

LARKSVILLE BOROUGH

ORDINANCE NO. 3 of 2021

AN ORDINANCE REQUIRING THE LARKSVILLE BOROUGH SEWER AUTHORITY (THE "AUTHORITY") TO CONVEY THE SEWER SYSTEM AND ALL PROPERTY AND ASSETS OF THE AUTHORITY TO THE BOROUGH UNDER PROVISIONS OF SECTION 5622 OF THE MUNICIPAL AUTHORITIES ACT AND SECTION 2041.1 OF THE BOROUGH CODE; ESTABLISHING A DEADLINE BY WHICH THE AUTHORITY SHALL CONVEY BY APPROPRIATE INSTRUMENT THE SEWER SYSTEM AND ALL PROPERTY AND ASSETS; NOTIFYING THE AUTHORITY AND ALL OTHER PARTIES TO IMMEDIATELY CEASE AND DESIST FROM ALL ACTIONS OR ACTIVITIES THAT COULD DECREASE THE VALUE OF THE SEWER SYSTEM OR OTHERWISE INTERFERE WITH OR DELAY THE CONVEYANCE OF THE SEWER SYSTEM TO THE BOROUGH; AUTHORIZING INCIDENTAL ACTION TO BE TAKEN BY SPECIFIED OFFICERS OF THE BOROUGH; AND REPEALING INCONSISTENT ORDINANCES AND RESOLUTIONS.

WHEREAS, the Borough of Larksville (the "Borough") is a Borough organized and operating in accordance with the Borough Code 8 Pa.C.S.A. § 101, et. seq.; and

WHEREAS, the Borough created the Authority in 1971 and the Authority currently owns and operates a sanitary wastewater collection and disposal system (the "System") located at 742 East Main Street, Larksville, Pennsylvania that provides wastewater service to various customers primarily within the Borough; and

WHEREAS, the System is a project of a character which the Borough has the power to establish, maintain or operate pursuant to the Borough Code; and

WHEREAS, the Borough has determined to acquire the System to provisions of the Municipal Authorities Act, 53 Pa. C.S. including §§5619; 5622 (the "Act") and Borough Code 8 Pa. C.S. § 2041.1.

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Larksville as follows:

1. Borough's Acquisition of System

The Borough Council hereby authorizes the acquisition of the System, including all monies, funds and property, real, personal and mixed, and all contracts related thereto of the Authority, and all right, title and interest of the Authority thereto, pursuant to the rights and powers vested in the Borough under the Act. The Borough Council further authorizes the operation of the System by the Borough from the date of the acquisition forward and authorizes Borough staff to prepare for the transition of the System from Authority to Borough control.

To effectuate the Borough's right to own, operate and maintain the System for its residents, the Borough Council hereby commands and orders the Authority, through its board members, to convey the System and all property of the Authority to the Borough pursuant to the

Act by written instrument(s) in form and substance acceptable to the Borough on or before August 4, 2021 (the "Deadline").

2. Assumption or Payment of Authority Obligations

Pursuant to the Act, the Borough Council hereby authorizes and approves the assumption or payment by the Borough on the effective date of the conveyance of the System, of all outstanding obligations incurred or owing by the Authority with respect to the System (the "Authority Obligations"). The Borough Council hereby orders the Authority to cooperate with the Borough, its agents and representatives, to effectuate the assignment and assumption of any Authority Obligations on or before the Deadline. It is hereby declared necessary for the health, safety and welfare of the citizens of the Borough to: (i) have the Borough assume or pay the Authority Obligations with funds provided by the Authority; (ii) have the Authority convey the System and all property of the Authority to the Borough on or before the Deadline.

3. Prohibition of Authority Action

The Authority and any other party associated therewith shall not take any action upon or expend any funds: (i) related to any projects or projects, including, but not limited to the incurrence by the Authority of any obligations or indebtedness for any purpose, or the expansion, encumbrance transfer or other disposition of any of the System or any property of the Authority; (ii) on or in connection with ordering or obtaining any valuation, study or report of or in connection with the System; or (iii) which could have a negative effect on the value or operation of the System.

4. Authority's Use of Funds

The Authority or any other party is hereby expressly prohibited from taking any action or expending any funds, for the purpose of challenging the right of the Borough to take the actions set forth in this Ordinance or which would have the effect of directly or indirectly, hindering, impeding or otherwise adversely affecting the Borough's ability to obtain control and ownership of the System. Violation of this provision shall constitute cause for the removal of members of the board of the Authority under Section 5610(d) of the Municipal Authorities Act and grounds for surcharge.

5. Existing Agreements

Any and all existing agreements between the Borough and the Authority shall be terminated and shall be null and void and no longer of any force or effect upon the effective date of the conveyance of the System.

6. General Authorization

The Borough Council hereby further authorizes the Borough, its agents and employees, to take any and all necessary actions required by the with the Charter of the Borough and other applicable law to complete the conveyance of the System as permitted by applicable law.

7. Severability

The provisions of this Ordinance are intended to be severable, and if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Borough Council that this Ordinance would have been adopted even if such illegal, invalid or unconstitutional section, sentence, clause, part or provisions had not been included herein.

8. Effective Date

This Ordinance shall take effect and be in force five (5) days from and after its approval as required by the law.

9. Repealer

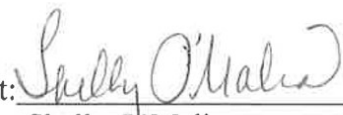
All other ordinances and resolutions or parts thereof as they are inconsistent with this Ordinance are hereby repealed.

ENACTED AND ORDAINED this 20 day of July, 2021.

Seal:

**Borough of Larksville
Borough Council**

By: 
Joseph Romanowsky
Council President

Attest: 
Shelly O'Malia
Borough Administrator