

NOVEMBER 4, 2016

**SPECIAL MEETING OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BERLIN, CAMDEN COUNTY, NEW JERSEY AT BERLIN TOWNSHIP MUNICIPAL HALL NOVEMBER 4, 2016 AT 11:00 A.M.**

Mayor Magazzu opened the meeting and stated that pursuant to the requirements of the Open Public Meetings Law, notice of this meeting was advertised in the Courier Post, Record Breeze and posted on the bulletin board.

All in attendance joined in the Salute to the Flag.

**ROLL CALL**

**Present-** Mayor Magazzu, Councilman McIntosh,

**VIA Telephone-** Council President Morris, Councilwoman Bodanza ,  
Councilman Epifanio

**Also Present-** CFO, Lori Campisano

**RESOLUTION 2016-179 RESOLUTION OF THE TOWNSHIP OF BERLIN MAYOR AND COUNCIL , COUNTY OF CAMDEN, NEW JERSEY, AUTHORIZING THE PREPARATION AND DISTRIBUTION OF OFFERING DOCUMENTS IN CONNECTION WITH THE SALE OF THE TOWNSHIP'S GENERAL OBLIGATION REFUNDING BONDS, SERIES 2016B; AUTHORIZING THE ISSUANCE, SALE AND AWARD OF SAID BONDS; MAKING CERTAIN DETERMINATIONS AND COVENANTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN ACTIONS RELATED THERETO.**

**WHEREAS**, on May 23, 2008, the Township of Berlin, County of Camden, New Jersey ("Township") issued its General Obligation Refunding Bonds, Series 2008, dated May 23, 2008, in the aggregate principal amount of \$3,115,000, bearing interest at rates ranging from 3.250% to 5.000% per annum ("2008 Bonds"); and

**WHEREAS**, a portion of the 2008 Bonds in the aggregate principal amount of \$1,035,000, maturing on September 15 in the years 2019 through 2025, both inclusive (collectively, the "2008 Callable Bonds"), are, at the option of the Township, subject to redemption prior to maturity in whole or in part on any date on or after September 15, 2018 at a redemption price equal to 100% of the 2008 Callable Bonds to be redeemed, plus accrued interest thereon; and

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**WHEREAS**, on December 3, 2010, the Township issued its General Obligation Bonds, Series of 2010, dated December 3, 2010, in the aggregate principal amount of \$10,318,000, bearing interest at rates ranging from 4.250% to 5.000% per annum ("2010 Bonds", and together with the 2008 Bonds, the "Prior Bonds"); and

**WHEREAS**, a portion of the 2010 Bonds in the aggregate principal amount of \$7,868,000, maturing on January 1 in the years 2022 through 2035, both inclusive (collectively, the "2010 Callable Bonds", and together with the 2008 Callable Bonds, the "Callable Bonds"), are, at the option of the Township, subject to redemption prior to maturity in whole or in part on any date on or after January 1, 2021 at a redemption price equal to 100% of the 2010 Callable Bonds to be redeemed, plus accrued interest thereon; and

**WHEREAS**, as a result of the low interest rates prevailing in the municipal bond market, the Township has the opportunity to economically refinance up to all of the Callable Bonds; and

**WHEREAS**, on September 12, 2016, the Township Council, pursuant to *N.J.S.A. 40A:2-52*, introduced an ordinance entitled, "REFUNDING BOND ORDINANCE PROVIDING FOR THE REFUNDING OF THE TOWNSHIP'S OUTSTANDING CALLABLE: (I) GENERAL OBLIGATION REFUNDING BONDS, SERIES 2008, DATED MAY 23, 2008; AND (II) GENERAL OBLIGATION BONDS, SERIES 2010, DATED DECEMBER 3, 2010; AUTHORIZING THE ISSUANCE OF UP TO \$10,750,000 OF GENERAL OBLIGATION REFUNDING BONDS OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY, TO FINANCE THE COSTS THEREOF; MAKING CERTAIN DETERMINATIONS AND COVENANTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN RELATED ACTIONS IN CONNECTION WITH THE FOREGOING" ("Refunding Bond Ordinance"); and

**WHEREAS**, on September 26, 2016, the Township Council, after a public hearing, finally adopted the Refunding Bond Ordinance; and

**WHEREAS**, pursuant to the Refunding Bond Ordinance, the Township is authorized to issue its general obligation refunding bonds, in one or more series, in the aggregate principal amount of up to \$10,750,000 to: (i) advance refund and redeem up to all of the 2008 Callable Bonds; (ii) advance refund and redeem up to all of the 2010 Callable Bonds; and (iii) pay the costs and expenses incidental to the issuance and sale of such bonds (collectively, the "Project"); and

**WHEREAS**, it is the intent of the Township Council hereby to: (i) authorize and approve the preparation and distribution of offering documents in connection with the issuance and sale of general obligation refunding bonds; (ii) authorize and approve the issuance, sale and award of the general obligation refunding bonds; (iii) to ratify and confirm certain actions heretofore taken by or on behalf of the Township; and (iv) authorize the Mayor, Chief Financial Officer and Township Clerk to make certain related determinations and covenants and take certain actions in connection therewith.

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**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF BERLIN, COUNTY OF CAMDEN, NEW JERSEY (NOT LESS THAN TWO-THIRDS OF ALL THE MEMBERS THEREOF AFFIRMATIVELY CONCURRING), PURSUANT TO THE PROVISIONS OF THE LOCAL BOND LAW, CONSTITUTING CHAPTER 169 OF THE LAWS OF 1960 OF THE STATE OF NEW JERSEY, AS AMENDED AND SUPPLEMENTED ("LOCAL BOND LAW"), AS FOLLOWS:**

**Section 1.** Pursuant to the Local Bond Law and the Refunding Bond Ordinance, the issuance of negotiable refunding bonds of the Township in the aggregate principal amount of up to \$10,750,000, to be designated, substantially, "Township of Berlin, County of Camden, New Jersey, General Obligation Refunding Bonds, Series 2016" ("Refunding Bonds"), for the purposes described in the Refunding Bond Ordinance and in this Resolution, is hereby authorized, approved, ratified and confirmed.

**Section 2.** The preparation of a preliminary official statement ("Preliminary Official Statement") relating to the Refunding Bonds, and the distribution of said Preliminary Official Statement (in physical or electronic form) by FTN Financial Capital Markets, as underwriter ("Underwriter"), to prospective purchasers of the Refunding Bonds and others having an interest therein, is hereby authorized, approved, ratified, confirmed and directed. The Mayor, Chief Financial Officer and Township Clerk are each hereby authorized to deem the Preliminary Official Statement "final", as contemplated by paragraph (b)(1) of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934, as amended.

**Section 3.** The Chief Financial Officer is hereby authorized to determine in accordance with the Local Bond Law, specifically, N.J.S.A. 40A:2-52 et seq., and pursuant to the terms and conditions established by the Underwriter under the Bond Purchase Contract to be entered into by the Township and the Underwriter in connection with the sale of the Refunding Bonds ("Purchase Contract") and the terms and conditions hereof, the following items with respect to the Refunding Bonds:

- (a) the total principal amount of the Refunding Bonds which, in the aggregate, shall not exceed \$10,750,000;
- (b) the annual principal installments of the Refunding Bonds; provided, however, the final maturity shall be no later than September 15, 2025 for the portion of the Refunding Bonds allocable to the 2008 Callable Bonds and January 1, 2035 for the portion of the Refunding Bonds allocable to the 2010 Callable Bonds;
- (c) the dated date of the Refunding Bonds and the principal and interest payment dates for the Refunding Bonds;
- (d) the rates of interest the Refunding Bonds are to bear; provided, however, that an overall net present value savings of at least three percent (3%) is

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achieved with respect to each series of Callable Bonds;

- (e) the purchase price for the Refunding Bonds; provided, however, that the Underwriters' discount for the Refunding Bonds shall not exceed \$6.00 per \$1,000 principal amount of such Refunding Bonds; and
- (f) the redemption provisions of the Refunding Bonds.

Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and delivery of the Purchase Contract by the Chief Financial Officer as provided for in Section 5 hereof.

**Section 4.** The Chief Financial Officer shall report in writing to the Township Council at the meeting next succeeding the date when any sale or delivery of the Refunding Bonds pursuant to this resolution is made. Such report must include the aggregate principal amount, the interest rate or rates and the maturity schedule of the Refunding Bonds sold, the price obtained, and the redemption provisions thereof, if any. The Chief Financial Officer shall also, within ten (10) days of the issuance of the Refunding Bonds, file with the Local Finance Board, Division of Local Government Services, New Jersey Department of Community Affairs a report including: (i) a comparison of the debt service schedules for both the Callable Bonds and the Refunding Bonds showing annual present value savings; (ii) a summary of the terms of the Refunding Bonds; (iii) an itemized accounting of all costs of issuance of the Refunding Bonds; (iv) a certification that the issuance of the Refunding Bonds has complied with all conditions required pursuant to *N.J.A.C. 5:30-2.5*; and (v) a certified copy of this Resolution.

**Section 5.** The Refunding Bonds shall be sold at a negotiated sale to the Underwriter in accordance with the terms and conditions set forth in the Purchase Contract. The Purchase Contract is hereby authorized to be executed and delivered on behalf of the Township by the Chief Financial Officer, in substantially the form on file in the offices of the Township, with such changes as the Chief Financial Officer in his/her respective sole discretion, after consultation with, among others, Bond Counsel and the Financial Advisor (as hereinafter defined) to the Township, shall determine, such determination to be conclusively evidenced by the execution of the Purchase Contract by an authorized officer as determined hereunder.

**Section 6.** The Refunding Bonds will be issued in fully registered form. One certificate shall be issued for the aggregate principal amount of Refunding Bonds maturing in each year. Both the principal of and interest on the Refunding Bonds will be payable in lawful money of the United States of America. Each certificate will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York, which will act as securities depository ("Securities Depository"). The certificates will be on deposit with The Depository Trust Company. The Depository Trust Company will be responsible for maintaining a book-entry system for recording the interests of its participants or the transfers of the interests among its participants. The

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participants will be responsible for maintaining records recording the beneficial ownership interests in the Refunding Bonds on behalf of individual purchasers. Individual purchases may be made in the principal amount of \$5,000 through book-entries made on the books and the records of The Depository Trust Company and its participants. The principal of and interest on the Refunding Bonds will be paid to The Depository Trust Company by the Township on the respective maturity dates and due dates and will be credited on the respective maturity dates and due dates to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company as of either : (i) the 1st day of the calendar month containing an interest payment date; or (ii) the 15th day of a calendar month next preceding an interest payment date, as applicable (the record dates for the Refunding Bonds). The Refunding Bonds will be executed on behalf of the Township by the manual or facsimile signatures of the Chief Financial Officer, attested by the Township Clerk or Deputy Township Clerk (such execution shall constitute conclusive approval by the Township of the form of the Refunding Bonds), and shall bear the affixed, imprinted or reproduced seal of the Township thereon. The Refunding Bonds shall not be valid or obligatory for any purpose unless the Authentication Certification printed thereon shall be duly executed by an authorized officer of the Paying Agent (hereinafter mentioned).

**Section 7.** The Township is hereby authorized to make representations and warranties, to enter into agreements and to make all arrangements with The Depository Trust Company, New York, New York, as may be necessary in order to provide that the Refunding Bonds will be eligible for deposit with The Depository Trust Company and to satisfy any obligation undertaken in connection therewith.

**Section 8.** In the event that The Depository Trust Company may determine to discontinue providing its service with respect to the Refunding Bonds or is removed by the Township and if no successor Securities Depository is appointed, the Refunding Bonds which were previously issued in book-entry form shall be converted to registered bonds in denominations of \$5,000, or any integral multiple thereof ("Registered Bonds"). The beneficial owner under the book-entry system, upon registration of the Registered Bonds held in the beneficial owner's name, will become the registered owner of the Registered Bonds. The Township shall be obligated to provide for the execution and delivery of the Registered Bonds in certified form.

**Section 9.** The Refunding Bonds shall be general obligations of the Township. The full faith and credit of the Township are irrevocably pledged to the punctual payment of the principal of and interest on the Refunding Bonds and, to the extent payment is not otherwise provided, the Township shall levy ad valorem taxes on all taxable real property without limitation as to rate or amount for the payment thereof.

**Section 10.** The preparation of a final official statement ("Official Statement") with respect to the Refunding Bonds is hereby authorized and directed. Within seven (7) business days of the sale of the Refunding Bonds and in sufficient time to accompany any confirmation that requests payment from a customer, the Township will deliver sufficient copies of the Official Statement to the Underwriter to comply with Paragraph

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(b)(4) of Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934, as amended ("Rule 15c2-12"). The Mayor, Chief Financial Officer and Township Clerk are each hereby authorized to execute the Official Statement, and the distribution thereof to the Underwriter and others is hereby authorized and directed. The execution of the final Official Statement by the Mayor, Chief Financial Officer or Township Clerk shall constitute conclusive evidence of approval by the Township of the changes therein from the Preliminary Official Statement. The Mayor, Chief Financial Officer and Township Clerk are each hereby authorized to approve any amendments of or supplements to the Official Statement.

**Section 11.** The appointment of Bowman & Company, LLP ("Printer"), to provide printing, electronic and physical dissemination services for the Township with respect to the Preliminary Official Statement and Official Statement (hereinafter defined) is hereby authorized, approved, ratified and confirmed. The Chief Financial Officer is hereby authorized and directed to enter into an agreement with Printer for the services to be provided.

**Section 12.** The Township hereby covenants that it will not make any use of the proceeds of the Refunding Bonds or do or suffer any other action that would cause: (i) the Refunding Bonds to be "arbitrage bonds" as such term is defined in Section 148(a) of the Internal Revenue Code of 1986, as amended ("Code"), and the Regulations promulgated thereunder; (ii) the interest on the Refunding Bonds to be included in the gross income of the owners thereof for federal income taxation purposes; or (iii) the interest on the Refunding Bonds to be treated as an item of tax preference under Section 57(a)(5) of the Code.

**Section 13.** The Township hereby covenants as follows: (i) it has not abandoned, sold or otherwise disposed of any facility, equipment or improvement (except through normal retirement) financed directly or indirectly with the proceeds of the Callable Bonds; (ii) it does not intend to, during the term that the Refunding Bonds are outstanding, abandon, sell or otherwise dispose of any facility, equipment or improvement (except through normal retirement) financed directly or indirectly with the proceeds of the Callable Bonds; (iii) it shall timely file with the Ogden, Utah Service Center of the Internal Revenue Service, such information report or reports as may be required by Section 148(f) and 149(e) of the Code; (iv) it shall take no action that would cause the Refunding Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code; (v) it will not employ a device in connection with the issuance by it of the Refunding Bonds which will enable it to obtain a material financial advantage (based on arbitrage) apart from the savings that may be realized as a result of the lower interest rates on the Refunding Bonds than on the Callable Bonds; (vi) the amount of "excess gross proceeds", as such term is defined in Income Tax Regulation §1.148-10(c)(2), of the Refunding Bonds will not exceed one percent (1%) of the proceeds received from the sale thereof; and (vii) it shall make, or cause to be made, the rebate required by Section 148(f) of the Code in the manner described in Regulation §1.148-0 through 1.148-11, 1.149(b)-1 and 1.149(i)-1, 1.149(g)-1, 1.150-1 and 1.150-2 as such regulations and statutory provisions may be modified insofar as they apply to the Refunding Bonds.

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**Section 14.** The Chief Financial Officer is hereby authorized and directed to engage the services of a qualified financial institution to serve as paying agent for the Bonds ("Paying Agent") and as escrow agent ("Escrow Agent") for the Refunded Bonds (hereinafter defined). The Chief Financial Officer is hereby authorized to execute and deliver an agreement with the Paying Agent and the Escrow Agent for the services to be provided.

**Section 15.** The Escrow Agent is hereby authorized, if so directed by the Township, to redeem the Callable Bonds on their respective first call dates, at a redemption price equal to 100% of the Callable Bonds to be redeemed, plus interest accrued to the redemption date ("Refunded Bonds"). The Escrow Agent shall mail any required notice of redemption as set forth in the Refunded Bonds and in the Escrow Deposit Agreement (hereinafter mentioned) by and between the Township and the Escrow Agent.

**Section 16.** To provide for the redemption of the Refunded Bonds as set forth in Section 15 above, the Chief Financial Officer is hereby authorized to execute and deliver an escrow deposit agreement ("Escrow Deposit Agreement") on behalf of the Township and to make the deposit of moneys and investments specified therein ("Escrow Investments").

**Section 17.** The appointment of Phoenix Advisors LLC, Bordentown, New Jersey ("Financial Advisor"), to provide financial advisory services for the Township in connection with the authorization, issuance, sale and delivery of the Refunding Bonds is hereby authorized, approved, ratified and confirmed. The Chief Financial Officer is hereby authorized and directed to enter into an agreement with the Financial Advisor for the services to be provided.

**Section 18.** In order to assist the Underwriter in complying with the secondary market disclosure requirements of Rule 15c2-12, the Chief Financial Officer is hereby authorized to execute on behalf of the Township before the issuance of the Refunding Bonds an agreement with the Financial Advisor, as dissemination agent, providing for the preparation and filing of the necessary reports in accordance with Rule 15c2-12.

**Section 19.** The Chief Financial Officer is hereby authorized to engage the services of Bowman & Company, LLP ("Verification Agent"), to verify the mathematical accuracy of certain computations made by the Underwriter regarding: (i) the adequacy of the maturing principal of and interest on the Escrow Investments to pay each series of the Refunded Bonds as set forth in the Escrow Deposit Agreement; and (ii) the yields on the Refunding Bonds and the Escrow Investments.

**Section 20.** The Chief Financial Officer is hereby authorized to pay the costs associated with the issuance of the Refunding Bonds and refunding of the Refunded Bonds.

**Section 21.** If necessary or advisable, the appropriate Township officials and the Township's professional advisors are hereby authorized to (i) obtain one or more ratings

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on the Refunding Bonds; and (ii) furnish certain information to the various municipal bond insurance companies concerning the Township and the Refunding Bonds for the purpose of qualifying the Refunding Bonds for municipal bond insurance. The Chief Financial Officer is hereby authorized to execute such documents as may be necessary or appropriate to effectuate the obtainment of ratings for the Refunding Bonds and the obtainment of municipal bond insurance with respect to the Refunding Bonds if determined to be cost effective.

**Section 22.** All actions heretofore taken and documents prepared or executed by or on behalf of the Township by the Mayor, Chief Financial Officer, Township Clerk, other Township officials or by the Township's professional advisors, in connection with the authorization and issuance of the Refunding Bonds and the refunding of the Refunded Bonds, as described in the Refunding Bond Ordinance, are hereby ratified, confirmed, approved and adopted in all respects.

**Section 23.** The Mayor, Chief Financial Officer and Township Clerk are each hereby severally authorized to determine all matters and execute all documents and instruments in connection with the issuance of the Refunding Bonds and refunding of the Refunded Bonds, as described in the Refunding Bond Ordinance, not determined or otherwise directed to be executed by applicable law, or by this or any subsequent resolution, and the signatures of the Mayor, Chief Financial Officer or Township Clerk on such documents or instruments shall be conclusive as to such determinations.

**Section 24.** All resolutions, or parts thereof, inconsistent herewith are hereby rescinded and repealed to the extent of any such inconsistency.

**Section 25.** This Resolution shall take effect immediately upon adoption this 4th day of November, 2016.

**Public Portion**

Motion by Council President Morris, seconded by Councilman McIntosh to open the meeting to the public.

Let the record reflect no one was in attendance of the meeting.

**Adjourn**

Motion by Councilman Epifanio, second by Councilwoman Bodanza to adjourn the meeting at 11:10 am. Motion carried by voice vote, all members voting in the affirmative. Meeting adjourned 11:10 pm

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Catherine Underwood, Township Clerk



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