

A RESOLUTION OF THE BOARD OF MT. JOY BOROUGH AUTHORITY PROVIDING FOR THE ASSESSMENT OF CERTAIN OF THE COSTS OF CONSTRUCTION OF CERTAIN CAPITAL ADDITIONS TO THE SANITARY SEWAGE COLLECTION SYSTEM OF THE AUTHORITY IN AND FOR THE BOROUGH OF MOUNT JOY UPON PROPERTIES BENEFITED, IMPROVED OR ACCOMMODATED BY SAID CAPITAL ADDITIONS IN ACCORDANCE WITH THE FOOT FRONT RULE OR IN ACCORDANCE WITH BENEFITS AS DETERMINED BY A JURY OF VIEW; FOR THE MATTER OF COLLECTION; FOR THE FILING OF LIENS; AND FOR THE PAYMENT OF THE AMOUNTS COLLECTED TO UNION NATIONAL MOUNT JOY BANK, TRUSTEE

WHEREAS, pursuant to Ordinance duly enacted, the Council of the Borough of Mount Joy, Lancaster County, Pennsylvania (the "Borough") created Mt. Joy Borough Authority (the "Authority") and by further ordinance duly enacted has designated the sewer project for the Authority;

WHEREAS, in carrying out said project, Authority has heretofore commenced and completed the construction of a Sewer System in, and for, the Borough, in accordance with plans and specifications dated January and February, 1956, as respectively revised, prepared by Joseph A. Michels, Registered Professional Engineer, Dallastown, Pa.; and

WHEREAS, in connection with the construction of the Sewer System, the said Joseph A. Michels submitted his Report and Plan, dated March 16, 1956 to the Board of the Authority and, in turn, to the Council of the Borough, all for the purposes of, and pursuant to the provisions of Section 4B (s) of the Municipality Authorities Act of 1945, P.L. 382, as amended, and the Board of the Authority and the Council of the Borough by Resolution adopted April 5, 1956 and by Ordinance enacted April 5, 1956, respectively, approved such Report and Plan all for the purposes and with the effect of enabling the Authority to assess a portion of the cost of such Sewer System construction against the properties benefited, improved or accommodated thereby, according to the foot front rule; and

WHEREAS, Authority, by Resolution duly adopted on May 22, 1956, provided among other things, for the assessment of certain of the costs of construction of the Sewer System, pursuant to the aforesaid Report and Plan, upon properties benefited, improved or accommodated by said sewer construction in accordance with the foot front rule; and

WHEREAS, Authority has determined to construct certain extensions to the Sewer System (the "Sewer System Extensions") not originally included in the aforesaid plans and specifications dated January and February, 1956 as respectively revised, as prepared by the aforesaid Joseph A. Michels and desires to charge the assessable portion of the cost of construction of such Sewer System Extensions against the properties benefited, improved or accommodated thereby according to the foot front rule or as may otherwise be authorized by law; and

WHEREAS, Authority has caused Gannett Fleming Cordry & Carpenter, Inc., Consulting Engineers, Harrisburg, Pa. (the "Consulting Engineers") to prepare specifications dated May, 1964 and plans dated June, 1964 for the construction of the aforesaid Sewer System Extensions; and

WHEREAS, the Consulting Engineers have submitted to Authority a Report and Plan dated August 24, 1964, of such construction and the estimated cost thereof and

WHEREAS, Authority by Resolution unanimously adopted September 1, 1964, approved the Report and Plan of the Consulting Engineers dated August 24, 1964, determined that a portion of the cost of the Sewer System Extensions should be assessed against the properties

benefited, improved or accommodated thereby according to the foot front rule, pursuant to Paragraph (s) Subdivision B of Section 4 of the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended, or where, in the opinion of the Authority, an assessment by the foot front rule cannot legally be made against, or would not actually measure the benefit to any property, according to benefits in accordance with paragraph (r) of Section B of Section 4 of said Act and submitted a certified copy of resolution and a copy of such Report and Plan and determination to assess to the Council of the Borough; and

WHEREAS, the Council of the Borough by Ordinance also duly enacted September 1, 1964 and approved by the Mayor, approved said Report and Plan and method of assessment; and

WHEREAS, Authority, by separate Resolution, has authorized the issuance of Sewer Revenue Bonds in the aggregate principal amount of \$640,000 for the purpose, in part, of providing funds for and toward the cost of construction, as defined in the Indenture and Supplemental Indenture hereinafter referred to, of the Sewer System Extensions and has provided for the charging of certain tapping or connection fees and annual sewer rentals and charges for the use thereof; and

NOW, THEREFORE,

BE IT RESOLVED THAT:

Section 1. The Authority authorizes the construction of the Sewer System Extensions in and for the Borough in accordance with the plans, drawings and specifications prepared by the Consulting Engineers, and approved by the Pennsylvania Sanitary Water Board, in the streets, alleys, roads and rights-of-way as therein set forth, and hereby ratifies, confirms and validates all action taken in awarding and executing the contract providing for such construction, or otherwise such action as hereby authorized and directed to be taken, the aforesaid plans and specifications being dated June and May, 1964, respectively.

Section 2. The Authority hereby undertakes and directs that certain of the costs of the construction of the Sewer System Extensions being constructed as aforesaid, will be and hereby are charged and assessed against the assessable properties benefited, improved or accommodated thereby in accordance with the foot front rule; or where, in the opinion of the Authority, an assessment by the foot front rule cannot legally be made against, or would not adequately measure the benefit to, any property, the costs of construction may be assessed against such property according to the extent of benefits as determined by a Jury of View. The rate per front foot of such assessments shall hereby be fixed at \$5.70 per front foot which is hereby declared and determined to be less than the assessable cost per front foot of the sewers to be so constructed.

Section 3. Assessments under the front foot rule shall be made in the following manner:

A. Whenever the construction of a sewer or sewers has been completed which shall abut upon or otherwise be accessible to a particular property or group of properties, and has been approved for assessment purposes by the Consulting Engineers (which term shall mean and include any successor consulting engineer, duly appointed by Authority) the Consulting Engineers shall file with the Authority a statement certifying that such sewer or sewers has or have been completed and approved by them for assessment purposes, stating the date of such completion and describing such sewer or sewers in reasonable detail.

B. Upon receipt by the Authority of each certificate of the Consulting Engineers, as provided for in Paragraph A above, the Authority shall examine the same and shall determine the property or properties abutting upon or accessible to such sewer or sewers described in said certificate which are benefited, improved or accommodated thereby,

shall determine the amount or amounts of the proposed assessment or assessments, computed in accordance with the provisions of this Resolution, and shall determine the name or names of the owner or owners of such property or properties. Thereon, the Consulting Engineers shall certify that such proposed assessment or assessments, together with all assessments heretofore made by the Authority under the provisions hereof and together with the estimated amount of all assessments thereafter to be made under the provisions hereof will not exceed the estimated costs heretofore approved by the Borough or the actual cost of construction. After making such determination and receiving the certificate of the Consulting Engineers as provided for in this Paragraph B, the Authority shall direct the preparation of a proper assessment bill for the amount charged against each property.

C. The assessment bills so prepared thereupon shall be dated and signed on behalf of the Authority by its Chairman or Vice-Chairman, or such other agent as Authority shall, by Resolution (a certified copy of which shall be furnished to the Trustee under the Indenture hereinafter referred to), duly appoint; and shall be collected from the owner or owners of each of the properties against which such assessments are charged and assessed hereby.

D. A schedule of all assessments shall be kept by the Secretary of the Authority and filed with Union National Mount Joy Bank, Mount Joy, Pa., Trustee under the Trust Indenture between the Authority and said Bank, as Trustee, dated as of May 1, 1956 and Supplemental Indenture dated as of October 1, 1964 and a duplicate copy of all assessment bills shall be filed with the Treasurer of the Authority. The Secretary of the Authority may also cause a brief notice to be inserted in a newspaper or newspapers of general circulation in the Borough that assessment bills have been prepared and will forthwith be served upon the property owners subject to assessment in the Borough.

E. Promptly after filing with the Authority of each certificate provided for in Paragraph A above, the assessment bills, so dated and executed shall be served by the Authority or its employees and/or agents, upon the owner or owners of such properties, either personally or by leaving the same with an adult member of the family with whom the said owner or owners reside. If the owner or owners of such properties have no residence, or cannot be found, in the Borough, then the assessment bill shall be posted upon the assessed property or a copy thereof left with the occupant, if there be one, and shall further be mailed by registered or certified United States mail to the owner or owners or his or their agent or attorney at his or their last known address.

Section 4. Where any property shall be situated at the intersection of, or otherwise adjacent to or adjoining more than one public street, road or other public highway in which sewer lines shall be constructed, which sewer lines shall therefor pass in front of, or be adjacent to more than one side of such property, the owner or owners of such assessable property shall be assessed for the full frontage of one (if unequal in length, then the shortest) side of such property, which shall be known and designated as the "front, and shall be assessed for one-fourth (1/4) of the full frontage of each such other side abutting on or accessible to a sewer.

It is the intention of this Resolution that equitable assessments be made against the assessable properties benefited, improved or accommodated by the Sewer System according to the foot front rule, and the Authority reserves the right to make any other adjustments in such assessments as may be necessary to carry out such intention.

Section 5. All such assessments shall be payable forthwith to the Treasurer of the Authority who shall pay, or

cause to be paid over to the Union National Mount Joy Bank, Mount Joy, Pa., Trustee under the Trust Indenture dated as of May 1, 1956 and supplemental indenture dated as of October 1, 1964 on the business day next succeeding the collection or receipt thereof all revenues received therefrom together with the interest and penalties, if any, paid thereon, but less any proper costs and expenses, including legal fees, of such collection accompanied by a statement showing the amounts collected. Until so paid over, all such revenues shall be segregated, separate from any funds of the Authority not relating to the Sewer System and shall be held in trust for the purposes of the Indentures above referred to. Union National Mount Joy Bank, Trustee, shall, upon receipt thereof, deposit all such assessment revenues as shall be provided in the Supplemental Indenture.

Section 6. If any owner or owners against which such an assessment shall have been made, refuse or neglect to pay such assessment within 60 days after service of the assessment bill shall have been made in the manner as set forth in Paragraph E of Section 3 hereof, the Authority shall forthwith cause to be filed a municipal claim or lien therefor, which shall include interest thereon at the rate of six (6%) per cent per annum from the date of completion of the work. A penalty of five (5%) per cent shall be added to any assessments not paid within ninety days after service thereof, unless such owner or owners have been granted the privilege of paying such assessments in installments as provided by Section 7 hereof, and the interest as aforesaid shall be computed on the total thereof. The Treasurer of the Authority shall certify to the Authority Solicitor all such unpaid assessments, and the Authority Solicitor shall so file municipal claims therefor in the proper office of Lancaster County, as provided by law, against the property or properties upon which such assessments shall have been made. The Authority Solicitor shall thereupon proceed to collect the same under the general law relating to the collection of municipal claims, including, if so directed by the Authority, the filing of suits in assumpsit, unless the owner or owners shall have been granted the privilege of paying such assessment or assessments in installments as provided in Section 7 hereof and is currently not in default in such installment payments. All such municipal claims shall be filed not later than the last day permitted by law for the filing of such municipal claims. The certificates of the Consulting Engineers filed, from time to time, with the Authority pursuant to Paragraph A of Section 3 shall be conclusive as to times of the completion as therein set forth.

Section 7. Any owner or owners of property against whom and which assessments have been made as above provided shall have the privilege, upon written request in the form prepared by the Authority filed with the Secretary of the Authority within thirty (30) days after service of the assessment bill has been made as provided in Paragraph E of Section 3 hereof and upon payment of not less than one-fifth (1/5) of the amount of the assessment plus lien costs against the property of such owner or owners, of paying the balance of said assessment plus lien costs in equal annual or semi-annual installments within the next following four years and the said unpaid installments shall bear interest at the rate of six (6%) percent from the date of completion of the work, provided, however, that the granting of such privilege of paying the assessment in installments shall not relieve the Authority of the duty of filing a lien or municipal claim for every assessment not paid in full within sixty (60) days of such service of the assessment bill.

In case of default of any owner in the payment of any installment and interest as aforesaid for a period of sixty (60) days after the

same shall become due, the entire balance of the assessment plus a penalty of five (5%) per cent on such balance and accrued interest on the total thereof shall become due and payable; and it shall be the duty of the Authority Treasurer when any such default shall occur, to notify the Authority Solicitor thereof promptly; and the Authority Solicitor shall thereupon proceed to collect the same under the general law relating to the collection of municipal claims, including, if so directed by the Authority, the filing of suits in assumpsit.

Any such owner who has been granted the privilege of paying such assessment in installments as provided in this Section, may pay the balance remaining due in full at any time, with interest thereon to the next installment payment, together with the costs of filing and satisfying the lien, and such payment shall discharge the lien or claim against such owner.

Section 8. The proper officers of the Authority are hereby authorized and directed to do all matters and things required to be done by the Acts of Assembly and by this Resolution for the purpose of carrying out the purposes hereof.

Section 9. Authority reserves the right to make any modifications, supplements or amendments to this Resolution, provided that the assessment at the rate of \$5.70 per foot front as fixed herein and the provisions as to interest, penalties and times of payment of the assessments or the installments and of the filing of municipal claims or liens shall not be changed.

Section 10. When in the opinion of the Authority an assessment by the foot front rule, all as hereinbefore provided, cannot legally be made against, or would not adequately measure the benefits of the sewers to any property, the cost of construction may be assessed against such property according to the extent of benefits, as determined by a Jury of View pursuant to Paragraph (r), Subdivision B of Section 4 of the Municipality Authorities Act of 1945, P.L. 382, as amended.

Section 11. Notwithstanding the provisions of Section 6 hereof, Authority may make settlements with property owners as to the amount of their assessments, if Authority receives an opinion of the Authority Solicitor to the effect that a failure to make such settlement may endanger the possibility of making recovery of such assessment from such property owners.

Duly adopted by the Board of Mt. Joy Borough Authority this sixth day of October, 1964.

MT JOY BOROUGH
AUTHORITY
B. T. Rutt, Chairman

Attest:
D. M. Wolgemuth
Secretary 29-1c

Publisher's Statement

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I certify the statements made by me above are correct and complete.
Owner Richard A. Rainbolt