

ORDINANCE NO 723 OF THE BOROUGH COUNCIL
OF THE BOROUGH OF MOUNT PENN,
BERKS COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF MOUNT PENN, BERKS COUNTY, PENNSYLVANIA (THE "BOROUGH"), AUTHORIZING AND DIRECTING THE INCURRENCE OF LEASE RENTAL DEBT IN THE MAXIMUM PRINCIPAL AMOUNT OF FOUR MILLION FOUR HUNDRED THOUSAND DOLLARS (\$4,400,000), PURSUANT TO THE LOCAL GOVERNMENT UNIT DEBT ACT OF THE COMMONWEALTH OF PENNSYLVANIA (THE "DEBT ACT"); DETERMINING THAT SUCH DEBT SHALL BE INCURRED UNDER THE DEBT ACT AS LEASE RENTAL DEBT TO BE EVIDENCED BY A GUARANTY AGREEMENT OF THE BOROUGH SECURING GUARANTEED SEWER REVENUE BONDS -- SERIES OF 2002 (THE "BONDS") TO BE ISSUED BY ANTIETAM VALLEY MUNICIPAL AUTHORITY (THE "AUTHORITY") TO FINANCE A PROJECT OF THE AUTHORITY CONSISTING OF: (1) THE REFUNDING BY THE AUTHORITY OF ITS GUARANTEED SEWER REVENUE BONDS, SERIES OF 1995; (2) PAYMENT OF THE COSTS OF CERTAIN CAPITAL PROJECTS OF THE AUTHORITY; (3) THE ESTABLISHMENT OF NECESSARY RESERVES AND OTHER FUNDS UNDER THE INDENTURE (TO THE EXTENT AVAILABLE); AND (3) THE PAYMENT OF THE COSTS ASSOCIATED WITH THE ISSUANCE OF THE 2002 BONDS; BRIEFLY DESCRIBING THE PROJECT FOR WHICH SUCH DEBT IS TO BE INCURRED; AUTHORIZING AND DIRECTING THE PROPER OFFICERS OF THIS BOROUGH: (A) TO PREPARE, TO CERTIFY AND TO FILE THE DEBT STATEMENT AND BORROWING BASE CERTIFICATE REQUIRED BY THE DEBT ACT; (B) TO THE EXTENT FEASIBLE, TO CAUSE TO BE PREPARED AND FILED, STATEMENTS REQUIRED BY THE DEBT ACT WHICH ARE NECESSARY TO QUALIFY ALL OF SUCH LEASE RENTAL DEBT FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMITS AS SELF-LIQUIDATING DEBT; (C) TO EXECUTE, TO ATTEST, TO SEAL AND TO DELIVER, AS APPROPRIATE, A GUARANTY AND REIMBURSEMENT AGREEMENT; APPROVING THE FORM OF THE GUARANTY AND REIMBURSEMENT AGREEMENT; SPECIFYING THE AMOUNT OF THE GUARANTY OBLIGATION OF THIS BOROUGH PURSUANT TO SUCH GUARANTY AGREEMENT AND THE SOURCES OF PAYMENT OF SUCH GUARANTY OBLIGATIONS; AUTHORIZING THE PROPER OFFICERS OF THIS BOROUGH TO TAKE ALL OTHER REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SUCH PROJECT AND THE EXECUTION AND DELIVERY OF THE GUARANTY AND REIMBURSEMENT AGREEMENT; PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL INCONSISTENT ORDINANCES OR RESOLUTIONS OR PARTS OF ORDINANCES OR RESOLUTIONS.

WHEREAS, the Borough of Mount Penn (the "Borough") is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under the provisions of the Act of the General Assembly of the Commonwealth, approved July 12, 1972, Act No. 185, as amended, reenacted and supplemented, from time to time, known as the Local Government Unit Debt Act (the "Debt Act"); and

WHEREAS, the Antietam Valley Municipal Authority (the "Authority") is a body politic and corporate organized and existing under the Pennsylvania Municipality Authorities Act of 1945, as amended, reenacted and supplemented, from time to time, of Commonwealth; and

WHEREAS, the Authority intends to issue its Guaranteed Sewer Revenue Bonds -- Series of 2002 in the maximum aggregate principal amount of \$_____ (the "Bonds" or the "2002 Bonds"); and

WHEREAS, the proceeds to be derived from the issuance and sale of the 2002 Bonds will be applied, together with other funds available or to be available to the Authority, for and towards a project (the "Project") which consists of the following: (i) payment of the costs and expenses of the refunding of the Authority's remaining Guaranteed Sewer Revenue Bonds, Series of 1995 (the "1995 Bonds"), (ii) payment of the costs and expenses of certain capital projects of the Authority, (iii) the establishment of necessary reserves and other funds under the Indenture (to the extent available); and (iii) payment of the costs and expenses associated with the issuance of the 2002 Bonds; and

WHEREAS, the Council of this Borough has determined that the Project is in the best interests of this Borough and its residents and desires to approve the Project and to request the Authority to undertake the Project; and

WHEREAS, the Borough, as an inducement to the Authority to undertake the Project and to authorize and to issue the 2002 Bonds, and as an inducement to initial purchasers and to any and all subsequent owners of the 2002 Bonds to purchase the 2002 Bonds, and to thereby achieve interest costs and other savings to the Authority and to the residents and taxpayers of this Borough and other users of the Authority's sewer facilities in this Borough, desires to enter into the Guaranty and Reimbursement Agreement (the "Guaranty Agreement") with the Authority and the bank or trust company named therein, as trustee (the "Trustee") under a Trust Indenture, as supplemented by a First Supplemental Trust Indenture, and to be further supplemented by a Second Supplemental Indenture all as permitted by and in accordance with the terms and conditions of the Debt Act.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Borough Council of the **BOROUGH OF MOUNT PENN, BERKS COUNTY, PENNSYLVANIA**, in lawful session duly assembled, as follows:

1. Pursuant to the provisions of this Ordinance, the Council hereby authorizes and approves the Project and requests the Authority to undertake the Project. This Borough ratifies

and confirms all action heretofore taken by the Authority in connection with the Project. The Borough authorizes and approves the issuance of the 2002 Bonds by the Authority and determines to incur lease rental debt in the maximum aggregate principal amount of \$ _____ by the execution of the Guaranty Agreement.

2. (a) The lease rental debt authorized to be incurred hereby is for the purpose of financing the Project.

(b) This Borough hereby finds and determines that the purpose of the refunding portion of the Project is to, among other things, reduce the total debt service payable by the Authority over the life of the 1995 Bonds.

(c) The realistic estimated useful life of the facilities originally financed by the 1995 Bonds and those financed by the 2002 Bonds is at least forty (40) years.

3. The maximum aggregate principal amount of the 2002 Bonds, payment of which is assured by the Guaranty Agreement, is \$ _____.

4. The debt to be evidenced by the Guaranty Agreement shall be lease rental debt of this Borough.

5. The President or Vice President and the Secretary or Assistant Secretary of the Council of this Borough are hereby authorized and directed to prepare, to certify, to acknowledge and to file the debt statement and the borrowing base certificate, as appropriate, required by the Debt Act and to take any and all other action necessary at any time to from time to time in connection with carrying out the intent of this Ordinance or necessary to comply with the Debt Act.

6. The President or Vice President and Secretary and Assistant Secretary of the Council of this Borough are hereby authorized and directed to execute, attest, seal and deliver the Guaranty and Reimbursement Agreement in substantially the form set forth on Exhibit "A" hereto with such insertions, deletions and amendments as the officers of this Borough executing said documents and the Solicitor to this Borough shall deem necessary. The execution, attestation and delivery of the Guaranty Agreement by appropriate officers of this Borough shall constitute conclusive evidence of such approval.

7. In the event that this Borough is obligated to make payments under the Guaranty Agreement, the maximum amounts required to be paid thereunder, from the general revenues of this Borough, are as set forth on Exhibit "B" hereto. Exhibit "B" is incorporated herein by reference with the same force and effect as if fully set forth in the text hereof. If at any time this Borough is required to make any payment under the Guaranty Agreement, proper officers of this Borough are hereby authorized and directed to do so.

8. This Borough covenants to and with the Trustee for the owners, of the 2002 Bonds, the Authority and the registered owners, from time to time, of the 2002 Bonds that this Borough (a) shall include the amounts payable in respect of the Guaranty Agreement for each fiscal year in which such sums are payable in its budget for that year, (b) shall appropriate such amounts from its general revenues for the payment of such payment, and (c) shall duly and punctually pay or cause to be paid from any of its revenues or funds the amount payable in respect of the Guaranty Agreement, at the dates and place and in the manner stated in such Guaranty Agreement, and according to the true intent and meaning thereof. This Borough pledges its full faith, credit and taxing power for such budgeting, appropriation and payment in respect to the Guaranty Agreement. This covenant shall be specifically enforceable in accordance with the Debt Act.

9. The President or Vice President and Secretary or Assistant Secretary of the Council of this Borough are authorized and directed, if necessary or desirable, to cause to be prepared and filed with the Department of Community and Economic Development of the Commonwealth appropriate statements required by the Debt Act which are necessary to qualify the lease rental debt of this Borough, which is subject to exclusion of self-liquidating debt, for exclusion from the appropriate debt limits as self-liquidating debt.

10. The proper officers of this Borough are hereby authorized and directed to execute, attest and deliver any and all necessary or appropriate documents and to do any and all necessary or appropriate things in connection with the transactions hereby contemplated, including, without limitation, approving the Bond Purchase Proposal presented to the Authority.

11. The Borough hereby confirms its appointment of Brian Boland, Esquire, as its counsel in connection with the authorization and delivery of the Guaranty Agreement, and of Concord Public Financial Advisors, Inc., as financial advisor, with respect to the Guaranty Agreement.

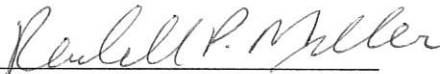
12. All ordinances and resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby.

13. This Ordinance shall become effective in accordance with the provisions of the Act.

14. 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 the remainder of this Ordinance shall remain in full force and effect.

**DULY ENACTED AND ORDAINED THIS 12th DAY OF NOVEMBER, 2002 BY
THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNT PENN, BERKS
COUNTY, PENNSYLVANIA, IN LAWFUL SESSION DULY ASSEMBLED.**


**Borough Of Mount Penn,
Berks County, Pennsylvania**

By: 
President of Borough Council

(SEAL)

Attest: 
(Assistant) Secretary

EXAMINED AND APPROVED THIS 12th DAY OF NOVEMBER, 2002.


Mayor

EXHIBITS

“A” Guaranty Agreement

“B” Maximum Lease Rental Obligations

EXHIBIT "A"

GUARANTY AND REIMBURSEMENT AGREEMENT

THIS GUARANTY AND REIMBURSEMENT AGREEMENT, dated as of the ____ day of December, 2002, is entered into by the BOROUGH OF MOUNT PENN, Berks County, Pennsylvania, a political subdivision of the Commonwealth of Pennsylvania, as guarantor (the "Borough"), and ANTIETAM VALLEY MUNICIPAL AUTHORITY, a body corporate and politic existing under the Municipality Authorities Act of 1945, as amended reenacted and supplemented, of the Commonwealth of Pennsylvania (the "Authority"), and ALLFIRST BANK, a banking corporation organized and existing under the laws of the State of Maryland whose designated corporate trust office is located in the City of Harrisburg, Pennsylvania (the "Trustee").

WITNESSETH:

WHEREAS, the Authority intends to authorize and to issue its Guaranteed Sewer Revenue Bonds, Series of 2002 in the maximum principal amount of \$_____ (the "Bonds"); and

WHEREAS, the Bonds shall be issued under and pursuant to the provisions of a Trust Indenture, as Supplemented by a First Supplemental Trust Indenture and a Second Supplemental Trust Indenture between the Authority and the Trustee (collectively, the "Indenture").

WHEREAS, the proceeds to be derived from the issuance and sale of the Bonds will be applied for and towards the following project (the "Project"): (i) the refunding of the Authority's outstanding Guaranteed Sewer Revenue Bonds, Series of 1995 (the "1995 Bonds"), (ii) paying the costs of certain capital projects of the Authority; (iii) the establishment of necessary reserves and other funds under the Indenture (to the extent available); and (iv) payment of the costs and expenses associated with the issuance of the Bonds; and

WHEREAS, the Council of the Borough has determined, among other things, that the undertaking of the Project is in the best interests of the Borough and its residents; and

WHEREAS, the Borough, as an inducement to the Authority to undertake the Project and to authorize and issue its Bonds, and as an inducement to the initial and all future owners of the Bonds to purchase the Bonds and to thereby achieve interest costs and other savings to the Authority and the residents and taxpayers of the Borough and other users of the Authority's existing sewer system in the Borough, desires to enter into this Guaranty Agreement with respect to the Bonds, as permitted by and in accordance with the terms and conditions of the Debt Act (hereinafter defined); and

WHEREAS, the parties hereto desire to set forth the terms and conditions under and pursuant to which the Bonds shall be guaranteed by the Borough and related matters.

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

Definitions

Section 1.01 Terms and Phrases. In addition to the terms and phrases which may be elsewhere defined in this Guaranty Agreement, terms and phrases defined in this Section 1.01, for all purposes of this Guaranty Agreement, as herein defined, shall have the meanings herein specified, unless the context clearly otherwise requires:

“Act” shall mean the Act of the General Assembly of the Commonwealth, known as the Municipality Authorities Act, as amended and supplemented.

“Board” shall mean, at any given time, the governing body of the Authority.

“Commonwealth” shall mean the Commonwealth of Pennsylvania.

“Council” shall mean the governing body of the Borough.

“Debt Act” shall mean, the Act of the General Assembly of the Commonwealth, known as the Local Government Unit Debt Act, as amended and supplemented, from time to time.

“Debt Service” shall mean, with respect to any Fiscal Year, the sum of the following: (a) amounts required to pay interest on, premium, if any, and principal of the Bonds (which is not to be paid from amounts on deposit in any sinking fund or account) during each Fiscal Year; and (b) amounts required to be deposited in such Fiscal Year to the credit of any sinking fund established for the Bonds.

“Debt Service Reserve Fund” shall mean the Debt Service Reserve Fund established for the owners of the Bonds under the Indenture.

“Fiscal Year” shall mean the fiscal year of the Borough as provided by laws of the Commonwealth.

“Gross Revenues” shall mean all revenues of the Authority from whatever source derived.

“Guaranty Agreement” shall mean this agreement and all modifications, alterations, amendments, and supplements hereto made and delivered in accordance with the provisions hereof, which phrase sometimes is referred to in this document by use of such words as “hereto,” “hereby,” “herein,” “hereof,” or “hereunder.”

ARTICLE II

Representations and Warranties of the Borough

Section 2.01 Representations and Warranties. The Borough represents and warrants that:

- A. The Borough is a political subdivision of the Commonwealth;
- B. The Borough possesses all requisite power and authority under laws of the Commonwealth to enter into and to perform all the covenants and agreements set forth in this Guaranty Agreement;
- C. The Borough has duly authorized all necessary action on its part to enter into this Guaranty Agreement, pursuant to proper and necessary official action of its Council in accordance with laws of the Commonwealth;
- D. The Borough, in entering into this Guaranty Agreement, is acting in the public interest by assisting in providing modern, high quality sewer facilities at the lowest possible cost to the users of such facilities and the citizens and taxpayers of the Borough, and by assisting in the preservation and protection of the general health and welfare of inhabitants of the Borough and of the Commonwealth; and
- E. The Borough, in entering into this Guaranty Agreement, is incurring lease rental debt pursuant to the terms and conditions of the Debt Act; and the Borough has taken all proper proceedings pursuant to the Debt Act and has obtained all approvals required to be obtained in connection with the execution and delivery of this Guaranty Agreement.

ARTICLE III

Covenants and Agreements of the Authority and the Borough

Section 3.01 Full and Prompt Payment. The Borough hereby guarantees, unconditionally and irrevocably, to the registered owners, from time to time, of the Bonds, the full and prompt payment of the Debt Service when and as such shall be due and payable, in accordance with the terms and conditions of this Guaranty Agreement. Nothing contained in this Guaranty Agreement shall in any way be construed to imply that the Borough shall be or become liable or responsible for any other debt or obligation of the Authority.

Section 3.02 Costs, Fees, Expenses, and Charges. Except as may be expressly provided herein or elsewhere, the Borough shall not be responsible or liable to the Authority or the Trustee for the payment of any other costs, fees, expenses, or charges arising in connection with the issuance and sale of the Bonds, or the enforcement of any rights of the Authority against any other person.

Section 3.03 Manner of Payment. All payments required to be made by the Borough under this Guaranty Agreement shall be made in lawful money of the United States of America at the designated corporate trust office of the Trustee and at the times specified in the Bonds for the payment of Debt Service on the Bonds.

Section 3.04 Separate Causes of Action. Each and every default in payment of Debt Service shall give rise to a separate cause of action under this Guaranty Agreement; and separate suits may be instituted pursuant to this Guaranty Agreement, from time to time, as each cause of action shall arise.

Section 3.05 Amounts to be Included in Budget. The Borough covenants to and with the Trustee, the Authority, and the registered owners, from time to time, of the Bonds that the Borough shall (a) include in its budget for each Fiscal Year in which Debt Service is payable on the Bonds (beginning with its 2003 Fiscal Year), an amount equal to the Debt Service on the Bonds for such Fiscal Year (which Debt Service has been guaranteed by the Borough and is payable pursuant to this Guaranty Agreement) less the amount on deposit in the Debt Service Reserve Fund (as hereinafter set forth) on December 15 of the immediately preceding Fiscal Year and (b) appropriate such amounts from its general revenues for payment to the Trustee of its obligations hereunder, and (c) duly and punctually shall pay or shall cause to be paid from its sinking fund or any of its revenues or funds to the Trustee such amounts, at the times and in the manner provided for herein, at the designated corporate trust office of the Trustee or such other place as is designated by any owner of the Bonds, according to the true intent and meaning hereof. For such budgeting, appropriation, and payment, the Borough pledges its full faith, credit, and taxing power. As provided in the Debt Act, this covenant shall be enforceable specifically against the Borough.

In accordance with the terms and conditions of, and as set forth more fully in, the Indenture, on or before December 1, 2003 and on or before December 1 of each Fiscal Year thereafter, the Trustee shall give written notice to the Borough of any deficiency which shall exist in the Debt Service Reserve Fund, and, unless the Authority shall satisfy such deficiency on or before December 15 of such Fiscal Year, the Borough forthwith shall include in its budget for the next succeeding Fiscal Year an amount equal to the difference between (a) the Debt Service to be paid on the Bonds for such Fiscal Year and (b) the amount on deposit in the Debt Service Reserve Fund on such December 15.

At any time when payments are required to be made by the Borough hereunder, to the extent that sufficient money shall not be available in the Borough's then current budget, and if the Borough shall be unable to incur, lawfully, debt in the current Fiscal Year for the purpose of paying such Debt Service or to issue tax anticipation notes or otherwise to satisfy its obligations hereunder, the Borough shall include any amounts so payable in its budget for the next succeeding Fiscal Year and shall appropriate such amounts to the payment of such obligations and duly and punctually shall pay or shall cause to be paid the obligations incurred hereunder in the manner herein stated according to the true intent and meaning hereof, and for such budgeting, appropriation, and payment, the Borough does pledge its full faith, credit, and taxing power. As provided in the Debt Act, this covenant shall be enforceable specifically against the Borough.

Section 3.06 Authority to Establish and Maintain Debt Service Reserve Fund. The Authority covenants and agrees to establish and maintain a Debt Service Reserve Fund as more fully set forth in the Indenture. The Authority further covenants and agrees that it shall promptly (i) notify the Borough in writing (and cause the Trustee to notify the Borough) of any transfers or withdrawals which may be made from the Debt Service Reserve Fund for the purpose of making payment of Debt Service at any time due or to become due on the Bonds, and (ii) make up any deficiency in the Debt Service Reserve Fund (whether such deficiency arises from a withdrawal of monies for the payment of Debt Service on the Bonds, from a decrease in the value of investments held therein or otherwise) by a deposit with the Trustee of any available Authority cash, Gross Revenues, operating reserves or other monies of the Authority as soon as practicable after it becomes aware of such deficiency. In addition, in order to facilitate the budgeting of any deficiencies by the Borough, as provided in Section 3.05 hereof, the Authority agrees to cause the Trustee, in addition to the other requirements imposed on the Trustee, pursuant to the Indenture, on or before May 15 of each Fiscal Year, to value the Debt Service Reserve Fund in accordance with the provisions of the Indenture.

Section 3.07 Authority to Provide Certificate. The Authority covenants and agrees that on or before December 1, 2003 and on or before December 1 in each Fiscal Year thereafter, the Authority will prepare and deliver to the Borough an Officer's Certificate stating (i) the value of the Debt Service Reserve Fund, as calculated by the Trustee in accordance with the provisions of the Indenture (a copy of the Trustee's valuation shall be included with the Officer's Certificate), and (ii) either (a) that no deficiency exists in the Debt Service Reserve Fund and accordingly, in accordance with the provisions of this Guaranty Agreement, the Borough, in preparing its budget for the next succeeding Fiscal Year, need not include in such budget any part of Debt Service on the Bonds, or (b) that a deficiency exists in the Debt Service Reserve Fund in which event, such certificate should state the amount of such deficiency, should state that all other available monies in Funds created under the Indenture have been transferred to the Debt Service Reserve Fund, and either should explain, in reasonable detail, what steps the Authority intends to take to satisfy such deficiency by December 15 or should state that the Borough should include in its budget all or some portion of the deficiency in accordance with the terms and conditions hereof).

Section 3.08 Obligations of Borough Absolute and Unconditional. The obligations of the Borough under this Guaranty Agreement shall be absolute, irrevocable, and unconditional, shall have been paid or shall have been provided for, and such obligations of the Borough shall not be affected, modified, diminished, or impaired upon the happening, from time to time, of any event, including, without limitation, any of the following (whether or not with notice to or the consent of the Borough in accordance with the provisions hereof) unless such notice or consent is required hereunder:

A. The failure of the Authority otherwise to perform any obligation contained in this Guaranty Agreement or in any other agreement, for any reason whatsoever, including, without limiting the generality of the foregoing, the occurrence of an insufficiency of funds, negligence or willful misconduct on the part of the Authority or its agents, employees or independent contractors, legal action of any nature which shall prohibit the operations of the Authority, labor

disputes, war, insurrection, natural catastrophe or laws, rules or regulations of any body, governmental or otherwise, having proper jurisdiction;

B. The compromise, settlement, release or termination of any or all of the obligations, covenants or agreements of the Authority under the Indenture;

C. The failure of the Authority or the Trustee to give notice to the Borough of the occurrence of a default under terms and provisions of this Guaranty Agreement or the Indenture;

D. The validity, enforceability or termination of the Indenture;

E. The failure of the Authority to make any payment to the Borough hereunder;

F. The neglect or failure of the Authority and/or the Trustee to exercise or to preserve any rights or rights of action against any party, person or property;

G. The failure of the Authority and/or the Trustee to have enforced, on prior appropriate occasions, any right or right of action against any party, person or property;

H. The compromise, settlement, release, alteration, indulgence or any other change or modification of any obligation or liability of the Authority hereunder or under the Indenture, regardless of the nature of such obligation or liability and regardless of the extent to which such obligation or liability shall have been modified, compromised or otherwise changed;

I. The waiver of the payment, performance or observance by the Authority, the Trustee or the Borough of any obligations, covenants or agreements contained in this Guaranty Agreement;

J. The extension of the time for payment of the Debt Service on the Bonds or any part thereof owing or payable under this Guaranty Agreement or of the time for performance of any other obligations, covenants or agreements under or arising out of the Indenture or this Guaranty Agreement;

K. The waiver by the Borough, or the modification or amendment (whether material or otherwise) of any obligation, covenant or agreement of the Authority set forth in the Indenture;

L. The taking of, or the omission to take, any action referred to in the Indenture or this Guaranty Agreement;

M. Any failure, omission or delay on the part of the Authority and/or the Trustee to enforce, to assert or to exercise any right, power or remedy conferred upon or vested in the Authority and/or the Trustee hereunder or under the Indenture, or to enforce, to assert or to exercise any other right or rights on the part of the Authority, the Trustee or any owner, at any time or from time to time, of the Bonds;

N. The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling of assets and liabilities, receivership, insolvency, Bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustments or other similar proceedings affecting the Borough or the Authority or any of the assets of either, or any allegation or contest of the validity of this Guaranty Agreement in any such proceeding;

O. The release or discharge of the Borough, to the extent permitted by law, from performance or observance of any obligation, covenant or agreement contained in this Guaranty Agreement, by operation of law;

P. The default or failure of the Borough fully to perform any of its obligations set forth in this Guaranty Agreement;

Q. Any failure by the Authority or the Trustee to comply with any of the covenants, agreements or undertakings set forth herein, in the Indenture or any breach by the Authority or the Trustee of any representation or warranty set forth herein or in the Indenture;

R. The voluntary or involuntary repossession or surrender of the Sewer System (as such phrase is defined in the Indenture).

Section 3.09 Obligations of Borough Not Affected by Bankruptcy, etc. The obligations of the Borough hereunder shall not be affected by any Bankruptcy, arrangement of creditors, reorganization, or other similar proceedings of the Authority or the Borough; and, to the extent applicable, the Borough specifically waives any right or benefit which could accrue to it by reason of any such proceeding and agrees that the same shall not affect the liability of the Borough hereunder, regardless of the effect that such proceedings may have with respect to the obligations of the Authority.

Section 3.10 Obligations of Borough Not Subject to Setoff, Counterclaim, etc. The obligations of the Borough hereunder shall not be subject to any setoff, counterclaim, or defense resulting from any breach or any alleged breach by the Authority of any obligation to the Borough, whether said obligation arises under this Guaranty Agreement or from any other transaction between the Authority and the Borough, regardless of the nature of such transaction, or otherwise.

Section 3.11 Trustee Obligated to Proceed. In the event of a default in payment of Debt Service on the Bonds when and as the same shall become due and payable, whether at the stated maturity thereof or by acceleration, the Trustee shall be obligated to proceed hereunder directly against the Borough without proceeding against or exhausting any other remedies which it may have against the Authority or its assets.

The Borough agrees to pay all costs, fees, and expenses, including, to the extent permitted by law, all court costs and reasonable attorney fees which may be incurred by the Trustee in

enforcing or attempting to enforce this Guaranty Agreement against it, following any default on the part of the Borough hereunder, whether the same shall be enforced by suit or otherwise.

Section 3.12 Waiver of Notice of Reliance. The Borough expressly waives notice, in writing or otherwise, from the registered owners, at any time or from time to time, of any of the Bonds of their acceptance and reliance upon this Guaranty Agreement.

Section 3.13 Enforcement by Third Parties. This Guaranty Agreement is entered into by the Borough for the benefit of the Trustee, owners, from time to time, of the Bonds, any successor Trustee or Trustees and their respective successors and assigns under the Indenture all of whom shall be entitled to enforce performance and observance hereof by the Borough to the same extent as if they were parties signatory hereto.

Section 3.14 Separate or Cumulative Enforcement. Terms of this Guaranty Agreement may be enforced as to any one or more breaches, either separately or cumulatively.

Section 3.15 Payment by Borough.

(a) So long as any Bonds shall be issued and outstanding and the Guaranty Agreement shall be in full force and effect, in the event that, on any May 15 or any November 15, the Trustee shall have transferred to the Debt Service Fund all available amounts in the Debt Service Reserve Fund and if the Trustee shall then determine that there still are not sufficient funds on deposit in the Debt Service Fund to pay principal of and interest on the Bonds on the next succeeding date upon which Debt Service is due, the Trustee shall immediately give written notice of such deficiency to the Authority and to the Borough, which notice shall specify the amount of the deficiency in such Fund, shall specify the balances in each Fund and account under the Indenture, shall specify in reasonable detail all deposits and transfers which have been made by the Authority during the immediately preceding eighteen month period and shall instruct Authority to make deposit with the Trustee of the specified amounts no later than the next May 20 or November 20, as appropriate, so that the Trustee shall be able to make payments of principal and interest on the Bonds, as scheduled on the next date upon which Debt Service is due.

(b) If on any May 20 or November 20, the Trustee shall determine that there shall not be sufficient funds in the Debt Service Fund to pay the Debt Service on the Bonds on the next succeeding June 1 or December 1, as appropriate, the Borough under the provisions of this Guaranty Agreement, shall promptly pay to the Trustee no later than the next May 25 or November 25, as appropriate, an amount which, together with other monies available to the Trustee in the Debt Service Fund, will be sufficient to permit the Trustee to make such Debt Service payment on the Bonds on the next date upon which such Debt Service is due.

(c) To the extent that it makes any payments of Debt Service on the Bonds, the Borough shall become subrogated to all right, title, and interest of the owners receiving such payments. To evidence such subrogation, the Trustee shall Bonds the Borough rights as subrogee on the registration books of the Authority maintained by the Trustee.

Section 3.16 Discharge of Obligations. Notwithstanding anything contained in this Guaranty Agreement to the contrary, except as provided herein with respect to expenses incurred in connection with the enforcement hereof, the obligations of the Borough hereunder shall be satisfied in full and discharged when (a) the principal and interest on the Bonds have been paid or provided for as specified in the Bonds, and (b) the Bonds shall have been discharged in accordance with its terms.

If, as more fully set forth in the Indenture, the Borough deposits with the Trustee funds sufficient to pay its obligations under this Guaranty Agreement as same may arise from time to time, all liability of the Borough with respect to the particular payment of Debt Service under this Guaranty Agreement shall cease and be deemed to be satisfied. Thereafter, any claims of whatsoever nature hereunder with respect to such particular payment of Debt Service shall be restricted exclusively to the funds so deposited hereunder and the Trustee shall hold such funds in trust for the benefit of the owners of the Bonds.

Section 3.17 Mandatory Connection to Sewer System. The Borough covenants that it has enacted an ordinance requiring all owners of improved property located within the boundaries of the Borough, and which shall be abutting upon any street in which there is a sewer main constituting part of said Sewer System, to make connection of such improved property with such water main and providing for the enforcement of such ordinance as may be permitted by law. The Borough also covenants and agrees to keep such ordinances or a subsequent similar ordinance or ordinances requiring such connections in full force and effect continuously during the term hereof and to enforce the same as may be permitted by law.

Section 3.18 Grant of Easements, etc. The Borough confirms and grants to the Authority, its successors and assigns, to the extent necessary and/or desirable, all easements, rights of way and other rights and privileges necessary and desirable in, along, over and under streets, roads, lanes, courts, cul-de-sacs, alleys, public ways, public squares and other properties of the Borough, together with free ingress, egress and regress therein and thereto, along with other persons having interests or rights therein, for use in connection with constructing, replacing, repairing, altering and maintaining said Sewer System. Subject, however to all applicable rules and regulations from time to time established by resolution or ordinance of the Borough with respect thereto.

Section 3.19 Reimbursement Obligation of Authority. The Authority covenants and agrees that it will pay to the Borough, on demand: (i) an amount equal to any amount at any time paid by the Borough to the Trustee under the Guaranty, plus an additional amount equal to any and all reasonable charges and expenses incurred or paid by the Borough in connection with honoring its guaranty agreement or enforcing its rights under this Section 3.19; and (ii) interest on such amounts from the date paid or incurred until the date paid at the rate of 10% per annum.

ARTICLE IV

Miscellaneous

Section 4.01 Increased Obligations of the Borough; Amendment. No amendment, change, modification, alteration, or termination of the Indenture shall be effective which would in any way increase obligations of the Borough under this Guaranty Agreement, without obtaining the prior written consent of the Borough (such consent to be given by the Borough pursuant to an ordinance duly enacted by the Council). No amendment, change, modification, alteration or termination of the Borough's obligations hereunder shall be effective without the Trustee's consent if the effect of such amendment, change, modification, alteration or termination is to impair the security of the Bonds by changing the coverage of the Borough's guaranty obligation.

Section 4.02 Time When Obligations Arise. Obligations of the Borough hereunder shall arise absolutely, irrevocable, and unconditionally when the Bonds shall have been issued, sold, and delivered by the Authority.

Section 4.03 Authority to Punctually Perform. The Authority and the Trustee covenant with the Borough that each duly and punctually will perform every covenant and agreement undertaken by the Authority under the Bonds.

Section 4.04 Remedies of Authority. In the event of default by the Borough in the punctual discharge of its obligations hereunder, the Authority and the Trustee shall be entitled to exercise such remedies as are provided under the Debt Act, together with any other remedies which otherwise may be provided by law or in equity or by other statutes.

Section 4.05 Cumulative Remedies; Waiver. No remedy conferred upon or reserved to the Authority or the Trustee hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default, omission, or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised, from time to time, and as often as may be deemed expedient. In order to entitle the Authority and/or the Trustee to exercise any remedy reserved in this Guaranty Agreement, it shall not be necessary to give any notice, other than such notice as herein expressly may be required. In the event any provision contained in this Guaranty Agreement should be breached by any party and thereafter duly waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release, or modification hereof shall be established by conduct, custom, or course of dealing, but shall be established solely by an instrument, in writing, duly executed by the appropriate parties. Notwithstanding any other provision hereof to the contrary, no recourse shall

be had for the payment of the principal of or interest on the Bonds, or for any claim based hereon or on the Ordinance of the Borough authorizing and approving the execution and delivery of this Guaranty Agreement, against any member, officer, or employee, past, present, or future, of the Borough or of any successor body, as such, either directly or through the Borough or any such successor body, under any constitutional provision, statute or rule of law, or by the enforcement of any assessment or by any legal or equitable proceeding or otherwise, and all such liability of such members, officers, or employees is released as a condition of and as consideration for the issuance of this Guaranty Agreement.

Section 4.06 Entire Agreement; Multiple Counterparts. This Guaranty Agreement constitutes the entire agreement, and supersedes all prior agreements and undertakings, both written and oral, among the parties with respect to the subject matter hereof; and this Guaranty Agreement may be executed, simultaneously, in multiple counterparts, each of which counterparts, together, shall constitute but one and the same instrument.

Section 4.07 Severability. Provisions of this Guaranty Agreement shall be severable; and in the event of the invalidity or unenforceability of any one or more phrases, sentences, clauses, Articles, Sections, or parts, in this Guaranty Agreement contained, such invalidity or unenforceability shall not affect the validity or enforceability of remaining portions of this Guaranty Agreement or any remaining parts thereof.

Section 4.08 Amendment. This Guaranty Agreement may be amended and/or supplemented, from time to time, by a written document duly signed by the parties hereto; provided, however, that no amendment and/or supplement shall be made which shall diminish or discontinue the obligations of the Borough hereunder.

Section 4.09 Choice of Law. This Agreement shall be construed in accordance with and shall be governed by laws of the Commonwealth.

IN WITNESS WHEREOF, the parties hereto, each intending to be legally bound, pursuant to proper authorization or their respective governing bodies, have caused this Guaranty Agreement to be executed by its respective duly authorized officer or officers and to be attested by its respective duly authorized officer and its respective official or corporate seal to be affixed to this Guaranty Agreement, all as of the day and year first above written.

BOROUGH OF MOUNT PENN
Berks County, Pennsylvania

(SEAL)

By: _____

Attest: _____

ANTIETAM VALLEY MUNICIPAL
AUTHORITY

(SEAL)

By: _____

Attest: _____

ALLFIRST BANK, as Trustee

(SEAL)

By: _____

Attest: _____

Date of Execution and Delivery: December __, 2002

EXHIBIT "B"

CERTIFICATE

I, the undersigned, Secretary of the Borough of Mount Penn, Berks County, Pennsylvania (the "Borough"), hereby certify that attached hereto is a true and correct copy of an Ordinance which duly was enacted by affirmative vote of a majority of all members of the Borough Council of the Borough at a meeting duly advertised and held on the 12th day of November, 2002.

I further certify that the Borough Council met the advance notice requirements of Act No. 1986-84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, as amended, by advertising the time and place of said meeting in accordance therewith.

I further certify that the total number of members of the Borough Council is seven (7); the vote of members of the Borough Council upon said Ordinance was called and duly recorded upon the minutes of said meeting; and members of the Borough Council voted upon said Ordinance in the following manner:

<u>Name</u>	<u>Vote</u>
Randall P. Miller, President	_____
Lynn A. Leinbach, Vice President	_____
Edna May Black	_____
James Cocuzza	_____
Jonathan K. DelCollo	_____
Thomas A. Staron	_____
Dennis L. Swartz	_____

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this 12th day of November, 2002.

Secretary