

**BOROUGH OF ORWIGSBURG
SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 422

AN ORDINANCE AUTHORIZING THE BOROUGH OF ORWIGSBURG TO ENTER INTO AN AGREEMENT OF LEASE WITH THE MUNICIPAL AUTHORITY OF THE BOROUGH OF ORWIGSBURG RELATING TO THE BOROUGH SEWER SYSTEM; INCORPORATING THE FORM, TERMS AND CONDITIONS OF THE AGREEMENT OF LEASE; MAKING CERTAIN FINDINGS IN ACCORDANCE WITH THE INTERGOVERNMENTAL COOPERATION ACT; PROVIDING FOR CERTAIN REPEALERS AND VALIDITY; AND ESTABLISHING THE EFFECTIVE DATE OF THE ORDINANCE.

WHEREAS, the Authority (which capitalized word and other capitalized words, terms or phrases referred to in these recitals are defined in Section 1 hereof) has been incorporated pursuant to appropriate action of the Borough Council of the Borough, is existing under laws of the Commonwealth and is governed by the Authorities Act; and

WHEREAS, the Authority heretofore acquired and constructed the Sewer System; and

WHEREAS, it has been agreed by the Authority and Borough that the Authority shall lease the Sewer System to the Borough for operation and use; and

WHEREAS, the parties hereto desire to set forth terms and conditions under which the Sewer System is to be leased by the Authority to the Borough; and

WHEREAS, the Intergovernmental Cooperation Law (Act 177 of 1996), as amended, provides that any joint cooperation agreement shall be deemed in force to any local government unit when the same has been adopted by all cooperating government units.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, and it is hereby enacted and ordained by authority of the same as follows:

SECTION 1. Definitions. Terms and phrases defined in this Ordinance, for all purposes hereof, as herein defined, shall have the meanings herein specified, unless the context clearly otherwise requires:

(a) "Agreement of Lease" shall mean that certain Agreement of Lease with The Municipal Authority of the Borough of Orwigsburg regarding the lease of the Sewer System by the Borough from the Authority for operation and use, substantially in the form attached to this Ordinance and the terms and conditions of which are incorporated herein by reference, and

all modifications, alterations, amendments and supplements hereto made a delivered in accordance with provisions thereof and at such time constituting part thereof.

(b) “Authorities Act” shall mean the 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.

(c) “Authority” shall mean The Municipal Authority of the Borough of Orwigsburg.

(d) “Borough” shall mean the Borough of Orwigsburg.

(e) “Borough Council” shall mean the Borough Council of the Borough.

(f) “Sewer System” shall have the meaning ascribed thereto in the Agreement of Lease.

SECTION 2. Agreement of Lease. The Borough hereby approves that certain Agreement of Lease with The Municipal Authority of the Borough of Orwigsburg regarding the lease of the Sewer System by the Authority to the Borough for operation and use, substantially in the form attached to this Ordinance and the terms and conditions of which are incorporated herein by reference. The President of the Borough Council of the Borough is hereby authorized to execute and deliver the Agreement of Lease on behalf of the Borough.

SECTION 3. Findings. As required by the Intergovernmental Cooperation Law the following matters are specifically found and determined:

(a) The terms and conditions of the Agreement of Lease are set forth in the Agreement of Lease referred to in Section 2;

(b) The Borough’s participation in the Agreement of Lease shall be terminable only in accordance with the terms of the Agreement of Lease;

(c) The purpose and objectives of the Agreement of Lease are to establish the terms and conditions under which the Borough will lease the Sewer System from The Municipal Authority of the Borough of Orwigsburg; and the powers and scope of authority delegated are set forth in the Agreement of Lease;

(d) It is not necessary to finance the Agreement of Lease authorized herein from funds of this Borough;

(e) There is no entity created under the Agreement of Lease nor is there any independent organizational structure needed to implement the Agreement of Lease; and

(f) There is no real or personal property to be acquired, managed, licensed or disposed of pursuant to the Agreement of Lease other than the Sewer System.

SECTION 4. Repealer. All Ordinances or Resolutions, or parts of Ordinances and Resolutions, insofar as they are inconsistent herewith, shall be and the same are hereby repealed.

SECTION 5. Validity. If any section or part of a section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or sections of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been enacted as if such invalid section, or portion thereof, had not been included therein.

SECTION 6. Effective Date. This Ordinance shall become effective upon enactment.

DULY ADOPTED, this 8TH day of July, 2015, by the Borough Council of the Borough of Orwigsburg, in lawful session duly assembled.

ATTEST:


Secretary

BOROUGH OF ORWIGSBURG

By: _____


President of Council

APPROVED:


Mayor