

TOWNSHIP OF BERWICK

Adams County, Pennsylvania

ORDINANCE NO. 46

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**AN ORDINANCE**

**OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF BERWICK, ADAMS COUNTY, PENNSYLVANIA, DETERMINING TO COMBINE CAPITAL CONSTRUCTION AND REFUNDING PROJECTS FOR FINANCING PURPOSES AS PERMITTED BY SECTION 8101 OF THE LOCAL GOVERNMENT UNIT DEBT ACT, AS AMENDED, AS CODIFIED BY THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, APPROVED DECEMBER 19, 1996, ACT NO. 177 OF 1996, AS AMENDED; AUTHORIZING AND DIRECTING ISSUANCE OF A GENERAL OBLIGATION NOTE OF THIS TOWNSHIP IN THE PRINCIPAL AMOUNT OF \$1,040,000; DETERMINING THAT SAID NOTE SHALL BE SOLD AT INVITED SALE; DETERMINING THAT SUCH DEBT SHALL BE NONELECTORAL DEBT OF THIS TOWNSHIP; ACCEPTING A BID FOR PURCHASE OF SAID NOTE, AT INVITED SALE, AND AWARDED SUCH NOTE AND SETTING FORTH RELATED PROVISIONS; PROVIDING THAT SAID NOTE, WHEN ISSUED, SHALL BE A GENERAL OBLIGATION NOTE OF THIS TOWNSHIP; FIXING THE SERIES, SUBSTANTIAL FORM, DATE, MATURITY DATE, INTEREST RATE, INTEREST PAYMENT DATES, REGISTRATION PRIVILEGES, PLACE OF PAYMENT OF PRINCIPAL AND INTEREST, PREPAYMENT PROVISIONS AND TAX FREE PROVISIONS OF SAID NOTE; AUTHORIZING EXECUTION AND ATTESTATION OF SAID NOTE; PROVIDING COVENANTS RELATED TO DEBT SERVICE APPLICABLE TO SAID NOTE AS REQUIRED BY SUCH ACT AND THE PENNSYLVANIA CONSTITUTION AND**

**PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS TOWNSHIP IN SUPPORT THEREOF; CREATING A SINKING FUND IN CONNECTION WITH SAID NOTE AS REQUIRED BY SUCH ACT; APPOINTING A SINKING FUND DEPOSITORY; 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 INVITED SALE; DECLARING THAT THE DEBT TO BE INCURRED IS WITHIN THE LIMITATION IMPOSED BY SUCH ACT UPON THE INCURRING OF SUCH DEBT BY THIS TOWNSHIP; SETTING FORTH CERTAIN COVENANTS RELATING TO THE NON-ARBITRAGE STATUS OF SAID NOTE; DESIGNATING SAID NOTE AS A QUALIFIED TAX EXEMPT OBLIGATION UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; SETTING FORTH CERTAIN COVENANTS RELATED TO PROVISIONS FOR THE PREPAYMENT OF THIS TOWNSHIP'S OUTSTANDING GENERAL OBLIGATION NOTE, SERIES OF 1996; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.**

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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 (the "Act"), as codified by the

General Local Government Code, Act No. 177 of 1996, approved December 19, 1996, as amended, of the Commonwealth; and

WHEREAS, The Board of Supervisors of this Township heretofore determined that it would be in the best interest of the citizens of this Township to construct and acquire a complete sanitary sewage collection system for rendering sanitary sewer service in and for this Township (the "Project"); and

WHEREAS, The Board of Supervisors of this Township has obtained realistic cost estimates of the Project through professional estimates from consulting engineers and other persons qualified by experience; and

WHEREAS, The Board of Supervisors of this Township heretofore issued its General Obligation Note, Series of 1996, dated August 9, 1996, in the principal amount of \$550,000 (the "1996 Note"), in order to finance on an interim basis a portion of the initial costs of the Project as contemplated at that time and to repay a prior general obligation note of this Township; and

WHEREAS, This Township has determined to provide for prepayment of the outstanding principal balance of the 1996 Note and accrued interest thereon as

of the date of issuance and initial delivery of the Note hereinafter referred to (the "Refunding Project"); and

WHEREAS, The Board of Supervisors of this Township has determined to combine the Refunding Project and the financing of initial costs of the Project in the scope presently contemplated, as permitted by the Act; and

WHEREAS, The Board of Supervisors of this Township has determined to issue its General Obligation Note, Series of 1999, in the principal amount of \$1,040,000 (the "Note"), with proceeds from sale thereof to be applied for and towards costs of the Refunding Project, initial costs of the Project and costs of issuance of the Note, including payment of capitalized interest on the Note; and

WHEREAS, FMB Bank (the "Bank") has submitted a proposal with respect to purchase of the Note to the Board of Supervisors of this Township; and

WHEREAS, The Board of Supervisors of this Township desires to accept the proposal of the Bank to purchase the Note and to incur nonelectoral debt, in the principal amount of \$1,040,000, in connection with the Refunding Project and the Project, pursuant to provisions of the Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the  
Board of Supervisors of this Township, as follows:

Section 1. The financing of the Refunding Project and all initial costs of the Project shall be combined for financing purposes as permitted by the Act by issuance of the Note.

Section 2. The Board of Supervisors of this Township does authorize and direct the issuance of a general obligation note of this Township, pursuant to this Ordinance, in the principal amount of \$1,040,000, to be dated as of the date of delivery thereof to the Bank, as initial purchaser, and to be designated as General Obligation Note, Series of 1999, in accordance with the Act, to provide funds for and toward payment of initial costs of the Project, costs of the Refunding Project and costs of issuance of the Note, including payment of certain capitalized interest on the Note. The purpose of the Refunding Project is to reduce annual debt service in this Township's 1999 fiscal year by extending the life of the issue. The Refunding Project constitutes a current refunding as contemplated by the Internal Revenue Code of 1986, as amended.

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

Section 3. The Board of Supervisors of this Township determines that the debt, of which the Note shall be evidence, to be incurred pursuant to this Ordinance, shall be nonelectoral debt of this Township.

Section 4. A realistic estimate of the estimated useful life of the Project is specified to be not less than 38 years.

Section 5. The Board of Supervisors of this Township accepts the bid of the Bank to purchase the Note; and the Note is awarded to the Bank, in accordance with terms and conditions of its bid, at a dollar price of \$1,040,000 (100% of the principal amount of the Note), the Bank having submitted such bid in accordance with provisions of the Act.

Section 6. The Note, when issued, will be a general obligation note of this Township.

Section 7. The Note shall be fully registrable as to principal and interest, shall be in the denomination of \$1,040,000, shall be dated as of the date of execution and delivery thereof to the Bank, shall mature on October 1, 2001, and shall bear interest from such date of execution and initial delivery thereof to the Bank, at the rate of 4.10% per annum, payable initially on October 1, 1999, and thereafter payable semiannually on April 1 and October 1 in each year, beginning April 1, 2000, until maturity on October 1, 2001, or until prior prepayment in whole.

Section 8. The Note is subject to prepayment prior to maturity, at the option of this Township, as a whole, or, from time to time, in part, on any date, in each case upon payment of the principal amount thereof, together with accrued interest on the amount prepaid to the date of prepayment, without prior notice to the registered owner of the Note and without payment of any premium or penalty.

Section 9. The principal of the Note and the interest thereon shall be payable to the registered owner thereof as set forth in the Form of Note hereinafter set forth.

Section 10. The form of the Note shall be substantially as follows, with appropriate insertions, omissions and variations: