

BOROUGH OF MILESBURG

Centre County, Pennsylvania

ORDINANCE NO. 294

AN ORDINANCE

OF THE COUNCIL OF THE BOROUGH OF MILESBURG DETERMINING TO INCUR LEASE RENTAL DEBT IN THE PRINCIPAL AMOUNT OF \$2,775,000, IN CONNECTION WITH THE FINANCING OF COSTS AND EXPENSES OF CERTAIN CAPITAL ADDITIONS, ALTERATIONS AND IMPROVEMENTS TO THE EXISTING SANITARY SEWAGE COLLECTION AND TREATMENT FACILITIES OWNED AND OPERATED BY MID CENTRE COUNTY AUTHORITY; DETERMINING THAT SUCH DEBT SHALL BE INCURRED AS LEASE RENTAL DEBT AND SHALL BE EVIDENCED BY A GUARANTEED SEWER REVENUE BOND TO BE AUTHORIZED AND TO BE ISSUED BY SAID AUTHORITY; APPROVING THE AUTHORITY'S CONSULTING ENGINEERS' REPORT RELATING TO THE SELF LIQUIDATING NATURE OF SUCH LEASE RENTAL DEBT OF THIS BOROUGH; AUTHORIZING AND DIRECTING PROPER OFFICERS OF THIS BOROUGH TO PREPARE, VERIFY AND FILE THE DEBT STATEMENT, THE APPLICATION FOR EXCLUSION OF SELF LIQUIDATING DEBT AND OTHER APPROPRIATE DOCUMENTS REQUIRED BY THE LOCAL GOVERNMENT UNIT DEBT ACT, AS AMENDED, OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA; AUTHORIZING PROPER OFFICERS OF THIS BOROUGH TO EXECUTE, ATTEST AND DELIVER A GUARANTY AGREEMENT WITH RESPECT TO SAID GUARANTEED SEWER REVENUE BOND OF SAID AUTHORITY; APPROVING THE FORM OF

SAID GUARANTY AGREEMENT; GUARANTEEING PAYMENT OF A PORTION OF THE PRINCIPAL OF AND INTEREST ON SAID GUARANTEED SEWER REVENUE BOND OF SAID AUTHORITY AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO; SETTING FORTH THIS BOROUGH'S PORTION OF THE DEBT SERVICE TO WHICH SAID GUARANTY IS APPLICABLE; ESTABLISHING A SINKING FUND WITH RESPECT TO SAID GUARANTY; AND PROVIDING FOR PROPER OFFICERS OF THIS BOROUGH TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SAID GUARANTY AGREEMENT.

WHEREAS, This Borough is existing under laws of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit", as such phrase is defined under the Local Government Unit Debt Act, as amended, 53 Pa. C.S. Chs. 80-82 (the "Act"), of the General Assembly of the Commonwealth; and

WHEREAS, Mid Centre County Authority (the "Authority") is a municipality authority organized and existing under the Pennsylvania Municipality Authorities Act, as amended and supplemented, 53 Pa. C.S. Ch. 56, of the General Assembly of the Commonwealth; and

WHEREAS, The Authority presently owns and operates a complete sanitary sewage collection, transportation, treatment and disposal system, including all related facilities (the "Sewer System"), for providing sewer service in and for this Borough and areas adjacent thereto; and

WHEREAS, The Authority, with the consent and approval of this Borough, has determined to acquire and construct extensions, alterations and improvements to the existing Sewer System owned and operated by the Authority (the "Improvement Project").

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of the Borough of Milesburg, Centre County, Pennsylvania, as follows:

Section 1. The Council of this Borough authorizes and directs the Authority to undertake the financing of the costs and expenses of the Improvement Project in accordance with a definitive written proposal submitted to the Authority by the Pennsylvania Infrastructure Investment Authority (the "PennVest").

Section 2. The Council of this Borough hereby determines that the realistic estimated remaining useful life of the existing Sewer System owned and operated by the Authority and of the Improvement Project is in excess of 25 years.

Section 3. The Council of this Borough hereby specifies and determines that a portion of the debt of the Authority to be incurred in connection with the financing of the costs and expenses of the Improvement Project in the amount of \$2,775,000 will constitute lease rental debt of this Borough, subject to applicable provisions of the Act, and shall be evidenced by the Authority's Guaranteed Sewer Revenue Bond, in the principal amount of \$7,500,000 (the "Series of 2002 Bond").

Section 4. This Borough shall enter into a Guaranty Agreement (the "Guaranty Agreement"), substantially in the form referred to in Section 5 hereof, with respect, *inter alia*, to the guaranty by this Borough of the payment of its proportionate share of the principal of and interest on the Series of 2002 Bond.

Section 5. The Guaranty Agreement shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Guaranty Agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this Borough for inspection, at reasonable times, by interested persons requesting such inspection.

Section 6. The President or Vice President of the Council of this Borough and Secretary and other appropriate officers of this Borough are

authorized and directed: (a) to prepare, verify and file with the Pennsylvania Department of Community and Economic Development (the "Department"), a debt statement as required by Section 8110 of the Act; (b) to prepare and execute a borrowing base certificate required by the Act to be appended to the debt statement of this Borough referred to in subsection (a) of this Section; and (c) to prepare and file originally and thereafter, as required, with the Department, appropriate statements required by Section 8026 of the Act which are necessary to qualify all or any portion of lease rental debt of this Borough, which is subject to exclusion as self-liquidating debt, for exclusion from the appropriate debt limit of this Borough as self-liquidating debt. The Council of this Borough hereby approves the report made pursuant to Section 8026 of the Act, of Herbert, Rowland & Grubic, Inc., Consulting Engineers for the Authority, with respect to the Sewer System, and with respect to the Series of 2002 Bond to be issued by the Authority in connection with the Improvement Project.

Section 7. The Mayor, President or Vice President of the Council of this Borough and Secretary of this Borough are authorized and directed to execute, attest and deliver the Guaranty Agreement in behalf of this Borough, in substantially the form approved in Section 5 hereof, or with such changes as such officers shall approve, their execution to constitute conclusive evidence of such approval; Provided, however, that such execution, attestation and delivery of the

Guaranty Agreement shall be subject to compliance by this Borough with applicable provisions of the Act. This Borough authorizes delivery of the Guaranty Agreement to PennVest for purposes set forth in the Guaranty Agreement.

Section 8. Proper officers of this Borough are authorized and directed to make application for approval with respect to the Guaranty Agreement, as required by Section 8111(b) of the Act, and to take all other required and appropriate action.

Section 9. This Borough hereby guarantees the full payment of its proportionate share (37%) of the principal of and interest on the Series of 2002 Bond and in furtherance thereof covenants and agrees with PennVest, as registered owner of the Series of 2002 Bond, that if the Authority shall fail to pay the full amount of the principal of and interest on the Series of 2002 Bond when the same become due and payable, at the times and place, under the terms and conditions and in the manner prescribed in the Series of 2002 Bond, this Borough will pay the full amount of its proportionate share (37%) of such principal and interest to PennVest, in the manner and at the times provided in the Guaranty Agreement.

This Borough agrees and hereby covenants with PennVest, as registered owner of the Series of 2002 Bond, that this Borough shall include the full

amount of its proportionate share of the debt service on the Series of 2002 Bond (37%) for each fiscal year of this Borough in which such sums are payable in its budget for that fiscal year, that in the event the Authority shall fail to pay the full amount of the principal of and interest on the Series of 2002 Bond when due and payable, at the times and place, under terms and conditions and in the manner prescribed in the Series of 2002 Bond, this Borough shall appropriate and duly and punctually pay or cause to be paid the full amount of its proportionate share of such principal and interest (37%) on the dates and at the place and in the manner stated in the Series of 2002 Bond. For such budgeting, appropriation and payment this Borough hereby does pledge its full faith, credit and taxing power and hereby does agree that this covenant shall be specifically enforceable.

This Borough agrees that its proportionate share of the estimated debt service in each of its fiscal years with respect to the Series of 2002 Bond to which the foregoing guaranty shall apply is as follows:

<u>Fiscal Year Ending</u> <u>December 31</u>	<u>Debt Service</u>
2002	\$ 9,622.31
2003	\$ 76,978.50
2004	\$102,967.96
2005	\$180,936.35
2006	\$180,936.35
2007	\$180,936.35
2008	\$180,936.35
2009	\$183,168.76
2010	\$189,865.99
2011	\$189,865.99
2012	\$189,865.99
2013	\$189,865.99
2014	\$189,865.99
2015	\$189,865.99
2016	\$189,865.99
2017	\$189,865.99
2018	\$189,865.99
2019	\$189,865.99
2020	\$189,865.99
2021	\$189,865.99
2022	\$189,865.99
2023	\$189,865.99
2024	\$142,399.49

Section 10. There is created a sinking fund of this Borough for the guaranty of this Borough related to the Series of 2002 Bond to be known as "Sinking Fund - Mid Centre County Authority Guaranteed Sewer Revenue Bond - Series of 2002". Said sinking fund shall be administered in the manner provided by the Act for administration of sinking funds created pursuant to the Act.

This Borough covenants and agrees to pay into the aforesaid sinking fund its proportionate share (37%) of all moneys, if any, required to be paid to PennVest, as registered owner of the Series of 2002 Bond, pursuant to provisions of the Guaranty Agreement on or before the dates required for any such payments pursuant to terms of the Guaranty Agreement. Moneys so deposited shall be paid to PennVest by the sinking fund depository appointed in Section 11 hereof, in behalf of this Borough, pursuant to terms of the Guaranty Agreement, on the dates and in the manner required by terms of the Guaranty Agreement.

Section 11. This Borough appoints Omega Bank, N.A. as the sinking fund depository with respect to the sinking fund created pursuant to Section 10 hereof. Proper officers of this Borough are authorized and directed to contract with Omega Bank for its services as sinking fund depository with respect to the sinking fund created pursuant to Section 10 hereof.

Section 12. Proper officers of this Borough are authorized and directed to execute all documents and to take such other action as may be necessary to carry out the intent and purposes of this Ordinance and the undertakings of this Borough under the Guaranty Agreement.

Section 13. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance,

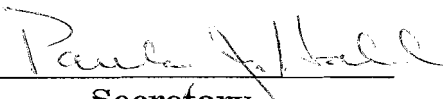
it being the intent of this Borough that such remainder shall be and shall remain in full force and effect.

Section 14. All ordinances or parts of ordinances, insofar as the same shall be inconsistent herewith, shall be and the same expressly are repealed.

Section 15. This Ordinance shall become effective in accordance with Section 8003 of the Act.

DULY ENACTED AND ORDAINED this 9th day of September, 2002, by the Council of the Borough of Milesburg, Centre County, Pennsylvania, in lawful session duly assembled.

ATTEST:



Secretary


**BOROUGH OF MILESBURG,
Centre County, Pennsylvania**

By: 

Vice President of Council

(SEAL)

**EXAMINED AND APPROVED THIS 9TH DAY OF SEPTEMBER,
2002.**



Mayor