPTION FEATURES OF THE NOTE; PLEDGING THE FULL FAITH CREDIT AND TAXING POWER FOR THE PAYMENT OF THE 1996 NOTE; APPROVING THE FORM OF THE NOTE; AUTHORIZING AND DIRECTING APPROPRIATE OFFICERS OF THE TOWNSHIP TO PREPARE, EXECUTE, VERIFY AND FILE THE DEBT STATEMENT, THE BORROWING BASE CERTIFICATE TO BE APPENDED TO THE DEBT STATEMENT AND OTHER APPROPRIATE DOCUMENTS REQUIRED BY THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, ACT NO. 52, APPROVED APRIL 28, 1978, AS AMENDED AND SUPPLEMENTED, KNOWN AS THE "LOCAL GOVERNMENT UNIT DEBT ACT"; DESIGNATING A SINKING FUND DEPOSITARY AND PAYING AGENT; FINDING A SALE BY INVITATION TO BE IN THE BEST INTEREST OF THE TOWNSHIP; RATIFYING THE PRIOR ADVERTISEMENT AND DIRECTING FURTHER ADVERTISEMENT; PROVIDING FOR PROPER OFFICERS OF THE TOWNSHIP TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION AS MAY BE NECESSARY OR APPROPRIATE; REPEALING ALL INCONSISTENT ORDINANCES AND RESOLUTIONS.

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 such term is defined under the Act No. 52 of the General Assembly of the Commonwealth, approved April 28, 1978, as amended and supplemented, known as the Local Government Unit Debt Act (the "Act"); and

WHEREAS, The Board of Supervisors of the Township has determined to undertake the review of its Act 537 Plan and further desires to contract with Nassaux-Hemsley to complete such review; and

WHEREAS, The Township heretofore issued its General Obligation Note, Series of 1995 in the maximum principal amount of \$450,000, a portion of which remains outstanding (the "1995 Note") to the Bank of Hanover, Pennsylvania; and

WHEREAS, The Township has determined to issue its General Obligation Note, Series of 1996, dated as of the date of delivery thereof, in the maximum principal amount of \$550,000 (the "1996 Note") for the purpose of currently refunding the Township's 1995 Note and to provide funds for the preparation of amendments to the Township's Act 537 Plan and design modifications to the sewer system under development by the Berwick Township Municipal Authority (collectively, the "1996 Project"); and

WHEREAS, The Township has determined that the refunding portion of the 1996 Project is authorized pursuant to Section 1101(1) of the Debt Act.

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

1. The Board of Supervisors of the Township authorizes the undertaking of the 1996 Project.
2. The Board of Supervisors of the Township hereby determines that the realistic estimated useful life of the 1996 Project is at least 3 years. The purpose for the refunding portion of the 1996 Project is to reduce total debt service over the life of the 1995 Note as permitted by Section 1101(1) of the Debt Act. The anticipated completion date for the 1996 Project is January, 1999.
3. The Board of Supervisors of this Township hereby determines to incur "debt", as such term is defined in the Act, as "nonelectoral debt", as such term is defined in the Act, in connection with financing the 1996 Project.

4. The debt to be incurred, as nonelectoral debt, as set forth in Paragraph 3 hereof, shall be in the principal amount of \$550,000 and shall be evidenced by a General Obligation Note, Series of 1996, to be dated as of the date of delivery to Farmers Bank, a division of Dauphin Deposit Bank, Hanover, Pennsylvania (the "1996 Note").

5. The Chairman or Vice Chairman of the Board of Supervisors of the Township and Secretary or Assistant Secretary of the Township are authorized and directed: (a) to prepare, verify and file with the Pennsylvania Department of Community Affairs (the "Department"), a debt statement as required by Section 410 of the Act; and (b) to prepare and execute a borrowing base certificate required by the Act to be appended to the debt statement of the Township referred to in subsection (a) of this Paragraph.

6. The Chairman or Vice Chairman of Board of Supervisors of this Township and Secretary or Assistant Secretary of this Township are authorized and directed to make application for approval with respect to the incurrence of debt, as required by Section 411(b) of the Act, and to pay or cause to be paid to the Department all proper filing fees required by the Act and to take all other required and appropriate action.

7. The 1996 Note is hereby declared to be a general obligation of the Township secured by the full faith, credit and taxing power of the Township. The Township hereby covenants with the holder of such 1996 Note that the Township shall include the amount of debt service on the 1996 Note, including interest thereon, for each fiscal year of the Township in which such sums are payable in its budget for that fiscal year, that this Township, shall appropriate from its general revenues and duly and punctually pay or cause to be paid from its sinking fund or any other of its funds or revenues the amount of such principal together with interest on such principal amount on the dates and at the place and in the manner stated in such 1996 Note. For such budgeting, appropriation and payment this Township hereby does pledge its full faith, credit and taxing power and hereby does agree that this covenant shall be specifically enforceable.

This Township hereby covenants to pay in each of the fiscal years the debt service set forth on Exhibit "A" attached hereto and incorporated herein by reference.

8. The form of the 1996 Note shall be substantially in the form attached hereto as Exhibit "B", which form hereby is incorporated herein and, together with such changes as shall be deemed appropriate by the officers of the Township executing the same, hereby is approved.

9. The 1996 Note shall be executed in the name and under the corporate seal of the Township by the Chairman or Vice Chairman of the Board of Supervisors and attested to by the Secretary or Assistant Secretary. The Secretary or Assistant Secretary is hereby authorized and directed to deliver said 1996 Note to the respective purchaser, and receive payment therefor on behalf of the Township. The Chairman or Vice Chairman of the Board of Supervisors and Secretary or Assistant Secretary of the Township, as applicable

and appropriated, are authorized and directed to prepare, verify and file the debt statement required by Section 410 of the Act, and to take other necessary action, including, if necessary or desirable, any statements required to qualify any portion of the debt for exclusion from the appropriate debt limit as self-liquidating or subsidized debt.

10. Farmers Bank is hereby designated as the Sinking Fund Depository for the obligation herein authorized, and there is hereby created and established sinking fund to be known as General Obligation Note, Series of 1996 Sinking Fund, for the payment of the principal and interest thereon which shall be deposited into the Sinking Fund no later than the date upon which the same becomes due and payable. The Treasurer shall deposit into the Sinking Fund, which shall be maintained until such obligation is paid in full, sufficient amounts for payment of principal and interest on the obligation no later than the date upon which such payments shall become due. The Sinking Fund Depository shall, as and when said payments are due, without further action by the Township withdraw available monies in the Sinking Fund and apply said monies to payment of the principal of and interest on the 1996 Note.

11. The Chairman or Vice Chairman of the Board of Supervisors of the Township are hereby authorized to contract with Farmers Bank for its services as Sinking Fund Depository for the 1996 Note and paying agent for the same.

12. In compliance with Section 701 of the Act, the members of the governing body have determined, with respect to the 1996 Note, that a private sale by invitation is in the best interest of the Township. Therefore, the 1996 Note in the amount of \$550,000, herein authorized to be issued and sold is hereby awarded and sold to the Farmers Bank in accordance with its proposal to purchase the said 1996 Note at par; provided the said 1996 Note is dated as contemplated by this ordinance and is substantially in the form set forth in Section 5 of this ordinance; and further provided that the proceedings have been approved by the Department of Community Affairs.

13. The action of the proper officers and the advertising of a summary of this ordinance, as required by the Act in a newspaper of general circulation, is ratified and confirmed. The advertisement in said paper of the enactment of the ordinance is hereby directed within fifteen (15) days following the day of final enactment. This ordinance shall become valid and effective on the fifth day after Notice of Final Enactment has been published.

14. The Township hereby covenants with the owners from time to time of the 1996 Note that it will make no use of the proceeds of the 1996 Note which, if such use had been reasonably expected on the date of such 1996 Note, would have caused such 1996 Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder, and that it will comply with the requirements of said Section and said regulations throughout the term of the 1996 Note. The Township hereby designates the 1996 Note as a "Qualified Tax-Exempt

Obligation" as that term is defined in Section 265(b) of the Code. Further, the 1996 Note shall be exempt from arbitrage rebate pursuant to the small-issuer exemption set forth in Section 148 of the Code.

15. The proper officers of the Township are hereby authorized and directed to prepare, execute and deliver all other certificates, documents and instruments required to be submitted by the Township pursuant to the terms of the proposal of the Bank and to take such other action as may be necessary or appropriate in order to effectuate the sale, issuance, execution and delivery of the 1996 Note.

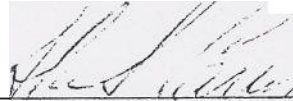
16. All expenses incurred in connection with the issuance of the 1996 Note are authorized to be paid upon submission of the appropriate invoices.

17. All ordinances or parts of ordinances not in accord with this ordinance are hereby repealed insofar as they conflict herewith.

DULY ENACTED AND ORDAINED this 8th day of July, 1996, by the Board of Supervisors of the Township of Berwick, Adams County, Pennsylvania, in lawful session duly assembled.

ATTEST:

TOWNSHIP OF BERWICK
Adams County, Pennsylvania



Chairman, Board of Supervisors

(SEAL)