

TOWNSHIP OF RUSH,
Schuylkill County, Pennsylvania

ORDINANCE NO. 178

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THIS TOWNSHIP DETERMINING TO INCUR DEBT; DETERMINING THAT THE MAXIMUM PRINCIPAL AMOUNT OF SUCH DEBT SHALL BE \$2,395,000; DETERMINING THAT SUCH DEBT SHALL BE INCURRED AS LEASE RENTAL DEBT AND SHALL BE THE SEVERAL AND PROPORTIONATE SHARE (50%) OF THE GUARANTEED SEWER REVENUE BONDS, SERIES OF 2013, IN THE MAXIMUM PRINCIPAL AMOUNT OF \$4,790,000, TO BE AUTHORIZED AND ISSUED BY NORTHEASTERN SCHUYLKILL JOINT MUNICIPAL AUTHORITY IN CONNECTION WITH THE FOLLOWING: (1) CURRENTLY REFUNDING SAID AUTHORITY'S BONDSS - SERIES OF 2001; AND (2) PAYING COSTS, FEES AND EXPENSES WITH RESPECT TO THE FOREGOING PURPOSES AND THE FINANCING; AUTHORIZING APPROPRIATE OFFICERS OF THIS TOWNSHIP TO EXECUTE, TO ATTEST AND TO DELIVER, AS APPROPRIATE, A GUARANTY AGREEMENT BY AND AMONG THIS TOWNSHIP AND THE TOWNSHIP OF RYAN, SCHUYLKILL COUNTY, PENNSYLVANIA, SEVERALLY, AS GUARANTORS, SAID AUTHORITY AND MANUFACTURERS AND TRADERS TRUST COMPANY, AS TRUSTEE, WITH RESPECT TO SAID BONDS; APPROVING THE FORM OF SAID GUARANTY AGREEMENT; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS TOWNSHIP IN SUPPORT OF THE SEVERAL GUARANTY OBLIGATIONS OF THIS TOWNSHIP UNDER SAID GUARANTY AGREEMENT; APPOINTING A SINKING FUND DEPOSITORY; AND PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE AND RELATED MATTERS.

WHEREAS, Rush Township, Schuylkill County, Pennsylvania (the "Township"), is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under provisions of the Local Government Unit Debt Act, 53 Pa.C.S. Chs. 80-82 (the "Act") of the Commonwealth; and

WHEREAS, Northeastern Schuylkill Joint Municipal Authority (the "Authority") is a municipality authority organized by joint action of this Township and the Township of Ryan, Schuylkill County, Pennsylvania ("Ryan Township") (this Township and Ryan Township are collectively referred to herein, from time to time, as the "Municipalities"), and existing under the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented, from time to time, of the Commonwealth (the "Authorities Act"); and

WHEREAS, the Authority has undertaken a capital project which consists of the design, acquisition and construction of sanitary sewage collection, transmission, treatment and disposal system facilities in and for portions of the Municipalities (the "Sewer System"); and

WHEREAS, the Authority heretofore lawfully incurred certain debt in connection with said project and the Sewer System; and

WHEREAS, such previous debt of the Authority is evidenced by, among other things, Guaranteed Sewer Revenue Notes issued to the Rural Utilities Service, United States Department of Agriculture, dated June 1, 2001, in the aggregate original maximum principal amount of \$5,074,500 (the "2001 Notes"); and

WHEREAS, the 2001 Notes constituted lease rental debt of this Township evidenced by a Guaranty Agreement, dated as of June 1, 2001, heretofore approved, pursuant to the Act, by the Department of Community and Economic Development (the "Department") of the Commonwealth; and

WHEREAS, the Authority has determined to currently refund and retire the 2001 Notes (the "Refunding Project") upon issuance of the Bonds (hereinafter defined).

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors (the "Governing Body") of this Township, as follows:

SECTION 1. This Township authorizes and requests the Authority to undertake and complete the Refunding Project

SECTION 2. This Township determines to incur "debt", as such term is defined in the Act, which shall be "lease rental debt", as such phrase is defined in the Act, in connection with the Refunding Project.

SECTION 3. Such debt shall be incurred as such lease rental debt, shall be in the maximum principal amount of \$2,395,000.00, and shall be evidenced by this Township's several guaranty (50%) of certain obligations to be issued by the Authority under the Authorities Act, consisting of the Authority's Guaranteed Sewer Revenue Bonds, Series of 2013, to be known generally as the "Bonds", to be dated as provided therein, in the maximum principal amount of \$4,790,000.00 (the "Bonds"), to be issued by the Authority under the Authorities Act, which Bonds, in the maximum principal amount of \$4,790,000.00, shall have the benefit of and shall be secured by, among other things, the several guaranty obligations of the Municipalities (to be shared as follows: this Township in the amount of \$2,395,000.00 and Ryan Township in the amount of \$2,395,000.00), pursuant to the Guaranty Agreement (hereinafter defined).

SECTION 4. This Township specifies that a realistic estimated useful life of the capital project, including the facilities originally financed by issuance of the 2001 Notes, is at least forty (40) years. The Refunding Project is authorized and permitted pursuant to 53 Pa.C.S. §8241(b)(4).

SECTION 5. This Township, together with Ryan Township, severally, as guarantors, shall enter into a Guaranty Agreement, to be dated as provided therein (the "Guaranty Agreement"), substantially in the form referred to in Section 6, with the Authority and Manufacturers and Traders Trust Company, as trustee (the "Trustee"), under the terms of a Resolution of the Authority, effective as provided therein (the "Resolution"), with respect to the Refunding Project and authorizing and securing the Bonds, under terms and provisions of which Guaranty Agreement, among other things, the Municipalities shall severally guaranty (this Township to the extent of 50% and Ryan Township to the extent of 50% of all sums due under the Bonds), unconditionally, for the benefit of the Government and any other holder, from time to time, of the Bonds, full and prompt payment of Debt Service, as such phrase is defined in the Guaranty Agreement, to the extent provided in the Guaranty Agreement, as such shall be due and payable with respect to the Bonds. The Guaranty Agreement shall be for the life of the Bonds and shall set forth terms, conditions, provisions, covenants and agreements to be observed by the Municipalities (both individually and collectively), the Authority and the Trustee in relation to the Sewer System, as such phrase is defined in the Resolution, and in relation to the Refunding Project and the Bonds.

SECTION 6. 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 Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

SECTION 7. This Township shall covenant in the Guaranty Agreement and does hereby covenant to and with the Authority and the Government and such other holder, from time to time, of the Bonds that this Township shall do the following; (i) include the Debt Service, as that phrase is defined in the Guaranty Agreement, payable in respect of its several guaranty pursuant to the Guaranty Agreement, for each Fiscal Year, as that phrase is defined in the Guaranty Agreement, in which such sums shall be payable, in its budget for that Fiscal Year; (ii) appropriate such amounts from its general revenues for payment of its several guaranty obligations under the Guaranty Agreement; and (iii) duly and punctually pay or cause to be paid from its sinking fund (hereinafter mentioned and identified) or any other of its revenues or funds the amount payable in respect of such several guaranty, at the dates and places and in the manner stated in the Guaranty Agreement, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment in respect of such several guaranty, this Township shall and does pledge, irrevocably, its full faith, credit and taxing power. This covenant shall be specifically enforceable. For the purposes of complying with the foregoing covenant, this Township covenants that it shall budget its several portion (50%) of the amounts set forth in Exhibit "A", which is attached hereto and made part hereof, such amounts being such Debt Service on the Bonds for the Fiscal Years in which such amounts are payable, and shall appropriate and shall pay over to the Government such amounts; Subject, however, to provisions of the Guaranty Agreement with respect to credit for certain sums that shall be available for such Debt Service, all as more fully set forth in the Guaranty Agreement. This Township also shall covenant in the Guaranty Agreement and does hereby covenant that, to the extent sufficient money shall not be available in its then current budget at any time when payments are required under the Guaranty Agreement, and if it shall be unable to incur debt lawfully in the current year