

BOROUGH COUNCIL OF THE
BOROUGH OF DONORA
ORDINANCE NO. 1290 OF 1997

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF DONORA, WASHINGTON COUNTY, PENNSYLVANIA, AUTHORIZING THE BOROUGH TO INCUR LEASE RENTAL DEBT IN THE AMOUNT OF \$1,722,000, BY ENTERING INTO A SUPPLEMENT TO A SERVICE AGREEMENT GUARANTEEING THE PAYMENT OF A PORTION OF THE DEBT SERVICE ON THE BONDS TO BE ISSUED BY THE MON VALLEY SEWAGE AUTHORITY, PENNSYLVANIA, FOR THE PURPOSE OF PAYING THE COSTS OF THE AUTHORITY'S 1997 REFUNDING PROJECT; APPROVING THE FORM OF AGREEMENT; AUTHORIZING EXECUTION OF DOCUMENTS AND OTHER NECESSARY AND PROPER ACTION AND REPEALING INCONSISTENT ORDINANCES AND RESOLUTIONS.

Enacted: July 28, 1997

WHEREAS, the Mon Valley Sewage Authority (the "Authority"), presently owns and operates an existing sewage collection and treatment system (the "Sewage Disposal System"); and

WHEREAS, the Authority has previously issued \$3,950,000, principal amount, of Guaranteed Sewer Revenue Bonds, Series of 1994, \$3,785,000 of which are presently outstanding (the "Prior Bonds"), pursuant to a Trust Indenture dated as of November 1, 1968 (the "Original Indenture"), entered into by and between the Authority and Pittsburgh National Bank (now PNC Bank, National Association), as trustee, as supplemented by a First Supplemental Indenture dated as of October 1, 1994 (together with the Original Indenture, the "Indenture"); and

WHEREAS, pursuant to a Service Agreement dated as of November 1, 1968 (the "Service Agreement"), as supplemented by Supplement No. 1, dated as of October 1, 1994, by and among the Authority, the City of Monessen (the "City"), and the Borough of Donora, the Authority has agreed to render sewage collection and treatment service to the residents of the Borough and the Borough has agreed to pay the rates, rents and charges for such service and to guarantee a portion of the debt service on the Prior Bonds; and

WHEREAS, the Authority has determined to undertake the advance refunding of the Prior Bonds (the "1997 Refunding Project"); and

WHEREAS, in order to provide funds to pay the costs of the 1997 Refunding Project, the Authority has determined to issue \$4,305,000, principal amount, of its Guaranteed Sewer Revenue Bonds, Series of 1997 (the "1997 Bonds") pursuant to the Indenture, as supplemented by a Second Supplemental Indenture dated as of July 15, 1997 (the "Second Supplemental Indenture," and, together with the Indenture, the "Indenture") with PNC Bank, National Association, as trustee (the "Trustee"); and

WHEREAS, in order to permit the issuance of the 1997 Bonds, it will be necessary for the Service Agreement to be supplemented to include a guarantee, pursuant to which the City of Monessen and the Borough will guarantee payment of debt service on the 1997 Bonds; and

WHEREAS, there has been presented to this meeting a supplement dated as of July 15, 1997, to the Service Agreement, which supplement contains a guarantee by the Borough guaranteeing the payment of a portion of debt service on the 1997 Bonds (the "Supplement No. 2"); and

WHEREAS, notice of this Ordinance has been duly advertised in accordance with Section 8003 of the Local Government Unit Debt Act ("Debt Act");

NOW, THEREFORE, BE, AND IT HEREBY IS, ORDAINED AND ENACTED THAT:

SECTION 1. The indebtedness of the Borough is hereby increased by the amount of \$1,722,000, which is 40% of the principal amount of the 1997 Bonds, to be evidenced by Supplement No. 2.

SECTION 2. The debt to be incurred is lease rental debt and is to be incurred to enable the Authority to obtain financing for the 1997 Refunding Project. The description of 1997 Refunding Project contained in the recitals are incorporated herein by reference.

SECTION 3. The aggregate principal amount of the 1997 Bonds which will become lease rental debt of the Borough pursuant to this Ordinance is \$1,722,000.

SECTION 4. The Borough Council hereby directs that the necessary documentation be filed with the Department of Community and Economic Development of the Commonwealth of Pennsylvania so

that the debt incurred hereunder may be approved as lease rental debt of the Borough and that it be excluded from the Borough's debt as self-liquidating debt under Section 8025 of the Debt Act. It is therefore hereby declared that the lease rental debt of the Borough to be incurred hereunder is \$1,722,000, which, together with all presently existing net debt of the Borough, will not be in excess of the limitations as set forth in the Debt Act. The President and the Secretary of Council are hereby authorized and directed to prepare, verify and file the Debt Statement required by Section 8110 of the Debt Act, together with the Borrowing Base Certificate and an application for approval of said indebtedness with the Department of Community and Economic Development as promptly as practicable and to do and perform all other acts and sign all other documents necessary and proper in connection therewith. Those officers are further directed to file such documents and certificates with the Department of Community and Economic Development as may be necessary to have the debt incurred hereby excluded from the Borough's debt limit as self-liquidating debt. Gannett Fleming, Inc., is hereby appointed as the engineer to file the required self-liquidating certificate with the Department of Community and Economic Development.

SECTION 5. The maximum amount to be paid in each year pursuant to this Ordinance, under Supplement No. 2, is set forth on Schedule A attached to this Ordinance. The Borough covenants that it will include the amount of debt service on the 1997 Bonds guaranteed by it in its budget for each year in which such amount is payable; that it will appropriate such amounts from its revenues for such payments and that it will duly and punctually pay such amounts or cause them to be paid on the dates and at the places and in the manner stated in Supplement No. 2 according to the true intent and meaning thereof. In preparing and adopting its budget for any year, the Borough may, unless it has received notice of default under the Indenture or the 1997 Bonds, treat as a revenue item an amount derived from charges made for the use of the Sewage Disposal System, not in excess of the amount of its liability hereunder for such year, which the Authority estimates will be available to pay debt service on the 1997 Bonds in that year. Such amount may be on deposit with the Trustee or estimated to be received during the year on or before the dates when payments of principal or interest on the 1997 Bonds will be due. For such budgeting, appropriation and payment, the Borough hereby pledges its full faith, credit and taxing power.

SECTION 6. Pursuant to and subject to the provisions of the Debt Act and upon receipt by the Borough of the approval of the Department of Community and Economic Development of the Commonwealth of Pennsylvania to incur lease rental debt, the Borough shall enter into Supplement No. 2, substantially in the form presented to this meeting, with such changes therein as shall be approved by the Borough Solicitor and the officers executing Supplement No. 2; such approval to be conclusively evidenced by such execution.


SECTION 7. The President of Borough Council is hereby authorized and empowered to execute Supplement No. 2 for and on behalf of the Borough and the Borough Secretary shall attest the same and affix the seal of the Borough thereto.

SECTION 8. The proper officers of the Borough are hereby authorized and directed to perform all acts necessary and proper for the delivery of Supplement No. 2, the payment of the amounts due thereunder and the performance of all acts required thereby.


SECTION 9. Any resolution or ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed insofar as the same affects this Ordinance.

ENACTED into law by the Borough Council of the Borough of Donora in lawful session assembled this 28th day of July, 1997.

ATTEST:


Borough Secretary

BOROUGH OF DONORA

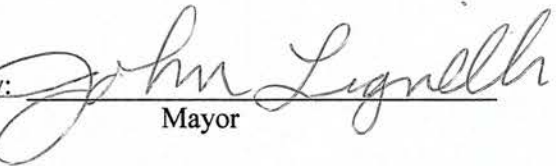
By: 
President

[SEAL]

APPROVED AS TO FORM:


Borough Solicitor

APPROVED:

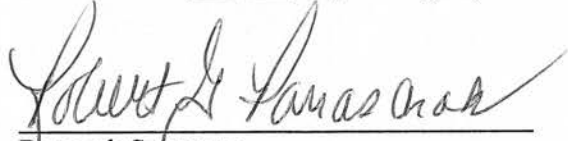
By: 
Mayor

CERTIFICATE

I, the undersigned, Borough Secretary of the Borough of Donora, Washington County, Pennsylvania (the "Borough") do hereby certify that the foregoing and attached is a true and correct copy of an Ordinance of the Borough which was duly enacted by the affirmative vote of a majority of the Borough Council at a meeting thereof duly called and held pursuant to proper notice on July 28, 1997, with the members voting in the following manner:

	<u>YES</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Karen Polkabila	<u>X</u>	_____	_____	_____
Tony Menendez	<u>X</u>	_____	_____	_____
Frederick Berestecky	_____	_____	_____	<u>X</u>
William Hevia	_____	_____	_____	<u>X</u>
Thomas Kostolansky	_____	_____	_____	<u>X</u>
Peter Lamendola	<u>X</u>	_____	_____	_____
Marie Trozzo	<u>X</u>	_____	_____	_____

WITNESS my hand and the seal of the Borough of Donora this _____ day of August, 1997.



Borough Secretary

[SEAL]