

**TOWNSHIP OF BETHEL,
Berks County, Pennsylvania**

ORDINANCE NO. 2007-04

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THIS TOWNSHIP DETERMINING TO INCUR DEBT; DETERMINING THAT THE MAXIMUM PRINCIPAL AMOUNT OF SUCH DEBT SHALL BE \$1,000,000; DETERMINING THAT SUCH DEBT SHALL BE INCURRED AS LEASE RENTAL DEBT TO BE EVIDENCED BY A GUARANTEED \$1,000,000 NOTE - SERIES OF 2007, DATED AS PROVIDED THEREIN, IN THE MAXIMUM PRINCIPAL AMOUNT OF ONE MILLION DOLLARS (\$1,000,000), TO BE AUTHORIZED AND TO BE ISSUED BY BETHEL TOWNSHIP MUNICIPAL AUTHORITY IN CONNECTION WITH: (1) A CAPITAL PROJECT THAT CONSISTS OF, *INTER ALIA*, PLANNING, DESIGNING, ACQUIRING AND/OR CONSTRUCTING SANITARY SEWAGE COLLECTION, TRANSMISSION, TREATMENT AND DISPOSAL SYSTEM FACILITIES REQUIRED FOR RENDERING SANITARY SEWAGE SERVICE TO CERTAIN PORTIONS OF THIS TOWNSHIP; (2) A REFUNDING PROJECT THAT CONSISTS OF CURRENTLY REFUNDING SAID AUTHORITY'S GUARANTEED \$750,000 NOTE - SERIES OF 2003 AND GUARANTEED \$250,000 NOTE - SERIES OF 2007; AND (3) PAYING COSTS, FEES AND EXPENSES WITH RESPECT TO THE FOREGOING PURPOSES AND THE FINANCING; APPROVING THE FORM OF A GUARANTY AGREEMENT TO BE ENTERED INTO IN CONNECTION WITH SUCH LEASE RENTAL DEBT AND AUTHORIZING AND DIRECTING PROPER OFFICERS OF THIS TOWNSHIP TO EXECUTE, TO ATTEST AND TO DELIVER SAID GUARANTY AGREEMENT; SPECIFYING THE MAXIMUM AMOUNTS 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 IN SUPPORT THEREOF; CREATING A SINKING FUND AND APPOINTING A SINKING FUND DEPOSITORY IN CONNECTION WITH

SUCH GUARANTY OBLIGATIONS; PROVIDING FOR PROPER OFFICERS OF THIS TOWNSHIP TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION AND TO EXECUTE AND DELIVER ALL OTHER REQUIRED, NECESSARY OR DESIRABLE DOCUMENTS; 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, Township of Bethel, Berks County, Pennsylvania (the "Township"), is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth"), and is a "local government unit" under provisions of the Local Government Unit Debt Act of the Commonwealth, 53 Pa.C.S. Chs. 80-82 (the "Act"); and

WHEREAS, Bethel Township Municipal Authority (the "Authority") is a municipality authority existing and governed under the Municipality Authorities Act, 53 Pa. C.S. Ch. 56, as amended and supplemented (the "Authorities Act"), of the Commonwealth; and

WHEREAS, The Authority and this Township heretofore determined that the Authority shall undertake a capital project (the "Capital Project") which consists of, *inter alia*, planning, designing, acquiring and/or constructing sanitary sewage collection, transmission, treatment and disposal system facilities required for rendering sanitary sewage service to portions of this Township (the "Sewer System"), to be financed in part by issuance of the Note (hereinafter defined); and

WHEREAS, The Authority heretofore lawfully incurred certain debt in connection with the Capital Project and the Sewer System; and

WHEREAS, Such existing debt of the Authority is evidenced by, *inter alia*, the Authority's Guaranteed \$750,000 Note – Series of 2003 (the "2003 Note") and the Authority's

Guaranteed \$250,000 Note – Series of 2007 (the “2007 Note”) (collectively, the “Existing Notes”);
and

WHEREAS, The 2003 Note constitutes lease rental debt of this Township evidenced by a Guaranty Agreement, dated as of October 1, 2003, heretofore approved, pursuant to the Act, by the Department of Community and Economic Development (the “Department”) of the Commonwealth; and

WHEREAS, The 2007 Note constitutes lease rental debt of this Township evidenced by a Guaranty Agreement, dated as of January 1, 2007, heretofore approved, pursuant to the Act, by the Department; and

WHEREAS, The Authority and this Township have obtained realistic cost estimates through actual bids (or otherwise) and have determined that the costs of the Capital Project, as such costs are defined in the Act, to be financed, will be at least Two Hundred Fifty Thousand Dollars (\$250,000); and

WHEREAS, The Authority and this Township have determined to currently refund and retire the Existing Notes (the “Refunding Project”) upon issuance of the Note (hereinafter defined).

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, 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 Capital Project and the Refunding Project.

SECTION 2. This Township determines to incur debt, as such term is defined in the Act, as “lease rental debt”, as such phrase is defined in the Act, in connection with the Capital Project and the Refunding Project.

SECTION 3. Such debt, which shall be incurred as such lease rental debt, shall be in the maximum principal amount of \$1,000,000, shall be evidenced by a certain obligation to be issued by the Authority under the Authorities Act and shall consist of a guaranteed note, to be known generally as the "Guaranteed \$1,000,000 Note - Series of 2007", dated as provided therein (the "Note"), which shall have the benefit of and shall be secured by, *inter alia*, the guaranty obligations of this Township pursuant to the Guaranty Agreement (hereinafter mentioned and identified).

SECTION 4. This Township specifies that the realistic estimated useful life of the Sewer System, including the Capital Project, is at least thirty-five (35) years. The Refunding Project is being undertaken pursuant to §8241(b)(4) of the Act.

SECTION 5. This Township, as guarantor, shall enter into a Guaranty Agreement, dated as of August 1, 2007 (the "Guaranty Agreement"), substantially in the form referred to in Section 6, with the Authority and First National Bank of Fredericksburg (the "Bank"), Fredericksburg, Pennsylvania, as lender under a Loan Agreement, dated as of August 1, 2007 (the "Loan Agreement"), between the Authority and the Bank, with respect to the Refunding Project and the Capital Project and the Note, under terms and provisions of which Guaranty Agreement, *inter alia*, this Township shall guaranty, unconditionally, for the benefit of the holders, from time to time, of the Note, full and prompt payment of the principal of the Note, in the maximum principal amount of \$1,000,000, together with interest on said principal of the Note, at the fixed rate of 3.75% per annum, 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 this Township, the Authority

and the Bank in relation to the Sewer System, as such phrase is defined in the Guaranty Agreement, the Capital Project and the Refunding Project and the Note.

SECTION 6. 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 or Assistant Secretary of this Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

SECTION 7. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of this Township, as applicable, are authorized and directed to prepare, to certify and to file the debt statement, as such phrase is defined in the Act, on behalf of this Township, as required by Section 8110 of the Act.

Proper officers of this Township are authorized and directed to prepare and to execute an appropriate borrowing base certificate for filing with the Department, as required by the Act.

SECTION 8. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of this Township, as applicable, are authorized and directed to prepare and to file appropriate statements required by Chapter 80, Subchapter B of the 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 9. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of this Township, as applicable, are authorized and directed to

execute, to attest and to deliver the Guaranty Agreement, on behalf of this Township, substantially in the form approved in Section 6; Subject, however, to applicable provisions of the Act.

SECTION 10. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of this Township, as applicable, are authorized and directed to make application to the Department for approval with respect to the Guaranty Agreement, as required by Section 8111(b) of the Act; and in connection with such application, this Township shall pay or shall cause to be paid to the Department any filing fees required by the Department, the payment of which filing fees are authorized and approved.

SECTION 11. The guaranty obligations of this Township, with respect to the Note, as set forth in the Guaranty Agreement in the form referred to in Section 6, which shall be payable, if and as necessary, shall be as are set forth in Exhibit A which is attached hereto and made part hereof.

The phrase "Fiscal Year", as provided in the Guaranty Agreement, as used in such Exhibit A, shall mean the fiscal year of this Township.

SECTION 12. The guaranty obligations of this Township, as set forth in Section 11, shall be payable from the tax and other general revenues of this Township.

SECTION 13. This Township shall covenant in the Guaranty Agreement and does hereby covenant to and with the Bank and any subsequent holder and/or registered owner, as appropriate, from time to time, of the Note that this Township shall do the following: (1) include the amounts payable in respect of its guaranty pursuant to the Guaranty Agreement, for each Fiscal Year, as such phrase is defined in the Guaranty Agreement, in which such sums are payable, in its budget for that Fiscal Year; (2) appropriate such amounts from its general revenues for the payment of such guaranty; and (3) duly and punctually pay or cause to be paid from its sinking fund

(hereinafter referred to) or any other of its revenues or funds the amount payable in respect of such guaranty, at the dates and place and in the manner provided 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. The foregoing covenant of this Township shall be specifically enforceable.

For the purpose 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 maximum amounts payable with respect to the Note for the Fiscal Years in which such amounts are payable, and shall appropriate and shall pay over to the Bank such amounts; Subject, however, to provisions of the Guaranty Agreement with respect to credit for certain sums that shall be available for such amounts payable, all as more fully set forth in the Guaranty Agreement.

This Township also shall 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 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.

This Township hereby establishes a "sinking fund", as such phrase is defined or applied in the Act, as amended and supplemented from time to time, with respect to its obligations

under the Guaranty Agreement with respect to such guaranty, and First National Bank of Fredericksburg, Fredericksburg, Pennsylvania, is hereby appointed "sinking fund depository" and "paying agent", as such phrases are defined or applied in the Act, as amended and supplemented, from time to time, to the extent necessary with respect to obligations of this Township under the Guaranty Agreement with respect to such guaranty.

SECTION 14. Proper officers of this Township are authorized and directed 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 15. 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 16. This Ordinance shall become effective in accordance with provisions of the Act.

SECTION 17. 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 18. All other ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

DULY ENACTED AND ORDAINED, this 20th day of August, 2007, by the Board
of Supervisors of the Township of Bethel, Berks County, Pennsylvania, in lawful session duly
assembled.

TOWNSHIP OF BETHEL,
Berks County, Pennsylvania

By: Randall H. Henry
Chairman of the Board of Supervisors

ATTEST:

Joyce S. Smith
Secretary

(SEAL)

TOWNSHIP OF BETHEL,
Berks County, Pennsylvania

EXHIBIT A

The maximum amounts to be budgeted by the Township of Bethel, Berks County, Pennsylvania, for the purpose of fulfilling its obligations as described in the Guaranty Agreement referred to in the Ordinance, to which this is attached, shall be as follows:

<u>Fiscal Year</u>	<u>Amount</u>
2007	\$ 3,125
2008	\$1,028,125.
