

**BOROUGH OF CLYMER
INDIANA COUNTY, PENNSYLVANIA
ORDINANCE NO. 269**

AUTHORIZING THE INCURRING OF DEBT; BRIEFLY DESCRIBING THE PROJECT FOR WHICH THE DEBT IS TO BE INCURRED AND STATING A REALISTIC ESTIMATED USEFUL LIFE THEREOF; STATING THE AGGREGATE PRINCIPAL AMOUNT OF THE NOTE TO BE SECURED BY A GUARANTY AGREEMENT AND THAT THE DEBT IS TO BE INCURRED AS LEASE RENTAL DEBT AS DEFINED IN THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT; STATING THE ANNUAL AMOUNTS OF PRINCIPAL AND INTEREST COVENANTED TO BE PAID UNDER THE GUARANTY AGREEMENT; AUTHORIZING AND DIRECTING THE PRESIDENT AND THE SECRETARY OF THE BOROUGH COUNCIL TO CERTIFY AND FILE THE DEBT STATEMENT REQUIRED BY SECTION 410 OF SAID DEBT ACT; APPROVING THE REPORT IN ACCORDANCE WITH SECTION 206(a) OF THE PENNSYLVANIA LOCAL GOVERNMENT UNIT DEBT ACT AND AUTHORIZING AND DIRECTING THE FILING THEREOF AND THE PREPARATION AND FILING OF ANY OTHER STATEMENTS AND REPORTS REQUIRED TO QUALIFY THE DEBT FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMIT AS SELF-LIQUIDATING; AUTHORIZING THE PRESIDENT AND THE SECRETARY OF THE BOROUGH COUNCIL TO EXECUTE A GUARANTY AGREEMENT BY, BETWEEN AND AMONG THE BOROUGH, CLYMER BOROUGH MUNICIPAL AUTHORITY AND NATIONAL BANK OF THE COMMONWEALTH, AUTHORIZING THE BUDGETING, APPROPRIATION AND PAYMENT OF PRINCIPAL AND INTEREST ON THE NOTE AS PROVIDED IN THE GUARANTY AGREEMENT, AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE BOROUGH FOR THE PAYMENT THEREOF; AUTHORIZING THE OFFICIALS OF THE BOROUGH TO TAKE OTHER APPROPRIATE ACTION; AND REPEALING ALL ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, the Clymer Borough Municipal Authority ("Authority"), a body corporate and politic, organized and existing under the laws of the Commonwealth of Pennsylvania, particularly the Municipality Authorities Act of 1945, P.L. 382, as amended, was created by the action of the Borough of Clymer, Indiana County, Pennsylvania; and

WHEREAS, the Authority operates a water system and sanitary sewage transportation and treatment system ("Utility System") to serve primarily the residents of the Borough of Clymer (the "Borough"); and

WHEREAS, in order to provide the funds necessary to pay the cost of acquisition, construction, renovation and financing of the Utility System, the Authority issued its Guaranteed Water and Sewer Revenue Bonds, Series A in the original principal amount of \$1,900,500 ("Series A Bonds"), issued under and secured by a Trust Indenture dated as of December 1, 1977 between the Authority and National Bank of the Commonwealth, as Trustee, ("Trustee"); and

WHEREAS, in order to facilitate the issuance of the Series A Bonds on advantageous and economical terms, and to induce the Authority to issue the Series A Bonds and finance, acquire and construct the Project, the Borough entered into a guaranty agreement dated as of December 1, 1977 with the Authority and the Trustee providing for the unconditional guarantee of payment of principal of and interest on the Series A Bonds by the Borough according to the terms thereof and the pledge of the Borough's full faith, credit and taxing power to the discharge of its obligations under such guaranty agreement; and

WHEREAS, the Authority has determined to refund all of its outstanding Series A Bonds by borrowing from National Bank of the Commonwealth ("Lender") up to \$1,200,000 pursuant to the commitment letter of the Lender dated November 29, 1993; and

WHEREAS, the Authority will issue its Note ("Note") to the Lender, as evidence of the loan for the refunding of the Series A Bonds, in the maximum principal amount of \$1,200,000; and

WHEREAS, as a condition of said loan the Lender is requiring the Borough to enter into a Guaranty Agreement ("Guaranty Agreement") by and among the Borough, the Authority and the Lender pursuant to which the Borough shall pledge its full faith, credit and taxing power for the full and prompt payment by the Authority of principal and interest due under the Note; and

WHEREAS, the Borough is willing to enter into the Guaranty Agreement to assist the Authority in refunding all outstanding Series A Bonds; and

WHEREAS, the execution and delivery of the Guaranty Agreement constitutes the incurring of lease rental debt by the Borough within the meaning of the Act of the General Assembly of the Commonwealth of Pennsylvania, approved July 12, 1972, Act No. 185, as amended; known as the Local Government Unit Debt Act ("Debt Act"); and

WHEREAS, in order to render the Guaranty Agreement binding upon the Borough with respect to the Note, by incurring guaranteed lease rental debt, it is necessary, pursuant to the provisions of the Debt Act, to provide for the enactment of this Ordinance and for execution and filing of a "Debt Statement" and an "Application for Approval" and, if necessary, the concurrent "Self-Liquidating Debt Exclusion Certificate" with the Pennsylvania Department of Community Affairs, and to obtain the approval thereof.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Clymer, located in the County of Indiana and the Commonwealth of Pennsylvania; and IT IS HEREBY ORDAINED AND ENACTED by the authority of the same, as follows;

Section 1. The Borough does hereby approve as Project ("Project") the refunding of all of the outstanding Series A Bonds. The realistic estimated remaining useful life of the Project is at least 24 years.

Section 2. The Borough determines to incur guaranteed lease rental debt in order to effectuate its guaranty of the Note in an aggregate amount of \$1,200,000.

Section 3. The Guaranty Agreement by, between and among the Borough, the Authority and the Lender in the form presented to this meeting with such changes therein as may be made by the President of the Borough Council is hereby approved. The President of Borough Council is hereby authorized and directed to execute said Guaranty Agreement in the name and on behalf of the Borough and to acknowledge the same to be the act and deed of the Borough, and the Secretary of the Borough Council is hereby authorized and directed to affix the seal of the Borough to the Guaranty Agreement and to deliver copies of the same to the Authority and to the Lender. The annual amount of principal and interest covenanted to be paid by the Borough under the Guaranty Agreement is shown on the schedule attached hereto.

Section 4. The President of Council and borough Secretary are hereby directed to prepare, execute and verify under oath a "Debt Statement" of the Borough of Clymer and to submit the same, together with an "Application for Approval" and the necessary filing fee, and if necessary, a "Self-Liquidating Debt Exclusion Certificate" to the Pennsylvania Department of Community Affairs pursuant to the Debt Act as promptly as practicable. Said officers are also hereby further authorized and directed to execute and deliver all agreements or documents, including but not limited to an amendment to the Service Agreement dated December 1, 1977 between the Authority and the Borough, and to perform all other acts and do all other things necessary to perfect such filings and continue said exclusion, and to effectuate other purposes of this Ordinance and approve, if necessary, the filing of the Consulting Engineer's Report in respect thereof.

Section 5. The Borough hereby confirms the covenants contained in the Guaranty Agreement as applicable to the Authority's Note and specifically guarantees the payment of all debt service charges thereon to the extent provided in the Guaranty Agreement. The Borough (i) shall include the amounts payable in respect of its guaranty, for each fiscal year in which such sums are payable in its budget for that year, (ii) shall appropriate such amounts from its general revenues, for the payment of such

guaranty, and (iii) shall duly and punctually pay or cause to be paid from its sinking fund and or any other of its revenues or funds, to the extent of its obligation, the amount payable in respect of such guaranty, according to the true intent and meaning thereof. For such budgeting, appropriation and payment in respect of its guaranty, the Borough shall pledge its full faith, credit and taxing power.

Section 6. Reference in this Ordinance to specified officers of this Borough shall include and shall be construed to include, if and as applicable, their respective successors in office.

Section 7. This Ordinance shall become effective in accordance with the provisions of the Debt Act.

Section 8. In the event that any provision, section, sentence, clause or other 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 the Borough that such remainder shall be and shall remain in full force and effect.

Section 9. All other ordinances or parts of ordinance which are inconsistent herewith shall be, and the same are hereby expressly repealed.

ORDAINED AND ENACTED into an Ordinance and passed by the Borough Council of the Borough of Clymer this 27th day of December, 1993.

Attest:


Borough Secretary

By 
President

(BOROUGH SEAL)

Examined and approved by me this day of December 1993.


Mayor