

ORDINANCE No. 2009-3  
OF THE BOARD OF SUPERVISORS  
OF THE TOWNSHIP OF LOWER OXFORD,  
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE THAT AUTHORIZES THE INCURRENCE OF NON-ELECTORAL DEBT BY THE TOWNSHIP OF LOWER OXFORD (THE "PARTICIPANT" OR THE "TOWNSHIP") PURSUANT TO THE ISSUANCE OF THE GENERAL OBLIGATION NOTES, 2009 SERIES (THE "2009 NOTES") IN THE AGGREGATE PAR AMOUNT OF \$1,500,000 AND APPROVES CERTAIN CAPITAL PROJECTS; APPROVES THE NEGOTIATED SALE OF THE 2009 NOTES TO THE DELAWARE VALLEY REGIONAL FINANCE AUTHORITY; APPROVES THE SUBSTANTIAL FORMS OF THE LOAN DOCUMENTS AND AUTHORIZES EXECUTION AND DELIVERY OF ALL NECESSARY DOCUMENTS; STATES THE AMORTIZATION SCHEDULE AND MAXIMUM ANNUAL DEBT SERVICE PAYMENTS; AUTHORIZES AND AWARDS A TRANSACTION UNDER A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT AND AUTHORIZES AND DIRECTS A FILING TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; PLEDGES THE FULL FAITH, CREDIT, AND TAXING POWER OF THE TOWNSHIP FOR THE TIMELY REPAYMENT OF THE 2009 NOTES, INCLUDING THE REGULARLY SCHEDULED PAYMENTS DUE UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT; COVENANTS TO PAY ANY TERMINATION CHARGES; CREATES AND APPOINTS A SINKING FUND DEPOSITORY; AUTHORIZES THE APPLICATION FOR APPROVAL OF THE ISSUANCE OF THE 2009 NOTES TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; AUTHORIZES ADVERTISEMENT OF ENACTMENT; AND REPEALS INCONSISTENT ORDINANCES.

WHEREAS, certain capital projects (collectively, the “2009 Project”), consisting of (i) the purchase of agricultural, farmland, and open space easements to preserve open space and (ii) the payment of the costs of issuance of the 2009 Notes, will benefit the health and welfare of the residents of the Township of Lower Oxford; and

WHEREAS, the Township has obtained preliminary cost estimates for the 2009 Project from persons qualified by experience; and

WHEREAS, the incurrence of non-electoral debt by the Township is necessary to fund the 2009 Project; and

WHEREAS, the electorate of the Township of Lower Oxford has approved, in a referendum held on November 3, 2003, the imposition of an additional earned income tax (the “Open Space Tax”) in the aggregate amount of 0.50%, pursuant to the *Open Space Lands Acquisition and Preservation Act, 32 P.S. §5001, et seq.*, to be used to retire the indebtedness incurred in purchasing interests in real property or in making additional acquisitions of real property for the purpose of securing an open space benefit or benefits; and

WHEREAS, the Board of Supervisors imposed the Open Space Tax at the rate of 0.50% effective January 1, 2004; and

WHEREAS, the Participant expects that the revenues received from the Open Space Tax (collectively, the “Open Space Tax Revenues”) will be sufficient to pay the debt service of the 2009 Notes; and

WHEREAS, the 2009 Project shall be for the benefit and use of the general public, and no private party shall have any special legal entitlement to the beneficial use of the 2009 Project, through a lease, management contract, or any other arrangement that would result in a private business use under the *Internal Revenue Code*; and

WHEREAS, the proposed increase of non-electoral debt from the issuance of the 2009 Notes, together with the non-electoral and lease rental debt presently outstanding, will not cause the constitutional or statutory debt limitations of the Township to be exceeded; and

WHEREAS, the Delaware Valley Regional Finance Authority (“DelVal”), a public authority within the meaning of the *Local Government Unit Debt Act, 53 Pa. C.S.A. §8001, et*

*seq* (the “*Debt Act*”), has from time to time issued Local Government Revenue Bonds (the “DelVal Bonds”), to provide funds for loans to be secured by the pledge of the full faith, credit and taxing power of local government units (the “Loan Program”); and

WHEREAS, DelVal has from time to time entered into interest rate swap agreements related to the DelVal Bonds (collectively, the “DelVal Swap Agreement”) in order to provide a more cost effective Loan Program and to allow participants in the Loan Program to manage interest rate risk more efficiently; and

WHEREAS, Calhoun, Baker Inc. (the “Financial Advisor”) is an “Independent Financial Advisor”, as such term is defined in the *Debt Act*, to DelVal, and the Financial Advisor has prepared an “Interest Rate Management Plan” (the “DelVal Plan”), as such term is defined in the *Debt Act*, that has been adopted by the Board of DelVal; and

WHEREAS, DelVal established minimum criteria of long term, senior, unsecured debt ratings of “Aa3” or higher by Moody’s Investors Service or “AA-” or higher by Standard & Poor’s for any counterparty to the DelVal Swap Agreement, and the Board of DelVal found that the award of transactions under the DelVal Swap Agreement by negotiation in a private sale was in the best financial interests of DelVal and the participants in the Loan Program, and the Financial Advisor concluded that the financial terms and conditions of the DelVal Swap Agreement were fair and reasonable as of the date of award; and

WHEREAS, the Township wishes to utilize the DelVal Loan Program by issuing the 2009 Notes to the DelVal; and

WHEREAS, under the terms of the Loan Agreement with DelVal, interest payments on the 2009 Notes (the “Loan Interest”) will equal the amounts allocable to the 2009 Notes for interest on the DelVal Bonds, regularly scheduled payments on the DelVal Swap Agreement, and other costs and liquidity requirements incurred by DelVal to administer the Loan Program; and

WHEREAS, the Board of Supervisors desires to designate the Loan Agreement and the portion of the DelVal Swap Agreement allocable to the 2009 Notes as a Qualified Interest Rate Management Agreement under the *Debt Act* with respect to the 2009 Notes and to approve the DelVal Plan as the Interest Rate Management Plan required by the *Debt Act*.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF LOWER OXFORD, CHESTER COUNTY, PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF SAID BOARD OF SUPERVISORS THAT:

**SECTION 1. APPROVAL OF THE 2009 PROJECT AND AUTHORIZATION TO ISSUE THE 2009 NOTES**

Pursuant to §8142(a)(2)(ii) of the *Debt Act*, the weighted average useful life of the 2009 Project exceeds the term of the 2009 Notes. The principal of the 2009 Notes shall be amortized to provide approximately level annual debt service, pursuant to §8142(b)(1) of the *Debt Act*. The amortization of the principal amounts of the 2009 Notes shall begin within two years of the date of issue in accordance with §8142(c) of the *Debt Act*. The Board of Supervisors hereby authorizes and approves the 2009 Project. The Board of Supervisors hereby authorizes and directs the incurring of non-electoral debt in the aggregate principal amount of \$1,500,000 by the issuance of the 2009 Notes.

**SECTION 2. APPROVAL OF THE LOAN COMMITMENT**

The Board of Supervisors, after due deliberation and investigation, hereby determines that a private sale by negotiation of the 2009 Notes to DelVal is in the best financial interests of the Township. The Board of Supervisors hereby accepts the Loan Commitment from DelVal, attached hereto, to purchase the 2009 Notes at an aggregate price of \$1,500,000 from the proceeds of the DelVal Bonds. The Township shall be responsible for paying DelVal's costs of origination in an amount not to exceed \$6,000, as directed by DelVal's Program Administrator upon the issuance of the 2009 Notes. The 2009 Notes shall be purchased by DelVal on or about October 26, 2009, or in such installments and/or at such other times as the Chairman or Vice-Chairman of the Board of Supervisors and DelVal's Program Administrator shall determine.

**SECTION 3. APPROVAL OF THE FORMS OF THE LOAN DOCUMENTS AND AUTHORIZATION TO EXECUTE AND DELIVER ALL NECESSARY DOCUMENTS**

The substantial forms of the Loan Agreement, 2009 Notes, Continuing Disclosure Agreement, and Participant Tax Compliance Agreement (collectively, the "Loan Documents")

attached to the Loan Commitment are hereby approved. The Chairman or Vice-Chairman, and the Secretary/Treasurer are hereby authorized and directed to execute and deliver the Loan Documents, in the substantial forms attached to the Loan Commitment, but with such alterations, deletions and additions as the Chairman or Vice-Chairman may approve (such approval to be conclusively established by the execution of the Loan Documents by the Chairman or Vice-Chairman). The Chairman or Vice-Chairman and the Secretary/Treasurer also are hereby authorized and directed (i) to execute and deliver such other certificates, instruments, and agreements (including those required by any institution issuing a financial guaranty insurance policy, municipal bond insurance policy, letter of credit, or similar instrument related to the DelVal Bonds or the 2009 Notes) and (ii) to take all actions that may be necessary or beneficial to issue the 2009 Notes.

**SECTION 4. AMORTIZATION SCHEDULE AND MAXIMUM ANNUAL DEBT SERVICE PAYMENTS**

The indebtedness of the 2009 Notes shall be evidenced by three or more Notes in the aggregate par amount of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000). The 2009 Notes shall bear interest (the "Loan Rate") at the rate specified in the Loan Agreement and 2009 Notes, the substantial forms of which are attached to the Loan Commitment. The principal amortization schedule and maximum annual debt service payments as defined in the 2009 Notes and Loan Agreement for periodic scheduled payments under the 2009 Notes (based upon the maximum Loan Rate of 15%) are shown below:

**Township of Lower Oxford  
General Obligation Notes, 2009 Series  
Principal Amortization Schedule and  
Maximum Annual Debt Service**

<i>Bond Year Ending</i>	<i>Principal (1)</i>	<i>Maximum Interest Rate</i>	<i>Maximum Interest Payment (2)</i>	<i>Maximum Annual Debt Service</i>
25-Jun-10	\$ -	15%	\$ 149,375.00	\$ 149,375.00
25-Jun-11	57,000.00	15%	225,000.00	282,000.00
25-Jun-12	59,000.00	15%	216,450.00	275,450.00
25-Jun-13	61,000.00	15%	207,600.00	268,600.00
25-Jun-14	63,000.00	15%	198,450.00	261,450.00
25-Jun-15	65,000.00	15%	189,000.00	254,000.00
25-Jun-16	68,000.00	15%	179,250.00	247,250.00
25-Jun-17	70,000.00	15%	169,050.00	239,050.00
25-Jun-18	73,000.00	15%	158,550.00	231,550.00
25-Jun-19	75,000.00	15%	147,600.00	222,600.00
25-Jun-20	78,000.00	15%	136,350.00	214,350.00
25-Jun-21	80,000.00	15%	124,650.00	204,650.00
25-Jun-22	83,000.00	15%	112,650.00	195,650.00
25-Jun-23	86,000.00	15%	100,200.00	186,200.00
25-Jun-24	89,000.00	15%	87,300.00	176,300.00
25-Jun-25	92,000.00	15%	73,950.00	165,950.00
25-Jun-26	95,000.00	15%	60,150.00	155,150.00
25-Jun-27	98,000.00	15%	45,900.00	143,900.00
25-Jun-28	102,000.00	15%	31,200.00	133,200.00
25-Jun-29	106,000.00	15%	15,900.00	121,900.00
Total	<u>\$ 1,500,000.00</u>		<u>\$ 2,628,575.00</u>	<u>\$ 4,128,575.00</u>

(1) Principal is payable annually, commencing on:	25-Jun-11
Principal is amortized to provide level annual debt service at	3.45%
(2) Interest is payable monthly on the 25th, commencing on:	25-Nov-09
Interest is calculated for the period beginning on:	26-Oct-09

**SECTION 5. AUTHORIZATION AND AWARD OF A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT**

The Township is incurring indebtedness under the *Debt Act* which will be issued to DelVal, a public authority, and the Township, by execution of the Loan Agreement, will become obligated for a portion of the DelVal Swap Agreement equal to the outstanding principal amount of the 2009 Notes. The Board of Supervisors hereby accepts and adopts the DelVal Plan as the Interest Rate Management Plan fulfilling the requirements of §8281(b)(2) of the *Debt Act*. The Board of Supervisors hereby accepts and ratifies the minimum criteria used by DelVal to select

the counterparties of the DelVal Swap Agreement and hereby accepts and ratifies the award of the DelVal Swap Agreement in a private sale by negotiation. The Board of Supervisors hereby authorizes and awards the Loan Agreement and the portion of the DelVal Swap Agreement allocable to the 2009 Notes as the Qualified Interest Rate Management Agreement with respect to the 2009 Notes, pursuant to §8281(a)(2) of the *Debt Act*. The Board of Supervisors hereby authorizes and directs the filing, to the Department of Community and Economic Development (“DCED”) within fifteen days of enactment, of a certified copy of this Ordinance and the following documents, in accordance with §8284(a)(1) of the *Debt Act*:

- 1) Form of the Loan Agreement and the DelVal Swap Agreement, the Qualified Interest Rate Management Agreement pursuant to §8281(b)(1) of the *Debt Act*,
- 2) DelVal Plan, the Interest Rate Management Plan pursuant to §8281(b)(2)(ii) of the *Debt Act*, and
- 3) Finding of the Financial Advisor that the financial terms and conditions of the DelVal Swap Agreement were fair and reasonable as of the date of the award by DelVal, pursuant to §8281(e)(5) of the *Debt Act*.

**SECTION 6. OBLIGATIONS OF THE TOWNSHIP RELATED TO THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT**

The Township’s obligations related to the Qualified Interest Rate Management Agreement are set forth in the Loan Agreement. In accordance with §8281(c) of the *Debt Act*:

- 1) The Township pledges its full faith, credit, and taxing power to make any scheduled payments due and payable under the Loan Agreement related to the DelVal Swap Agreement allocable to the 2009 Notes and covenants to budget, appropriate, and pay any termination payment (the “Termination Charge”) that may be due under the DelVal Swap Agreement allocable to the 2009 Notes.
- 2) The notional amount of the DelVal Swap Agreement related to the 2009 Notes is equal to the outstanding principal amount of the 2009 Notes, initially \$1,500,000.
- 3) The Township’s obligations under the DelVal Swap Agreement end when the Township repays or prepays the amounts outstanding under the 2009 Notes and the

Loan Agreement. The scheduled term of the Township's obligations related to the DelVal Swap Agreement ends on June 25, 2029.

- 4) The maximum annual net, scheduled payments, not including any Termination Charge, related to the DelVal Swap Agreement shall not exceed the maximum annual debt service payments authorized for the 2009 Notes. The maximum Loan Rate under the Loan Agreement and the DelVal Swap Agreement is 15%.
- 5) The Township's obligations to make scheduled payments related to the DelVal Swap Agreement allocable to the 2009 Notes are senior to any obligation for a Termination Charge allocable to the 2009 Notes.

#### **SECTION 7. PLEDGE OF THE FULL FAITH, CREDIT, AND TAXING POWER**

The Township hereby covenants:

- 1) to include all periodic, scheduled payments of Loan Interest and Loan Principal payable under the Loan Agreement and the 2009 Notes in the budget of the fiscal year in which such amounts are due and payable,
- 2) to appropriate such amounts from its taxes and other general revenues, and
- 3) to pay, or cause to be paid, punctually and duly, such amounts that are due and payable under the 2009 Notes and the Loan Agreement at the dates and places and in the manner stated in the 2009 Notes and the Loan Agreement.

For such budgeting, appropriation, and payment, the Township irrevocably pledges its full faith, credit, and taxing power. As provided by the *Debt Act*, this covenant shall be specifically enforceable.



**SECTION 8. COVENANTS FOR TERMINATION CHARGES**

The Township hereby covenants:

- 1) to include the amounts due under the Loan Agreement for Termination Charges for the DeIVal Swap Agreement allocable to the 2009 Notes for each fiscal year in which such Termination Charges are payable in its budget for that year,
- 2) to appropriate such amounts from its general revenues for the payment of such Termination Charges, and
- 3) to duly and punctually pay or cause to be paid from its sinking fund or any other of its revenues or funds the Termination Charges at the dates and places and in the manner stated in the 2009 Notes and the Loan Agreement.

Pursuant to §8129 of the *Debt Act*, in the event of a payment default by the Township, and a judgment thereon, the Termination Charges shall constitute “unfunded debt.”

**SECTION 9. SINKING FUND DEPOSITORY**

The Board of Supervisors hereby finds and acknowledges that under the terms of the Loan Agreement, Wells Fargo Bank, N.A. (the “Bank”), or its successors or assigns, shall serve and is hereby appointed as the Paying Agent and Sinking Fund Depository, shall maintain separate accounts, subaccounts and subfunds for Repayments (as defined in the Loan Agreement) to be made by the Township until such 2009 Notes are paid in full. These accounts, subaccounts and subfunds shall, collectively, constitute the “Sinking Fund” required by the *Debt Act* for the 2009 Notes. The Board of Supervisors hereby authorizes, empowers, and directs the Chairman or Vice-Chairman and the Secretary/Treasurer to contract with the Bank by the execution of the Loan Agreement to serve as Paying Agent and Sinking Fund Depository for the 2009 Notes.

**SECTION 10. AUTHORIZATION TO SUBMIT STATEMENTS TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**

The Board of Supervisors hereby authorizes and directs the preparation and submission of an application for approval of the incurrence of the non-electoral debt evidenced by the 2009

Notes to DCED, including the proceedings that authorize issuance, the debt statement, any statements or certificates required to qualify the 2009 Notes as self-liquidating debt pursuant to §8026 of the *Debt Act*, and any other documents required by the *Debt Act* or DCED.

**SECTION 11. LEGAL ADVERTISEMENTS**

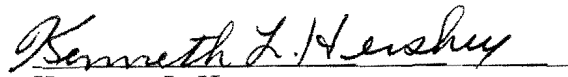
The Board of Supervisors hereby ratifies and directs the advertisement of a summary of this Ordinance as finally enacted, as required by the *Debt Act*, in the *Daily Local News*, a newspaper of general circulation in the Township of Lower Oxford, within fifteen (15) days following the day of final enactment.

**SECTION 12. CONFLICTING ORDINANCES**

All Ordinances or parts of Ordinances not in accord with this Ordinance are hereby repealed insofar as they conflict herewith.


IN WITNESS WHEREOF, we, the undersigned authorized officials of the Township of Lower Oxford, have hereunto set our signatures and affixed hereto the Seal.

Dated: September 9, 2009

  
KENNETH L. HERSHEY  
Chairman, Board of Supervisors  
Township of Lower Oxford

[Seal]

ATTEST:

  
SARA LAGANELLI  
Secretary/Treasurer  
Township of Lower Oxford