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ASSIGNMENT TO FIRST NATIONAL BANK OF ALLENTOWN

THIS AGREEMENT OF LEASE, dated as of June 15, 1971, between BOROUGH OF ALBURTIS SEWER AUTHORITY, a municipality authority existing under the laws of the Commonwealth of Pennsylvania, as Lessor, and the BOROUGH OF ALBURTIS, Lehigh County, Pennsylvania, a municipality of the Commonwealth of Pennsylvania, as Lessee.

WITNESSETH:

WHEREAS, The Authority was incorporated under the Authorities Act pursuant to an ordinance of the Council of the Borough; and

WHEREAS, The Authority, pursuant to powers vested in it by law and pursuant to request of the Borough, has agreed to undertake the Project; and

WHEREAS, Plans and specifications for construction related to the Project, as presently contemplated, have been prepared by the firm of A.L. Wiesenberger Associates, Inc., Consulting Engineers, Allentown, Pennsylvania, which plans and specifications have been approved by the Authority, the Borough and the Pennsylvania Department of Environmental Resources; and

WHEREAS, The Authority, after due legal advertisement, has entered into a contract for construction required in connection with the Project, in accordance with said approved plans and specifications, at prices which are satisfactory to the Borough; and

WHEREAS, The Borough and the Authority, pursuant to terms and conditions of the Service Agreements, have agreed, inter alia, that the Sewer System will be connected to the Interceptor System presently being acquired and constructed by the County Authority so that Sewage collected in the Sewer System, subject to terms and conditions of the Service Agreements, may be discharged into the Interceptor System for transportation and ultimate disposal; and

WHEREAS, The County and the County Authority have provided for the discharge of Sewage from the Interceptor System to the sewer system presently being operated and maintained by the City for further transportation and for treatment and disposal pursuant to and in accordance with terms and conditions of the Allentown Agreements; and

WHEREAS, The Authority, pursuant to provisions of the Authorities Act, as amended by Act No. 101, approved October 10, 1969, of the General Assembly of the Commonwealth, authorized the sale and issuance of not more than \$1,000 aggregate principal amount of term sewer assessment revenue bonds in the denomination of \$100 each and not more than \$3,000 aggregate principal amount of term sewer revenue bonds in the denomination of \$100 each, which bonds in the denomination of \$100 each were offered for sale to the public by advertisement; and

WHEREAS, The Authority has not sold any term bonds in the denomination of \$100 each; and

WHEREAS, The Authority has determined to finance the costs the Project and related costs and expenses, including costs and expenses of financing, by issuance and sale of the Series of 1971 Bonds; and

WHEREAS, It has been agreed by the Authority and the Borough that the Authority shall lease the Sewer System to the Borough for operation and use; and

WHEREAS, The parties hereto desire to set forth terms and conditions under which the Sewer System is to be leased by the Authority to the Borough.

NOW, THEREFORE, The Authority, as lessor, and the Borough, as lessee, in consideration of rentals herein reserved and agreements, conditions and covenants herein contained, each intending to be legally bound, covenant and agree as follows:

ARTICLE I  
DEFINITIONS

SECTION 1.01. **[Definitions of Terms and Phrases.]** The terms and phrases defined in this Section 1.01, for all purposes of this Lease, as herein defined, shall have the meanings herein specified, unless the context clearly otherwise requires:

*“Additional Bonds”* means Bonds of any series authorized under the Indenture, other than the Series of 1971 Bonds, and duly executed, authenticated, issued and delivered pursuant to provisions thereof, but shall not refer or apply to bonds issued under any other indenture or resolution of the Authority with respect to any project other than the Sewer System.

*“Administrative Expenses”* means compensation and expenses of officers and members of the Board of the Authority; legal, printing, advertising, engineering, architectural and auditing fees

and expenses; fees and expenses of the Trustee and any other authorized depository and other items of general administrative expense incurred by the Authority, all of the foregoing being subject to proper allocation to various projects of the Authority, if applicable, as provided in the Indenture.

“*Allentown Agreements*” means, collectively, the Agreement<sup>1</sup>, dated December 22, 1969, between the City, as party of the first part, and the County Authority, as party of the second part, and the Loan Agreement<sup>2</sup>, dated December 22, 1969, by and among the City, as party of the first part, and Coplay-Whitehall Sewer Authority, South Whitehall Township Authority and Salisbury Township Authority, as parties of the second part, and the County, as party of the third part, including any amendments and/or supplements to either or both of said agreements at any time constituting a part of either or both of said agreements.

“*Authorities Act*” means the Act of the Pennsylvania General Assembly, known as the “Municipality Authorities Act of 1945”, approved May 2, 1945, P.L. 382, as amended and supplemented from time to time.<sup>3</sup>

“*Authority*” means Borough of Alburdis Sewer Authority, a municipality authority incorporated and existing as set forth in the Preamble hereof.

“*Board*” means the governing body of the Authority.

“*Bonds*” means all bonds authorized, executed, authenticated, issued and delivered as provided in the Indenture.

“*Borough*” means the Borough of Alburdis, Lehigh County, Pennsylvania, a municipality of the Commonwealth.

“*Capital Additions*” means new and additional property chargeable to plant or equipment account under sound accounting and/or engineering practice, including, without intending to limit the generality of the foregoing, land, rights of way, easements, licenses, rights and similar interests in real property, and additions, extensions, alterations and improvements of or to the Sewer System, including, without intending to limit the generality of the foregoing, buildings, basins, machinery, mains, conduits, pipes, pipe lines, interceptor lines, outfall lines, trunk lines, service lines, sewer plants and systems, tanks, shops, pumping stations, ejector stations, force mains, fixtures, engines, boilers, pumps, meters and other equipment and personal property, and Extraordinary Repairs, in each case made, constructed or acquired by the Authority after the date hereof, and which are used or useful in connection with the Sewer System, including property in process of construction or erection, to the extent actually constructed or erected; Provided, however, that the term “*Capital Additions*” shall not include:

A. Property constructed or acquired or improvements made in the course of completion of the Project; or

B. Property acquired or constructed by the Authority from funds contributed or advanced by users, developers or other Persons, except that such property shall be deemed, notwithstanding anything elsewhere stated in this definition, to be Capital Additions to the extent and at the time that the Authority shall repay or shall be obligated to repay such funds so contributed or advanced.

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<sup>1</sup> **Cross-Reference:** see Codified Ordinances ¶ 65-Q(1).

<sup>2</sup> No longer in effect.

<sup>3</sup> 53 PA. STAT. ANN. § 301 *et seq.*

“*Certified Public Accountant*” means a Person, who shall be Independent, appointed by the Council of the Borough, actively engaged in the business of public accounting and duly certified as a certified public accountant under authority of laws of the Commonwealth.

“*Certified Resolution*” means a copy of a resolution of the Council of the Borough, certified by the Secretary or Assistant Secretary of the Borough, or other officer serving in a similar capacity, under its official seal, to have been duly adopted and to be in effect as of the date of such certification.

“*City*” means the City of Allentown, Lehigh County, Pennsylvania, a municipal subdivision of the Commonwealth.

“*Commonwealth*” means the Commonwealth of Pennsylvania.

“*Consulting Engineers*” means a Person, who shall be Independent, appointed by the Council of the Borough, qualified to pass upon engineering questions relating to sewer systems and having a favorable reputation for skill and experience in inspecting construction and operation of sewer systems. If such Person shall be an individual, he shall be a professional engineer duly registered under laws of the Commonwealth. If such Person shall be a partnership, corporation or association, it shall have a partner, officer, employe or member who is a professional engineer duly registered under laws of the Commonwealth.

“*Consulting Engineers’ Certificate*” means a certificate executed by the Consulting Engineers.

“*Council*” means the governing body of the Borough.

“*County*” means the County of Lehigh, Pennsylvania.

“*County Authority*” means Lehigh County Authority, a municipality authority incorporated pursuant to appropriate action of the Board of County Commissioners of the County.

“*Extraordinary Repairs*” means alterations, repairs, renewals, improvements or replacements with respect to the Sewer System which are necessary or desirable for proper operation and maintenance thereof and which are of a type which ordinarily would not be made by the Borough out of moneys deposited in the Sewer Revenue Account as current Operating Expenses, as determined by a Consulting Engineers’ Certificate.

“*Fiscal Year*” means the fiscal year of the Borough as provided by laws of the Commonwealth.

“*Indenture*” means the Trust Indenture, dated as of June 15, 1971, between the Authority and the Trustee, including all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof.<sup>4</sup>

“*Independent*” means, with respect to the Certified Public Accountant and the Consulting Engineers, a Person who is not a member of the Board, officer or employe of the Authority or an elected or appointed official or employe of the Borough, or which is not a partnership, corporation or association having a partner, director, officer, member or substantial stockholder who is a member of the Board, officer or employe of the Authority or an elected or appointed official or employe of the Borough; Provided, however, that the fact that such Person is retained regularly by the Authority or the Borough shall not make such Person an employe within the meaning of this definition.

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<sup>4</sup> **Cross-Reference:** *see* Codified Ordinances ¶ 65-O(4).

*“Interceptor System”* means the system of interceptor sewers presently being acquired and constructed by the County Authority, including trunk sewers and other related and necessary appurtenant facilities and properties which have been acquired or constructed or hereafter shall be acquired or constructed in connection therewith from time to time for the purpose of receiving Sewage to be collected in the Sewer System and certain sewer systems to serve municipalities, other than the Borough, located in the County, and transporting such Sewage to the sewer system presently being operated and maintained by the City, subject to the terms and conditions of the Service Agreements, which construction is to be in accordance with plans and specifications prepared therefore [sic] by the firm of A.L. Wiesenberger Associates, Inc., Consulting Engineers, Allentown, Pennsylvania, or in accordance with approved changes, modifications and alterations thereof, and including all additions, extensions, alterations and improvements which may be made thereto or acquired in connection therewith, from time to time.

*“Lease”* means this document and all modifications, alterations, amendments and supplements hereto made and delivered in accordance with provisions hereof and at such time constituting part hereof, which term sometimes is referred to in this document by use of such words as “hereto”, “hereby”, “herein”, “hereof”, “hereunder” or other descriptive words or phrases having similar import.

*“Lease Year”* means the period beginning June 15 and ending the following June 14.

*“Operating Expenses”* means all expenses required in operating and maintaining the Sewer System, including, in each case, without intending to limit the generality of the foregoing:

A. Expenses of operation, maintenance, repair, alteration, insurance and inspection and any sums payable to the County and/or the County Authority pursuant to terms and provisions of the Service Agreements and any sums payable periodically to any other Person pursuant to any agreement permitted under terms hereof relative to transportation, treatment or disposal of Sewage collected in the Sewer System;

B. Expenses of managerial, supervisory, administrative, engineering, architectural, legal and auditing services;

C. Sums payable to any Person, which sums, under sound accounting and/or engineering practice, constitute expenses of operation and maintenance; and

D. All taxes, assessments and charges, including, without intending to limit the generality of the foregoing, income, profits, property, franchise and excise taxes.

*“Person”* means an individual, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association, a governmental body, a political subdivision, a municipality, a municipality authority or any other group or entity.

*“Project”* means the undertakings necessary in connection with the construction and acquisition by the Authority of a complete sanitary sewage collection system, including all related and necessary facilities, for rendering sewage collection service in and for certain portions of the Borough, which construction is to be in accordance with plans and specifications prepared therefor by the firm of A.L. Wiesenberger Associates, Inc., Consulting Engineers, Allentown, Pennsylvania, or in accordance with such changes, modifications and alterations of such plans and specifications as shall be approved as provided in the Indenture.

*“Receipts from Tapping Fees”* means all moneys (except as hereinafter provided) derived from the charge of tapping (or connection) fees against owners of property who connect such property with the Sewer System.

Moneys in the nature of tapping (or connection) fees derived by the Authority under agreements with owners of property who connect such property with the Sewer System, whereby

such owners shall be obligated to pay such moneys to the Authority also shall constitute “*Receipts from Tapping Fees*”.

Notwithstanding the foregoing definition, “*Receipts from Tapping Fees*” shall not include any moneys derived from tapping fees charged by the Authority in those cases and to the extent that the Authority agrees to refund tapping fees or any part thereof to any Person who has paid for construction of any part of the Sewer System which was constructed by the Authority or constructed by such Person under the supervision of the Authority as permitted by law.

“*Series of 1971 Bonds*” means, collectively, the two series of Bonds of the Authority, dated as of June 15, 1971, initially authorized for issuance under the Indenture, in the aggregate principal amount of \$795,000, i.e., the Sewer Assessment Revenue Bonds—Series of 1971, in the aggregate principal amount of \$170,000, and the Sewer Revenue Bonds—Series of 1971, in the aggregate principal amount of \$625,000, as more specifically described in the Indenture.

“*Service Agreements*” means, collectively, the Agreement<sup>5</sup>, dated January 22, 1970, by and among the County Authority, the County, the Borough, the Borough of Macungie, the Township of Upper Macungie, all located in Lehigh County, Pennsylvania, and Lower Macungie Township Authority, a Pennsylvania municipality authority, in which Agreement the Township of Lower Macungie, Lehigh County, Pennsylvania, has joined and has agreed to be bound by the terms and conditions thereof by execution of a Consent and Joinder thereto, and the Service Agreement<sup>6</sup>, dated as of August 1, 1970, between the County, on the one hand, and the Borough, the Borough of Macungie and the Townships of Upper Macungie and Lower Macungie, on the other hand, in which Service Agreement the County Authority and the Authority, Borough of Macungie Sewer Authority, Upper Macungie Township Authority and Lower Macungie Township Authority, all Pennsylvania municipality authorities, have joined and have agreed to be bound by terms and conditions thereof by execution of consents and joinders thereto, including any amendments and/or supplements to either or both of said Agreements at any time constituting a part of either or both of said Agreements.

“*Sewage*” means domestic sewage and/or industrial wastes, as such terms usually and customarily are used by sanitary engineers.

“*Sewer Revenue Account*” means the separate and distinct account of the Borough created under Section 5.01 hereof.

“*Sewer Revenues*” means:

- (a) All moneys realized from collection of sewer rentals or charges imposed pursuant to the ordinance or ordinances in effect at the time under Section 4.02;
- (b) All moneys realized by the Borough from fees, fines and/or penalties resulting from enforcement of the ordinance or ordinances in effect at the time under Section 4.01;
- (c) All moneys received by the Borough from any Person pursuant to any agreement between the Borough and such Person whereby Sewage of such Person shall be accepted by the Borough for collection, transportation and ultimate disposal, if such agreement is permitted under provisions hereof;
- (d) All other moneys received by the Borough on account of operation of the Sewer System, including moneys, if any, from the Commonwealth, as set forth under Section 11.09, and including any moneys received as provided in Section 5.06; and

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<sup>5</sup> **Cross-Reference:** *see* Codified Ordinances ¶ 65-O(1).

<sup>6</sup> **Cross-Reference:** *see* Codified Ordinances ¶ 65-O(2).



(e) Receipts from Tapping Fees transferred and paid over to the Borough as set forth in Section 4.04.

“*Sewer System*” means all facilities to be acquired and/or constructed, as contemplated by the Project, together with all appurtenant facilities and properties which the Authority has acquired or hereafter shall acquire in connection therewith, including all property, real, personal and mixed, rights, powers, licenses, easements, rights of way, privileges, franchises and any and all other property or interests in property of whatsoever nature used or useful in connection with such facilities, and together with all additions, extensions, alterations and improvements which may be made or acquired, from time to time. As of any particular time “*Sewer System*” shall mean the facilities contemplated by the Project and all property, real, personal and mixed, rights, powers, licenses, easements, rights of way, privileges, franchises and any and all other property or interests in property of whatsoever nature used or useful in connection with such facilities, and Capital Additions (including property in the nature of Capital Additions acquired or constructed from funds wholly or partially contributed or advanced by users, developers or other Persons) acquired, owned, made or constructed by or for the Authority; and the “*Sewer System*”, without intending to limit the generality of the foregoing, as of any particular time, shall include all buildings, basins, machinery, mains, conduits, pipes, pipe lines, interceptor lines, outfall lines, trunk lines, service lines, sewer plants and systems, tanks, shops, pumping stations, ejector stations, force mains, fixtures, engines, boilers, pumps, meters and other equipment, all personal property and all franchises, land, rights of way, privileges, easements, licenses, rights and any other interests in real property owned by the Authority and used or useful in connection with the collecting, transporting, pumping, treating and/or disposing of Sewage.

“*Trustee*” means The First National Bank of Allentown, a national banking association organized and existing under laws of the United States of America and having its principal office, in the City of Allentown, Lehigh County, Pennsylvania, a party to the Indenture, and any successor thereto in the trust under the Indenture.

## ARTICLE II

### LEASED PREMISES AND FACILITIES. TERM OF LEASE

SECTION 2.01. **[Leased Premises and Facilities.]** The Authority, as lessor, hereby does lease the Sewer System to the Borough, as lessee, for operation and use.

SECTION 2.02. **[Term of Lease.]** This Lease shall be for a term of 40 years, beginning June 15, 1971, and ending June 14, 2011, which term may be changed by an amendment hereto, as provided herein and in the Indenture.

## ARTICLE III

### CONCERNING THE PROJECT

SECTION 3.01. **[Construction Related to the Project.]** The Authority covenants to acquire, construct and complete the Project. The Authority further covenants that construction related to the Project will be undertaken and completed in accordance with the approved plans and specifications as prepared by the firm of A.L. Wiesenberger Associates, Inc., Consulting Engineers, Allentown, Pennsylvania, or in accordance with such changes thereto and modifications or alterations thereof as shall be approved in the manner provided in the Indenture.

SECTION 3.02. **[Completion of the Project.]** The Authority covenants to use its best efforts to complete the Project with all reasonable dispatch and diligence.

SECTION 3.03. **[Grant of Certain Rights and Privileges by Borough.]** The Borough 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 squares, public ways, alleys

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, maintaining and operating the 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 3.04. **[Reimbursement to Borough.]** The Authority covenants to reimburse the Borough, out of proceeds derived from sale of the Series of 1971 Bonds or out of other legally available funds, for all sums paid or costs incurred by the Borough which properly are chargeable as Costs, Costs of Acquisition or Costs of Construction (as defined in the Indenture) of the Project.

SECTION 3.05. **[Issuance of Additional Bonds to Complete Project.]** If the Authority shall require additional funds with which to complete the Project, the Authority may issue Additional Bonds for such purpose upon compliance with terms of the Indenture applicable thereto.

#### ARTICLE IV

##### CONNECTIONS TO THE SEWER SYSTEM. TAPPING FEES. SEWER RENTALS OR CHARGES

SECTION 4.01. **[Connections to the Sewer System.]** The Borough covenants that it has enacted an ordinance requiring all owners of improved property located within the Borough and benefited, improved or accommodated by any sanitary sewer constituting part of the Sewer System to connect therewith and providing for enforcement of such ordinance as permitted by law. The Borough also covenants to keep such ordinance 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 4.02. **[Sewer Rentals or Charges.]** The Borough covenants that it has enacted an ordinance imposing sewer rentals or charges upon owners of improved property which shall be connected to the Sewer System for use thereof. The Borough also covenants to keep such ordinance or a subsequent ordinance or ordinances imposing such sewer rentals or charges in full force and effect continuously during the term hereof.

The Authority covenants to cooperate with the Borough and to take all action which, from time to time, may be required by law with respect to the imposition of sewer rentals or charges upon owners of improved property which shall be connected to the Sewer System for use thereof, to the extent that the same are required hereunder to be imposed.

SECTION 4.03. **[Enforcement of Ordinance Related to Sewer Rentals or Charges.]** The Borough covenants to enforce the ordinance or ordinances in effect at any particular time under Section 4.02 and to collect all amounts becoming due thereunder. If any amounts becoming due thereunder shall not be paid in accordance with provisions of such ordinance or ordinances at the time in effect, the Borough covenants to take all necessary action to reduce the same to liens and to enforce collection of the liens and/or to enforce collection of such sewer rentals or charges in any other manner permitted by law.

SECTION 4.04. **[Charge of Tapping Fees; Disposition.]** The Authority covenants that it has adopted a resolution charging a tapping fee against the owner of each property who connects such property to the Sewer System and providing for the enforcement of such resolution as permitted by law. The Authority also covenants to keep such resolution or a subsequent resolution or resolutions charging such tapping fee in full force and effect continuously during the term of this Lease and to enforce the same as may be permitted by law.

The Authority covenants to transfer and pay over to the Borough, within 7 days of the date of collection, any Receipts from Tapping Fees.

SECTION 4.05. **[Required Revenues.]** The Borough covenants that sewer rentals or charges imposed pursuant to the ordinance or ordinances in effect at the time under Section 4.02, together with any fees, fines and/or penalties resulting from enforcement of the ordinance or ordinances in effect at the time

under Section 4.01, shall be at least such that amounts which reasonably may be collected therefrom by the Borough in each Lease Year, together with: (1) other Sewer Revenues received by the Borough; (2) any sums appropriated by the Borough for the purposes from current revenues, within limits then provided by law, or from other legally available funds; (3) any sums appropriated and paid or contributed to the Borough by any Person for the purpose of meeting obligations of the Borough hereunder; and (4) with respect only to the Lease Year ending June 14, 1972, the sum transferred to the Borough pursuant to Section 5.02, for deposit by the Borough in the Sewer Revenue Account, will be sufficient to provide funds for the following purposes in each Lease Year:

(a) Payment by the Borough of Operating Expenses; and

(b) Payment by the Borough to the Authority or its assigns of: (1) minimum net rentals due hereunder; (2) additional sums, if any, payable under Section 6.04; and (3) taxes, if any, levied or assessed against the Authority with respect to the Sewer System, constituting additional sums payable hereunder.

If collections, receipts, appropriations, contributions and deposits in any such Lease Year shall be less than the sum of requirements of subparagraphs (a) and (b) above, the Borough covenants that it promptly will adjust, in the manner permitted by law, the sewer rentals or charges so that amounts thereafter to be collected therefrom, together with the other collections, receipts, appropriations, contributions and deposits, as aforesaid, shall enable the Borough to comply with requirements of this Section and to eliminate deficiencies of any prior Lease Year; and, to the extent necessary, the Borough also covenants that if collections, receipts, appropriations, contributions and deposits in any such Lease Year shall be less than the sum of requirements of subparagraphs (a) and (b) above, it will provide from its other available current revenues, within limits then provided by law, or from other legally available funds, an amount which, when added to such collections, receipts, appropriations, contributions and deposits will be sufficient to enable it to meet such requirements.

SECTION 4.06. **[Exception to Required Revenues.]** Requirements of Section 4.05 shall be subject to the exception that, in making the determination for any Lease Year, to and including the Lease Year ending June 14, 1974, the requirements for such Lease Year shall be decreased by the aggregate amount, if any, of moneys deposited in the Sewer Revenue Account in all prior Lease Years which was in excess of the aggregate amount required to be collected in all such prior Lease Years to meet requirements of Section 4.05, but only to the extent that such moneys, at the time of such determination, shall be available in the Sewer Revenue Account for purposes set forth in Section 4.05.

## ARTICLE V SEWER REVENUE ACCOUNT

SECTION 5.01. **[Establishment of Sewer Revenue Account; Deposits Therein.]** The Borough covenants to deposit in the "Sewer Revenue Account", which hereby is created, all Sewer Revenues, together with all moneys appropriated by the Borough for the purposes out of current revenues, within limits then provided by law, or from other legally available funds.

The Borough also covenants to deposit in the Sewer Revenue Account any sums appropriated and paid or contributed to the Borough by any Person for the purpose of meeting obligations of the Borough hereunder.

The Sewer Revenue Account shall be maintained with an incorporated bank or trust company doing business in the Commonwealth which is not unsatisfactory to the Authority and which may be the Trustee.

The Authority covenants to pay over or to cause the Trustee to pay over to the Borough, from the Construction Fund created under the Indenture, on or before September 1, 1971, the sum of \$4,000. Promptly upon receipt of such sum the Borough shall deposit the same in the Sewer Revenue Account.

SECTION 5.02. **[Application of Moneys.]** Moneys in the Sewer Revenue Account shall be and are pledged by the Borough for prompt and full satisfaction of all obligations of the Borough under this Lease and shall be withdrawn, from time to time, by the Borough to satisfy such obligations.

SECTION 5.03. **[Reserve Fund.]** The Borough, at the end of each Lease Year, shall accumulate amounts remaining in the Sewer Revenue Account, after withdrawals required under Section 5.02, until the balance in such reserve fund shall equal at least the sum of \$10,000, which sum shall constitute the reserve fund for the following Lease Year.

SECTION 5.04. **[Application of Reserve Fund.]** If amounts in the Sewer Revenue Account, exclusive of moneys in the reserve fund required under Section 5.03, shall not be sufficient to enable the Borough to meet promptly and fully all obligations of the Borough hereunder, as provided in Section 5.02, the Borough shall withdraw, from time to time, from such reserve fund, amounts which will enable it to meet all such obligations promptly and fully. In the event of such withdrawals, the reserve fund shall be restored to the minimum amount required as expeditiously as possible. The Borough covenants to take such action as shall be necessary to provide funds to make such restoration, including, if required, increasing of sewer rentals or charges imposed pursuant to the ordinance or ordinances required to be kept in effect under Section 4.02.

SECTION 5.05. **[Security for Moneys.]** The Borough covenants that moneys in the Sewer Revenue Account, to the extent not insured or, as hereinafter authorized, invested, will be secured continuously by the depository by a pledge of direct obligations of the United States of America or the Commonwealth having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance not so insured or invested.

SECTION 5.06. **[Investment of Moneys.]** Moneys in the Sewer Revenue Account may be invested and reinvested, wholly or partially, for benefit of the Borough, in direct obligations of the United States of America having a maturity date or being subject to redemption at the option of the holder either within 1 year from the date of such investment or prior to the date upon which such moneys will be required to be expended, whichever is earlier, and/or in savings or time deposits or time certificates of deposit in one or more banks or trust companies (inclusive of the Trustee), which such deposits shall be subject to withdrawal upon not more than 6 months' notice or prior to the date upon which such moneys will be required to be expended, whichever is earlier, and, to the extent not insured, shall be continuously secured as provided in Section 5.05 for uninvested moneys. Any income and/or profits realized and any losses sustained from such investments shall be credited or charged, as appropriate, to the Sewer Revenue Account.

## ARTICLE VI

### CONCERNING RENTALS AND ADDITIONS SUMS

SECTION 6.01. **[Rentals and Times of Payment.]** The Borough covenants to pay to the Authority, as minimum net rentals, the following sums at the following times:

1. For the Lease Year ending June 14, 1973, a minimum net rental of \$25,800, payable in full on or before May 1, 1973.

2. For the Lease Year ending June 14, 1974, and for each Lease Year thereafter, to and including the Lease Year ending June 14, 2011, a minimum net rental of \$51,600, payable in two installments of \$25,800 each, on or before November 1 and on or before May 1 of each such Lease Year, beginning on or before November 1, 1973, to and including on or before May 1, 2011.

SECTION 6.02. **[Additional Rental.]** The Borough covenants to pay to the Authority or its assigns, as additional rental, within 45 days after the end of each Lease Year, beginning with the Lease Year ending June 14, 1974, any balance, except as hereinafter provided, remaining in the Sewer Revenue Account at the end of such Lease Year which is not required under provisions hereof to be retained as a reserve fund in the Sewer Revenue Account. The amount of such payment shall be determined by compar-

ing the amount required to be retained as a reserve fund in the Sewer Revenue Account with the balance in the Sewer Revenue Account at the end of the Lease Year, as evidenced by the audit made pursuant to Section 10.03; Provided, however, that the amount of such payment shall be reduced to the extent that such balance shall include moneys which represented payments to the Borough in advance and which actually were not due and payable at the end of the Lease Year.

SECTION 6.03. **[Payment of Taxes and Assessments.]** The Borough covenants to pay, as if it primarily were liable for the same, all taxes and assessments, including, without intending to limit the generality of the foregoing, income, profits, property, franchise, excise and/or other taxes, which now or hereafter properly may be levied or assessed by the Federal, State or any municipal government against the Authority upon or by reason of payment or receipt of rentals payable by the Borough hereunder to the Authority or its assigns, or upon the Sewer System, or upon this Lease, or upon any franchises, businesses, transactions, income, earnings and receipts (gross, net or otherwise) of the Authority in connection with the Sewer System, for payment or collection of which the Authority otherwise would be liable or accountable under any lawful authority whatever by reason of its ownership of, or its earnings, profits or receipts from, or its leasing of, the Sewer System.

SECTION 6.04. **[Additional Payments for Administrative Expenses of Authority.]** If moneys provided for the Authority for the purposes under the Indenture shall be insufficient to pay, with respect to the Sewer System, the reasonable Administrative Expenses of the Authority, the Borough covenants to pay to the Authority or its assigns such additional sum or sums, in each Lease Year, as shall be required for such purposes. Such additional sum or sums, if any, shall be payable at such time or times in each Lease Year in which the same shall be required as may be agreed upon by the Borough and the Authority or its assigns.

SECTION 6.05. **[Increase in Rentals upon Issuance of Additional Bonds to Complete Project or for Purpose of Refunding Sewer Assessment Revenue Bonds.]** If the Authority shall issue Additional Bonds to complete the Project or if the Authority, pursuant to its covenant contained in the Indenture, shall issue Additional Bonds constituting Sewer Revenue Bonds, as defined in the Indenture, for the purpose of refunding Bonds constituting Sewer Assessment Revenue Bonds, as defined in the Indenture, the parties agree to execute an appropriate amendment or supplement hereto, providing for payment of such minimum net rentals, in addition to those at the time payable hereunder, as shall be necessary to meet requirements of the Indenture, and to take such other action as shall be required by the Indenture in connection therewith.

SECTION 6.06. **[Rentals Not Subject to Suspension or Abatement.]** The Borough covenants to pay rentals and additional sums required hereunder without suspension or abatement of any nature, irrespective of delays in completion of any construction, alterations or improvements with respect to the Sewer System and notwithstanding that all or any part of the Sewer System shall have been wholly or partially destroyed, damaged or injured and shall not have been repaired, replaced or rebuilt.

SECTION 6.07. **[Protection of Net Rentals and Additional Sums.]** Rentals and additional sums required to be paid by the Borough hereunder shall be received by the Authority or its assigns as net sums and the Borough covenants to pay all charges against or which might diminish such net sums.

SECTION 6.08. **[Termination of Rental Payments.]** When all Bonds issued under the Indenture, for which this Lease shall be pledged as security, and all remaining obligations to and of the Authority and to the Trustee shall have been paid or provision for such payment shall have been duly made, no further rentals shall be payable hereunder.

ARTICLE VII  
CONSULTING ENGINEERS

SECTION 7.01. **[Employment of Consulting Engineers by Borough.]** The Borough covenants to employ and to keep employed Consulting Engineers, who shall be approved by the Authority and who shall be satisfactory to the Trustee, to perform duties imposed upon the Consulting Engineers hereunder.

ARTICLE VIII  
INSURANCE

SECTION 8.01. **[Duty to Insure; Types of Insurance; Policies of Insurance.]** The Borough covenants to maintain adequate insurance upon physical structures constituting part of the Sewer System upon which insurance, as a trade practice in operation of sewer systems, normally is carried. The Borough covenants to maintain such insurance against fire and such other risks as usually and generally are included in extended coverage endorsements and also against such other risks as the Authority may require; Provided, however, that the foregoing provisions of this Section 8.01 shall not be applicable to the extent that the Authority or contractors shall carry appropriate insurance during construction of any part of the Sewer System, which insurance shall not be governed by provisions of this Article VIII. The adequacy of insurance maintained by the Borough shall be determined in accordance with Section 8.07.

All policies of insurance shall be issued by a responsible insurance company or companies, duly qualified to do business in the Commonwealth and satisfactory to the Authority, shall be nonassessable, shall be for benefit of the Authority, the Borough and the Trustee, as their respective interests may appear, and shall be deposited with the Trustee. All moneys recovered under such policies shall be payable to and deposited with the Trustee, which shall hold such moneys until disbursed as provided herein and in the Indenture.

SECTION 8.02. **[Recovery of Insurance Proceeds.]** If part of the Sewer System shall be wholly or partially destroyed or damaged by fire or other casualty covered by insurance required under Section 8.01, the Authority and the Borough covenant that they will take all actions and do all things which may be necessary to enable recovery to be made upon such policies of insurance in order that moneys due on account of losses suffered may be collected and paid to the Trustee. The Trustee is authorized, in its own name, as trustee of an express trust, to demand, collect, sue and receipt for moneys which may be due and payable under such policies of insurance.

Any appraisal or adjustment of loss or damage and any settlement or payment therefor, which may be agreed upon by the Authority, the Borough and the appropriate insurer and which shall be approved, in writing, by the consulting engineers of the Authority, shall be evidenced to the Trustee by a certificate, signed by the Chairman or Vice Chairman and Treasurer or Secretary of the Authority and by the President or Vice President of the Council and Secretary or Assistant Secretary of the Borough, and may be assented to and accepted by the Trustee. The Trustee may rely conclusively upon such certificate.

SECTION 8.03. **[Determination to Repair, Reconstruct or Replace Damaged or Injured Property.]** Immediately after occurrence of loss or damage covered by insurance required under Section 8.01, the Borough shall notify the Authority, the consulting engineers of the Authority and the Trustee thereof and said consulting engineers promptly shall determine and advise the Authority, the Trustee and the Borough, in writing, whether it is practicable and desirable to repair, reconstruct or replace such damaged or destroyed property. If such consulting engineers shall determine that such repair, reconstruction or replacement is practicable and desirable, the Authority or the Borough shall proceed forthwith with repair, reconstruction or replacement, to the extent of insurance proceeds collected with respect to such loss or damage, in the manner provided herein and in the Indenture.

SECTION 8.04. **[Application of Insurance Proceeds.]** If moneys collected under policies of insurance required under Section 8.01 with respect to any loss shall equal or exceed \$5,000 and the consulting engineers of the Authority shall have determined under Section 8.03 that repair, reconstruction

or replacement is practicable and desirable, the Authority agrees that such moneys shall be paid by the Trustee for costs of such repair, reconstruction or replacement upon requisitions of the Authority and certificates of such consulting engineers, as provided in the Indenture.

If moneys collected under policies of insurance required under Section 8.01 with respect to any one loss shall be less than \$5,000 and the consulting engineers of the Authority shall have determined under Section 8.03 that repair, reconstruction or replacement is practicable and desirable, and if the Authority and the Borough shall request, the Authority agrees that the Trustee shall pay such moneys to the Authority to be used by it or the Borough for the purpose of paying costs of such repair, reconstruction or replacement, and neither requisitions of the Authority nor certificates of such consulting engineers shall be required.

The Authority and the Borough agree that moneys collected under policies of insurance required under Section 8.01 and not expended for such repair, reconstruction or replacement shall be deposited in the Bond Redemption and Improvement Fund created under the Indenture.

SECTION 8.05. **[Public Liability, Property Damage and Workmen's Compensation Insurance.]** The Borough covenants to maintain such public liability insurance, property damage insurance and workmen's compensation insurance with respect to the Sewer System and operation thereof in such amount, with such companies and with policies containing such terms as shall be satisfactory to the Authority and as shall be approved by the Consulting Engineers and, if not the same Person, the consulting engineers of the Authority.

SECTION 8.06. **[Authority May Carry Insurance.]** If the Borough shall fail to maintain insurance complying in all respects with requirements of this Article VIII, the Authority may maintain such insurance, in which event the Borough covenants to pay the premiums or to reimburse the Authority for premiums paid by it.

SECTION 8.07. **[Consulting Engineers' Certificate with Respect to Insurance.]** The Borough covenants to furnish to the Authority and the Trustee, on or before December 1 of each year, beginning December 1, 1971, a Consulting Engineers' Certificate, approved by the consulting engineers of the Authority, if not the same Person, setting forth amounts and types of insurance then in force with respect to the Sewer System and operation thereof, stating whether, in the opinion of the Consulting Engineers, such insurance then in force is adequate, and stating the amounts and types of insurance which should be maintained during the ensuing Fiscal Year. The Borough covenants to maintain amounts and types of insurance recommended by the Consulting Engineers.

## ARTICLE IX

### EXTRAORDINARY REPAIRS AND CAPITAL ADDITIONS

SECTION 9.01. **[Request of Borough for Funds.]** If the Borough shall deem it necessary or advisable that Extraordinary Repairs should be made to the Sewer System and/or that Capital Additions should be acquired or constructed with respect thereto, it may request the Authority to provide moneys for all or part of costs thereof. Any such request shall be in writing, shall be signed by the President or Vice President of the Council and Secretary or Assistant Secretary of the Borough, shall set forth the amount requested and shall be accompanied by:

- (a) A Certified Resolution of the Borough authorizing the request for funds and stating that such Extraordinary Repairs and/or Capital Additions, as the case may be, are necessary or desirable to preserve, develop and improve the Sewer System or to maintain adequate service to the public; and
- (b) A Consulting Engineers' Certificate setting forth:

(1) That such Extraordinary Repairs and/or Capital Additions, as the case may be, are necessary or desirable to preserve, develop and improve the Sewer System or to maintain adequate service to the public;

(2) Estimated costs of such Extraordinary Repairs and/or Capital Additions, as the case may be;

(3) That all or part (in which latter case the amount shall be stated) of costs of such Extraordinary Repairs and/or Capital Additions, as the case may be, cannot be paid from the Sewer Revenue Account, exclusive of the reserve fund created therein, without adversely affecting the ability of the Borough to perform its obligations hereunder; and

(4) If such request shall relate to Capital Additions, the estimated effect upon annual Operating Expenses and operating revenues of the Sewer System.

SECTION 9.02. **[Manner of Providing Funds.]** Upon receipt of a request of the Borough, accompanied by required documents, as provided in Section 9.01, the Authority may requisition amounts so requested, to the extent available, from the appropriate Fund or Funds created under the Indenture and/or may provide all or any part of the amounts requested by issuance and sale of Additional Bonds, as provided in Section 11.01 and in the Indenture.

## ARTICLE X

### ADDITIONAL COVENANTS OF THE BOROUGH

SECTION 10.01. **[Consulting Engineers' Report as to Operation of Sewer System.]** The Borough covenants to require the Consulting Engineers to furnish to it on or before December 1 of each year, beginning December 1, 1971, a report setting forth:

(a) Advice and recommendations as to:

(1) Proper maintenance, repair and operation of the Sewer System during the next Fiscal Year; and

(2) Estimated expenditures that should be made by the Borough during such next Fiscal Year to keep the Sewer System in good repair and operating condition;

(b) An estimate of expenditures that should be made by the Borough during such next Fiscal Year to comply with recommendations set forth in such report and to enable the Borough to meet all obligations hereunder.

(c) An estimate of receipts and revenues to be received from operation of the Sewer System by the Borough during such next Fiscal Year; and

(d) Recommendations as to necessary or advisable revisions of sewer rentals or charges.

Copies of such report shall be filed promptly by the Borough with the Authority and the Trustee.

Such report shall be used by the Borough as the basis for preparation of such portions of its budget for such next Fiscal Year as shall relate to the Sewer System. Upon adoption of such budget, the Borough shall file copies with the Authority, the Trustee and the Consulting Engineers.

SECTION 10.02. **[Budgeting for Obligations under Lease.]** The Borough covenants that it will make such appropriations to the Sewer Revenue Account, in each Fiscal Year, from current revenues or other legally available funds, other than Sewer Revenues, to the extent necessary, if any, and to the extent at the time permitted by law, to enable it to meet all its obligations hereunder.



SECTION 10.03. **[Duty to Maintain Accurate Records of Sewer Revenue Account; Audit Thereof.]** The Borough covenants to keep accurate records with respect to the Sewer Revenue Account and, within 30 days after the end of each Lease Year, to have made a complete audit of such Sewer Revenue Account by a Certified Public Accountant. Such audit shall show, among other things, the moneys in the Sewer Revenue Account, including the reserve fund, at the end of the Lease Year. A signed counterpart of such audit shall be furnished to the Authority, the Consulting Engineers and the Trustee, and copies thereof shall be available for inspection at reasonable times by holders of Bonds and by users served by the Sewer System.

SECTION 10.04. **[Operation, Maintenance and Repair of Sewer System.]** The Borough covenants to maintain the Sewer System in good repair and operating condition, to operate the same continuously in an economical and efficient manner and to make all ordinary repairs, renewals, replacements and improvements in order to maintain adequate service.

SECTION 10.05. **[Consulting Engineers' Certificate as to Condition of Sewer System]** The Borough covenants to furnish to the Authority and the Trustee, on or before December 1 of each year, beginning December 1, 1971, a Consulting Engineers' Certificate, in form and content satisfactory to the Authority and the Trustee, stating that:

- (a) The Sewer System is in good repair and operating condition; or
- (b) The Sewer System is not in good repair and operating condition, stating in what respects it is in need of repair and maintenance and the approximate expenditures and amount of time which will be required to place the Sewer System in good repair and operating condition.

If such certificate shall read as in subparagraph (b) above, the Borough covenants promptly to restore the Sewer System to good repair and operating condition and, upon such restoration, to furnish the Authority and the Trustee a Consulting Engineers' Certificate reading as provided in subparagraph (a) above.

SECTION 10.06. **[Compliance with Law.]** The Borough covenants to comply with all valid acts, rules, regulations, orders and directives of any legislative, executive, administrative or judicial body applicable to construction, operation, repair and maintenance related to the Sewer System.

SECTION 10.07. **[Covenant Not to Create Charges Against Sewer Revenues or Other Moneys Deposited in the Sewer Revenue Account.]** The Borough covenants not to create any charges upon or against the Sewer Revenues or against any other moneys required to be deposited in the Sewer Revenue Account prior to its obligations hereunder.

SECTION 10.08. **[Covenant Not to Compete with Sewer System.]** The Borough covenants neither to construct nor to permit or join in construction of a sewer system or sewer facilities duplicating, as a competing system or as competing facilities, any part of the Sewer System.

SECTION 10.09. **[Assignment of Lease by Borough; Subletting Leased Premises.]** The Borough covenants neither to assign this Lease nor to sublet any part of the Sewer System without written consent of the Authority or its assigns and, if such consent shall be given, then only subject to conditions which may be set forth in such consent.

SECTION 10.10. **[Waiver of Exemption Laws; Forfeiture.]** The Borough waives any exemption law or laws now in force or hereafter enacted and agrees that if, at any time, there shall be default in payment of any required rental payment for 15 days after the same becomes due, or if it shall fail, after 30 days' written notice served by registered or certified mail, to cure any other default, whether consisting of payment of any other sum to be paid or performance of any covenant to be performed, the Authority, at its option, may declare this Lease and all rights of the Borough hereunder forfeited and void and may re-enter and take possession of the Sewer System without prejudice to other rights or privileges which the Authority may have at law or in equity. Waiver by the Authority of forfeiture for any default of the Borough shall not prevent the Authority from taking advantage of a subsequent default.

SECTION 10.11. **[Appointment of a Receiver.]** In case of any proceeding of the Authority: (1) to foreclose or terminate the estate or interest of the Borough, based upon a default hereunder (if the Authority shall elect so to proceed); or (2) wherein appointment of a receiver may be permissible, the Authority, as a matter of right and immediately upon institution of such proceeding, upon written notice to the Borough, shall be entitled to appointment of a receiver of the Sewer System and of rents, issues, profits and other income therefrom, with such ample powers as the court making such appointment can confer; Subject, however, to limitations and restrictions of the Authorities Act.

SECTION 10.12. **[Surrender of Possession.]** Upon termination hereof, either by reason of default or expiration of the term, the Borough covenants that it will deliver up peaceable possession of the Sewer System, without delay, upon demand made by the Authority or, in case of such default, upon demand made by the Authority, the Trustee or any other duly constituted representative of holders of Bonds, in good repair and operating condition, excepting reasonable wear and tear and damage, injury or destruction by fire or other casualty which, under terms hereof, shall not have been repaired, reconstructed or replaced.

SECTION 10.13. **[Inspection of Leased Premises.]** The Borough covenants that the Authority, by its duly authorized representatives, at reasonable times, may inspect any part of the Sewer System.

SECTION 10.14. **[Assumption of Certain Obligations of Authority.]** The Borough assumes, as if primarily liable for the same, all duties, obligations, responsibilities, covenants and agreements assumed by or imposed upon the Authority by reason of any deed, assignment, license, right of way, easement or document whereby the Authority has acquired or shall acquire any real estate, rights of way, easements, privileges, powers, licenses or other interests in property required for construction, reconstruction, repair, maintenance and use of the Sewer System, except any obligation to pay any sum or perform any act or duty required with respect to securing initially such real estate or other interests in property.

## ARTICLE XI MISCELLANEOUS

SECTION 11.01. **[Additional Bonds; Consent of Borough; Covenant of Borough to Take Certain Action.]** The Authority may issue Additional Bonds, from time to time, for purposes and in the manner provided in the Indenture; Provided, however, that if in connection with the issuance of such Additional Bonds the Indenture shall require an amendment or supplement to this Lease to be executed, such Additional Bonds shall be issued only with the prior written consent of the Borough, subject, nevertheless, to Section 6.05 hereof. If the Authority shall issue such Additional Bonds, the Borough, upon request of the Authority, covenants to take such action as may be required under the Indenture.

SECTION 11.02. **[Credit and Taxing Power of Borough Not Pledged.]** The Authority and the Borough agree that all obligations of the Borough hereunder shall be paid from the Sewer Revenue Account and from other moneys of the Borough made available for such purposes from current revenues, within limits at the time provided by law, or other legally available funds, and that neither the credit nor taxing power of the Borough is pledged for such payments; Provided, however, that nothing herein shall prevent the Borough from satisfying obligations hereunder from any funds which legally may be available therefor.

SECTION 11.03. **[Financial Accounts and Records of Authority.]** The Authority shall furnish to the Borough a copy of each annual statement relating to the Sewer System and the Indenture, prepared by its certified public accountant, as required by the Authorities Act and the Indenture, and, if requested, shall permit any duly authorized representative of the Borough to make reasonable examinations of its accounts and records relating to the Sewer System and the Indenture.

SECTION 11.04. **[Repairs, Renewals, Replacements, Improvements, Additions and Extensions to Sewer System to be Property of Authority.]** The Authority and the Borough agree that all repairs, renewals, replacements, improvements, additions and extensions, including Extraordinary Repairs

and Capital Additions or property in the nature thereof, and all real estate or interests therein, which shall be made or acquired by the Authority or the Borough during the term hereof in connection with the Sewer System, forthwith shall become the property of the Authority and a part of the Sewer System; and the Borough agrees to execute such instruments as may be required, from time to time, by the Authority to effect the foregoing.

SECTION 11.05. **[Right of Borough with Respect to Management of Sewer System.]** Nothing herein shall be construed to limit or restrict the right of the Borough to employ, from time to time, to the extent permitted by law, such Person as it shall deem advisable and in its best interests to manage or operate the Sewer System in its behalf or to perform other functions of the Borough with respect to the Sewer System, whether such shall be the Authority, a management firm or other private organization, and to delegate to such Person such duties of the Borough hereunder as it shall deem advisable and as it lawfully may delegate; Provided, however, that such employment and delegation shall not relieve the Borough of its obligations hereunder.

SECTION 11.06. **[Borough May Provide Funds for Certain Purposes.]** If the Authority shall fail to provide funds, in accordance with Section 9.02, to meet a request of the Borough under Section 9.01, or if the Borough shall determine to provide required funds without making such a request, the Borough may use any lawful means available to provide such funds, including use of excess available funds in the Sewer Revenue Account.

SECTION 11.07. **[Borough May Enter Into Certain Agreements to Serve New Customers.]** The Authority agrees that the Borough may enter into agreements, from time to time, with any Person not then constituting a customer receiving sewage service from the Borough, pursuant to which the Borough shall agree to collect, transport and ultimately dispose of Sewage of such Person in connection with use and operation of the Sewer System; Provided, however, that prior to execution of any such agreement, the Borough shall furnish to the Authority and the Trustee a Consulting Engineers' Certificate, approved by the consulting engineers of the Authority, if not the same Person, setting forth that:

- (a) The proposed agreement has been reviewed by and is approved by the Consulting Engineers with respect to engineering and operating aspects thereof; and
- (b) Execution and performance of the proposed agreement, in the opinion of the Consulting Engineers: (1) will not affect adversely the security of holders of Bonds; (2) will not affect adversely operation and use of the Sewer System; (3) will be advantageous, economically and financially, in connection with use and operation of the Sewer System; and (4) will not violate terms and conditions of the Service Agreements.

The Authority covenants that it will join with the Borough in execution of any such agreement if such joinder shall be legally necessary or otherwise desirable.

SECTION 11.08. **[Borough May Enter Into Certain Agreements for Transportation, Treatment, and Disposal of Sewage.]** The Authority agrees that the Borough may enter into agreements, from time to time, with any Person, pursuant to which the Borough shall agree that such Person shall transport, treat or dispose of Sewage collected in the Sewer System; Provided, however, that prior to execution of any such agreement the Borough shall furnish to the Authority and the Trustee a Consulting Engineers' Certificate, approved by the consulting engineers of the Authority, if not the same Person, setting forth that:

- (a) The proposed agreement has been reviewed by and is approved by the Consulting Engineers with respect to engineering and operating aspects thereof; and
- (b) Execution and performance of the proposed agreement, in the opinion of the Consulting Engineers: (1) will not affect adversely the security of holders of Bonds; (2) is necessary or desirable in connection with use and operation of the Sewer System; (3) will be advantageous, economically and financially, in connection with use and operation of the Sewer System; and (4) will not violate terms and conditions of the Service Agreements.

The Authority covenants that it will join with the Borough in execution of any such agreement if such joinder shall be legally necessary or otherwise desirable.

SECTION 11.09. **[Right to Certain Moneys Received.]** The Authority covenants that, while the Borough is operating and maintaining the Sewer System, it will direct that any moneys payable by the Commonwealth, through any agency, department or body thereof on account of costs of operating, maintaining, repairing and/or replacing the Sewer System or any part thereof and any other costs relating thereto shall be paid directly to the Borough; and the Authority agrees upon request of the Borough, to execute such documents and to take such other action as may be necessary or appropriate to enable the Borough to receive such moneys.

SECTION 11.10. **[Covenant to Comply with all Covenants of Service Agreements.]** The Authority and the Borough covenant to comply fully with all covenants, conditions, warranties and representations set forth in the Service Agreements.

SECTION 11.11. **[Assignment; Consent to Assignment; Payment of Rentals to Trustee.]** The Authority, immediately following execution and delivery hereof, shall assign this Lease and all rentals payable hereunder to the Trustee, IN TRUST, to be held and applied pursuant to provisions of the Indenture. The Borough: (1) consents to such assignment and accepts notice thereof with the same legal effect as though such acceptance were embodied in a separate instrument, separately executed after execution of such assignment; and (2) agrees to pay directly to the Trustee all rentals payable hereunder.

SECTION 11.12. **[Severability and Construction of Provisions.]** If any provision hereof shall be held to be invalid, such invalidity shall not affect any other provision hereof, and the remaining provisions hereof shall be construed and enforced as if such invalid provision had not been contained herein. Laws of the Commonwealth shall govern construction hereof.

SECTION 11.13. **[Multiple Counterparts of Lease.]** This Lease may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, BOROUGH OF ALBURTIS SEWER AUTHORITY has caused this Lease to be executed in its name and in its behalf by its Chairman or Vice Chairman and its corporate seal to be affixed hereunto and attested by its Secretary or Assistant Secretary, and the BOROUGH OF ALBURTIS, Lehigh County, Pennsylvania, has caused this Lease to be executed in its name and in its behalf by its Mayor and the President or Vice President of its Council and its official seal to be affixed hereunto and attested by its Secretary or Assistant Secretary, all as of the day and year first above written.

{Signed and attested by officers of Borough of Albutis Sewer Authority and Borough of Albutis}

{Acknowledgments}

### **ASSIGNMENT**

KNOW ALL MEN BY THESE PRESENTS, that BOROUGH OF ALBURTIS SEWER AUTHORITY (the "Authority"), a municipality authority existing under Pennsylvania laws, for value received, hereby does assign, transfer and set over unto THE FIRST NATIONAL BANK OF ALLENTOWN (the "Trustee"), Allentown, Pennsylvania, as trustee under a Trust Indenture, dated as of June 15, 1971 (the "Indenture"), between the Authority and the Trustee and its successors in said trust, all right, title and interest in and all rentals payable by the Borough of Albutis, Lehigh County, Pennsylvania (the "Borough"), under the foregoing Agreement of Lease, dated as of June 15, 1971 (the "Lease"), between the Authority, as lessor, and the Borough, as lessee, to have, hold and apply such rentals in accordance with the Indenture and the Authority directs that such rentals shall be paid by the Borough directly to the Trustee.

Notwithstanding such assignment and transfer, so long as the Authority shall not be in default under the Indenture:

(a) The Authority shall have the right and duty to give all approvals and consents permitted or required under the Lease;

(b) The Authority shall have the right to execute supplements and/or amendments to the Lease to the extent and in the manner permitted by the Indenture;

(c) The Authority shall have the right to execute supplements and/or amendments to the Lease containing terms not adversely inconsistent with the Lease or the Indenture; Provided, however, that the Lease, as so supplemented and/or amended, shall provide at least the same security for holders of bonds of the Authority issued under the Indenture as the Lease in the foregoing form; and

(d) There shall be no responsibility on the part of the Trustee for duties or responsibilities of the Authority contained in the Lease and in any supplements and/or amendments thereto.

IN WITNESS WHEREOF, BOROUGH OF ALBURTIS SEWER AUTHORITY has caused this Assignment to be duly executed in its name and in its behalf by its Chairman or Vice Chairman and its corporate seal to be affixed hereunto and attested by its Secretary or Assistant Secretary, all as of the fifteenth day of June, 1971.

{Signed and attested by officers of the Borough of Alburdis Sewer Authority}

{Acknowledgments}