

**ORDINANCE NO. \_\_\_\_**  
**OF THE BOARD OF COMMISSIONERS**  
**OF THE TOWNSHIP OF CALN,**  
**CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE THAT AUTHORIZES THE INCURRENCE OF LEASE RENTAL DEBT BY THE TOWNSHIP OF CALN (THE "TOWNSHIP") PURSUANT TO THE EXECUTION AND DELIVERY OF A GUARANTY AGREEMENT FOR THE CALN TOWNSHIP MUNICIPAL AUTHORITY; APPROVES CERTAIN CAPITAL PROJECTS; APPROVES THE ISSUANCE AND NEGOTIATED SALE OF THE GUARANTEED SEWER REVENUE NOTES, 2019 SERIES (COLLECTIVELY, THE "PARTICIPANT NOTE") TO THE DELAWARE VALLEY REGIONAL FINANCE AUTHORITY IN THE AGGREGATE PAR AMOUNT OF \$2,800,000; APPROVES THE FORMS OF THE LOAN DOCUMENTS; SETS FORTH THE RANGE OF THE ANNUAL LEASE RENTAL PAYMENTS DUE UNDER THE GUARANTY AGREEMENT; 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 PARTICIPANT NOTE, INCLUDING THE REGULARLY SCHEDULED PAYMENTS DUE UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT; COVENANTS TO PAY ANY TERMINATION CHARGES; AUTHORIZES THE PREPARATION AND FILING OF ALL NECESSARY DOCUMENTS FOR APPROVAL OF THE GUARANTY AGREEMENT TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; AUTHORIZES ADVERTISEMENT OF ENACTMENT; AND REPEALS INCONSISTENT ORDINANCES.

WITNESSETH:

WHEREAS, the Caln Township Municipal Authority (the "Authority") was incorporated pursuant to the *Municipality Authorities Act*, 53 Pa. C.S. §5601 *et seq* (the "*Authorities Act*") and appropriate actions of the Board of Commissioners of the Township of Caln (the "Township"), Chester County, Pennsylvania; and

WHEREAS, the Authority was created to have oversight and approval authority over the operations of the Caln Township public sewer system (the "Sewer System"); and

WHEREAS, the Authority is vested with the power to construct, finance, improve, maintain, operate, own, lease as lessor, and lease as lessee components or parts of the Sewer System; and

WHEREAS, the Authority assesses and collects rentals, rates, and other charges (collectively, the "Revenues") for the use of the Sewer System; and

WHEREAS, the Board of Directors of the Authority has reviewed the Capital Improvement Program (the "CIP") and has obtained preliminary cost estimates for the projects from persons qualified by experience; and

WHEREAS, the incurrence of debt by the issuance of the Guaranteed Sewer Revenue Notes, 2019 Series (collectively, the "Participant Note") is necessary to provide the funding for the CIP; and

WHEREAS, certain capital projects (collectively, the "2019 Project"), consisting of (i) construction of a pump station, (ii) construction of a low-pressure force main, (iii) related improvements to the Sewer System, and (iv) payment of the costs of issuance of the Participant Note, will benefit the health and welfare of the residents of the Township of Caln; and

WHEREAS, the Delaware Valley Regional Finance Authority ("DeVal") has submitted a purchase proposal (the "Loan Commitment") to purchase the Guaranteed Sewer Revenue Notes, 2019 Series to fund the 2019 Project; and

WHEREAS, the 2019 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 Sewer System, through a lease, management contract, or any other arrangement that would result in a private business use under the *Internal Revenue Code of 1986* (the "Code"), as amended; and

WHEREAS, the Authority has determined that the negotiated sale of the Participant Note to DeVal is in the best financial interest of the Authority; and

WHEREAS, the Loan Commitment requires the execution and delivery of a guaranty agreement (the "Guaranty") by the Township as a condition to the purchase of the Participant Note; and

WHEREAS, the Township has determined that the 2019 Project will benefit and contribute to the health and general welfare of the Township's residents; and

WHEREAS, the Township has determined that the execution of the Guaranty will allow the Authority to minimize the costs of issuance and the interest costs of the Participant Note and thereby minimize the rates and charges that the Authority must assess for use of the Sewer System; and

WHEREAS, the execution and delivery of the Guaranty, under which the Township shall guarantee the Authority's obligations to pay principal, interest, and other charges due and payable to DeIVal under the terms of the Participant Note and the related loan agreement (the "Loan Agreement") will constitute "lease rental debt" under the Pennsylvania *Local Government Unit Debt Act*, 53 Pa. C.S.A. §8001, et seq (the "*Debt Act*"), as amended and restated; and

WHEREAS, the proposed increase of lease rental debt from the execution of the Guaranty, together with the nonelectoral and lease rental debt presently outstanding, will not cause the constitutional or statutory debt limitations of the Township to be exceeded; and

WHEREAS, the Revenues to be pledged by the Authority to repay the Participant Note are expected to be sufficient to pay the costs of operation and maintenance of the Sewer System and to pay the Authority's debt obligations; and

WHEREAS, DeIVal, a public authority within the meaning of the *Debt Act*, has from time to time issued Local Government Revenue Bonds (the "DeIVal 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, DeIVal has from time to time entered into interest rate swap agreements related to the DeIVal Bonds (collectively, the "DeIVal 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 DeIVal, and the Financial Advisor has prepared an "Interest Rate Management Plan" (the "Plan"), as such term is defined in the *Debt*

*Act*, and an Interest Rate Swap Management Policy (the “Swap Policy”) that have been adopted by the Board of Directors of DeIVal; and

WHEREAS, DeIVal established minimum criteria of long term, senior, unsecured debt ratings in the “AA” category or higher by at least one Nationally Recognized Statistical Rating Organization registered with the Securities and Exchange Commission for any counterparty to the DeIVal Swap Agreement (or a rating equal to or higher than the counterparty active under a swap agreement related to any series of DeIVal Bonds), and the Board of DeIVal found that the award of transactions under the DeIVal Swap Agreement by negotiation in a private sale was in the best financial interests of DeIVal and the participants in the Loan Program, and the Financial Advisor concluded that the financial terms and conditions of the DeIVal Swap Agreement were fair and reasonable as of the date of award; and

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

WHEREAS, under the terms of the Loan Agreement with DeIVal, the principal amount outstanding of the Participant Note (the “Loan Principal”) will equal the notional amount of the DeIVal Swap Agreement related to the Participant Note; and

WHEREAS, under the terms of the Guaranty, the Township shall guarantee the timely payment of Loan Interest and Loan Principal (collectively, the “Repayments”) and all other amounts due under the Loan Agreement and the Participant Note, including payments under the DeIVal Swap Agreement related to the Participant Note; and

WHEREAS, the Township intends to (i) designate the Guaranty and the portion of the DeIVal Swap Agreement related to the Participant Note and the Loan Agreement as a Qualified Interest Rate Management Agreement under the *Debt Act*, (ii) approve the Plan as the Interest Rate Management Plan required by the *Debt Act*, and (iii) adopt the Swap Policy.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF CALN, CHESTER COUNTY,

PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY THE AUTHORITY OF SAID BOARD OF COMMISSIONERS THAT:

**SECTION 1. APPROVAL OF THE PROJECT AND AUTHORIZATION TO ISSUE THE PARTICIPANT NOTE**

The thirty-year estimated, weighted average useful life of the 2019 Project exceeds the twenty-year term of the Participant Note. The principal of the Participant Note shall be amortized to provide level or declining annual debt service. The amortization of the principal amounts of the Participant Note shall begin within two years of the issuance of the Participant Note.

The Board of Commissioners (the "Board") hereby authorizes and approves the 2019 Project. The Board hereby authorizes and directs the incurring of lease rental debt in the aggregate principal amount of TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$2,800,000), evidenced by the execution of the Guaranty.

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

The Board, after due deliberation and investigation, hereby determines that a private sale by negotiation of the Participant Note to DelVal is in the best financial interests of the Authority and the Township. The Township hereby approves the sale of the Participant Note in accordance with the terms of the DelVal Loan Commitment attached hereto. DelVal will purchase the Participant Note at a price of \$2,800,000. The Authority shall be responsible for paying DelVal's costs of origination in an amount not to exceed \$14,000, as directed by DelVal's Program Administrator upon the issuance of the Participant Note. The Participant Note shall be purchased by DelVal on or about June 10, 2019, or in such installments and/or at such other times as the Authority's Chairman and DelVal's Program Administrator shall determine.

**SECTION 3. APPROVAL OF THE FORMS OF THE LOAN DOCUMENTS AND AUTHORIZATION TO EXECUTE THE AGREEMENTS TO ISSUE THE PARTICIPANT NOTE**

The Board hereby approves the substantial forms of the Participant Note, Loan Agreement, Participant Tax Compliance Agreement, Participant Continuing Disclosure Agreement, Guarantor Continuing Disclosure Agreement, and Guaranty (collectively, the "Loan Documents") attached to DelVal's Loan Commitment. The President or Vice President and the Secretary of the Board (the "Authorized Officers") are hereby authorized and directed to execute and deliver the Guarantor Continuing Disclosure Agreement and the Guaranty, each in the respective form

attached to the Loan Commitment, but with such alterations, deletions and additions as the Authorized Officers may approve (such approval to be conclusively established by the execution by said Authorized Officers). The Authorized Officers also are hereby authorized and directed (i) to execute and deliver such other certificates, instruments, and agreements and (ii) to take all actions that may be necessary or beneficial to issue the Participant Note.

**SECTION 4. AMORTIZATION SCHEDULE AND MAXIMUM ANNUAL LEASE RENTAL PAYMENTS**

The Participant Note shall bear interest at the floating rate specified in the Loan Agreement and Participant Note, the substantial forms of which are attached to the Loan Commitment. The annual lease rental payments due under the Guaranty would range from \$0 to \$514,800. The principal amortization schedule and maximum annual debt service payments for the Participant Note (based upon the maximum Loan Rate of 15%) are shown below:

**Caln Township Municipal Authority  
Guaranteed Sewer Revenue Notes, 2019 Series  
Principal Amortization Schedule and  
Maximum Annual Debt Service Payments**

<i>Bond Year</i> <u>Ending</u>	<i>Principal</i> (1)	<i>Maximum Interest Rate</i>	<i>Maximum Interest Payment</i> (2)	<i>Maximum Annual Debt Service</i>
25-May-20	\$ 108,000.00	15%	\$ 402,500.00	\$ 510,500.00
25-May-21	111,000.00	15%	403,800.00	514,800.00
25-May-22	114,000.00	15%	387,150.00	501,150.00
25-May-23	117,000.00	15%	370,050.00	487,050.00
25-May-24	120,000.00	15%	352,500.00	472,500.00
25-May-25	123,000.00	15%	334,500.00	457,500.00
25-May-26	126,000.00	15%	316,050.00	442,050.00
25-May-27	130,000.00	15%	297,150.00	427,150.00
25-May-28	133,000.00	15%	277,650.00	410,650.00
25-May-29	137,000.00	15%	257,700.00	394,700.00
25-May-30	140,000.00	15%	237,150.00	377,150.00
25-May-31	144,000.00	15%	216,150.00	360,150.00
25-May-32	148,000.00	15%	194,550.00	342,550.00
25-May-33	152,000.00	15%	172,350.00	324,350.00
25-May-34	156,000.00	15%	149,550.00	305,550.00
25-May-35	160,000.00	15%	126,150.00	286,150.00
25-May-36	164,000.00	15%	102,150.00	266,150.00
25-May-37	168,000.00	15%	77,550.00	245,550.00
25-May-38	172,000.00	15%	52,350.00	224,350.00
25-May-39	177,000.00	15%	26,550.00	203,550.00
<b>Total</b>	<b><u>\$ 2,800,000.00</u></b>		<b><u>\$ 4,753,550.00</u></b>	<b><u>\$ 7,553,550.00</u></b>

- (1) Principal is payable annually, commencing on: 25-May-20  
Principal is amortized to provide level or declining annual debt service.
- (2) Interest is payable monthly on the 25th, commencing: 25-Jun-19  
Interest is calculated for the period beginning on: 10-Jun-19

**SECTION 5. AUTHORIZATION AND AWARD OF A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT RELATING TO THE PARTICIPANT NOTE**

Under the terms of the Guaranty, in the event of a payment default of the Authority, the Township will be obligated to make the scheduled payments for the portion of the DeVal Swap Agreement related to the Participant Note. The Board hereby approves and adopts the Plan as the Interest Rate Management Plan fulfilling the requirements of §8281(b)(2) of the *Debt Act*, and the Board hereby approves and adopts the Swap Policy. The Board hereby accepts and ratifies the minimum criteria used by DeVal to select the provider of the DeVal Swap Agreement and the award of the DeVal Swap Agreement in a private sale by negotiation. The Board hereby authorizes and awards the Guaranty and the Loan Agreement as the Qualified Interest Rate Management Agreement related to the Participant Note, pursuant to §8281(a)(2) of the *Debt Act*. The Board

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) the forms of the Guaranty, Loan Agreement, Participant Note, and the DelVal Swap Agreement, the Qualified Interest Rate Management Agreement pursuant to §8281(b)(1) of the *Debt Act*,
- 2) the Interest Rate Management Plan pursuant to §8281(b)(2)(ii) of the *Debt Act*, and
- 3) the 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. PLEDGE OF THE FULL FAITH, CREDIT, AND TAXING POWER**

The Township is hereby authorized to incur lease rental debt, as defined in the *Debt Act*, which shall be evidenced by the Guaranty that secures the Participant Note and the Loan Agreement. The Township hereby covenants, in the event of a deficiency by the Authority:

- 1) to include all periodic, scheduled payments of Loan Interest and Loan Principal payable under the Loan Agreement and the Participant Note 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 Participant Note and the Loan Agreement at the dates and places and in the manner stated in the Participant Note 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 7. OBLIGATIONS RELATED TO THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT**

The Authority’s and, in the event of a payment default by the Authority, the Township’s obligations related to the DelVal Swap Agreement are set forth in the Loan Agreement and Guaranty, respectively. In accordance with §8281(c) of the *Debt Act*, in the event of a deficiency by the Authority:

- 1) The Township pledges its full faith, credit, and taxing power to make any periodic scheduled payments due and payable under the DelVal Swap Agreement related to the Participant Note and Loan Agreement (the "Periodic Payments"). The Township covenants to (a) include all Periodic Payments in the budget of the fiscal year in which such amounts are due and payable, (b) appropriate such amounts from its taxes and other general revenues, and (c) pay, or cause to be paid, punctually and duly, such amounts that are due and payable on the dates, at the places, and in the manner stated in the Participant Note and the Loan Agreement. As provided by the *Debt Act*, this covenant shall be specifically enforceable.
- 2) The notional amount of the DelVal Swap Agreement related to the Participant Note is equal to the outstanding principal amount of the Participant Note, initially \$2,800,000.
- 3) The Township's obligations under the DelVal Swap Agreement end when the Township repays or prepays the amounts outstanding under the Participant Note and the Loan Agreement. The scheduled term of the Township's obligations related to the DelVal Swap Agreement ends on May 25, 2039.
- 4) The Township pledges to budget, appropriate, and pay any termination payment due and payable under the DelVal Swap Agreement related to the Participant Note and Loan Agreement (the "Termination Charge"). The Township covenants (a) to include any Termination Charge in the budget of the fiscal year in which such amounts are due and payable, (b) appropriate such amounts from its taxes and other general revenues, and (c) pay, or cause to be paid, punctually and duly, such amounts that are due and payable on the dates, at the places, and in the manner stated in the Participant Note and the Loan Agreement. The Township's obligations to make Periodic Payments are senior to any obligation for a Termination Charge.
- 5) The maximum annual Periodic Payments, not including any Termination Charge, shall not exceed the maximum annual debt service payments authorized for the Participant Note. The maximum Loan Rate under the Loan Agreement and the DelVal Swap Agreement is 15%.

**SECTION 8. AUTHORIZATION TO SUBMIT STATEMENTS TO THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**

The Authorized Officers are hereby authorized to prepare and to submit to the Department of Community and Economic Development (“DCED”) the debt statement required by §8110 of the *Debt Act*, the proceedings that authorize the incurrence of lease rental debt that is evidenced by the Guaranty, any statements or certificates required to qualify the lease rental obligations evidenced by the Guaranty as self-liquidating debt pursuant to §8026 of the *Debt Act*, and any other documents required by the *Debt Act* or DCED.

**SECTION 9. LEGAL ADVERTISEMENTS**

The Board 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, within fifteen (15) days following the day of final enactment.

**SECTION 10. 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 Officers, have hereunto set our signatures and affixed hereto the Seal of the TOWNSHIP OF CALN, Chester County, Pennsylvania.

Dated: May 9, 2019

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JENNIFER M. BRETON  
President, Board of Commissioners

[Seal]

ATTEST:

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KRISTEN L. DENNE  
Secretary, Board of Commissioners