

TOWNSHIP OF RUSH,
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 91

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THIS TOWNSHIP INCREASING THE NONELECTORAL INDEBTEDNESS OF THE TOWNSHIP OF RUSH, COUNTY OF SCHUYLKILL, PENNSYLVANIA, BY THE ISSUE OF A GUARANTEED REVENUE NOTE IN THE AMOUNT OF \$2,500,350 FOR THE PURPOSE OF FINANCING THE ACQUISITION AND CONSTRUCTION OF A SEWAGE COLLECTION SYSTEM AND RELATED FACILITIES IN AND FOR SERVING A PORTION OF THE TOWNSHIP; SPECIFYING THE USEFUL LIFE OF SAID SEWAGE COLLECTION SYSTEM AND RELATED FACILITIES; PROVIDING FOR MATURITIES, INTEREST RATE AND REDEMPTION FEATURES OF SAID NOTE; COVENANTING TO PAY DEBT SERVICE FROM REVENUES OF SAID SEWAGE COLLECTION SYSTEM; PLEDGING FULL FAITH CREDIT AND TAXING POWER FOR THE PAYMENT OF SAID NOTE; APPROVING THE FORM OF SAID NOTE; DIRECTING THE PROPER OFFICERS TO PREPARE, EXECUTE AND CERTIFY SUCH PROCEEDINGS AS APPROPRIATE; DESIGNATING A SINKING FUND DEPOSITORY AND PAYING AGENT; FINDING A SALE BY NEGOTIATION TO BE IN THE BEST INTEREST OF THE TOWNSHIP; RATIFYING THE PRIOR ADVERTISEMENT AND DIRECTING FURTHER ADVERTISEMENT; APPROVING A REPORT TO QUALIFY DEBT TO BE EVIDENCED BY SAID NOTE AS INDEBTEDNESS AS SELF-LIQUIDATING DEBT; PROVIDING FOR THE PROPER OFFICERS TO TAKE ALL OTHER ACTION AS MAY BE NECESSARY OR APPROPRIATE; REPEALING ALL INCONSISTENT ORDINANCES AND RESOLUTIONS.

WHEREAS, it is necessary that the indebtedness of the TOWNSHIP OF RUSH, SCHUYLKILL COUNTY, PENNSYLVANIA, (the "Township") be increased for the purpose of financing the acquisition and construction of a sewage collection system and all related facilities in and for rendering sewer service for a portion of the Township known generally as Lake Hauto (the "Project"); and

WHEREAS, the facilities contemplated by the Project, together with all appurtenant facilities and properties which the Township has acquired or hereafter shall acquire in connection therewith, including all property, real, personal and mixed, rights, powers, licenses, easements, rights-of-way, privileges, franchises and any and all other property or interests in property of whatsoever nature, used or useful in connection with such facilities, and together with all additions, extensions, betterments, alterations and improvements thereto which may be made or acquired, from time to time, by the Township, herein are referred to as the "Sewer System"; and

WHEREAS, the Township has received preliminary realistic cost estimates from professional consultants indicating a sum in excess of \$2,500,350 will be needed to undertake and complete the Project; and

WHEREAS, the Township desires to finance a portion of the costs and expenses of the acquisition and construction of the Project by obtaining a loan from the Pennsylvania Infrastructure Investment Authority ("Pennvest"); and

WHEREAS, Pennvest has approved a \$2,500,350 loan to the Township the proceedings of which loan are to be advanced, from time to time, in installments and applied for and toward payment of a portion of the costs and expenses incurred by the Township in connection with the acquisition and construction of the Project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral indebtedness and its lease rental indebtedness presently outstanding, after taking into consideration debt excluded as subsidized debt and self-liquidating debt, will not cause the debt limitations of the Township pursuant to constitutional and statutory authority to be exceeded; and

WHEREAS, the Township intends to issue its note in accordance with the terms of this Ordinance and the Local Government Unit Debt Act, Act of July 12, 1972, P.L. 781 as re-enacted and amended (the "Debt Act"), to pay the costs of such loan.

NOW, THEREFORE, BE AND IT HEREBY IS ORDAINED AND ENACTED BY THE TOWNSHIP OF RUSH, SCHUYLKILL COUNTY, PENNSYLVANIA, and as follows:

SECTION 1. That the aggregate principal amount of the note of the Township proposed to be issued is \$2,500,350, same to be issued for the foregoing purposes and same to be incurred as nonelectoral debt. The estimated cost of the Project as set forth in Exhibit "A" is in compliance with Section 106 of the Debt Act and is hereby approved.

SECTION 2. The period of useful life of the improvements for which this obligation is to be issued is estimated to be in excess of 40 years.

SECTION 3. Said indebtedness shall be evidenced by a guaranteed revenue note, designated as Township of Rush, Schuylkill County, Pennsylvania, Guaranteed Revenue Note of 1992, in fully registered form, in the principal amount of \$2,500,350, bearing interest at the rate of 1% per annum, dated as of March 11, 1992 (the "Note"), with interest only on the outstanding principal amount of said Note to be payable on the first day of each calendar month during the period beginning on the date hereof and ending November 30, 1992, and thereafter principal and interest payable in monthly installments on the first day of each calendar month during the remaining term of said Note, as set forth in the schedule attached hereto as in Exhibit "B" and hereby incorporated herein.

The Township reserves the right to prepay any or all installments of principal, together with interest thereon, at any time prior to the respective payment dates thereof, without notice or penalty.

The principal of and interest on said Note shall be payable at the office of the sinking fund depository selected for the Note as hereinafter provided or at such other office as the Township and the holder thereof shall designate.

SECTION 4. The said Note is hereby declared to be a general obligation of the Township. The Township hereby covenants that the Township shall include the amount of debt service on the Note for each fiscal year in which such sums are payable in its budget for that year; shall appropriate such amounts to the payment of such debt service; and shall duly and punctually pay or cause to be paid from its general revenues and the revenues and receipts generated from the Sewer System the principal of the Note and the interest thereon the dates and places and in the manner stated in the Note and in this ordinance according to the true intent and meaning thereof, and for such proper budgeting, appropriation, and payment, the full faith, credit and taxing power of the Township is hereby irrevocably pledged.

The Township hereby covenants to pay in each of the fiscal years the debt service set forth in Exhibit B hereof.

SECTION 5. The form of said Note shall be substantially in the form attached hereto as Exhibit "C", 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.

SECTION 6. The said 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 is hereby authorized and directed to deliver said Note to the purchaser, and receive payment therefor on behalf of the borough. 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.

For the purpose of excluding the indebtedness evidenced by the Note as self-liquidating debt, the Board of Supervisors of the Township hereby directs the firm of Entech Engineering Inc., Consulting Engineers, to prepare an engineering report in conformance with Section 206 of the Local Government Unit Debt Act, with respect to the Sewer System and the Note to be issued by the Township with respect to the Project.

SECTION 7. **Meridian Bank** is hereby designated as the Sinking Fund

Depository for the obligation herein authorized, and there is hereby created and established a sinking fund (the "Sinking Fund"), to be known as Guaranteed Revenue Note of 1992 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 obligation.

SECTION 8. The Chairman or Vice Chairman of the Board of Supervisors of the Township are hereby authorized to contract with Meridian Bank for its services as Sinking Fund Depository for the note and paying agent for the same.

SECTION 9. In compliance with Section 701 of the Act, the members of the governing body have determined that a private sale by negotiation rather than public sale is in the best interest of the Township. Therefore, the Note in the amount of \$2,500,350, herein authorized to be issued and sold is hereby awarded and sold to the PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY in accordance with its proposal to purchase the said Note at par; provided the said Note is dated May 9, 1992 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.

SECTION 10. 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.

SECTION 11. The Township hereby covenants with the owner from time to time of the Note that it will make no use of the proceeds of the Note which, if such use had been reasonably expected on the date of such Note, would have caused such Note to be an "arbitrage bond" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder, and that it will comply with the requirements of said Section and said regulations throughout the term of the Note.

SECTION 12. 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 Pennsylvania Infrastructure Investment Authority and to take such other action as may be necessary or appropriate in order to effectuate the sale, issuance,

execution and delivery of the Note.

SECTION 13. All expenses incurred in connection with the issuance of the Note are authorized to be paid upon submission of the appropriate invoices.

SECTION 14. All ordinances or parts of ordinances not in accord with this ordinance are hereby repealed insofar as they conflict herewith.

ORDAINED AND ENACTED THIS 13th day of February,
1992.

TOWNSHIP OF RUSH,
Schuylkill County, Pennsylvania

By: Ronald F. Werner
(~~Vice~~) Chairman

ATTEST:

Carl Ann Gert
(~~Assistant~~) Secretary

(SEAL)

CERTIFICATE

I, the undersigned Secretary of the Township of Rush, Schuylkill County, Pennsylvania (the "Township"), certify: that the foregoing is a true and correct copy of an Ordinance which duly was enacted by affirmative vote of a majority of all members of the Board of Supervisors of the Township at a meeting duly held on February 13, 1992; that said Ordinance duly has been recorded in the minute book of the Board of Supervisors of the Township; that said Ordinance has been published, in summary form, as required by law, on February 7, 1992, in a newspaper of general circulation published or circulating in the Township and notice of enactment of said Ordinance, setting forth matters required by law was advertised, as required by law, on February 17, 1992; and that said Ordinance is in full force and effect, without amendment, alteration or repeal, as of the date of this Certificate.

I further certify that the total number of members of the governing body of the Township is three; that the vote upon said Ordinance was called and duly recorded in the minutes of said meeting and that the members voted in the manner following:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>
<u>Ronald Warner</u>	<u>x</u>	_____	_____	_____
<u>Raymond Boyer</u>	<u>x</u>	_____	_____	_____
<u>George Pinkney</u>	<u>x</u>	_____	_____	_____

I further certify that the Board of Supervisors met the public notice requirements of Act No. 84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, by advertising the place, date and time of said meeting in a newspaper of general circulation, and by posting a notice of the place, date and time of said meeting at the meeting place of the Board of Supervisors of this Township, and by giving notice to parties upon request as required under Section 9 of said Act.

IN WITNESS WHEREOF, I affix my hand and the official seal of the Township, this 13th day of February, 1992.

(SEAL)

Carol Ann Cost
Secretary