

BOROUGH OF YOE

York County, Pennsylvania

ORDINANCE NO. 81-003

AN ORDINANCE

OF THE COUNCIL OF THE BOROUGH OF YOE, YORK COUNTY, PENNSYLVANIA, AUTHORIZING APPROPRIATE OFFICERS OF THIS BOROUGH TO EXECUTE, ATTEST, ACKNOWLEDGE AND DELIVER, AS APPLICABLE AND APPROPRIATE, A TERMINATION AGREEMENT, WHICH, INTER ALIA, TERMINATES AN AGREEMENT OF LEASE, DATED AS OF JULY 15, 1963, BETWEEN THE DALLASTOWN-YOE WATER AUTHORITY, AS LESSOR, AND THIS BOROUGH AND THE BOROUGH OF DALLASTOWN, YORK COUNTY, PENNSYLVANIA, AS LESSEES, WHICH AGREEMENT OF LEASE RELATES TO THE WATER SYSTEM PRESENTLY BEING OPERATED BY SAID BOROUGHS; APPROVING THE PROPOSAL OF DALLASTOWN-YOE WATER AUTHORITY THAT UPON TERMINATION OF SAID AGREEMENT OF LEASE AND CONVEYANCE BY SAID BOROUGH LESSEES OF ALL OF SAID BOROUGHS' RIGHT, TITLE AND INTEREST IN AND TO SAID WATER SYSTEM, THE SAME SHALL BE IMPROVED, OPERATED AND MAINTAINED BY SAID DALLASTOWN-YOE WATER AUTHORITY; AUTHORIZING, DIRECTING AND APPROVING THE CONVEYANCE AND TRANSFER TO THE AFORESAID AUTHORITY OF ALL OF THIS BOROUGH'S RIGHT, TITLE AND INTEREST IN AND TO THE AFORESAID WATER SYSTEM AND RELATED PROPERTY; GRANTING TO THE AFORESAID AUTHORITY ALL EASEMENTS, RIGHTS OF WAYS AND OTHER RIGHTS NECESSARY AND DESIRABLE IN, ALONG, OVER AND UNDER, INTER ALIA, STREETS, ROADS, PUBLIC WAYS AND OTHER PROPERTIES OF THIS BOROUGH FOR USE IN CONNECTION WITH CONSTRUCTION, MAINTENANCE AND OPERATION OF THE AFORESAID WATER SYSTEM; AND AUTHORIZING AND DIRECTING PROPER OFFICERS OF THIS BOROUGH TO PERFORM ALL OTHER ACTS AND EXECUTE ALL OTHER DOCUMENTS REQUIRED OR CONTEMPLATED BY THE AFORESAID TERMINATION AGREEMENT AND THIS ORDINANCE.

WHEREAS, Dallastown-Yoe Water Authority (the "Authority") is a municipality authority existing under provisions of the Pennsylvania Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented (the "Authorities Act"); and

WHEREAS, The Authority, as lessor, heretofore entered into an Agreement of Lease, dated as of July 15, 1963 (the "Lease"), with the Boroughs of Dallastown and Yoe, both of York County, Pennsylvania (the "Boroughs"), as lessees, pursuant to which a portion of the Water System, as defined in the Lease, was leased to the Boroughs, for use and operation upon terms and conditions therein specified; and

WHEREAS, The Authority heretofore entered into a Trust Indenture, dated as of July 15, 1963 (the "Indenture"), with First National Bank and Trust Company of Red Lion, Red Lion, Pennsylvania, as trustee, under which Indenture Southern Pennsylvania Bank (the "Trustee"), York, Pennsylvania, is successor trustee, to secure, inter alia, water revenue bonds and water assessment revenue bonds of the Authority, and under which Indenture the Authority did assign, transfer and pledge unto the Trustee, its successors in the trust and its assigns, forever, to the extent provided therein, all right, title and interest of the Authority in and to the Lease, in and to the Receipts and Revenues from the Water System, as defined in the Indenture, and in and to the Receipts from Assessments, as defined

in the Indenture, all as more fully described in the Indenture;
and

WHEREAS, The Authority heretofore issued a series of Water Revenue Bonds - Series of 1963, in the aggregate principal amount of \$450,000 (the "Series of 1963 Bonds"), under provisions of the Indenture, said Series of 1963 Bonds being the only series of bonds authorized and outstanding under the Indenture; and

WHEREAS, The Authority, pursuant to authority vested in it by law, plans to construct and acquire certain improvements, additions and modifications to the existing Water System, including installation and replacement of water lines and connections thereto, construction of an additional water storage standpipe and elevated tanks and related facilities in, adjacent to and for rendering water service in and adjacent to the Boroughs, which undertakings are referred to herein as the "Improvement Project"; and

WHEREAS, The Authority has proposed and the Boroughs have agreed that the Authority, in connection with the financing of the Improvement Project, also shall refund all outstanding Series of 1963 Bonds; and

WHEREAS, The Authority, concurrently with the effectiveness of the Termination Agreement herein approved, will deposit

with the Trustee funds sufficient to: (1) pay installments of interest when due on outstanding Series of 1963 Bonds, on May 1 and November 1 of each year, beginning November 1, 1981, until maturity or until the same are retired by mandatory redemption as required by terms of the Indenture or until May 1, 1988, whichever shall first occur; (2) pay the principal of outstanding Series of 1963 Bonds which have a stated maturity date on or before May 1, 1986; (3) pay all costs and expenses related to redemption of Series of 1963 Bonds maturing on May 1, 2001, in the aggregate principal amount of \$15,000, which are mandatorily required to be redeemed on May 1, 1987; (4) redeem on May 1, 1988, all Series of 1963 Bonds which then remain outstanding; and (5) pay all costs and expenses related to the foregoing, including all fees and expenses of the Trustee, as trustee under the Indenture; and

WHEREAS, The Trustee, concurrently with the effectiveness of the Termination Agreement herein approved, in its capacity as successor trustee under the Indenture, in accordance with provisions of the Indenture, will: (a) release, cancel and discharge the lien of the Indenture; (b) execute and deliver to the Authority such instruments as are requisite to satisfy the lien of the Indenture; (c) reconvey to the Authority the estate and title conveyed by the Indenture; and (d) assign and deliver to the Authority the Lease and other property subject to the lien of the Indenture which is in the possession of the Trustee; and

WHEREAS, The Authority, as lessor, and the Boroughs, as lessees, mutually desire to terminate and to cancel the Lease; and

WHEREAS, The Authority has proposed and the Boroughs have agreed that, upon termination and cancellation of the Lease, the Authority shall continue to own and shall operate and maintain the Water System without interruption to the existing consumers; and

WHEREAS, The Authority and the Boroughs, in order to accomplish the aforesaid purpose, pursuant to Section 9 of the Authorities Act, have agreed that the Boroughs will grant, convey, transfer or pay over to the Authority and the Authority shall acquire, all of the Boroughs' right, title and interest in and to the Water System, including all property appurtenant thereto, real, personal or mixed, tangible or intangible, acquired or held by the Boroughs in their capacity as lessees and operators of a portion of the Water System.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Council of this Borough, as follows:

1. Proper officers of this Borough hereby are authorized and directed to satisfy remaining obligations of this Borough to the Authority under the Lease, if any.

2. This Borough, together with the Borough of Dallastown, York County, Pennsylvania, as lessees, shall enter into a Termination Agreement, dated for convenience as of April 16, 1981, but effective as of the date therein provided (the "Termination Agreement"), with the Authority, as lessor, substantially in the form referred to in Section 3 hereof, under terms and provisions of which Termination Agreement the Lease will be terminated and cancelled.

3. The Termination Agreement shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Termination Agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this Borough, for inspection, at reasonable times, by interested persons requesting such inspection.

4. The Mayor, President or Vice President of Council of this Borough and Secretary or Assistant Secretary of this Borough are authorized and directed to execute, acknowledge and deliver, as applicable, the Termination Agreement, in behalf of this Borough, in substantially the form approved in Paragraph 3 hereof, or with such changes as such officers shall approve, their execution to constitute conclusive evidence of such approval.

5. This Borough hereby grants to the Authority, its successors and assigns, all easements, rights of way and other

rights necessary and desirable in, along, over and under streets, roads, lanes, courts, cul-de-sacs, public 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 acquiring, constructing, replacing, repairing, altering, maintaining and operating the Water System.

6. This Borough approves the proposal of the Authority to the effect that the Boroughs grant, convey, transfer or pay over to the Authority all of the Boroughs' right, title and interest in and to the Water System, including all property appurtenant thereto, real, personal or mixed, tangible or intangible, acquired or held by the Boroughs in their capacity as lessees and operators of a portion of the Water System in consideration of the Authority agreement to pay or be responsible for any costs or obligations of the Boroughs with respect to the Water System.

7. This Borough, effective on the effective date of the Termination Agreement, assigns, transfers and conveys to the Authority all of this Borough's right, title and interest in and to the Water Revenue Account of the Boroughs created under the Lease, including the reserve fund created therein, including any and all obligations purchased as investments or reinvestments with moneys therefrom, all as more fully described in the Lease.

8. This Borough, effective on the effective date of the Termination Agreement, assigns, transfers and conveys to the Authority all of this Borough's right, title and interest to payments due or made after the effectiveness of the Termination Agreement by customers of the Water System for water service rendered, whether billed or not billed prior to said date. Any such payments collected or received by the Borough immediately shall be paid over to the Authority.

9. This Borough, effective on the effective date of the Termination Agreement, assigns, transfers and conveys to the Authority all right, title and interest in and to any materials, supplies and equipment, including all books, accounts and records, owned or maintained by this Borough for the purposes of and related to the maintenance, repair and operation of the Water System. This Borough covenants to deliver up peaceable possession of such materials, supplies and equipment, including all books, accounts and records, upon request therefor made by the Authority.

10. This Borough, effective on the effective date of the Termination Agreement, assigns, transfers and conveys to the Authority all of this Borough's right, title and interest in and to all insurance proceeds collectible under all the policies of insurance upon the Water System on account of losses suffered, whether claims for such losses have been or have not been filed as of the date hereof. This Borough covenants to cooperate with the Authority

and to take all actions and do all things which may be necessary to enable recovery to be made upon such policies of insurance.

11. Proper officers of this Borough are authorized and directed to execute all documents and to take such other action as may be necessary to carry out the intent and purposes of this Ordinance and the undertakings of this Borough under the Termination Agreement.

12. The provisions of this Ordinance are conditioned upon enactment of a similar Ordinance by the Borough of Dallastown, York County, Pennsylvania, as co-lessee under the Lease.

DULY ENACTED AND ORDAINED, this 14th day of May, 1981, by the Council of the Borough of Yoe, York County, Pennsylvania, in lawful session duly assembled.

ATTEST:

John M. Grove
Asst. Secretary

BOROUGH OF YOE,
York County, Pennsylvania

By: Robert T. Martin II
Vice President of Council

(SEAL)

EXAMINED AND APPROVED this 14th day of May, 1981.

Mayor