

TOWNSHIP OF HONEY BROOKORDINANCE NO. 25-1977

ORDINANCE PROVIDING FOR INCREASING THE LEASE RENTAL DEBT OF THE TOWNSHIP OF HONEY BROOK IN AN AMOUNT UP TO \$2,670,000 BY GUARANTEEING PAYMENT OF PRINCIPAL OF AND INTEREST ON NORTHWESTERN CHESTER COUNTY MUNICIPAL AUTHORITY GUARANTEED SEWER REVENUE BONDS, SERIES OF 1977, ISSUED FOR THE PURPOSE OF PROVIDING FUNDS FOR AND TOWARD THE CONSTRUCTION OF A SEWAGE COLLECTION SYSTEM, TOGETHER WITH A SEWAGE TREATMENT PLANT; AUTHORIZING EXECUTION AND DELIVERY OF A GUARANTY AGREEMENT PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER TO MAKE PAYMENTS REQUIRED BY THE GUARANTY AGREEMENT; FIXING AMOUNT OF ANNUAL PAYMENTS OF PRINCIPAL OF AND INTEREST ON THE BONDS GUARANTEED BY THE TOWNSHIP; STATING THE ESTIMATED USEFUL LIFE OF THE PROJECT; PROVIDING FOR PAYMENTS UNDER THE GUARANTY AGREEMENT AND COVENANTING WITH BONDHOLDERS TO MAKE PAYMENTS; AUTHORIZING FILING OF DEBT STATEMENT, BORROWING BASE CERTIFICATE, TRANSCRIPT OF PROCEEDINGS AND APPLICATION FOR APPROVAL AND EXCLUSION OF LEASE RENTAL DEBT BY PENNSYLVANIA DEPARTMENT OF COMMUNITY AFFAIRS; APPROVING ENGINEERING REPORT; AND REPEALING OR RESCINDING INCONSISTENT ORDINANCES AND RESOLUTIONS OR PARTS THEREOF.

WHEREAS, at the request of the Borough of Honey Brook (the "Borough") and the Township of Honey Brook (the "Township"), Northwestern Chester County Municipal Authority (the "Authority") has undertaken the construction of a sewage collection system, together with a sewage treatment plant (the "Sewer System"), in accordance with plans and specifications prepared by Huth Engineers, Inc. (the "Project"); and

WHEREAS, the Authority has applied for and received a

grant commitment from the U.S. Environmental Protection Agency to finance 75% of the eligible costs of the Project; and

WHEREAS, the balance of the cost of the Project is to be financed by issuance by the Authority of up to \$2,670,000 principal amount of its Guaranteed Sewer Revenue Bonds, Series of 1977 (the "1977 Series Bonds"), of which \$2,665,000 principal amount will be issued in the denomination of \$5,000 each and \$5,000 principal amount in the denomination of \$100 each will be offered to the general public and will be issued to the extent purchased; and

WHEREAS, C.C. Collings & Co., Inc., the investment banker for the Authority has recommended that the Borough and the Township guarantee payment of the 1977 Series Bonds in order to improve the salability of the 1977 Series Bonds and reduce interest costs; and

WHEREAS, the Township, by resolution of the Board of Supervisors, has approved the estimated costs of the Project and the proposal of C.C. Collings & Co., Inc. to purchase the \$2,665,000 principal amount of 1977 Series Bonds in the denomination of \$5,000 each, which proposal sets forth the maturities, interest rates and redemption provisions thereof; and

WHEREAS, the Borough and the Township are willing to agree to make payments based on a formula under which, the aggregate payments will equal the principal of and interest on the 1977 Series Bonds, including sinking fund payments with respect thereto, in the

event the revenues of the Authority are insufficient to pay said principal and interest, by execution of a Guaranty Agreement to be dated as of March 1, 1977 (the "Guaranty Agreement"); and

WHEREAS, there has been submitted to this meeting a form of the Guaranty Agreement.

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF HONEY BROOK, PENNSYLVANIA, that:

1. The authorized debt of the Township is hereby increased in an amount up to \$2,670,000 consisting of Lease Rental Debt (as defined in the Local Government Unit Debt Act, No. 185 of 1972, which, as amended, is herein termed the "Act"), which, together with any other Lease Rental Debt and other debt of the Borough now existing, will not result in a violation of the limitations of the Constitution of the Commonwealth of Pennsylvania or of the Act. Said Lease Rental Debt is to be incurred by guaranteeing payment, when due, of a portion of the principal of (including sinking fund payments) and interest on the Authority's Guaranteed Sewer Revenue Bonds, Series of 1977 in the principal amount of up to \$2,670,000 (the "1977 Series Bonds"), issued for the purpose of providing funds for and toward the cost of the Project. Said portion presently equals 62% of the principal amount of the 1977 Series Bonds, or up to \$1,655,400 but is subject to adjustment from time to time pursuant to a formula stated in the Guaranty Agreement. The portions guaranteed by the Borough and the Township shall equal the percentages

of the Equivalent Dwelling Units (as defined from time to time by the Authority's Consulting Engineers) connected to the Sewer System which are within the corporate boundaries of the Borough and the Township. (Said portion or percentage to be guaranteed by the Township as it may be adjusted shall be hereinafter termed the "Township Share.")

2. The maximum amount of the Authority's bonds to be secured by the Guaranty Agreement is \$2,670,000 being the 1977 Series Bonds of the Authority in the denomination of \$5,000 each and the maximum number of 1977 Series Bonds of the Authority in the denomination of \$100 each. The 1977 Series Bonds are to be issued under the Authority's Trust Indenture dated as of March 1, 1977 (the "Indenture"), which provides that the 1977 Series Bonds shall be secured by the pledge of revenues derived by the Authority from the Sewer System and payments by the Borough and the Township under the Guaranty Agreement.

3. The above-mentioned debt to be incurred by the Township shall be Lease Rental Debt.

4. The Guaranty Agreement is hereby approved in substantially the form presented to this meeting, with such changes, if any, as may be approved by the officers of the Board of Supervisors executing it, whose execution thereof shall be conclusive evidence of such approval. The Chairman or Vice Chairman of the

Board of Supervisors is hereby authorized and directed to execute the Guaranty Agreement on behalf of the Township with any above-mentioned changes, and the Secretary of the Township is hereby authorized and directed to affix thereto and attest the seal of the Township, and then to deliver the Guaranty Agreement on behalf of the Township.

5. The principal of and interest on the 1977 Series Bonds are to be payable from the revenues derived by the Authority from the operation of the Authority's Sewer System and payments under the Guaranty Agreement. The semi-annual payments of principal and interest (including sinking fund payments) guaranteed by either the Borough and the Township in the aggregate, are the following:

<u>Year</u>	<u>Amount</u>		<u>Year</u>	<u>Amount</u>	
	<u>March 1</u>	<u>Sept. 1</u>		<u>March 1</u>	<u>Sept. 1</u>
1979	\$86,095*	\$96,095*	1998	\$95,610	\$93,823
1980	96,095*	90,675*	1999	93,823	94,535
1981	90,675*	95,455*	2000	94,535	95,085
1982	95,455*	96,665	2001	95,085	95,473
1983	96,665	96,065	2002	95,473	95,698
1984	96,065	97,940	2003	95,698	95,760
1985	97,940	97,153	2004	95,760	95,660
1986	97,153	96,328	2005	95,660	95,398
1987	96,328	95,465	2006	95,398	94,973
1988	95,465	94,580	2007	94,973	94,385
1989	94,580	96,180	2008	94,385	93,585
1990	96,180	95,104	2009	93,585	95,120
1991	95,104	96,528	2010	95,120	93,825
1992	96,528	95,298	2011	93,825	94,865
1993	95,298	95,548	2012	94,865	93,075
1994	95,548	95,142	2013	93,075	93,620
1995	95,142	96,235	2014	93,620	93,835
1996	96,235	94,673	2015	93,835	93,720
1997	94,673	95,610	2016	93,720	93,275
			2017	93,275	

* Includes \$115 on account of interest and \$715 on account of principal on \$100 denomination Bonds.

6. The estimated useful life of the Project is not less than 40 years.

7. As provided in the Guaranty Agreement, the Township agrees to make certain payments to the Trustee under the Indenture toward the payment of the Township Share of principal of and interest on the 1977 Series Bonds (including sinking fund payments required by the Indenture) to the extent moneys are not otherwise available under the Indenture for such purpose, and agrees that such payments will be made from any available funds of the Township and agrees to take such action as is legally permitted to make funds available for such purpose including, but not limited to, amending its budget for the then current year and borrowing funds to the extent permitted by Act 185 of 1972 of the Commonwealth of Pennsylvania, as amended, known as the Local Government Unit Debt Act (the "Debt Act"), in order that the Township Share of the principal of and interest on the 1977 Bonds (including sinking fund payments) is paid on the dates and at the place and in the manner stated in the 1977 Series Bonds and the coupons appertaining thereto.

As further provided in the Guaranty Agreement, the Township hereby covenants with the holders from time to time of the 1977 Series Bonds and coupons attached thereto that it shall include in its budget for each fiscal year (a) the amounts of the Township Share of the principal of and interest on the 1977 Series Bonds

(including sinking fund payments) for such year in excess of the estimated revenues of the Authority for such year available to pay such amounts (as demonstrated by the Authority's budget prepared as required by the Indenture), and (b) the amount of the Township Share of any deficiency in the immediately preceding year between (i) the principal of and interest on the 1977 Series Bonds (including sinking fund payments) and (ii) the moneys paid to the Trustee in such preceding year by the Authority for such purposes (except to the extent such deficiency can be paid in the budget year in question by revenues of the Authority as demonstrated by its budget for that year prepared as required by the Indenture); shall appropriate amounts to be paid hereunder, and shall duly and punctually pay or cause to be paid to the Trustee such amounts which shall be sufficient to pay the Township Share of the principal of the 1977 Series Bonds and the interest thereon at the dates and place and in the manner stated in the 1977 Series Bonds and the coupons, according to the true intent and meaning thereof, and for such budgeting, appropriation and payment, the Township pledges its full faith, credit and taxing power. This covenant shall be specifically enforceable. The maximum amounts payable semiannually under the Guaranty Agreement shall not exceed the Township Share of the principal of and interest on the 1977 Series Bonds (including sinking

fund payments), the total of said principal and interest, including the Township Share and the portion guaranteed by the Borough, being set forth under Section 5 hereof.

8. The Chairman or Vice-Chairman of the Board of Supervisors, Treasurer and the Secretary of the Township are hereby authorized and directed to prepare, execute and file with the Department of Community Affairs of the Commonwealth of Pennsylvania the Debt Statement of the Township required by Section 410 of the Act with an appended Borrowing Base Certificate, certified by the Township Auditors, and all other documents required by the Act in connection with the execution and delivery of the Guaranty Agreement and the Secretary is hereby authorized to prepare and file any statements required by Article II of the Act necessary to qualify the debt of up to \$2,670,000 for exclusion from the appropriate debt limit of the Township as self-liquidating debt. The proper officers of the Township are hereby authorized and empowered to take all such further action and execute such additional documents as they may deem appropriate to carry out the purposes of this Ordinance.

9. The engineering report of Huth Engineers, Inc., Consulting Engineers, given pursuant to Section 206 of the Act, with respect to the improvements to the Sewer System and the Project is hereby approved.

10. This Ordinance shall become effective on the earliest date permitted by the Act.

11. If any part of this Ordinance shall be held to be illegal or invalid, that shall not affect any other parts hereof, all of which shall be construed as if the illegal or invalid part had not been included herein.

12. All ordinances and resolutions or parts thereof insofar as they are inconsistent herewith are hereby repealed or rescinded.

ENACTED AND ORDAINED BY THE BOARD OF TOWNSHIP SUPERVISORS,
this 24th day of February, 1977.

TOWNSHIP OF HONEY BROOK

(SEAL)

By *James A. Lumb*
Chairman, Board of Township
Supervisors

Attest:

By *Robert C. Bachman*
Secretary

Raymond Messers
Supervisor

Robert C. Bachman
Supervisor