

BOROUGH OF ORWIGSBURG  
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 238

AUTHORIZING THE INCURRING OF NONELECTORAL DEBT BY THE BOROUGH OF ORWIGSBURG FOR THE PURPOSE OF PROVIDING FUNDS FOR A PROJECT CONSISTING OF IMPROVEMENTS TO THE WATER SUPPLY AND DISTRIBUTION SYSTEM; DETERMINING THE AMOUNT OF DEBT TO BE INCURRED IN RESPECT OF SAID PROJECT AS \$762,000; PROVIDING FOR THE EVIDENCING OF SUCH DEBT IN RESPECT OF SUCH PROJECT BY A GENERAL OBLIGATION NOTE; DIRECTING THE ISSUANCE OF A GENERAL OBLIGATION NOTE; SERIES OF 1980, IN THE PRINCIPAL AMOUNT OF \$762,000; DECLARING THE REALISTIC ESTIMATED LIFE OF SAID PROJECT; AUTHORIZING AND DIRECTING THE PREPARATION, CERTIFICATION AND FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS OF THE DEBT STATEMENT REQUIRED BY SECTION 410 OF THE LOCAL GOVERNMENT UNIT DEBT ACT, THE BOROUGH'S BORROWING BASE CERTIFICATE AND PROCEEDINGS TO EXCLUDE THE NONELECTORAL DEBT REPRESENTED BY THE NOTE; PROVIDING FOR THE DATE, DESIGNATION, DENOMINATION, REGISTRATION, PLACE OF PAYMENT, NUMBER, MATURITY AMOUNT AND DATE, RATE OF INTEREST AND OTHER TERMS IN RESPECT OF SAID NOTE; DECLARING THAT THE NOTE SHALL BE PAYABLE OUT OF THE PROCEEDS OF A NOTE TO BE ISSUED TO THE FARMERS HOME ADMINISTRATION; ADOPTING A FORM OF NOTE; AUTHORIZING THE PROPER OFFICERS TO EXECUTE SAID NOTE; COVENANTING TO ISSUE BONDS IN THE EVENT A NOTE IS NOT ISSUED TO THE FARMERS HOME ADMINISTRATION; ESTABLISHING A CONSTRUCTION FUND; ESTABLISHING PREPAYMENT FEATURES; ASSUMING AND AGREEING TO PAY CERTAIN TAXES IF AND AS LEVIED ON THE PRINCIPAL OR INTEREST OF SAID NOTE; COVENANTING TO PAY THE DEBT SERVICE ON THE NOTE AND PLEDGING THE REVENUES OF THE WATER SYSTEM AND THE FULL FAITH, CREDIT AND TAXING POWER OF THE BOROUGH FOR THE PAYMENT THEREOF; ESTABLISHING A SINKING FUND IN RESPECT OF SUCH NOTE; PROVIDING FOR A SINKING FUND DEPOSITARY; REGISTRAR, PAYING AGENT, AND FISCAL AGENT; RESTRICTING INVESTMENT OF THE PROCEEDS OF SAID NOTE; ACCEPTING THE PROPOSAL OF PENNSYLVANIA NATIONAL BANK & TRUST CO. FOR THE PURCHASE OF THE NOTE; SETTING FORTH THE FORM OF NOTE AND REQUISITION FORM; AND REPEALING INCONSISTENT ORDINANCES.

WHEREAS, the Borough Council of the Borough of Orwigsburg (the "Borough") deems it in the best interest of the Borough that the Borough undertake a project (the "Project") consisting of improvements to the Borough water supply and distribution system, said improvements to include modifications to an existing well, improvements to the distribution system, drilling and installation of facilities for two new wells and connection of the new wells to the water system; and . . .

WHEREAS, the Borough Council proposes to undertake a financing in respect of the Project in accordance with the Local Government Unit Debt Act (the "Debt Act"), being Act No. 185 of the 1972 General Assembly of the Commonwealth of Pennsylvania, as emended and reenacted by Act No. 52 of the 1978 General Assembly of the Commonwealth of Pennsylvania; and

WHEREAS, in accordance with the Debt Act, the Borough Council has determined that the total estimated maximum cost of the Project is \$762,000; and

WHEREAS, the Borough has received a loan commitment from the United States Department of Agriculture, Farmers Home Administration in the amount of \$762,000;

NOW, THEREFORE, the Borough Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, hereby ORDAINS and ENACTS that;

Section 1. The description of the Project set forth in the recitals hereto is hereby incorporated by reference and is hereby approved as if here recited at length. The Borough Council hereby designates the Project as a project for the financing of which it desires to incur debt of the Borough.

Section 2. The realistic estimated useful life of the Project is hereby declared to be 50 years.

Section 3. For the purpose of providing funds for and toward the payment of the costs (as such term is used in the Debt Act) of the Project, the incurring of \$762,000 of nonelectoral debt by the Borough is hereby authorized. Such debt shall be evidenced by the issuance of a general obligation note of the Borough in the amount of \$762,000 in principal amount (the "Note"), such Note to be sold and delivered as hereinafter provided.

Section 4. The President and Secretary of the Borough Council or the Vice-President or the Assistant Secretary in the absence of the President or the Secretary, or any duly appointed successor, as the case may be, are hereby authorized and directed to prepare, certify and file with the Department of Community Affairs, in accordance with the Debt Act, a certified copy of the debt statement required by Section 410 of said Act; and the President and Secretary of the Borough Council or the Vice-President or Assistant Secretary in the absence of the President or Secretary, or, in the alternative, an independent certified public accountant, are hereby authorized and directed to prepare and execute a certificate stating the Borough's borrowing base, as such term is defined in the Debt Act, for submission to the Department of Community Affairs; and Gilbert Associates, Inc. is hereby authorized and requested to prepare the report required under Section 206 of the Act for the exclusion of nonelectoral debt for submission to the Department of Community Affairs.

Section 5. The Note shall be designated as the Borough's "General Obligation Note, Series of 1980," shall be registered as to principal and interest, shall be dated as of the date of issue, and shall bear interest

from such date, payable at the principal corporate trust office of the Paying Agent (as determined by Section 14 hereof) on the 15th day of each month, commencing December 15, 1980, at the rate of interest specified in Section 6 hereof. The Note shall be payable out of the proceeds of the sale of a long-term promissory note to be issued to the Farmers Home Administration (the "FmHA Note") in respect of the Project or as specified by Section 8 hereof.

Section 6. The Note shall mature upon issuance of the FmHA Note or on November 15, 1981, whichever occurs first, and shall bear interest at the rate of 7.50%.

Section 7. The form of Note shall be substantially as provided by Section 19 hereof. The Note shall be executed by the President or the Vice-President of the Borough Council, and shall have the corporate seal of the Borough of Orwigsburg affixed thereto, duly attested by the Secretary or Assistant Secretary (or any Acting Secretary appointed for such purpose) of the Borough Council. The President or Vice-President and the Secretary or Assistant Secretary (or any Acting Secretary appointed for such purpose) are further authorized and directed to deliver the Note to the Purchaser of the Note upon the terms and conditions hereinafter provided for such delivery and to execute and deliver such other documents and to take such other action as may be necessary or appropriate in order to effectuate the issuance and sale of the Note, all in accordance with this Ordinance and the Debt Act.

Section 8. The Borough hereby covenants to issue long-term general obligation bonds, revenues bonds or guaranteed revenue bonds, as appropriate (the "Bonds") if, for any reason, the Borough fails to issue the FmHA Note so that, in any event, the Note shall be paid when due. The Borough hereby covenants that it shall, if and to the extent necessary, make such pledge of its water system revenues as may be necessary or appropriate to enable

the successful sale of such Bonds. The proceeds of the sale of the Bonds will be used to retire the Note on or before its due date.

Section 9. Until disbursed as hereinafter provided, the proceeds of the Note shall be held by the Fiscal Agent provided for in Section 14 in a special account to be designated "The Borough of Orwigsburg, General Obligation Note, Series of 1980 Construction Fund" (the "Construction Fund"), which Construction Fund shall be held separate and apart from all other funds of the Borough. Monies held in the Construction Fund shall be applied exclusively toward the costs of the Project, either directly or by reimbursement to the Borough fund or funds from which monies may be or have been expended for costs of the Project, including without limitation any costs of constructing, installing and equipping the Project; amounts payable to contractors and suppliers (including fees for designing the Project where designs are provided by the contractor or supplier); costs of labor, services, materials and equipment furnished to the Borough (including shipping costs); engineering and other professional fees; costs of insurance, fees and permits and utility charges; interest on the Note; and costs of financing. Disbursements from the Construction Fund shall be made only upon receipt by the Fiscal Agent of requisitions, in substantially the form contained in Section 19 hereof, setting forth in reasonable detail the amounts to be disbursed, the payees, and the obligations in respect of which the disbursements are to be made.

Until paid out upon requisition for project costs, Note proceeds, interest or income thereon or other amounts in the Construction Fund shall be held for the benefit and security of the holder of the Note.

The Borough hereby covenants that all amounts remaining in the Construction Fund after completion of construction of the Project, including the proceeds of

the FmHA Note and any other governmental loan or grant to the extent not inconsistent with the terms of said loan or grant, shall be applied to pay principal and interest on the Note no later than November 15, 1981.

Section 10. The Note shall be subject to prepayment prior to maturity at the principal amount thereof, plus interest accrued to the prepayment date, at the option of the Borough Council in whole or in part at any time. Any prepayment shall be made only upon notice of prepayment mailed postage prepaid, at least three days before the prepayment date. If the Borough Council shall have duly mailed such notice of prepayment and shall have provided funds for the payment of the principal portion of the Note so called for prepayment and the interest thereon to the prepayment date, interest on such portion of the principal of the Note so prepaid shall cease to accrue after said prepayment date.

Section 11. The principal of and interest on the Note shall be payable without deduction of, and the Borough assumes and agrees to pay, any tax or taxes which the Borough or the Treasurer thereof may be required to pay thereon or retain therefrom under or by virtue of any present or future law of the Commonwealth of Pennsylvania, except gift, succession or inheritance taxes.

Section 12. The Borough hereby covenants with the holder from time to time of the Note outstanding pursuant to this Ordinance that it (i) shall include the amount of the debt service as specified in Section 19 hereof and incorporated herein by reference and any tax payable pursuant to Section 11 hereof on said Note for the fiscal year in which such sum is payable in its budget for that year, (ii) shall appropriate such amount from its general revenues for the payment of such debt service and taxes covenanted to be paid and (iii) shall duly and punctually pay or cause to be paid from the sinking fund established pursuant to Section 13 hereof, or any other of its

revenues or funds, the principal of the Note and the interest thereon at the date and place and in the manner stated therein, according to the true intent and meaning thereof, and for such budgeting, appropriation and payment the Borough does hereby pledge its full faith, credit and taxing power. The Borough also does hereby pledge all revenues from the water system for the payment of such debt service and taxes covenanted to be paid if and to the extent proceeds of the FmHA Note or the Bonds are insufficient to pay such debt service in full when due. As provided in the Debt Act, the foregoing covenants shall be specifically enforceable.

Section 13. There is hereby established a Sinking Fund to be known as "Sinking Fund, Borough of Orwigsburg General Obligation Note, Series of 1980," into which the Borough covenants to deposit and into which the Fiscal Agent is hereby authorized and directed to deposit, on or before the 15th day of each month, commencing December 15, 1980, from amounts available in the Construction Fund, or, if amounts available in the Construction Fund are insufficient for the purpose, from its general revenues, amounts sufficient to pay the interest due on that date and, on or before November 15, 1981, the principal on the Note as provided in Section 6 hereof. All sums in the Sinking Fund shall be applied exclusively to the payment of said principal and interest covenanted to be paid by Section 12 hereof and the taxes covenanted to be paid by Section 11 hereof on the Note as the same shall from time to time become due and payable and the balance of said money over and above the sum so required shall remain in the Sinking Fund, such balance to be applied in reduction of future required deposits or to the prepayment of the Note before maturity as provided in Section 10 hereof subject, however, to withdrawal for investment or deposit at interest as authorized by law, which investments or deposits and interest thereon shall be held exclusively

for the purposes of the Sinking Fund aforesaid. Said Sinking Fund shall be kept in a separate account at the principal office of the Sinking Fund Depository provided for in Section 14 hereof, until such time as the Borough Council by Ordinance shall provide for a similar separate account in another bank, trust company or bank and trust company located and lawfully conducting a banking or trust business in the Commonwealth of Pennsylvania. The said Sinking Fund Depository, without further authorization than is herein contained, shall pay from the moneys in the Sinking Fund the interest on and the principal of the Note, and the taxes covenanted to be paid thereon, if any, as and when the same shall become due.

Section 14. The Secretary of the Borough Council is hereby authorized and directed to contract with Pennsylvania National Bank & Trust Co., Pottsville, Pennsylvania, for its services as sinking fund depository (the "Sinking Fund Depository"), registrar (the "Registrar"), paying agent (the "Paying Agent") and fiscal agent (the "Fiscal Agent"), said Bank being hereby appointed to such positions in respect of the Borough's General Obligation Note, Series of 1980.

Section 15. The Borough hereby covenants with the holder 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 issue of such Note, would have caused such Note to be an "arbitrage bond" within the meaning of Section 103(c) of the Internal Revenue Code of 1954 and the regulations thereunder and that it will comply with the requirements of said Section and the regulations throughout the term of the Note.

Neither the Treasurer nor any other official of the Borough shall make any investment inconsistent with the foregoing covenants.

Section 16. The Note shall be sold at negotiated sale upon receipt of an acceptable proposal for the purchase thereof, which proposal shall be in compliance with provisions of the Debt Act.

Section 17. The proposal, presented to the Borough Council at a public



meeting on the date of this Ordinance, of Pennsylvania National Bank & Trust Co. (the "Purchaser"), such proposal being dated June 27, 1980 and amended August 8, 1980 and being in conformity with the requirement of Section 16 of this Ordinance for the purchase at negotiated sale of the Borough's \$762,000 General Obligation Note, Series of 1980 at a price of \$762,000 is hereby accepted and the Note is hereby awarded to the Purchaser. The Secretary of the Borough Council is hereby directed to notify the Purchaser of such action and to file a copy of said proposal with the records of the Borough. The officers of the Borough are hereby authorized to deliver the Note to the Purchaser upon receipt of the aforesaid purchase price and upon compliance with all conditions precedent to such delivery required by the Debt Act, this Ordinance and said proposal.

Section 18. The respective forms of the Note and the requisition form and the Debt Service Schedule in respect of the Note shall be substantially as follows, the terms and conditions set forth in such forms being hereby incorporated by reference and adopted as if fully recited at length herein and said forms are hereby approved:

UNITED STATES OF AMERICA  
COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF SCHUYLKILL  
THE BOROUGH OF ORWIGSBURG

GENERAL OBLIGATION NOTE, SERIES OF 1980

\$762,000

The Borough of Orwigsburg, County of Schuylkill, Pennsylvania (the "Borough"), for value received, promises to pay to Pennsylvania National Bank & Trust Co. upon surrender hereof, on November 15, 1981, unless this Note shall have been previously called for prepayment, the principal sum of Seven Hundred Sixty Two Thousand Dollars (\$762,000) and to pay interest thereon from the date hereof until maturity on the 15th of each month, commencing December 15, 1980. Interest shall be payable at the rate of 7.50%.

Principal and interest will be payable in such coin or currency of the United States of America as, at the time of payment, shall be legal tender for the payment of public and private debts. Principal shall be payable at the principal corporate trust office of Pennsylvania National Bank & Trust co., Pottsville, Pennsylvania, or at the duly designated office of any duly appointed alternate or successor paying agent. Interest shall be payable by registered mail to the registered owner hereof at its registered address. The principal of and interest on this Note shall be payable without deduction of, and the Borough assumes and agrees to pay, any tax or taxes which the Borough or the Treasurer thereof may be required to pay thereon or retain therefrom under any present or future law of the Commonwealth of Pennsylvania except gift, succession or inheritance taxes.

This Note constitutes a series, which series has been approved by the Department of Community Affairs of the Commonwealth of Pennsylvania in the principal amount of \$762,000 issued in accordance with the Local Government Unit Debt Act, Act No. 185 of the 1972 General Assembly of the Commonwealth of Pennsylvania, as amended and re-enacted by Act No. 52 of the 1978 General Assembly of the Commonwealth of Pennsylvania, and by virtue of an Ordinance of the Borough Council of The Borough of Orwigsburg duly enacted and the sworn statement of the duly authorized officers of the Borough filed with the Department of Community Affairs, to which Ordinance reference is made for a full statement of the security for and conditions upon which this Note is issued.

This Note is prepayable, without premium, at any time upon three (3) days' notice, pursuant to the provisions of the Ordinance.

No transfer of this Note shall be valid unless made at the aforesaid office of the aforesaid Paying Agent by the registered owner in person or by his duly authorized attorney and similarly noted hereon and on the Note Registry Book by said Paying Agent.

It is hereby certified that all acts, conditions and things required to be done, happen or be performed precedent to and in the issuance of this Note or in the creation of the debt of which this is evidence, have been done, happened and been performed in regular and due form and manner as required by law, and that the debt represented by this Note together with all other debt of the Borough, is not in excess of any constitutional or statutory limitation, and for the prompt payment of all the obligations of this Note the full faith, credit and taxing power of the Borough of Orwigsburg are hereby irrevocably pledged, as well as all revenues from the water system of the Borough.

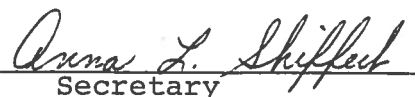
IN WITNESS WHEREOF, the Borough of Orwigsburg has caused this Note to be signed in its name by the President or Vice-President of the Borough Council and its corporate seal to be hereunto affixed, duly attested by the Secretary or Assistant Secretary of the Borough.

Dated Sept. 30, 1980

THE BOROUGH OF ORWIGSBURG

By   
President-Borough Council

ATTESTING to the seal  
of the Borough

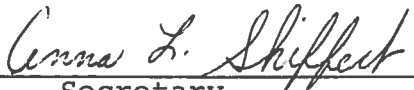
  
Secretary

DULY ENACTED AND ORDAINED this 30th day of September , 1980,  
by the Council of the Borough of Orwigsburg, Schuylkill County, Pennsyl-  
vania, in lawful session duly assembled.

BOROUGH OF ORWIGSBURG  
SCHUYLKILL COUNTY, PENNSYLVANIA

BY:   
President of Council

ATTEST:

  
Secretary