

**WILLISTOWN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 5 of 2020

AN ORDINANCE AUTHORIZING THE EXECUTION BY WILLISTOWN TOWNSHIP (THE "TOWNSHIP") OF AN ASSET PURCHASE AGREEMENT (THE "PURCHASE AGREEMENT") BETWEEN THE TOWNSHIP AND THE PURCHASER, AQUA PENNSYLVANIA WASTEWATER, INC. ("AQUA"); AUTHORIZING THE ASSIGNMENT OF THE TOWNSHIP'S RIGHTS AND OBLIGATIONS IN ALL RELEVANT AGREEMENTS TO AQUA; AUTHORIZING AND APPROVING ALL CONVEYANCE INSTRUMENTS; AUTHORIZING COMMUNICATIONS OF INFORMATION AND COOPERATION WITH AQUA; AUTHORIZING ALL ACTIONS RELATING TO THE EXECUTION OF THE PURCHASE AGREEMENT AND THE ASSIGNMENT OF ALL RELEVANT AGREEMENTS; AUTHORIZING INCIDENTAL ACTION TO BE TAKEN BY SPECIFIED OFFICERS OF THE TOWNSHIP; AND REPEALING INCONSISTENT ORDINANCES AND RESOLUTIONS.

WHEREAS, Township is a body corporate and politic, organized and existing under the Second Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §65101, et. seq. (the "Code").

WHEREAS, the Township currently owns and operates a sanitary wastewater collection and disposal system (the "System") that provides wastewater service to various customers primarily within the Township; and

WHEREAS, the Township previously decided to pursue the sale of all of the assets, properties and rights of the Township (whether tangible, real, personal or mixed) which are exclusively held and used by it in connection with the System, as set forth in the Purchase Agreement (the "System Assets") through a competitive bidding process (the "Assets Sale"); and

WHEREAS, the Township issued a Request for Qualifications (the "RFQ") and qualified two bidders and a subsequent Request for Bids (the "RFB") to solicit binding bids from interested and qualified companies and entities to purchase the System; and

WHEREAS, the Township received three responses to the RFQ and, after the opportunity for due diligence, received a binding bid from Aqua that was found to be qualified; no bid was received from the second qualified bidder; and

WHEREAS, the Township has reviewed the proposal submitted in response to the RFB from Aqua and has determined that Aqua's bid proposal is in the best interest of the Township and offers value to the Township, as determined by the Board of Supervisors of the Township, based on the advice of the Township's Financial Advisor and the Special Counsel; and

WHEREAS, to the extent the Township has determined that the Assets Sale is in the best

interests of the Township, such determination to be evidenced through the execution by the Township of the Purchase Agreement, the Township will sell the System Assets to Aqua by entering into the Purchase Agreement with Aqua; and

WHEREAS, pursuant to the Purchase Agreement, the Township will assign the Township's rights and obligations under all relevant Agreements to Aqua as necessary and appropriate and in accordance with the Purchase Agreement; and

WHEREAS, under the Purchase Agreement, the Township will transfer to Aqua the ownership of the System Assets through the execution and delivery of all necessary and required bills of sale, instruments of assignment, consents to transfer, deeds, and other agreements, documents, and instruments of conveyance (collectively, the "Conveyance Instruments"); and

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

Section 1. Approval of the Purchase Agreement

The Board of Supervisors hereby authorizes and approves the execution, delivery, and performance of the Purchase Agreement substantially in the form attached hereto as *Exhibit A*. The Chair or Vice Chair of the Board of Supervisors are hereby authorized and directed on behalf of the Township to execute any and all papers and documents and to do and cause to be done any and all actions and things necessary or proper to execute the Purchase Agreement.

Section 2. Assignment of Intermunicipal Agreements and Other Relevant Agreements

The Board of Supervisors hereby authorizes and approves the assignment of the Township's rights and obligations under all relevant agreements. The Chair or Vice Chair of the Board of Supervisors are hereby authorized and directed on behalf of the Township to execute any and all papers and documents and to do and cause to be done any and all actions and things necessary or proper to effectuate such assignment, provided that the terms and conditions of all such papers and documents are satisfactory to the Township Solicitor and Special Counsel to the Township.

Section 3. Approval of Deeds, Certificates, and Related Documents

The Board of Supervisors hereby authorizes the execution and delivery by the Chair or Vice Chair of the Board of Supervisors of the Conveyance Instruments necessary and required to be executed.

Section 4. Disposition of Proceeds

The proceeds of the sale shall be utilized at the discretion of the Board of Supervisors in a manner consistent with the Code and other applicable law.

Section 5. Information and Cooperation

The Board of Supervisors hereby authorizes the Township, its agents and employees, to obtain and communicate the System billing information and any and all rights of the Township in connection therewith and other information required or desirable, in the sole discretion of the Township Manager, to Aqua and to cooperate with Aqua for the continued operation of the System and the use of the System Assets.

Section 6. General Authorization

The Board of Supervisors hereby further authorizes the Township, its agents and employees, to take any and all necessary actions required by the Code and other applicable law to complete the sale of the System Assets.

Section 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 Board of Supervisors 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.

Section 8. Effective Date


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

Section 9. Repealer

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

ENACTED AND ORDAINED this 14th day of December 2020.

**BOARD OF SUPERVISORS
WILLISTOWN TOWNSHIP**


William R. Shoemaker, Chair


Robert T. Lange, Vice-Chair


Barbara L. Handelin, Member

ATTEST;


Sally Slook, Township Manager