

TOWNSHIP OF TYRONE,

Adams County, Pennsylvania

ORDINANCE NO. 2013-02

AN ORDINANCE OF THE TOWNSHIP OF TYRONE, ADAMS COUNTY, PENNSYLVANIA APPROVING AND AUTHORIZING THE INCREASE OF THE INDEBTEDNESS OF THE TOWNSHIP OF TYRONE, BY DIRECTING THE ISSUANCE OF A GENERAL OBLIGATION NOTE IN THE MAXIMUM PRINCIPAL AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) TO BE ISSUED TO SUSQUEHANNA BANK (the "PURCHASER"), PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT, TO PROVIDE INTERIM 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; (the "PROJECT"); ACCEPTING A CERTAIN PROPOSAL FOR THE PURCHASE OF SUCH NOTE (the "COMMITMENT LETTER" WHICH TERM INCLUDES ANY AMENDMENT THERETO, RESTATEMENT OR REISSUANCE THEREOF HEREAFTER MADE), AT PRIVATE SALE WHICH COMMITMENT LETTER IS HEREBY ACCEPTED AND APPROVED AND WHICH GENERAL OBLIGATION NOTE WILL BE ISSUED FOR THE PURPOSE OF INTERIM FINANCING OF THE PROJECT PENDING RECEIPT OF THE PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY ("PENNVEST") FUNDING AUTHORIZED AND APPROVED BY ORDINANCE NUMBER 2013-1; REQUIRING THE REPAYMENT OF THE OUTSTANDING PRINCIPAL OF, AND ACCRUED INTEREST ON THE INTERIM FINANCING WITH FUNDS RECEIVED FROM PENNVEST OR ANY OTHER LENDER FOR THE PROJECT; RESTATING 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 NOTE GUARANTEEING PAYMENT OF THE GENERAL OBLIGATION NOTE 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 GENERAL OBLIGATION NOTE; 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 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, upon the application to the Pennsylvania Infrastructure Investment Authority ("PENNVEST"), the Township was approved funding for and offered funding, PennVest project number 01093031201-CS; not to exceed \$1,551,149.00 for the Project, which funding was accepted by the Township contingent upon completion of conditions precedent to closing, as required by the terms thereof, and for which the Township applied for approval of the issuance of the PennVest 2013 General Obligation Note in accordance with the Act; and

WHEREAS, the Township has determined that in order to properly fund the Project, it is necessary to obtain interim funding with respect to the Project for the payment of construction costs incurred pending receipt of the PennVest financing; and

WHEREAS, the Township has determined that private sale by negotiation is in the best financial interest of the Township in regards to obtaining the interim financing; and

WHEREAS, Susquehanna Bank (the "Purchaser" or "Bank") has submitted a proposal to purchase the general obligation note, and such proposal has been duly considered, and the Township has received a commitment letter (the "Commitment Letter") from the Bank for a loan in the principal amount of \$500,000.00 for the purpose of funding the interim financing for the Project to be evidenced and secured by the Township's General Obligation Note, Series of 2013; and

WHEREAS, the Township desires to accept the proposal of the Purchaser at par with a maximum purchase price of \$500,000.00, award the general obligation note to the Purchaser, and to incur the nonelectoral debt in the maximum principal amount of \$500,000.00 in connection with the Project and pursuant to the provisions of the Act for the purpose of payment of costs and expenses related to Project and the issuance of the interim financing; and

WHEREAS, the outstanding principal of, and accrued interest on the interim financing shall be promptly repaid with the proceeds of the PennVest Funding or other permanent funding that may be acquired for the Project; and

WHEREAS, the proposed increase of debt, together with its nonelectoral 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

for that fiscal year; (iii) appropriate such amounts from its tax and other general revenues, for the payment of such debt service; (iv) duly and punctually pay or cause to be paid from the sinking fund created pursuant to Section 2.07 hereof, or any other of revenues or funds, the principal and interest on the, 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, 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 Note, when issued, will be a general obligation of this Township.

SECTION 2.04. The Township shall and does accept the proposal of the Purchaser (the "Proposal"), for purchase of the Note at par, being 100% of the principal amount thereof, with the maximum purchase price of \$500,000.00, and the Note shall be and is awarded to the Purchaser in accordance with the terms and conditions of the Proposal, at private sale by negotiation, This Township finds that a private sale by negotiation is in the best financial interest of this Township. The Note shall have a term of twenty-four (24) months, and is hereby authorized to be issued as a qualified, tax exempt general obligation with a qualified tax-exempt interest rate based upon 68% of the Wall Street Journal Prime Rate minus (-) 50 basis points which rate shall be fixed for the term five days prior to settlement, with a floor of 1.53% and a ceiling of 2.89%. The Note shall bear interest computed on the basis of an actual 360 day year for the twenty-four (24) month term. Interest only shall be payable monthly on the Note, unless the Note has been prepaid as provided for therein. On the maturity date of the Note, the outstanding principal of the Note shall be due and payable together with accrued but unpaid interest. From the date of issuance of the Note, through and including the date prior to the Note maturity date, the Township shall be able to draw down proceeds of the Note, from time to time, to finance the costs of the Project, including for capitalized interest. In accordance with Section 8142(c) of the Act, the stated maturities of the Note have been fixed so as to amortize the Note with two (2) years after the date of issuance.

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

SECTION 2.06. The Note 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 Note.

SECTION 2.07. There is created, pursuant to Section 8221 of the Act, a sinking fund for the Note, to be known as "Sinking Fund – 2013 General Obligation Note (the "Sinking Fund")", which Sinking Fund shall be administered in accordance with applicable provisions of the Act.

SECTION 2.08. The Township appoints Susquehanna Bank, Chambersburg,

WHEREAS, the Township desires to reaffirm its approval and authorization of the Project and the PennVest funding, approve and authorize the interim financing, including acceptance of the Commitment Letter, issuance of debt in a principal amount not to exceed \$500,000.00 as evidenced by its general obligation note; a proper officers and officials of, and consultants to, the Township to take action and perform such acts as are necessary and proper for the completion of the Project.

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 general obligation note of this Township (the "Note"), 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 interim financing for the 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. The Recitals to this Ordinance, including the defined terms and description of the Project are hereby incorporated herein by reference as if set out at length. The Township estimates that the Project will be completed by January 2, 2015.

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.

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 a general obligation note, in the maximum principal amount of \$500,000.00, to be designated generally as the "2013 General Obligation Note" (the "Note"), to the Purchaser, in accordance with the Act, for purposes of providing funds for and towards interim financing for the Project, and hereby determines that the debt to be incurred hereby, of which debt the Note shall be evidence, shall be new nonelectoral debt of this Township.

SECTION 2.02. The Township covenants to and with the Purchaser and such other holders, from time to time, of the Note that this Township shall do the following: (i) promptly apply funds (or so much thereof as is necessary for the repayment of the outstanding principal of, and accrued but unpaid interest on, the loan evidenced by the Note) received by the Township from PennVest or received from any other lender for the Project as funding for the costs of the Project (ii) include the amount of the debt service for the Note, for each fiscal year of this Township in which such sums are payable, in its budget

Pennsylvania (the "Bank"), as the sinking fund depository with respect to the Sinking Fund, and as Paying Agent. Appropriate officers of this Township are authorized and directed to contract with the Bank for its services as paying agent with respect to the Note and as sinking fund depository in connection with the Sinking Fund and Paying Agent in connection with the interim financing. The Sinking Fund shall be kept as a separate account by the Sinking Fund depository. The Sinking Fund depository shall, without further authorization other than as contained herein, pay from the moneys in the Sinking Fund, the monthly installments of principal and interest on the Note as and when due to the registered owner thereof.

Should the amounts covenanted to be paid into any one of the Sinking Funds be, at any time, in excess of the net amount required at such time for the payment of interest and principal, the amount covenanted to be paid may be reduced to the extent of the excess.

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 Note 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 Note, 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.

SECTION 2.12. The principal of and interest on the Note shall be payable at the principal office, or any branch office of the Purchaser, in lawful money of the United States of America.

ARTICLE III

SECTION 3.01. For the purpose of providing funds for the interim financing of the Project, and to pay related costs and expenses in connection with the issuance of the Note, this Township hereby authorizes the execution and delivery of all other agreements, documents, certificates, and related instruments necessary or appropriate to issue and

deliver the Note to the Purchaser (this Ordinance, the Note, and all other agreements, documents, certificates, and instruments to be executed and delivered concurrently with the issuance of the Note 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.

Only so much of the proceeds of the interim financing as are determined necessary by the Township in order to maintain construction of the Project will be used for Project funding pending receipt of the PennVest funding. In each instance where the PennVest funding is timely made available to the Township, proceeds of the interim financing will not be used for Project funding.

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 Note, 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 Purchaser.

SECTION 3.03. The Note 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. Upon receipt, the proceeds of the Note shall be applied by this Township under the terms and conditions set forth in the Loan Documents.

SECTION 3.05. 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. All expenses incurred in connection with the issuance of the Note shall be paid out of the proceeds derived from the issuance of the Note.

SECTION 3.06. 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 3.07. All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

SECTION 3.08. This Ordinance shall be effective in accordance with the Act.

DULY ENACTED AND ORDAINED, this ³¹ 1 day of November, 2013, by the Board of Supervisors of the Township of Tyrone, in lawful session duly assembled.

TOWNSHIP OF TYRONE,
Adams County, Pennsylvania

By: *Robert J. Diet*
Chairman or Vice Chairman of the
Board of Supervisors

ATTEST:

Donna R. Dixon
Secretary

(SEAL)