

BOROUGH OF HIGHSPIRE
Dauphin County, Pennsylvania

No. 652 of 2023

AN ORDINANCE

OF THE COUNCIL OF THE BOROUGH OF HIGHSPIRE, DAUPHIN COUNTY, PENNSYLVANIA, AUTHORIZING AND DIRECTING THE INCURRENCE OF LEASE RENTAL DEBT IN THE PRINCIPAL AMOUNT OF TWO HUNDRED SEVENTY-FOUR THOUSAND ONE HUNDRED DOLLARS (\$274,100), PURSUANT TO THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, 53 PA.C.S., CHAPTERS 80-82, AS AMENDED, KNOWN AS THE LOCAL GOVERNMENT UNIT DEBT ACT; DETERMINING THAT SUCH DEBT SHALL BE INCURRED UNDER THE DEBT ACT AS LEASE RENTAL DEBT TO BE EVIDENCED BY A CERTAIN GUARANTY AGREEMENT OF THE BOROUGH SECURING A GUARANTEED SEWER REVENUE NOTE TO BE EXECUTED BY THE HIGHSPIRE BOROUGH AUTHORITY (THE "AUTHORITY") TO FINANCE A PROJECT FOR THE AUTHORITY CONSISTING OF (1) PLANNING, DESIGNING, ACQUIRING, CONSTRUCTING, INSTALLING, FURNISHING AND EQUIPPING OF IMPROVEMENTS TO THE SEWER SYSTEM OF THE AUTHORITY; AND (2) PAYING THE COSTS OF FINANCING OF THE NOTE; BRIEFLY DESCRIBING SUCH PROJECTS FOR WHICH SUCH DEBT IS TO BE INCURRED; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THIS BOROUGH: (A) TO PREPARE, TO CERTIFY AND TO FILE THE DEBT STATEMENT AND BORROWING BASE CERTIFICATE REQUIRED BY SECTION 8110 OF THE DEBT ACT; (B) TO CAUSE TO BE PREPARED AND FILED, STATEMENTS AND REPORTS REQUIRED BY SECTION 8026 OF THE DEBT ACT WHICH ARE NECESSARY TO QUALIFY ALL OF SUCH LEASE RENTAL DEBT FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMITS AS SELF-LIQUIDATING DEBT, IF NECESSARY OR DESIRABLE; AND (C) TO EXECUTE, TO ATTEST, TO SEAL AND TO DELIVER A GUARANTY AGREEMENT, AMONG THIS BOROUGH, THE AUTHORITY AND THE PURCHASER OF THE NOTE; SPECIFYING THE AMOUNT OF THE GUARANTY OBLIGATION OF THE BOROUGH PURSUANT TO SUCH GUARANTY AGREEMENT AND THE SOURCES OF PAYMENT OF SUCH GUARANTY OBLIGATION; AUTHORIZING THE PROPER OFFICERS OF THIS BOROUGH TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SUCH PROJECT AND THE EXECUTION AND DELIVERY OF SUCH GUARANTY AGREEMENT; PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR THE REPEALING OF ALL INCONSISTENT ORDINANCES OR RESOLUTIONS OR PARTS OF ORDINANCES.

WHEREAS, the Borough of Highspire, Dauphin County, Pennsylvania (the "Borough"), is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under provisions of the Act of the General Assembly of the Commonwealth, 53 Pa.C.S. Chapters 80-82, as amended, reenacted and supplemented, from time to time, known as the Local Government Unit Debt Act (the "Debt Act"); and

WHEREAS, the Highspire Borough Authority (the “Authority”) was incorporated by the Borough and is a body politic and corporate organized and existing under the Pennsylvania Municipality Authorities Act of May 2, 1945, P. L. 382 (the “1945 Act”), which 1945 Act is codified and continued by Act No. 22, approved on June 19, 2001, 53 Pa.C.S.A. §5601 *et seq.*, as amended and supplemented, from time to time, of the Commonwealth; and

WHEREAS, the Authority has authorized and intends to execute its Guaranteed Sewer Revenue Note in the principal amount of Two Hundred Seventy-Four Thousand One Hundred Dollars (\$274,100) (the “Note”) to the Pennsylvania Infrastructure Investment Authority (the “Purchaser”) pursuant to the provisions of a Resolution (the “Resolution”) of the Authority; and

WHEREAS, the proceeds of the Note will be applied, together with other funds available or to be available to the Authority for and towards a project (the “Project”) which consists of the following: (1) planning, designing, acquiring, constructing, installing, furnishing and equipping of improvements to the Sewer System of the Authority (the “Sewer System”); and (2) paying the costs of financing of the Note; and

WHEREAS, the Council of the Borough (the “Council”) has determined that the financing of the Project is in the best interests of the Borough and its residents; and

WHEREAS, the Borough, as an inducement to the Authority to undertake the Project and to authorize and to execute the Note, and as an inducement to the Purchaser and to assure the payment of debt service on the Note, desires to enter into a Guaranty Agreement with the Purchaser and the Authority (the “Guaranty Agreement”), all as permitted by and in accordance with the terms and conditions of the Act, wherein the Borough shall guaranty payment of the debt service on the Note.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Council of the Borough, as follows:

SECTION 1. Authorization.

The Borough authorizes and requests the Authority to undertake and proceed with the Project. The Borough hereby authorizes and approves the incurrence of Lease Rental Debt by the execution and delivery of the Guaranty Agreement in the principal amount of Two Hundred Seventy-Four Thousand One Hundred Dollars (\$274,100) and declares the Project to be a project of the Borough for which lease rental debt is to be incurred.

SECTION 2. The Project.

The Lease Rental Debt authorized to be incurred hereby is for the purpose of financing the Project. The realistic estimated useful life of the capital project to be financed with the proceeds of the Note is at least 40 years. The Borough hereby finds and certifies that realistic cost estimates have been obtained for the costs of the Project from financial analysts, registered architects, professional engineers or other persons qualified by experience to provide such estimates.

Except as permitted by the Debt Act, stated installments or maturities of principal of the Note will not be deferred beyond the later of one year after the estimated date for the completion of the construction portion of the Project, if any, or two years from the date of issuance of the Note.

SECTION 3. Debt Limitation.

The debt to be evidenced by the Guaranty Agreement shall be Lease Rental Debt of the Borough; and the Borough hereby declares that such Lease Rental Debt is within the limitations imposed by law upon the incurring of debt by the Borough.

SECTION 4. Debt Statement.

The President and Vice President of the Council of the Borough and the Secretary and Assistant Secretary of the Borough are each hereby both jointly and severally authorized and directed to prepare, certify, and file the debt statement required by Section 8110 of the Act, to execute and deliver the Guaranty Agreement (as provided below), and to take any and all other action necessary at any time or from time to time in connection with carrying out the intent of this Ordinance or necessary to comply with the Act.

SECTION 5. Guaranty Agreement.

The President or Vice President of the Council of the Borough and the Secretary or Assistant Secretary of the Borough are hereby authorized and directed to execute and deliver the Guaranty Agreement in such form as the solicitor to the Borough may advise and the officers executing the same may approve, their approval and the conclusive approval of the Borough to be evidenced by their execution thereof and to take any other actions necessary to effectuate the Project.

SECTION 6. Payments Under the Guaranty Agreement.

In the event that the Borough is obligated to make payments under the Guaranty Agreement, the amounts required to be paid thereunder, from the general revenues of the Borough, are as set forth on Exhibit "A" hereto. Exhibit "A" is incorporated herein by reference with the same force and effect as if fully set forth in the text hereof. Notwithstanding the foregoing and the payment dates shown on "Exhibit A", the Authority shall begin principal amortization of the Note and the Borough will be obligated to make payments under the Guaranty Agreement, unless otherwise approved by the Purchaser, on the earlier of (i) three (3) months after the estimated date of completion of the Project, or (ii) the first day of the calendar month following actual completion of the Project; provided however in no event will principal amortization on the Note be deferred beyond the later of two (2) years from the date of settlement on the Note or one (1) year after completion of the Project in accordance with Section 8142(c) of the Act. As of the date of this Ordinance, the projected estimated date of completion of the Project is _____. Proper officers of the Borough are hereby authorized and directed to make any payment required under the Guaranty Agreement.

SECTION 7. Covenant of Borough.

The Borough covenants that it (a) shall include the amounts payable in respect of the Guaranty Agreement for each fiscal year in which such sums are payable in its budget for that year, (b) shall appropriate such amounts from its general revenues for the payment of such payments, and (c) shall duly and punctually pay or cause to be paid from any of its revenues or funds the amount payable in respect of the Guaranty Agreement at the dates and place and in the manner stated in such Guaranty Agreement, and according to the true intent and meaning thereof. The Borough pledges its full faith, credit and taxing power for such budgeting, appropriation and payment in respect to the Guaranty Agreement. This covenant shall be specifically enforceable in accordance with the Act.

It shall be the intent and purpose of the Guaranty Agreement that the Borough shall be required to pay over to the Purchaser 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.

SECTION 8. Authorization for Self-Liquidating Debt, if Desirable.

If necessary or desirable, the President and Vice President of the Council of the Borough and the Secretary and Assistant Secretary of the Borough are each hereby, both jointly and severally, authorized to cause to be prepared and filed with the Department of Community and Economic Development of the Commonwealth of Pennsylvania, appropriate statements and reports required by Section 8026 of the Act which are necessary to qualify the Lease Rental Debt of the Borough, which is subject to exclusion of self-liquidating debt, for exclusion from the appropriate debt limits as self-liquidating debt.

SECTION 9. General Authorization.

The proper officers of the Borough are hereby authorized and directed to execute, attest and deliver any and all necessary or appropriate documents and to do any and all necessary or appropriate things in connection with the transactions hereby contemplated.

SECTION 10. Repeal of Inconsistent Ordinances.

All ordinances and resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

SECTION 11. Effectiveness of Ordinance.

This Ordinance shall become effective in accordance with the provisions of the Act.

SECTION 12. Invalidity.

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 the Borough that the remainder of the Ordinance shall remain in full force and effect.

DULY ENACTED AND ORDAINED, this ___ day of November, 2023, by the Council of the Borough of Highspire, Dauphin County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF HIGHSPIRE,
Dauphin County, Pennsylvania

By _____
Michael J. Anderson, Council President

Attest: _____
Mark L. Stonbraker, Borough Secretary

(SEAL)

APPROVED:

Von E. Hess, Mayor

EXHIBIT A

ANNUAL LEASE RENTAL PAYMENTS