

ORDINANCE NO. *1642006* OF THE BOARD OF SUPERVISORS
OF THE TOWNSHIP OF TILDEN,
BERKS COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA (THE "TOWNSHIP"), SETTING FORTH ITS INTENT TO ENTER INTO AN AGREEMENT TO REIMBURSE ITS SHARE OF DEBT SERVICE AND SEWAGE EXPANSION COSTS, WHEREBY THE TOWNSHIP AGREES TO ASSUME A SHARE OF OVERALL COSTS FOR AN EXPANSION OF THE HAMBURG SEWAGE SYSTEM GENERALLY AND, SPECIFICALLY AGREES TO REIMBURSE THE HAMBURG MUNICIPAL AUTHORITY OF BERKS COUNTY (THE "AUTHORITY") AND THE BOROUGH OF HAMBURG (THE "BOROUGH") FOR DEBT SERVICE OTHERWISE OWED BY THE AUTHORITY AND BOROUGH, SUCH DEBT SERVICE TO BE PAID BY THE TOWNSHIP BASED UPON A PRINCIPAL AMOUNT OF ONE MILLION NINE HUNDRED SIXTY-EIGHT THOUSAND SIX HUNDRED FIFTEEN DOLLARS (\$1,968,615.00), PURSUANT TO THE ACT OF THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA, KNOWN AS THE LOCAL GOVERNMENT UNIT DEBT ACT, AS RE-ENACTED, AMENDED AND SUPPLEMENTED (THE "ACT"); DETERMINING THAT SUCH AGREEMENT SHALL EVIDENCE NONELECTORAL DEBT OF THIS TOWNSHIP; SPECIFYING THAT SUCH INDEBTEDNESS IS TO BE INCURRED TO PROVIDE FUNDS TO FINANCE A PROJECT OF THIS TOWNSHIP WHICH CONSISTS OF, AMONG OTHER THINGS, (A) THE DESIGN, CONSTRUCTION, INSTALLATION, AND EQUIPPING OF AN EXPANSION OF SEWAGE FACILITIES OF THE HAMBURG MUNICIPAL AUTHORITY OF BERKS COUNTY AND THE BOROUGH OF HAMBURG, AND (B) THE PAYMENT OF THE COSTS AND EXPENSES OF THE EXECUTION OF THE AGREEMENT; SETTING FORTH A REASONABLE ESTIMATE OF THE USEFUL LIFE OF THE PROJECT TO BE FINANCED; MAKING CERTAIN FINDINGS WITH RESPECT TO THE PROJECT; FIXING THE AMORTIZATION AND PAYMENT SCHEDULE; SETTING FORTH THE SUBSTANTIAL FORM OF THE AGREEMENT EVIDENCING THE DEBT; AUTHORIZING EXECUTION AND ATTESTATION OF SUCH AGREEMENT; PROVIDING COVENANTS RELATED TO THE PAYMENT OF DEBT SERVICE APPLICABLE TO SUCH AGREEMENT TO THE EXTENT REQUIRED BY THE ACT AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THIS TOWNSHIP IN SUPPORT THEREOF; PROVIDING A COVENANT TO INSURE PROMPT AND FULL PAYMENT FOR SUCH AGREEMENT WHEN DUE; AUTHORIZING AND DIRECTING SPECIFIED OFFICERS OF THIS TOWNSHIP TO DO, TO TAKE AND TO PERFORM CERTAIN SPECIFIED, REQUIRED, NECESSARY OR APPROPRIATE ACTS TO EFFECT THE EXECUTION OF THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE PREPARATION OF A DEBT STATEMENT AND BORROWING BASE CERTIFICATE, AND THE FILING OF OTHER SPECIFIED DOCUMENTS WITH THE DEPARTMENT OF

COMMUNITY AND ECONOMIC DEVELOPMENT, ALL AS REQUIRED BY THE ACT; AUTHORIZING AND DIRECTING THE FILING OF CERTAIN EXCLUSION PROCEEDINGS AS SPECIFIED IN THE ACT (IF APPLICABLE); DECLARING THAT THE DEBT TO BE EVIDENCED BY SUCH AGREEMENT, TOGETHER WITH ALL OTHER INDEBTEDNESS OF THIS TOWNSHIP, WILL NOT BE IN EXCESS OF ANY APPLICABLE LIMITATION IMPOSED BY THE ACT; AUTHORIZING PROPER OFFICERS OF THIS TOWNSHIP TO DELIVER THE AGREEMENT UPON THE APPROVAL OF THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES OR RESOLUTIONS OR PARTS OF ORDINANCES OR RESOLUTIONS INSOFAR AS THE SAME SHALL BE INCONSISTENT; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, the Township of Tilden, Berks County, Pennsylvania (the "Township") is a political subdivision and a local government unit of the Commonwealth of Pennsylvania (the "Commonwealth"); and

WHEREAS, portions of the Township are or will be serviced by sewage facilities owned and operated by the Hamburg Municipal Authority of Berks County and the Borough of Hamburg; and

WHEREAS, this Township desires to incur debt to fund a capital project of the Township, the Hamburg Municipal Authority of Berks County (the "Authority") and the Borough of Hamburg (the "Borough"), in accordance with the terms and provisions of the Local Government Unit Debt Act of the Commonwealth, as re-enacted, amended and supplemented (the "Act") through the Agreement by the Township with the Authority and Borough to reimburse its share of debt service and sewage expansion costs, whereby the township agrees to assume a share of overall costs for an expansion of the Hamburg Sewage System generally and, specifically agrees to reimburse the Authority and Borough for debt service otherwise owed by the Authority and Borough by the Township based upon a principal amount of One Million Nine Hundred Sixty-Eight Thousand Six Hundred Fifteen and 00/100 Dollars (\$1,968,615.00) (the "Agreement"); and

WHEREAS, the Board of Supervisors of the Township (the "Board"), in contemplation of the execution of the Agreement has determined that the Agreement is in the best financial interests of this Township; and

WHEREAS, the Board has determined to enter into such Agreement attached hereto as Exhibit "A" (the "Agreement") to be conditioned upon, among other things, the receipt of approval from the Department of Community and Economic

Development (the "Department") relating to the incurring of the indebtedness to be evidenced by the Agreement; and

WHEREAS, the Board has determined to and desires to enter into the Agreement and to incur nonelectoral debt pursuant to the provisions of the Act

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Supervisors of the **TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA**, in lawful session duly assembled, as follows:

Section 1. Pursuant to the provisions of this Ordinance, the Board hereby authorizes and directs the execution of the Agreement. In connection therewith, the Board hereby finds and determines that the Agreement is in the best financial interests of this Township.

Section 2. The Board determines that the debt to be incurred pursuant to this Ordinance, and which will be evidenced by the Agreement, shall be nonelectoral debt of this Township.

Section 3. A brief description of the project to be financed with the proceeds of the Agreement is as follows:

(i) the design, construction, installation, and equipping of an expansion of sewage facilities of the Hamburg Municipal Authority of Berks County and the Borough of Hamburg (the "Project"); and

(ii) the payment of the costs and expenses of the execution of the Agreement.

All of the foregoing are collectively referred to herein as the "Project." The realistic estimated useful life of the capital Project financed is in excess of thirty (30) years. It is hereby certified that an aggregate principal amount of the Agreement at least equal to the realistic estimated cost of each component of the capital Project shall mature prior to the end of the useful life of the capital Project. The maturity of stated installments of principal of the Agreement will not be deferred beyond the later of one year after the estimated date for the completion of construction of the capital Project or two years after the date of issuance of the Agreement.

This Township has reviewed bids and/or realistic cost estimates for the cost of the capital Project from registered architects, professional engineers or other persons qualified by experience.

The Board of this Township hereby authorizes and directs its officers, agents and employees to execute all documents and take all actions necessary in connection with effecting the Project.

Section 4. Subject to the approval of the Department, as required by the provisions of the Act, the Board shall and does hereby authorize the acceptance of the Agreement in accordance with the terms and conditions of this Ordinance and the Agreement. The authorized officers of the Township are hereby authorized and directed to accept, to execute and to deliver the Agreement in the name and on behalf of this Township, and the Secretary or Assistant Secretary, as appropriate, of this Township is hereby authorized and directed to attest to such acceptance and execution and to affix the seal of this Township to the Agreement, if necessary. A copy of the Agreement, as presented to this Board and accepted by this Ordinance, is incorporated herein by reference and shall be attached as Exhibit A to this Ordinance and maintained with the minutes of this meeting.

Section 5. The Agreement, when issued, will be a general obligation of this Township.

Section 6. Installments of principal on the Agreement shall be payable as provided in the attached amortization schedule.

Section 7. The Agreement shall be in substantially the form set forth in Exhibit "A", which is attached hereto and made a part hereof as though fully set forth herein, with appropriate insertions, omissions and variations.

Section 8. The Agreement shall be executed in the name and on behalf of this Township by the Chairman or Vice Chairman of the Board and the official seal of this Township shall be affixed thereunto, duly attested by the signature of the Secretary or Assistant Secretary of this Township. Said officers are authorized and directed to execute, attest, seal and deliver the Agreement.

Section 9. This Township covenants to and with the Borough and Authority, from time to time, that this Township: (i) shall include the amount of the debt service for the Agreement for each fiscal year in which such sums are payable in its budget in each fiscal year of this Township; (ii) shall appropriate from its general revenues in each such fiscal year the amount required to pay debt service on the Agreement for such year; and (iii) shall duly and punctually pay or cause to be paid from its revenues or funds the principal amount of the Agreement and any interest due thereon at the dates and place and in the manner stated therein, according to the true intent and meaning thereof; and, for such budgeting, appropriation and payment, this Township shall and does pledge, irrevocably, its full faith, credit and taxing power. As

provided in the Act, the foregoing covenant of this Township shall be specifically enforceable.

Section 10. Proper officials of this Township, and, if applicable, their duly qualified respective successors, are hereby authorized and directed, in the name and on behalf of this Township: (a) to prepare, execute and certify the debt statement and borrowing base certificate required by the Act; (b) to prepare and to file with the Department any statements required by the Act that are necessary to qualify all or any portion of the debt of this Township, which is subject to exclusion as self-liquidating or subsidized debt, for exclusion from the appropriate debt limit of this Township as self-liquidating or subsidized debt; (c) to prepare, execute, certify and file any statements or exclusion proceedings with the Department as authorized and required by Section 8103 and Subchapter B of Chapter 80 of the Act which are necessary to qualify all or any portion of the debt for exclusion from the appropriate debt limit as self-liquidating debt or subsidized debt; (d) to prepare, execute and file with the Department, as required by the Act, a duly attested copy of this Ordinance, with proofs of proper publication, the accepted Agreement and a complete and accurate transcript of the proceedings relating to the incurring of the debt to be evidenced by the Agreement, including the debt statement and borrowing base certificate; (e) to pay or to cause to be paid to the Department all proper filing fees required by the Act in connection with the foregoing; (f) to pay or to cause to be paid from proceeds of the Agreement or otherwise, all costs and expenses incurred by this Township in connection with the execution and approval of the Agreement; (g) to advertise the enactment of this Ordinance, as required by the Act; and (h) to take any and all other necessary action, and to execute and deliver any and all documents and other instruments, required or permitted by the Act or by the Agreement, or which they, in their sole discretion, may deem necessary, proper or desirable to effect the execution of the Agreement, to the extent not inconsistent with this Ordinance or applicable law.

Section 11. It is hereby declared that the debt to be evidenced by the Agreement, together with all other indebtedness of this Township, is not in excess of any applicable limitation imposed by the Act upon the incurring of debt by this Township.

Section 12. The proper officers of this Township are hereby authorized and directed to deliver the Agreement to the Borough and Authority and to pay or cause to be paid the costs of issuance of the Agreement; provided, however, that such delivery and such payments shall be effected only after the Department has certified its approval pursuant to the Act.

Section 13. 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 Township that the remainder of this Ordinance shall remain in full force and effect.

Section 14. All ordinances or resolutions or parts of ordinances or resolutions, insofar as the same shall be inconsistent herewith, shall be and the same expressly hereby are repealed.

Section 15. This Ordinance shall be effective in accordance with the Act.

DULY ENACTED AND ORDAINED THIS 30th DAY OF MAY, 2006 BY THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, IN LAWFUL SESSION DULY ASSEMBLED.

**TOWNSHIP OF TILDEN,
Berks County, Pennsylvania**

By: Troy R. Hall
(Vice) Chairman

(SEAL)

Attest: Cheryl A. Haus

EXHIBIT "A"

AGREEMENT TO REIMBURSE SHARE OF DEBT SERVICE AND
SEWAGE EXPANSION COSTS

THIS DEBT SERVICE AGREEMENT, made this ____ day of May 2006, between and among HAMBURG MUNICIPAL AUTHORITY OF BERKS COUNTY, of 61 North 3rd Street, Hamburg, Berks County, Pennsylvania (hereinafter referred to as "Authority"), incorporated under the Pennsylvania Municipal Authorities Act of 1945, as amended; and the BOROUGH OF HAMBURG, a Pennsylvania municipality of 61 North 3rd Street, Hamburg, Berks County, Pennsylvania (hereinafter referred to as the "Borough"),

AND

TOWNSHIP OF TILDEN, Berks County, Pennsylvania, a Township of the Second Class, organized and existing pursuant to the Pennsylvania Second Class Township Code, with its office located at 874 Old Route 22, Hamburg, Tilden Township, Berks County, Pennsylvania 19526 (hereinafter referred to as "Tilden").

WITNESSETH:

WHEREAS, Authority is the owner of a Sewer System including the Treatment Plant located in the Borough of Hamburg, Berks County, Pennsylvania (hereinafter referred to as the "Hamburg Sewage System"); and

WHEREAS, Borough is the operator of the Hamburg Sewage System; and

WHEREAS, Tilden, pursuant to an Agreement dated December 1, 1992 (the "Agreement"), and a First Addendum to that Agreement dated July 25, 2001 (the "First Addendum"), among the parties hereto, currently discharges Sanitary Sewage into the Authority Sewer System; and

WHEREAS, the Second Addendum to the Agreement provided in Section 3 for Tilden to acquire additional future capacity to be discharged into the Authority Sewer System and for Tilden to discharge additional Sanitary Sewage into the Authority Sewer System; and

WHEREAS, the Authority and the Borough had caused to be prepared an estimate of Tilden's proportionate share of the cost of expansion of the Design Capacity of the Treatment Plant, including design and engineering costs and the cost of the expansion of the Pine Street pumping station which amount is presently determined as Seven Million Seven Hundred Thirty Eight Thousand Nine Hundred Twenty Three Dollars (\$7,738,923.00); ("Determined Cost") and

WHEREAS, the parties are desirous of creating this Agreement to clarify the amount of payment and the fact that Tilden pledges its full faith and credit and taxing power for the reimbursement of the amounts of debt as set forth below as actually incurred by the Authority and/or the Borough; and

WHEREAS, the Authority has or will issue bonds in the amount of Four Million Two Hundred Thirty Thousand Dollars (\$4,230,000.00) and Three Million Five hundred Ninety Thousand One Hundred Sixteen Dollars (\$3,590,116.00) of which shall serve to finance the Expansion ("Initial Borrowing") and Seven Hundred Twenty Thousand Eight Hundred Eighty Four Dollars (\$720,884.00) of which shall refund existing debt of the Authority;

WHEREAS, the parties contemplate that additional borrowings will be required, from time to time, which together with the Initial Borrowings, for which Tilden intends to obligate itself will be sufficient to finance the Determined Cost.

NOW, THEREFORE, the parties hereto intending to be legally bound agree as follows:

1. Cost

Tilden's proportionate share of the actual and prorated costs of the expansion of the Treatment Plant shall be equal to sixty percent (60%), net of all grants and contributions towards the cost of the expansion of the Treatment Plant. Additionally, Tilden's proportionate share of the actual and prorated costs of the expansion of the Pine Street pump station shall be equal to twenty two percent (22%) , net of all grants and contributions toward the cost of the expansion of the Pine Street pump station. The blended proportionate share of the Tilden for both the cost of expansion of the Treatment Plant and the cost of expansion of the Pine Street pump station equal to fifty six and one-tenth percent (56.1%) of total costs (hereinafter the "Blended Share").

Whenever the engineers for both the Authority and Tilden are unable to agree as to whether a particular cost relates to the Treatment Plant only or to the Pine Street pump station only, the proportionate share shall be based upon the Blended Share. In all other respects the proportionate share for the expansion of the Treatment Plant and the proportionate share for the expansion of the Pump Station shall be used. Total costs shall including engineering, inspection and administrative costs related to the expansion of the Treatment Plant and the Pine Street pump station. Any costs

reimbursed by Tilden prior to the execution of this Agreement shall be credited to Tilden's proportionate share of all costs; and, if, due to resulting actual costs being less than estimated, increased grant monies or otherwise, such payments exceed Tilden's resulting share of actual costs, Tilden shall be reimbursed dollar for dollar for such excess payments. This paragraph shall apply to costs being charged to Tilden which have not been paid for by Authority with proceeds of debt. In the event that the Authority incurs total costs for the expansion of the Treatment Plant and the expansion of the Pine Street pump station in excess of the proceeds of financing and grants, then the Authority and Tilden (hereinafter "Excess Costs") shall contribute their respective proportionate share of said Excess Costs within thirty (30) days of Authority and Tilden receiving notice of the existence of Excess Costs.

2. Debt Service Reimbursement

The Authority intends to issue Series of 2006 bonds in the total principal amount of Four Million Two Hundred Thirty Thousand Dollars (\$4,230,000.00) of which only Three Million Five Hundred Nine Thousand One Hundred Sixteen Dollars (\$3,509,116.00) shall be dedicated to the financing of the Expansion and of which Seven Hundred Twenty Thousand Eight Hundred Eighty Four Dollars (\$720,884.00) shall be dedicated to refunding of the Authority's existing debt unrelated to the Expansion. Tilden's engineer and the Authority's engineer have calculated the total portion of said Expansion Debt as being fifty six and one-tenth percent (56.1%) and will calculate the portion of said Expansion Debt which Tilden shall pay to the Authority when debt service payments are due in accordance with the provisions of this Agreement. Tilden

shall pay such portion of the 2006 Expansion Debt as so calculated at least ten (10) days prior to the due date of each of the Authority's debt service payments. In the event that Tilden's failure to pay its portion of the Expansion Debt on a timely basis results in the Authority being assessed a late payment penalty by Authority's lender, Tilden shall pay the late payment penalty so assessed. Tilden's portion of the 2006 Expansion Debt shall be due and payable by Tilden to the Authority regardless of the amount of sewage being discharged by Tilden into the Authority's Sewer System. Tilden hereby pledges its full faith and credit to Hamburg and the Authority that such payments will be made and backs such payments with a pledge of its taxing power to enact municipal taxes in such amount as to assure the payments required hereunder.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Addendum the day and year first above written.

HAMBURG MUNICIPAL AUTHORITY OF BERKS COUNTY

BY: _____

ATTEST: _____

BOROUGH OF HAMBURG

BY: _____

ATTEST: _____

TOWNSHIP OF TILDEN

BY: _____

ATTEST: _____

EXHIBIT "B"

DEBT SERVICE SCHEDULE

Tilden's Portion of Shared Costs

10/1/2006	\$34,503.11
4/1/2007	\$42,594.69
10/1/2007	\$56,506.57
4/1/2008	\$42,293.46
10/1/2008	\$88,832.76
4/1/2009	\$41,455.76
10/1/2009	\$87,995.06
4/1/2010	\$40,605.54
10/1/2010	\$89,472.68
4/1/2011	\$39,702.39
10/1/2011	\$88,568.65
4/1/2012	\$38,786.14
10/1/2012	\$92,306.34
4/1/2013	\$37,769.26
10/1/2013	\$93,616.42
4/1/2014	\$36,652.32
10/1/2014	\$92,497.49
4/1/2015	\$35,535.38
10/1/2015	\$96,034.40
4/1/2016	\$34,295.10
10/1/2016	\$97,123.16
4/1/2017	\$32,991.42
10/1/2017	\$95,819.47
4/1/2018	\$31,656.32
10/1/2018	\$99,138.31
4/1/2019	\$30,222.33
10/1/2019	\$100,031.28
4/1/2020	\$28,738.89
10/1/2020	\$100,874.80
4/1/2021	\$27,169.93
10/1/2021	\$103,959.78
4/1/2022	\$25,499.75
10/1/2022	\$104,616.57
4/1/2023	\$23,778.97
10/1/2023	\$79,626.13
4/1/2024	\$22,536.37
10/1/2024	\$80,710.49
4/1/2025	\$21,241.99
10/1/2025	\$81,743.03
4/1/2026	\$19,895.84
10/1/2026	\$82,723.89
4/1/2027	\$18,497.92
10/1/2027	\$83,652.94