

ORDINANCE NO. 94-1
BOARD OF COMMISSIONERS
COUNTY OF YORK
PENNSYLVANIA

AN ORDINANCE

APPROVING THE REFINANCING OF EXISTING LEASE RENTAL DEBT; STATING THE MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF REFUNDING REVENUE BONDS TO BE ISSUED BY THE YORK COUNTY SOLID WASTE AND REFUSE AUTHORITY AND TO BE SECURED BY A COUNTY DEBT SERVICE GUARANTY; AUTHORIZING THE INCURRENCE OF LEASE RENTAL DEBT TO BE EVIDENCED BY THE COUNTY DEBT SERVICE GUARANTY; AUTHORIZING AND DIRECTING CERTAIN OFFICERS OF THE COUNTY TO VERIFY AND FILE THE DEBT STATEMENT REQUIRED BY SECTION 410 OF THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT; APPROVING THE FORM OF A COUNTY DEBT SERVICE GUARANTY BETWEEN AND AMONG THE COUNTY, THE AUTHORITY, THE BANK AND THE TRUSTEE, AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF; STATING THE ANNUAL AMOUNTS OF PRINCIPAL AND INTEREST COVENANTED TO BE PAID UNDER THE COUNTY DEBT SERVICE GUARANTY AND COVENANTING THE PAYMENT THEREOF AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE COUNTY THEREFOR; APPROVING THE REPORT OF PUBLIC FINANCIAL MANAGEMENT, INC. PREPARED IN ACCORDANCE WITH SECTION 206(a) OF THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT AND AUTHORIZING AND DIRECTING THE FILING THEREOF AND THE PREPARATION AND FILING OF ANY OTHER STATEMENTS AND REPORTS REQUIRED TO QUALIFY THE DEBT FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMIT AS SELF-LIQUIDATING; AUTHORIZING THE OFFICIALS OF THE COUNTY TO TAKE OTHER APPROPRIATE ACTION; AND REPEALING ALL ORDINANCES INCONSISTENT HERewith

WHEREAS, the York County Solid Waste and Refuse Authority (the "Authority") is a municipality authority created by the Board of County Commissioners of York County, Pennsylvania (the "County") as authorized by the Municipality Authorities Act of 1945, P.L. 382, No. 164, as amended (the "Act"), as an agency to implement the York County Solid Waste Management Plan as mandated by Act 97, the Solid Waste Management Act (1980); and

WHEREAS, pursuant to the Municipal Waste Planning, Recycling and Waste Reduction Act and an agreement dated as of July 12, 1989, the County has delegated to the Authority its responsibilities for municipal waste planning and implementation; and

WHEREAS, the Authority has heretofore issued its Adjustable Tender Industrial Development Revenue Bonds (Resource Recovery Project), Series of 1985 (the "1985 Bonds") in order to finance the design and construction of a publicly owned, resource recovery facility to dispose of all processible municipal solid waste generated within the County; and

WHEREAS, the County, the Authority, The York Bank and Trust Company, York, Pennsylvania (the "Trustee"), and The Sumitomo Bank, Limited, acting through its New York Branch (the "Bank") have entered into an Amended and Restated York County Debt Guaranty Agreement dated as of August 1, 1987, pursuant to which the County has guaranteed the payment of the principal of and interest on the 1985 Bonds, and the Authority's obligations under a reimbursement agreement between the Authority and the Bank; and

WHEREAS, although the 1985 Bonds are not callable prior to 1997, the Authority wishes to arrange for more favorable rates of interest than that currently accruing on the 1985 Bonds; and

WHEREAS, in order to obtain the benefit of current interest rates notwithstanding that the 1985 Bonds may not currently be refunded, the Authority intends to enter into a forward swap refunding transaction pursuant to a forward swap agreement (the "Swap Agreement") between the Authority and a swap counterparty to be selected by the Authority (the "Counterparty"); and

WHEREAS, on or about December 1, 1997, the Authority intends to issue its Solid Waste System Revenue Bonds (Resource Recovery Project), Series of 1997 (the "1997 Bonds"); and

WHEREAS, under the Swap Agreement, the rate of interest payable by the Authority with respect to the 1997 Bonds is expected to be substantially lower than the rate of interest currently payable by the Authority on the 1985 Bonds; and

WHEREAS, the Authority will be obligated to pay interest at a rate in excess of the rate payable under the Swap Agreement only under limited terms set forth in the Swap Agreement; and

WHEREAS, the 1997 Bonds will be issued in an aggregate principal amount not to exceed \$114,400,000, in one or more series, will mature on December 1, 2014, and will bear interest at a rate or rates not to exceed 15% per annum; and

WHEREAS, the 1997 Bonds will be issued under and secured by the Third Amended and Restated Indenture of Mortgage and Trust, dated as of February 1, 1992, and a Second Supplemental Indenture of Mortgage and Trust to be dated concurrently with the issuance

of the 1997 Bonds (collectively, the "Indenture") by and among the Authority and the Trustee); and

WHEREAS, the 1997 Bonds and the Authority's obligations under the Swap Agreement will be further secured by one or more policies of municipal bond insurance to be issued by a municipal bond insurance company (the "Municipal Bond Insurer"); and

WHEREAS, in order to induce the Authority to issue and sell the 1997 Bonds and execute the Swap Agreement, and thereby reduce the interest cost of the 1985 Bonds to the Authority, the County, the Authority, the Trustee and the Bank intend to enter into a debt service guaranty agreement (the "County Debt Service Guaranty"), as authorized by the Pennsylvania Local Government Unit Debt Act of 1972, as amended and re-enacted (the "Debt Act"), providing for the unconditional guarantee of payment by the County to the Trustee, as and when due (whether at stated maturity, by acceleration, by redemption or otherwise), of the full amount of each and every payment of the principal of, and interest on, the 1997 Bonds, effective as of the date of issuance of the 1997 Bonds (provided that the 1985 Bonds have been refunded or defeased), and subject to the limitations contained in the County Debt Service Guaranty, and the pledge by the County of its full faith, credit and taxing power to discharge all of its obligations under the County Debt Service Guaranty; and

WHEREAS, Public Financial Management, Inc., Philadelphia, Pennsylvania, has prepared and submitted to the Board of County Commissioners of the County a report (the "Report") prepared in accordance with Section 206(a) of the Debt Act; and

WHEREAS, the execution of the County Debt Service Guaranty constitutes the incurrence of lease rental debt by the County within the meaning of the Debt Act.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF YORK:

Section 1. The County does hereby approve the refinancing of the 1985 Bonds through the execution of the Swap Agreement and the issuance of the 1997 Bonds, each as hereinbefore described.

Section 2. The maximum aggregate principal amount of the 1997 Bonds to be issued by the Authority and to be secured by the County Debt Service Guaranty is \$114,400,000.

The Board of County Commissioners of the County does hereby authorize the incurrence of lease rental debt of the County pursuant to the Debt Act, effective as of the date of issuance of the 1997 Bonds (provided that the 1985 Bonds have been retired or defeased), in the maximum amount of \$114,400,000, to be evidenced by a County Debt Service Guaranty between and among the County, the Authority, the Trustee and the Bank, subject, however, to all of the conditions hereinafter set forth.

Section 3. The Chairman of the Board of County Commissioners, the County Controller and the County Treasurer are hereby authorized and directed to prepare and verify a debt statement required by Section 410 of the Debt Act and the Chief Clerk of the County is hereby authorized and directed to certify, to the Pennsylvania Department of Community Affairs, a transcript of these proceedings, as required by Section 411 of the Debt Act, and to pay all filing fees required under Section 803 of the Act.

Section 4. The form of a County Debt Service Guaranty as presented to the Board of County Commissioners at this meeting (a copy of which shall be filed with the records of the County) is hereby approved, subject to such changes and modifications as may be required and approved by the Board of County Commissioners. The County Commissioners, the County Controller and the County Treasurer are hereby authorized and directed, upon receipt of approval from the Pennsylvania Department of Community Affairs and upon satisfaction of the conditions, including those set forth in Section 8 hereof, to execute the County Debt Service Guaranty in such form, subject to such changes and modifications, if any, as may be approved by such officials, the execution of the County Debt Service Guaranty to be conclusive evidence of such approval, and the Chief Clerk of the County is hereby authorized and directed to affix thereto the corporate seal of

the County, to attest the same and to deliver the County Debt Service Guaranty to the Authority and the Trustee.

Section 5. The annual amounts of principal and interest covenanted to be paid by the County under the County Debt Service Guaranty is as set forth in Schedule A attached hereto.

It is covenanted with the registered owners of the 1997 Bonds, the Counterparty, the Municipal Bond Insurer and the Bank that the County shall (i) include the amounts, if any, payable in respect of its guaranty for each fiscal year in which such sums are payable in its budget for that year, (ii) appropriate such amounts from its general revenues, for the payment of amounts payable, if any, in respect of its guaranty, and (iii) duly and punctually pay, or cause to be paid, from such revenues, to the extent of its obligation under the County Debt Service Guaranty, the amounts payable, if any, in respect of its guaranty, at the dates and places and in the manner stated in the County Debt Service Guaranty according to the true intent and meaning thereof. The County pledges its full faith, credit and taxing power for such budgeting, appropriation and payment in respect of its guaranty of the 1997 Bonds and its other obligations under the County Debt Service Guaranty. This covenant shall be specifically enforceable. Nothing in this Section shall be construed to give the County any taxing power not granted by another provision of law.

Section 6. The Report of Public Financial Management, Inc., as submitted to this meeting (a copy of which shall be filed with the records of the County), is hereby accepted. The Chairman of the Board of County Commissioners, the County Controller and the County Treasurer are each further authorized and directed to prepare and file any statements required under Section 206 of the Debt Act which are necessary to qualify all or a portion of the lease rental indebtedness incurred hereby for exclusion as self-liquidating debt.

Section 7. The proper officers of the County are hereby authorized, directed and empowered on behalf of the County to execute any and all papers and documents and to do or cause to be done any and all acts and things necessary or proper for the carrying out of this Ordinance.

Section 8. All ordinances or parts of ordinances inconsistent herewith be and the same hereby are repealed.

I HEREBY CERTIFY that the foregoing is a true and correct copy of an Ordinance duly enacted by the affirmative vote of a majority of the members of the Board of County Commissioners of the County of York, Pennsylvania, and finally passed at a meeting held the 2nd day of ~~January~~^{February}, 1994; that proper notice of such meeting was duly given as required by law; and that said Ordinance has been duly recorded in the County's Ordinance Book, showing how each member of the Board voted thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County this 2nd day of ~~January~~^{February}, 1994.


Chief Clerk

[SEAL]