

TOWNSHIP OF UPPER BERN

Berks County, Pennsylvania

ORDINANCE NO. 15

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF UPPER BERN, BERKS COUNTY, PENNSYLVANIA, AUTHORIZING AND DIRECTING ISSUANCE OF A GENERAL OBLIGATION NOTE OF THIS TOWNSHIP, IN THE PRINCIPAL AMOUNT OF \$25,000, PURSUANT TO THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, APPROVED JULY 12, 1972, ACT NO. 185, AS AMENDED AND SUPPLEMENTED; DETERMINING THAT SUCH DEBT SHALL BE NONELECTORAL DEBT OF THIS TOWNSHIP; DESCRIBING THE PROJECT FOR WHICH SAID DEBT IS TO BE INCURRED AND SPECIFYING A REASONABLE ESTIMATE OF THE USEFUL LIFE OF SUCH PROJECT; ACCEPTING A BID FOR PURCHASE OF SAID NOTE, AT PRIVATE SALE, AND AWARDING SUCH NOTE AND SETTING FORTH RELATED PROVISIONS; PROVIDING THAT SUCH NOTE, WHEN ISSUED, SHALL BE A GENERAL OBLIGATION NOTE OF THIS TOWNSHIP; FIXING THE SUBSTANTIAL FORM, DATE, MATURITY DATE, INTEREST RATE, INTEREST PAYMENT DATES, REGISTRATION PRIVILEGES, PREPAYMENT PROVISIONS, PLACE OF PAYMENT OF PRINCIPAL AND INTEREST AND TAX FREE PROVISIONS OF SUCH NOTE; AUTHORIZING EXECUTION AND ATTESTATION OF SUCH NOTE; PROVIDING COVENANTS RELATED TO DEBT SERVICE APPLICABLE TO SUCH NOTE AS REQUIRED BY SUCH ACT AND THE PENNSYLVANIA CONSTITUTION AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS TOWNSHIP IN SUPPORT THEREOF; CREATING A SINKING FUND IN CONNECTION WITH SUCH NOTE AS REQUIRED BY SUCH ACT; APPOINTING A SINKING FUND DEPOSITARY; PROVIDING A COVENANT TO INSURE PROMPT AND FULL PAYMENT OF ALL OBLIGATIONS OF SUCH NOTE WHEN DUE; AUTHORIZING AND DIRECTING

SPECIFIED OFFICERS OF THIS TOWNSHIP TO DO AND PERFORM CERTAIN SPECIFIED, REQUIRED OR APPROPRIATE ACTS AND THINGS; SETTING FORTH THAT SUCH NOTE HAS BEEN SOLD AT PRIVATE SALE; DECLARING THE DEBT TO BE INCURRED IS WITHIN THE LIMITATION IMPOSED BY SUCH ACT UPON THE INCURRING OF DEBT BY THIS TOWNSHIP; SETTING FORTH CERTAIN COVENANTS RELATING TO THE NON-ARBITRAGE STATUS OF SUCH NOTE; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INsofar AS THE SAME SHALL BE INCONSISTENT HERewith.

WHEREAS, The Township of Upper Bern, Berks County, Pennsylvania (the "Township") is a municipality existing under laws of the Commonwealth of Pennsylvania and is a Local Government Unit, as defined in the Local Government Unit Debt Act, Act No. 185 of 1972, approved July 12, 1972, as amended, of the Commonwealth of Pennsylvania (the "Act"); and

WHEREAS, The Township has determined to purchase certain land, with an existing building thereon, located within the Township and to modify, construct, alter, partition and otherwise improve the same to make said building adaptable for use as a town hall for township purposes (the "Project"); and

WHEREAS, The Township has obtained realistic cost estimates of the Project through actual bids or professional estimates from

registered architects or professional engineers, and has determined that costs of the Project, as such costs are defined in Section 107 of the Act will be \$25,000; and

WHEREAS, The Township has determined to finance the costs of the Project by issuance of a general obligation note, to be sold at private sale; and

WHEREAS, a proper written and sealed private bid has been requested from and received from Hamburg Savings and Trust Company (the "Purchaser"), Hamburg, Pennsylvania, which bid was accompanied by bid security in the form and amount required by law; and

WHEREAS, The Township desires to accept the bid of the Purchaser, to award the Note (hereinafter defined) to the Purchaser and to incur nonelectoral debt, in the principal amount of \$25,000, in connection with the Project, pursuant to the Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of this Township, as follows:

SECTION 1. The Board of Supervisors of this Township does authorize and direct the issuance of a general obligation note of this Township, pursuant to this Ordinance, in the principal amount of \$25,000, to be designated generally as a "General Obligation Note"

(the "Note"), in accordance with the Act, to provide funds for and towards costs of the Project.

SECTION 2. The Board of Supervisors determines that the debt, of which the Note shall be evidence, to be incurred pursuant to this Ordinance shall be non-electoral debt of the Township.

SECTION 3. A brief description of the Project for which debt, of which the Note shall be evidence, to be incurred, hereinbefore is set forth.

The realistic estimated useful life of the Project is 30 years.

SECTION 4. The Board of Supervisors accepts the bid of the Purchaser to purchase the Note; and the Note is awarded to the Purchaser, in accordance with terms and conditions of its bid, at a dollar price of \$25,000 (100% of principal amount), the Purchaser having submitted such bid in accordance with provisions of the Act. The bid security accompanying such bid of the Purchaser shall be held and shall be applied as provided by the Act; Provided, however, that no allowance for interest shall be made by the Township with respect to such bid security, except as provided by the Act.

SECTION 5. The Note when issued, will be a general obligation note of the Township.

SECTION 6. The Note shall be fully registrable in form, shall be in the denomination of \$25,000, shall bear interest on the unpaid principal balance from the date of issuance at the rate of 4 3/4% per annum, payable semiannually from the date of issuance thereof until payment of the principal amount thereof.

SECTION 7. Payment of minimum installments of principal on the Note shall be due on the anniversary dates from the date of issuance as follows:

<u>Calendar Year</u>	<u>Minimum Installments of Principal Due</u>
1976	\$4,375
1977	4,750
1978	5,000
1979	5,250
1980	5,625

Prepayment of any installment of principal on the Note may be made on any interest payment date, at the option of the Township, in whole or in part, together with accrued interest on any such prepayments to the date of prepayment, without any premium or penalty being payable by the Township on account of any such prepayment.

SECTION 8. The principal of and interest on the Note shall be payable at the principal office of Hamburg Savings and Trust Company, in the Borough of Hamburg, Berks County, Pennsylvania, in lawful moneys of the United States of America, without deduction of any tax or taxes now or hereafter levied or assessed thereon under any present or future law of the Commonwealth of Pennsylvania (the "Commonwealth"), which tax or taxes the Township assumes and agrees to pay; Provided, however, that the foregoing shall not be applicable to gift, estate or inheritance taxes or to other taxes not levied or assessed directly on the Note or the interest paid thereon.

SECTION 9. The form of the Note, including the form of registration and form of payment record, shall be substantially as follows:

(FORM OF GENERAL OBLIGATION NOTE)

TOWNSHIP OF UPPER BERN
BERKS COUNTY, PENNSYLVANIA

The TOWNSHIP OF UPPER BERN, Berks County, Pennsylvania (the "Township"), a municipality existing under laws of the Commonwealth of Pennsylvania, for value received, hereby acknowledges itself indebted to and promises to pay to Hamburg Savings and Trust Company, Hamburg, Pennsylvania, upon surrender hereof, the principal sum of Twenty-five Thousand Dollars (\$25,000), with minimum installments upon said principal sum to be paid as follows:

- \$4,375 - payable on or before 1 year from the date of issuance hereof
- \$4,750 - payable on or before 2 years from the date of issuance hereof
- \$5,000 - payable on or before 3 years from the date of issuance hereof
- \$5,250 - payable on or before 4 years from the date of issuance hereof
- \$5,625 - payable on or before 5 years from the date of issuance hereof

and to pay interest on the unpaid principal balance hereof, at the rate of 4 3/4% per annum, payable semiannually from the date of issuance hereof until payment of the principal amount hereof.

The Township shall have the right to pay installments of principal, in any amount on any interest payment date, in addition to annual installments required in accordance with the above schedule, without penalty or premium.

Installments of principal of and interest on this general obligation note (the "Note") shall be payable at the principal office of Hamburg Savings and Trust Company (the "Paying Agent"), in the Borough of Hamburg, Berks County, Pennsylvania, in such coin or currency as at the respective dates of payment thereof shall be legal tender for the payment of public or private debts at the place or places of payment. Installments of principal of and interest on this Note shall be payable without deduction of any tax or taxes now or hereafter levied or assessed on this Note under any present or future law of the Commonwealth of Pennsylvania, except underwriting profits or gift, succession or inheritance taxes or any other taxes not levied directly on this Note, the receipt of the income therefrom or the realization of gains on the sale thereof.

This Note is issued in accordance with provisions of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved July 12, 1972, Act No. 185, as amended and supplemented, known as the "Local Government Unit Debt Act" (the "Act"), and by virtue of a duly enacted Ordinance of the Township.

It is hereby certified that: (i) all acts, conditions and things required to be done, to happen or to be performed as conditions precedent to and in issuance of this Note or in creation of the debt of which this Note is evidenced have been done, have happened or have been performed in due and regular form and manner, as required by law; and (ii) the incurring of debt represented by this Note is within the limitations imposed by the Act upon the incurring of debt by the Township.

This Township does hereby covenant with the holder of this Note that it shall include the amount of the debt service on this Note for each fiscal year in which such sums are payable in its budget for said year, shall appropriate such amounts to the payment of such debt service, and shall duly and punctually pay or cause to be paid all installments of principal and interest thereon on the dates and at the place and in the manner stated herein, according to the true intent and meaning hereof, and for such budgeting, appropriation and payment, this Township does hereby pledge its full faith, credit and taxing power.

IN WITNESS WHEREOF, the TOWNSHIP OF UPPER BERN, Berks County, Pennsylvania, has caused this Note to be signed in its name

and in its behalf by the Chairman or Vice Chairman of the Board of Supervisors, and its official seal to be affixed hereunto and attested by the Secretary or Assistant Secretary of the Township, all as of the day of , 1975.

TOWNSHIP OF UPPER BERN,
Berks County, Pennsylvania

BY: _____
Chairman of Board of
Supervisors

ATTEST:

Secretary

(SEAL)

PAYMENT RECORD

Due Date of Minimum Installment of Principal and of Semi-annual Installment of Interest	Amount of Minimum Installment of Principal Paid	Amount of Accrued Interest Paid	Amount of Principal Prepaid	Amount of Principal Remaining Unpaid	Signature of Authorized Officer of the Paying Agent; Date
1975					
1976	\$4,375				
1977	\$4,750				
1978	\$5,000				
1979	\$5,250				
1980	\$5,625				

SECTION 10. The Note shall be executed in the name of and in behalf of the Township by the manual signature of the Chairman or Vice Chairman of the Board of Supervisors, and the official seal of this Township shall be affixed thereunto and the manual signature of the Secretary or Assistant Secretary of this Township shall be affixed thereunto in attestation thereof; and said officers are authorized to execute and to attest, as applicable, the Note.

SECTION 11. The Township covenants to and with the registered owner, from time to time, of the Note, pursuant to this Ordinance, that the Township shall include the amount of the debt service, for each fiscal year of the Township in which such sums are payable, in its budget for that fiscal year, shall appropriate such amounts to the payment of such debt service and duly and punctually shall pay or shall cause to be paid the principal of the Note and the interest thereon at the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, the Township shall and does pledge, irrevocably, its full faith, credit and taxing power. As provided in the Act, the foregoing covenant of the Township shall be enforceable specifically.

SECTION 12. There is created, pursuant to Section 1001 of the Act, a sinking fund for the Note, to be known as "Sinking Fund -

General Obligation Note", which sinking fund shall be administered in accordance with applicable provisions of the Act.

SECTION 13. The Township appoints Hamburg Savings and Trust Company, having its principal office in the Borough of Hamburg, Berks County, Pennsylvania, as the sinking fund depository with respect to the sinking fund created pursuant to Section 12.

SECTION 14. The Township covenants to make payments out of the sinking fund created pursuant to Section 12 or out of any other of its revenues or funds, at such times and in the following annual amounts, as shall be sufficient for prompt and full payment of all obligations of the Bond when due:

<u>Fiscal Year Ending December 31</u>	<u>Amount</u>
1975	\$ 593.75
1976	5,458.59
1977	5,616.87
1978	5,635.31
1979	5,641.87
1980	5,758.59

SECTION 15. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary, respectively, of this Township, which shall include their duly qualified successors in office, if applicable, are authorized and directed: (a) to prepare,

to certify and to file with the Pennsylvania Department of Community Affairs (the "Department"), the debt statement required by Section 410 of the Act; (b) to prepare and to file the application with the Department, together with a complete and accurate transcript of the proceedings relating to the incurring of debt, of which debt the Note, upon issue, will be evidence, as required by Section 411 of the Act; (c) to pay or cause to be paid to the Department all proper filing fees required by the Act in connection with the foregoing; and (d) to take other required, necessary and/or appropriate action.

SECTION 16. The Note has been sold, as set forth in this Ordinance, at private sale, as permitted by the Act.

SECTION 17. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary or Assistant Secretary of the Township, respectively, of this Township are authorized and directed to contract with Hamburg Savings and Trust Company for its services as sinking fund depositary in connection with the sinking fund created pursuant to Section 12 and as paying agent in connection with the Note.

SECTION 18. It is declared that the debt to be incurred hereby is within the limitation imposed by the Act upon the incurring of debt by this Township.

SECTION 19. The Secretary or Assistant Secretary of the Township is authorized and directed to deliver the Note, upon execution and attestation thereof as provided for herein, to the Purchaser, but only upon receipt of proper payment of the balance due therefor, and only after the Department has certified its approval pursuant to Section 804 of the Act or its approval shall have been deemed to have been given pursuant to Section 806 of the Act.

SECTION 20. The Township covenants to and with the Purchaser of the Note that it will make no use of the proceeds of the Note which, if such use reasonably had been expected on the date of issue of such Note, would have caused the Note to be an arbitrage bond or note; and the Township further covenants to comply with the requirements of Section 103(d) of the Internal Revenue Code, as amended, the temporary regulations, as modified, or with such regulations as finally adopted, or with other regulations implementing said Section 103(d), if and to the extent applicable, during the term of the Note.

SECTION 21. 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 Township that such remainder shall be and shall remain in full force and effect.

SECTION 22. All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

SECTION 23. This Ordinance shall be effective in accordance with Section 103 of the Act.

DULY ENACTED AND ORDAINED, this 6 day of May, 1975, by the Board of Supervisors of the Township of Upper Bern, Berks County, Pennsylvania, in lawful session duly assembled.

ATTEST:

TOWNSHIP OF UPPER BERN,
Berks County, Pennsylvania

Thomas J. [unclear]
Secretary

BY: Leuter J. [unclear]
Chairman of Board of
Supervisors

(SEAL)

CERTIFICATE

I, the undersigned, Secretary of the Township of Upper Bern, Berks County, Pennsylvania (the "Township"), certify that the foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which was duly enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township at a meeting duly held on May 6, 1975; that said Ordinance has been duly recorded in the Ordinance Book of the Township; that said Ordinance has been published in summary form as required by law on _____, 1975, in the _____, a newspaper of general circulation published or circulating in the Township and notice of enactment of said Ordinance, setting forth matters required by law was advertised, as required by law, in the _____ on _____ 1975; and that said Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the total number of members of the Board of Supervisors is three (3); the vote of members of the Board of Supervisors of the Township upon said Ordinance duly was called and recorded upon the minutes of said meeting and that members of the Board of Supervisors voted upon said Ordinance in the following manner:

Lester L. Feick -
Floyd A. Huber -
Franklin J. Borkey, Sr. -

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 6 day of May, 1975.

Franklin J. Borkey, Sr.
Secretary

(SEAL)