

TOWNSHIP OF TYRONE,
Adams County, Pennsylvania

ORDINANCE NO. 2013-1

~~AN ORDINANCE INCREASING THE INDEBTEDNESS OF TYRONE TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA BY DIRECTING THE ISSUANCE OF A DEBT OBLIGATION IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,551,149.00 TO BE ISSUED TO THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY (PENNVEST), PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT, TO PROVIDE FUNDS FOR A CAPITAL PROJECT THAT CONSISTS OF ACQUIRING, UPGRADING, REPAIRING AND CONSTRUCTING A SANITARY SEWER SYSTEM FOR CERTAIN PORTIONS OF THE TOWNSHIP, INCLUDING CONVEYANCE AND TREATMENT FACILITIES, AND PAYING RELATED COSTS, FEES AND EXPENSES; ACCEPTING A FUNDING OFFER FROM PENNVEST TO PURCHASE THE DEBT OBLIGATION; SPECIFYING THE REALISTIC USEFUL LIFE OF SAID PROJECT; AUTHORIZING AND DIRECTING APPROPRIATE OFFICERS OF THE TOWNSHIP TO TAKE CERTAIN ACTIONS AND TO EXECUTE CERTAIN DOCUMENTS REQUIRED BY THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT; APPROVING THE SUBSTANTIAL FORM, MAXIMUM PRINCIPAL AMOUNTS, DATE, INTEREST MATURITY, AND SOURCES OF PAYMENT OF SAID OBLIGATION, PLEDGING THE TOWNSHIP'S SEWER SYSTEM REVENUES TO SECURE PAYMENT OF THE DEBT OBLIGATION AND GUARANTEEING PAYMENT OF THE DEBT OBLIGATION BY PLEDGING THE TOWNSHIP'S FULL FAITH, CREDIT, AND TAXING POWER; APPOINTING A SINKING FUND DEPOSITORY; APPROVING ALL OTHER ACTIONS REQUIRED TO ISSUE, SELL, DELIVER, AND SECURE THE DEBT OBLIGATION; PROVIDING FOR REPEAL OF ALL INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.~~

WHEREAS, The Township of Tyrone (the "Township") is a political subdivision (a Township of the Second Class) of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under provisions of the "Local Government Unit Debt Act", 53 Pa.C.S.A. §8001 et. seq. (the "Act"); and

WHEREAS, The Township has determined that it is necessary or desirable to undertake a capital project that includes the planning, designing, acquiring, upgrading, repairing and publicly owned sanitary sewer conveyance and treatment facilities with all appurtenances, rights of ways, land and improvements associated therewith (the "Capital Project"); and

WHEREAS, the Pennsylvania Infrastructure Investment Authority (“PENNVEST”) has approved funding for the Project and the Township has received a funding offer from PENNVEST to provide permanent financing for the Project, subject to, among other things, the approval of debt obligation proceedings under the Act; and

WHEREAS, the Township has received preliminary realistic cost estimates from professional consultants indicating the sum of \$1,551,149.00 will be needed to complete the Project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, will not cause the limitations of the local government unit debt incurring power, pursuant to constitutional and statutory authority to be exceeded; and

WHEREAS, the Township has determined that revenues in connection with the Project will be sufficient to liquidate the debt service on the Debt Obligation, and therefore that all of a portion of the debt should be excluded as self-liquidating debt.

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

ARTICLE I

SECTION 1.01. The Board of Supervisors of this Township hereby authorizes and directs the issuance of a guaranteed sewer revenue note of this Township (the “Debt Obligation”), as provided in Section 2.01 hereof and as permitted by the Pennsylvania Local Government Unit Debt Act, 53 Pa.C.S.A. §8001 et. seq. (the “Act”), pursuant to this Ordinance (the “Ordinance”) to provide funds for and toward the Capital Project as well as related costs, fees, and expenses, including the costs, fees, and expenses of issuance (collectively the “Project”), as such costs are permitted and defined in Section 8007 of the Act.

SECTION 1.02. The Township specifies that the realistic, estimated, useful life of the Project will be at least thirty (30) years. The estimated completion date of the Project is January 2, 2015. The initial principal installment payment date on the Debt Obligation will be the earlier of: (i) three (3) months after the estimated date of completion of the Capital Project, (ii) the first day of the calendar month following the actual completion of the Capital Project, or (iii) three (3) years after the date of issuance of the Debt Obligation, but shall not be deferred beyond the later of two (2) years from the date of issuance of the Debt Obligation or one (1) years after estimated completion of construction of the Capital Project, in accordance with Section 8124(c) of the Debt Act, 53 Pa.C.S. §8142(c).

SECTION 1.03. The Township hereby declares, for purposes of the Act, that it has obtained realistic cost estimates from professional engineers or other persons qualified by experience, setting forth the costs related to the Project, which estimated costs is the sum of \$1,551,149.00.

ARTICLE II

SECTION 2.01. The Township authorizes and directs, as permitted by the Act, the issuance of the Debt Obligation, in the maximum principal amount of \$1,551,149.00 to the Pennsylvania Infrastructure Investment Authority ("PENNVEST"), in accordance with the Act, for purposes of the Project, and hereby determines that the debt to be incurred hereby, of which debt the Debt Obligation shall be evidence, shall be new nonelectoral debt of this Township. To secure the Debt Obligation:

- (a) ~~The Township does hereby pledge, as lawful security for its obligations under this Ordinance and under the Debt Obligation and for the benefit of PENNVEST and such other persons as may, from time to time, be holders of the Debt Obligation, all right, title, and interest of the Township in the receipts and revenues derived by this Township from the Capital Project, and for services rendered in connection therewith (herein referred to as "Sewer Revenues").~~
- (b) The Township hereby unconditionally guarantees the full payment of the principal of and interest on the Debt Obligation and, in furtherance of such guaranty, covenants and agrees with PENNVEST and such other persons as may, from time to time, be holders of the Debt Obligation that if the Sewer Revenues pledged hereunder shall be insufficient to pay the full amounts of the principal of and interest on the Debt Obligation when the same shall be due and payable, at the times and places, under the conditions and in the manner prescribed in the Debt Obligation, this Township shall pay the full amounts of such principal and interest to PENNVEST or, if appropriate, to such other person as then may be the holder of the Debt Obligation, from its tax and other general revenues, this covenant being referred to as the "guaranty".

SECTION 2.02. The Township covenants to and with PENNVEST and such other holders, from time to time, of the Debt Obligation that this Township shall do the following: (i) include the amount of the debt service for the Debt Obligation or the amounts payable in respect to the guaranty contained in Section 2.01(b), for each fiscal year of this Township in which such sums are payable, in its budget for that fiscal year; (ii) appropriate such amounts from its Sewer Revenues and, in respect to the Guaranty contained in Section 2.01(b) from its tax and other general revenues, for the payment of such debt service and said guaranty, respectively; and (iii) duly and punctually pay or cause to be paid from the sinking fund created pursuant to Section 2.07 hereof, or any other of its receipts, revenues or funds pledged hereunder, or in respect to the guaranty, from its tax and other general revenues, the principal and interest on the Debt Obligation, at the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment of the guaranty, this Township does pledge, irrevocably, its full faith, credit, and taxing power. The foregoing covenant of this Township shall be specifically enforceable.

SECTION 2.03. The Debt Obligation, when issued, will be a guaranteed revenue note, within the meaning of the Act, of this Township. The guaranty, when the Debt Obligation has been issued, will constitute a general obligation of the Township.

SECTION 2.04. The Township shall and does accept the proposal of PENNVEST (the "Proposal"), for purchase of the Debt Obligation, and the Debt Obligation shall be and is awarded to PENNVEST in accordance with the terms and conditions of the Proposal, at private sale by negotiation, and any prior acceptance of the Proposal on behalf of this Township by any officer of this Township is hereby ratified, approved, and confirmed. This Township finds that a private sale by negotiation is in the best financial interest of this Township. The Debt Obligation shall be issued and delivered in a stated principal amount not greater than the amount herein authorized.

SECTION 2.05. The form of the Debt Obligation shall be substantially as set forth in Exhibit "A", which is attached hereto and made a part hereof, with appropriate insertions and variations. The Debt Obligation shall be in the denomination, shall be subject to redemption, shall bear interest at the rates per annum, and shall be payable in monthly amortized installments of principal and interest in the amounts and on the dates substantially set forth in said form in the schedule set forth as Exhibit "B", which is attached hereto and made a part hereof.

SECTION 2.06. The Debt Obligation shall be executed in the name of and on behalf of this Township by the manual signature of the Chairman or Vice Chairman of the Board of Supervisors of this Township, and the official seal of this Township shall be affixed thereto and the manual signature of the Secretary or Assistant Secretary shall be affixed thereto in attestation thereof; and said officers are authorized to execute and attest the Debt Obligation.

SECTION 2.07. There is created, pursuant to the Act, a sinking fund for the Debt Obligation, to be known as "Sinking Fund – 2013 Guaranteed Sewer Revenue Note (PENNVEST)" (the "Sinking Fund"), which Sinking Fund shall be administered in accordance with applicable provisions of the Act.

SECTION 2.08. The Township appoints Adams County National Bank, Gettysburg, Pennsylvania (the "Bank"), as the sinking fund depository with respect to the Sinking Fund. Appropriate officers of this Township are authorized and directed to contract with the Bank for its services as paying agent with respect to the Debt Obligation and as sinking fund depository in connection with the Sinking Fund.

SECTION 2.09. The Township covenants to make payments out of the Sinking Fund, or out of any other of its revenues or funds, at such times and in such amounts as shall be sufficient for prompt and full payment of all obligations of the Debt Obligation when due.

SECTION 2.10. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary, respectively, of this Township, which shall include their duly qualified successors in office, if applicable, are authorized and directed, as required, necessary and appropriate: (i) to prepare, to certify, and to file with the Department of Community and Economic Development of the Commonwealth (the "Department") the debt statement required by Section 8110 of the Act; (ii) to prepare for filing with the Department an appropriate borrowing base certificate as required by Section 8110 of the Act; (iii) to take other necessary action, including, if necessary or desirable, any statements required to qualify a portion of the debt from the appropriate debt limit as self-liquidating or

subsidized debt; (iv) to prepare and to file the application with the Department, together with a complete and accurate transcript of the proceedings for the required approval relating to the debt, of which debt the Debt Obligation, upon issuance, will be evidence, as required by Section 8111 of the Act; (v) to pay or cause to be paid to the Department all proper filing fees required in connection with the foregoing; and (vi) to take other required, necessary and/or appropriate action.

SECTION 2.11. It is declared that, provided all or a portion of the debt incurred hereby in excluded as self-liquidating, the debt to be incurred hereby, together with any other indebtedness of this Township, is not in excess of any limitation imposed by the Act upon the incurring of debt by this Township.

ARTICLE III

SECTION 3.01. For the purpose of providing funds to finance the Project, and to pay related costs and expenses in connection with the issuance of the Debt Obligation, this Township hereby authorizes the execution and delivery of a Funding Agreement, (the "Funding Agreement"), between this Township and PENNVEST, which Funding Agreement shall be substantially in the form presented to the Board of Supervisors at this meeting, together with appropriate insertions and other changes. The Funding Agreement, in final form is incorporated herein by reference and made a part hereof. This Township further authorizes the execution and delivery of all other agreements, documents, certificates, and related instruments necessary or appropriate to issue and deliver the Debt Obligation to PENNVEST (this Ordinance, the Debt Obligation, the Funding Agreement, and all other agreements, documents, certificates, and instruments to be executed and delivered concurrently with the issuance of the Debt Obligation are collectively referred to herein as "Loan Documents"), and authorizes the taking of all actions necessary and required under the provisions of the Loan Documents.

SECTION 3.02. The forms, terms, and conditions of the Loan Documents, substantially in the forms submitted to this meeting, are hereby approved. The Chairman or Vice Chairman of the Board of Supervisors of this Township is hereby authorized to execute all documents necessary to effectuate the issuance of the Debt Obligation, subject to such changes and modifications, if any, as may be approved by such officers, the execution of such documents to constitute conclusive evidence of such approval, and the Secretary or Assistant Secretary of this Township is hereby authorized to cause the official seal of the Township to be affixed thereto and to attest to the same. Appropriate officers of this Township are further authorized to acknowledge the same, as appropriate, on behalf of this Township and to deliver said documents to PENNVEST.

SECTION 3.03. The Debt Obligation shall be repaid at the times and in the amounts and is subject to early repayment all as set forth in the Loan Documents.

SECTION 3.04. The application (the "Application"), in the form heretofore submitted by this Township to PENNVEST, is hereby ratified with such subsequent, necessary and appropriate variations, omission, and insertions, if any, as may have been approved by the Chairman or Vice Chairman of the Board of Supervisors of this Township. The review of the Application and any amendments requested by PENNVEST, as well as any

investigation required by PENNVEST in connection with Loan Documents or Application, is hereby authorized.

SECTION 3.05. Upon receipt, the proceeds of the Debt Obligation shall be applied by this Township under the terms and conditions set forth in the Loan Documents.

SECTION 3.06. Appropriate officers of this Township are hereby authorized, empowered, and directed on behalf of this Township to execute any and all papers and documents and to do or cause to be done any and all acts and things necessary or proper for the execution and carrying out of this Ordinance and the Loan Documents.

SECTION 3.07. The Debt Obligation shall be secured by the Loan Documents between the Township and PENNVEST, which shall create a security interest in and to the Sewer Revenues in favor of PENNVEST and, if applicable, any other person which, from time to time, may be the holder of the Debt Obligation.

ARTICLE IV

SECTION 4.01. The pledge and any related security interest arising under this Ordinance or the Loan Documents may be terminated, wholly or partially, by the Township by:

- (a) retiring, at maturity or by earlier redemption, the Debt Obligation issued and outstanding hereunder; or
- (b) having set aside funds sufficient to retire the Debt Obligation prior to the due date; or
- (c) having "refunded" the Debt Obligation so outstanding hereunder, as provided in the Act.

SECTION 4.02. The Debt Obligation shall be "outstanding" hereunder as, when, and if issued hereunder and until such time as (a) the sinking fund has been paid in full; (b) money for payment of the same has been deposited in the Sinking Fund; or (c) the same no longer is "outstanding" as defined in the Act.

SECTION 4.03. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

SECTION 4.04. All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

SECTION 4.05. This Ordinance shall be effective in accordance with the Act.

DULY ENACTED AND ORDAINED, this 25TH day of SEPTEMBER, 2013, by the Board of Supervisors of the Township of Tyrone, in lawful session duly assembled.

TOWNSHIP OF TYRONE,
Adams County, Pennsylvania

By: *[Signature]*
Chairman or Vice Chairman of the
Board of Supervisors

ATTEST:

Donna R. Dixon
Secretary

(SEAL)