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AGREEMENT

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CONSENT OF WESTERN LEHIGH INTERCEPTOR SYSTEM MUNICIPALITIES

THIS AGREEMENT, made the 9th day of June, 1972 by and between EMMAUS MUNICIPAL AUTHORITY, a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act of 1945 (hereinafter referred to as "EMMAUS AUTHORITY"), and the BOROUGH OF EMMAUS, a political subdivision of the Commonwealth of Pennsylvania (hereinafter referred to as "EMMAUS"), both situate in Lehigh County, Pennsylvania, parties of the first part,

AND

LEHIGH COUNTY AUTHORITY, a municipal authority organized and existing under the Pennsylvania Municipality Authorities Act of 1945 (hereinafter referred to as "LEHIGH COUNTY AUTHORITY"), and TOWNSHIP OF UPPER MILFORD, a political subdivision of the Commonwealth of Pennsylvania (hereinafter referred to as "UPPER MILFORD"), all situate in Lehigh County, Pennsylvania, parties of the second part,

AND

CITY OF ALLENTOWN, a third class city existing under the laws of the Commonwealth of Pennsylvania (hereinafter referred to as "CITY"), also situate in Lehigh County, Pennsylvania, party of the third part.

WITNESSETH:

WHEREAS, Emmaus Authority is the owner of a sanitary sewer collection system (hereinafter referred to as EMMAUS SEWER SYSTEM), which it leases to Emmaus and which is used to collect sanitary sewage in the Borough of Emmaus for transmission to and treatment at the sewage treatment plant of the City of Allentown, and

WHEREAS, Lehigh County Authority is the owner of a sanitary sewer interceptor system (hereinafter referred to as LEHIGH COUNTY SEWER SYSTEM), and

WHEREAS, Stewart Sandwich Service, Inc. is the owner of a sanitary sewage main, which main will be used to collect sewage in Upper Milford Township from premises of Stewart Sandwich Service, Inc. for transmission to and treatment at the sewage treatment plant of the City of Allentown, and

WHEREAS, it would be advantageous to the parties of this agreement to have sewage collected from premises of Stewart Sandwich Service, Inc. discharged into the Emmaus Sewer System at existing Manhole 323 for transmission to the Allentown treatment plant, and

WHEREAS, the parties hereto desire to set forth the terms and conditions of this agreement into writing.

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

1. **[Construction of Main to Connect Stewart Sandwich to Emmaus System.]** Upper Milford Township or Stewart Sandwich Service, Inc. will construct from Stewart Sandwich Service, Inc. premises as it exists in Upper Milford Township, a sanitary sewer main to be made a part of the Upper Milford sewer system to Manhole 323 in West Minor Street, Emmaus. This sewer line will be constructed in the size, to the depth and in all other respects acceptable to the Emmaus Authority and Emmaus.

2. **[Temporary Connection to Emmaus Sewer System.]** Emmaus Authority and Emmaus agree that Upper Milford Township shall have the right to connect the aforesaid sewer main which will be installed in Upper Milford Township, to the Emmaus Sewer System at the existing Manhole 323 aforesaid. In making said connection Upper Milford Township shall do so in a manner acceptable to Emmaus Authority, and subject to inspection by Emmaus Authority prior to discharge of any effluent therein. Stewart Sandwich Service, Inc. and Upper Milford Township shall be responsible for, and shall repair or pay for the repair of, any damages or disturbances to the Emmaus Sewer System resulting from or arising out of the making of said connection. Emmaus Authority and Emmaus hereby grant to Upper Milford Township the right for a period of ten (10) years or until Upper Milford Township constructs their own system, whichever occurs first, to discharge sewage from the said sewer line from Stewart Sandwich Service, Inc. into the Emmaus Sewer System at said point of connection, viz: Manhole 323 and agree that it will for the aforesaid period of 10 years or less transmit said sewage to the Allentown Sewage Treatment Plant for treatment. Upper Milford shall pay to Emmaus Authority, or Emmaus, as its Lessee, the cost of repairing any damage resulting to the Emmaus Sewer System by reason of any cause originating in the Upper Milford Sewer System or the Stewart Sandwich Service, Inc. sewer main or resulting from actions, conduct or omissions on the part of the agents of Upper Milford or Stewart Sandwich Service, Inc.

3. **[Use Exclusively for Stewart Sandwich Service, Inc.]** Upper Milford agrees that no connection other than from the premises of Stewart Sandwich Service, Inc. will be permitted to the sanitary sewer line to be constructed by Upper Milford Township or Stewart Sandwich Service, Inc. between said premises and Manhole 323 in West Minor Street in the Borough of Emmaus.

4. **[Metering.]** A suitable metering device, calibrated annually, to accurately measure the actual quantity of sewage transported under this agreement, shall be installed by Upper Milford at its expense, in the vicinity of Manhole 323 aforesaid, at a point to be designated and approved by Gilbert Associates, Inc., engineers for Emmaus Authority and Emmaus. The volume of sewage discharged from Upper Milford Sewer System into the Emmaus Sewer System and then into the Allentown Sewer System shall be arrived at by taking the meter readings therefrom. Emmaus Authority, Emmaus and the Lehigh County Authority shall have access thereto for inspection purposes at any time.

5. **[Usage Charges.]** Upper Milford shall pay at least quarterly to the Borough of Emmaus a transportation charge of FIVE AND ONE TENTH (\$.051) CENTS per thousand gallons of sewage in accordance with the meter readings and shall also pay to the Lehigh County Authority .02/1000 CENTS per thou-

sand gallons of sewage in accordance with the meter reading for transportation to the City of Allentown sewage treatment plant.

6. **[Payments to Allentown.]** The City of Allentown, for the transmission and treatment of the sewage referred to in this agreement, shall be compensated by Lehigh County Authority at the same rate payable for other sewage discharged by the Lehigh County Authority into the Allentown Sewer System.

7. **[Sewage Charged to LCA, not Emmaus.]** The volume of sewage discharged from the Upper Milford Sewer System or the Stewart Sandwich Service, Inc. sewer main into the Allentown Sewer System pursuant to this agreement, as arrived at by taking the total meter readings, shall be deducted from the master meter reading applicable to the Borough of Emmaus, and added to the master meter reading applicable to Lehigh County Authority. Applicable meter readings shall be made available to any parties hereto upon request.

8. **[Upper Milford Reimbursement of LCA.]** Upper Milford will reimburse Lehigh County Authority in accordance with the terms of an agreement to be executed contemporaneously herewith.

9. **[Sewage Attributed to Upper Milford/LCA, not Emmaus; Definitions; Prohibited Wastes.]** It is agreed by the parties hereto:

(a) that the volume of sewage referred to in this agreement shall be attributed by the City of Allentown to the allocation of Lehigh County Authority, which in turn will attribute the same to Upper Milford. It is specifically understood that the allocation of this sewage shall not be to the Borough of Emmaus, nor shall any additional construction costs for the treatment of said sewage by the City of Allentown for the benefit of Upper Milford, be chargeable against the Borough of Emmaus. No effluent will be accepted which does not meet the approval of the consulting engineer of Lehigh County Authority.

(b) "Sewage" means domestic and/or industrial wastes, as such terms usually and customarily are used by sanitary engineers.

(c) "Suspended Solids" means the filterable residue the wastes as determined by the latest edition of "Standard Methods for Examination of Water and Waste Water", published by the American Public Health Association.

(d) Upper Milford agrees that the sewage discharged from the Upper Milford Sewer System into the Emmaus Sewage System shall not contain storm water, roof or surface drainage. No industrial waste, chemicals or other matter shall be so discharged with or without pre-treatment:

(1) having a temperature higher than 150° F.;

(2) containing more than 100 milligrams per liter (m/l) by weight of fat, oil or grease;

(3) containing any gasoline, benzene, naptha, fuel oil or other inflammable or explosive liquid, solid or gas;

(4) containing any unground garbage;

(5) containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the proper operation of the treatment plant being operated by City;

(6) having a "pH" (logarithm of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution, indicating the degree of acidity or alkalinity of a

substance) lower than 6.0 or higher than 9.0 or having any other corrosive or scale-forming property capable of causing damage or hazard to structures, equipment or personnel operating the treatment plant being operated by City;

(7) containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constituting a hazard to humans or animals, or creating any hazard in the receiving waters of the treatment plant being operated by City. Toxic wastes shall include wastes containing cyanide and/or chromium ions;

(8) containing suspended solids in excess of 3 pounds per 1000 gallons and of such character that unusual attention or expense is required to handle such materials at the treatment plant being operated by City;

(9) *{language missing}* capable of creating a public nuisance;

(10) containing a B.O.D. in excess of 2.5 pounds per 1000 gallons and being of such character that unusual attention or expense is required to handle such materials at the treatment plant being operated by City, unless otherwise agreed to by all the parties hereto and permitted by the Commonwealth of Pennsylvania or any duly constituted Board, Commission or Department thereof;

(11) having a chlorine demand in excess of 0.1 pound per 1000 gallons;

(12) prohibited by any permit issued by the Commonwealth of Pennsylvania;

(13) prohibited by agreement between City of Allentown and Borough of Emmaus dated March 17, 1959.

Upper Milford, in order to comply with this Section 9 will construct and operate or cause to be constructed and operated all necessary pretreatment facilities.

10. **[Binding Effect.]** This agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors, lessees and assigns.

11. **[Amendment.]** This agreement may be amended at any time by mutual agreement of all the parties hereto but only by a writing executed by all of the parties hereto and consented to in writing by the City of Allentown if such amendment in any way affects the City of Allentown.

12. **[Conveyance of Stewart Sandwich Sewer Main to Upper Milford.]** It is specifically understood by the parties hereto that the sewer main described in the within agreement is or has been constructed by Stewart Sandwich Service, Inc. and title to said sewer main is to be conveyed to Upper Milford Township at a time no later than the construction of a collector and treatment system by the township of Upper Milford, but at no time prior to Upper Milford's ability to accept sewage without increasing the discharge to the Lehigh County Authority sewer interceptor agreed to in this instrument.

13. **[Maximum Volume: 30,000 gpd.]** It is specifically understood by the parties hereto that neither Upper Milford or Stewart Sandwich Service, Inc. will discharge more than 30,000 gallons of effluent per day.¹

14. **[Inspection by LCA.]** It is specifically understood and agreed by the into the parties hereto that no effluent will be discharged into the Lehigh County Authority interceptor until the Lehigh County

¹ **Cross-Reference:** allocation issues relating to Upper Milford Township were further addressed in the April 1, 1983 Wastewater Treatment Capacity Allocation Agreement . See Codified Ordinances ¶ 65-R(2). Moreover, additional capacity purchased in 1986 from the City is allocated under the 1987 Post-1985 Allocation Agreement (see Codified Ordinances ¶ 65-R(7)).

Authority's consulting engineer has inspected and approved the sewer system contemplated in this agreement.

IN WITNESS WHEREOF, the parties have caused these of presents to be executed by their duly authorized officers as the day and year first above written.

{Signed and attested by officers of Lehigh County Authority, Borough of Emmaus, Emmaus Municipal Authority, Township of Upper Milford, and City of Allentown.}

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In compliance with Section 2.03 and 11.08 of the Service Agreement<sup>2</sup>, dated August 1, 1970, the following parties herewith consent to the foregoing agreement, it being agreed that by consenting any future instance to the concept of charges for transmission only, or to the fairness of any specific charges mentioned in the above agreement [*sic?*]. Further, this consent shall be for a period of ten (10) years and the capacity of sewage treatment being loaned to Upper Milford Township shall not exceed thirty thousand (30,000) gallons per day.

{Signed and attested by officers of Township of Upper Macungie, Upper Macungie Township Authority, Borough of Macungie, Borough of Macungie Sewer Authority, Borough of Alburtis, Alburtis Authority, Township of Lower Macungie, and Lower Macungie Authority.}

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<sup>2</sup> **Cross-Reference:** *see* Codified Ordinances ¶ 65-O(1).