

TOWNSHIP OF JACKSON,
Cambria County, Pennsylvania

ORDINANCE NO. 165

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THIS TOWNSHIP AUTHORIZING THE ISSUANCE AND DELIVERY OF A GUARANTY AGREEMENT OF THIS TOWNSHIP WITH RESPECT TO OBLIGATIONS OF JACKSON TOWNSHIP WATER AUTHORITY (THE "AUTHORITY"), UNDER AND PURSUANT TO THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT (THE "DEBT ACT"), AS FOLLOWS: GUARANTEED PROJECT NOTE, SERIES OF 2009 (THE "NOTE"), DATED AS PROVIDED THEREIN, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$1,700,000 TO BE ISSUED TO THE FIRST NATIONAL BANK OF PENNSYLVANIA, EBENSBURG, PENNSYLVANIA (THE "BANK"), BY THE AUTHORITY, TO FUND THE COSTS OF (1) PLANNING, DESIGNING, ACQUIRING, CONSTRUCTING AND FINANCING OF CERTAIN ALTERATIONS, ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE WATER SYSTEM FACILITIES OF THE AUTHORITY (THE "WATER SYSTEM") IN THE TOWNSHIP OF JACKSON AND CERTAIN ADJOINING AREAS (COLLECTIVELY, THE "PROJECTS"); BRIEFLY DESCRIBING THE PROJECTS IN CONNECTION WITH WHICH SUCH LEASE RENTAL DEBT IS TO BE INCURRED AND SPECIFYING THE REALISTIC USEFUL LIFE OF SAID PROJECTS; AUTHORIZING AND DIRECTING THE BOARD OF SUPERVISORS OF THE TOWNSHIP AND THE SECRETARY OF THIS TOWNSHIP, AS APPROPRIATE: (A) TO PREPARE, TO CERTIFY AND TO FILE THE DEBT STATEMENT REQUIRED BY SECTION 8110 OF THE DEBT ACT, AND (B) TO CAUSE TO BE PREPARED TO FILE ANY STATEMENTS REQUIRED BY ARTICLE II OF SAID DEBT ACT THAT ARE NECESSARY TO QUALIFY ALL OR ANY PORTION OF THE LEASE RENTAL DEBT OF THIS TOWNSHIP FOR EXCLUSION FROM THE APPROPRIATE DEBT

LIMIT AS SELF-LIQUIDATING DEBT, AND (C) TO EXECUTE, TO ATTEST AND TO DELIVER, AS APPROPRIATE, A GUARANTY AGREEMENT BETWEEN THIS TOWNSHIP, AS GUARANTOR, THE AUTHORITY AND THE BANK, AS LENDER, WITH RESPECT TO THE NOTES; APPROVING THE FORM OF SAID GUARANTY AGREEMENT; SPECIFYING THE MAXIMUM AMOUNT OF THE GUARANTY OBLIGATIONS OF THIS TOWNSHIP PURSUANT TO SAID GUARANTY AGREEMENT AND THE SOURCES OF PAYMENT OF SUCH GUARANTY OBLIGATIONS, AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS TOWNSHIP OF PAYMENT OF THE PRINCIPAL OF AND INTEREST ON SAID NOTE; CREATING A SINKING FUND IN CONNECTION WITH SUCH GUARANTY OBLIGATIONS AS PROVIDED IN SUCH DEBT ACT; APPOINTING A SINKING FUND DEPOSITARY IN CONNECTION WITH SUCH GUARANTY OBLIGATIONS; PROVIDING FOR PROPER OFFICERS OF THIS TOWNSHIP TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SAID PROJECT AND SAID GUARANTY AGREEMENT; PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE; PROVIDING FOR SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR REPEAL OF ALL INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES.

WHEREAS, The Township of Jackson, Cambria County, Pennsylvania (“the Township”) is a political subdivision of the Commonwealth of Pennsylvania (the “Commonwealth”), a municipal corporation of the Commonwealth, and a “local government unit” under provisions of the Local Government Unit Debt Act, 53 Pa.C.S. Chs. 80-82 (the “Debt Act”); and

WHEREAS, Jackson Township Water Authority (the “Authority”) is a municipality authority organized by this Township and existing under and governed by the

Municipality Authorities Act, 53 Pa.C.S. Ch. 56, as amended and supplemented, of the Commonwealth (the “Authorities Act”); and

WHEREAS, The Authority and the Township have determined that the Authority shall undertake projects which consist of the following: (A) planning, designing, acquiring, constructing and financing of certain alterations, additions, extensions, and improvements to the Authority’s water system (the “Water System”) located in this Township and certain other areas; and (C) the payment of costs, fees and expenses with respect to the foregoing purposes and to the financing (collectively, the “Project”), to be financed by issuance of the Note (hereinafter defined); and

WHEREAS, The Authority has determined to proceed with the Project with proceeds of such Note (hereinafter defined).

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of this Township, as follows:

Section 1. This Township authorizes and requests the Authority to undertake and to complete the Project. This Township hereby determines to incur “debt,” as such term is defined in the Debt Act, which shall be lease rental debt of this Borough pursuant to the Debt Act, in connection with the Projects.

Such debt will constitute lease rental debt of this Township pursuant to the Debt Act, shall be evidenced by certain obligations to be issued by the Authority under the Authorities Act and shall consist of Guaranteed Project Note, in the maximum aggregate principal amount of \$1,700,000, to be known generally as the “Guaranteed Project Note, Series of 2009,” dated as provided therein (the “Note”), which Note shall have the benefit of and shall

be secured, *inter alia*, by the guaranty obligations of this Township pursuant to a Guaranty Agreement (hereinafter mentioned and identified).

Section 2. This Township specifies that the realistic useful life of the Project will be at least thirty-five (35) years.

Section 3. This Township, as guarantor, shall enter into a Guaranty Agreement (the "Guaranty Agreement"), substantially in the form referred to in this Section 3, with the Authority and First National Bank of Pennsylvania, Ebensburg, Pennsylvania (the "Bank"), as lender, under a Loan Agreement (the "Loan Agreement"), between the Authority and the Bank, which provides terms governing issuance of and security for the Note, under terms and provisions of which the Guaranty Agreement the Township shall guaranty, unconditionally for the benefit of the Bank and any other holder, from time to time, of the Note, full and prompt payment of principal and interest, from time to time, to the extent provided in the Guaranty Agreement, as such shall be due and payable with respect to the Note.

The Guaranty Agreement shall be for the life of the Note and shall set forth terms, conditions, provisions, covenants and agreements to be observed by the Township, the Authority and the Bank in relation to the Water System, as such phrase is defined in the Loan Agreement, the Project and the Note.

The Guaranty Agreement shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Guaranty Agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

Section 4. This Township shall covenant in the Guaranty Agreement and does hereby, further, covenant to and with the Authority and the Bank and any other holder, from time to time, of the Note, that this Township: (i) shall include the debt service payable in respect to its guaranty pursuant to the Guaranty Agreement, for each Fiscal Year, as that phrase is defined in the Guaranty Agreement, in which such sums shall be payable, in its budget for that Fiscal Year; (ii) shall appropriate such amounts from its general revenues for payment of its guaranty obligations under the Guaranty Agreement; and (iii) shall duly and punctually pay or cause to be paid from its sinking fund (hereinafter mentioned and identified) or any other of its revenues or funds the amount payable in respect of such guaranty, at the dates and places and in the manner stated in the Guaranty Agreement, according to the true intent and meaning thereof; and for such budgeting, appropriation and payment in respect of such guaranty, this Township shall and does pledge, irrevocably, its full faith, credit and taxing power. This covenant shall be specifically enforceable.

For the purposes of complying with the foregoing covenant, this Township covenants that it shall budget the amounts set forth in Exhibit A which is attached hereto and made part hereof, such amounts being such debt service on the Note for the Fiscal Years in which such amounts are payable; subject, however, to provisions of the Guaranty Agreement with respect to credit for certain sums that shall be available for such debt service, all as more fully set forth in the Guaranty Agreement.

Section 5. This Township shall also covenant in the Guaranty Agreement and does hereby covenant that, to the extent sufficient money shall not be available in its then current budget at any time when payments are required under the Guaranty Agreement, and if it shall be unable to incur debt lawfully in the current year for the purpose or to issue tax anticipation notes

or bonds or otherwise to satisfy its obligations under the Guaranty Agreement, it shall include any amounts so payable by it in its budget for the next succeeding Fiscal Year and shall appropriate such amounts to the payment of such obligations and duly and punctually shall pay or shall cause to be paid its obligations incurred under the Guaranty Agreement, in the manner therein stated, according to the true intent and meaning thereof and, for such budgeting, appropriation and payment, it shall and does pledge, irrevocably, its full faith, credit and taxing power. This covenant shall be specifically enforceable.

It shall be the intent and purpose of the Guaranty Agreement that this Township shall be required to pay over to the Bank only that portion of such debt service that cannot be paid from other funds available for that purpose as set forth in the Guaranty Agreement.

The phrase "Fiscal Year," as provided in the Guaranty Agreement and used in this Ordinance and in Exhibit A which is attached hereto and made a part hereof, shall mean the fiscal year of the Township.

The maximum guaranty obligations of this Township with respect to the Note, as set forth in the Guaranty Agreement in the form referred to in Section 3, which shall be payable, if and as necessary, shall be as is set forth in Exhibit A which is attached hereto and made part hereof.

The guaranty obligations of this Township as set forth in Section 4, shall be payable from the tax and other general revenues of this Township.

Section 6. This Township hereby creates and establishes a "sinking fund," as such phrase is defined or applied in the Debt Act, with respect to its obligations under the Guaranty Agreement in connection with such guaranty, and the Bank is hereby appointed "sinking fund depository" and "paying agent," as such phrases are defined or applied in the Debt

Act, with respect to the obligations of this Township under the Guaranty Agreement in connection with such guaranty.

Section 7. The Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to prepare, to certify and to file with the Pennsylvania Department of Community and Economic Development (the “Department”) the “debt statement,” as such phrase is defined in the Debt Act, required by Section 8110 of the Debt Act, in behalf of this Borough.

Section 8. The Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to prepare and to execute a “borrowing base certificate” for this Township to be appended to such debt statement, as required by the Debt Act.

Section 9. The Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to prepare and to file appropriate statements required by the Debt Act that are necessary to qualify all or any portion of the lease rental debt of this Township that is subject to exclusion as self-liquidating debt for exclusion from the appropriate debt limit as self-liquidating debt.

Section 10. Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to prepare, to attest and to deliver the Guaranty Agreement in behalf of this Township, substantially in the form approved in Section 3; subject, however, to applicable provisions of the Debt Act.

Section 11. Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to make application to the Department for approval with respect to the Guaranty Agreement, as required by Section 8111 of

the Debt Act; and in connection with such application, this Township shall pay to the Department the filing fee as required by Section 8203 of the Debt Act, as amended, the payment of which filing fee is authorized and approved.

Section 12. Chairman or Vice Chairman of the Board of Supervisors of this Township, respectively, as appropriate, are authorized and directed to contract with the sinking fund depository and paying agent for its services in connection with the sinking fund, and to execute all documents and to do all other acts as may be necessary and proper to carry out the intent and purpose of this Ordinance and the undertakings of this Township under the Guaranty Agreement.

Section 13. Reference in this Ordinance to specified officers of this Township shall include and shall be construed to include, if and as applicable, their respective successors in office.

Section 14. This Ordinance shall become effective as to indebtedness in accordance with provisions of the Debt Act.

Section 15. 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 16. All other ordinances or parts of ordinances which are inconsistent herewith shall be and the same expressly are repealed.

DULY ENACTED AND ORDAINED, this ___ day of October, 2009, by the Board of Supervisors of the Township of Jackson, Cambria County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF JACKSON,
Cambria County, Pennsylvania

By: _____
(Vice) Chairman of the Board

ATTEST:

(Assistant) Secretary

(SEAL)

EXHIBIT A

The maximum debt service on the Note, as such phrase is defined in the Ordinance to which this Exhibit A is attached (in the maximum aggregate principal amount of \$1,700,000) being issued by Jackson Township Water Authority, is as follows:

SEE ATTACHED PAGES

CERTIFICATE

I, the undersigned, Secretary of the Township of Jackson, Cambria 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 this Township in accordance with law, at a meeting duly held on _____, 2009, at which meeting a quorum was present; said Ordinance was duly approved by the Board of this Township on _____; said Ordinance has been certified and recorded by me, as Secretary, in the book provided for the purpose of such recording; said Ordinance, upon enactment, as aforesaid, was assigned Ordinance No. ____; presently, the total number of members of the Board of this Township is ____; the vote of the Board of this Township, upon enactment of said Ordinance, the yeas and nays having been called, duly was recorded by me, as Secretary, as follows:

said Ordinance has been advertised (both before and after enactment), as required by law, in a proper newspaper of general circulation in the Township; and said Ordinance has not been amended, altered or repealed, as of the date of this Certificate.

I further certify that the Board of this Township met the advance notice requirements of the Sunshine Act, Act No. 1986-84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, by advertising said meeting and by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this
_____ day of October, 2009.

(SEAL)

(Assistant) Secretary