

The Table of Contents, the footnotes, and the paragraph and subparagraph headings shown in brackets and bold print, are NOT part of the Document, but have been added for the convenience of the reader. This Agreement was the subject of litigation, and a settlement agreement revising this Agreement was executed in 1977. See Codified Ordinances § 65-T(2).

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### SCHEDULE

### CONFIRMATION FROM F. & M. SCHAEFER BREWING CO.

## **[LETTER AGREEMENT]**

OFFICE OF THE COMMISSIONERS  
COUNTY OF LEHIGH  
ALLENTOWN, PA.

June 30, 1969

Mr. R.J. Schaefer, III, President  
The F. & M. Schaefer Brewing Co.  
430 Kent Avenue  
Brooklyn, New York 11211

Dear Mr. Schaefer:

This will confirm our Agreement concerning the location of a new Schaefer brewery project in Lehigh County and the supply of essential sewer and water services to that project.

1. **[Location of Brewery at Fogelsville Interchange.]** Schaefer agrees to locate a new manufacturing facility for its products at the southwest corner of the Fogelsville Interchange in Upper Macungie

Township, Lehigh County, Pennsylvania, providing all the terms and conditions precedent of this Agreement are satisfied.

2. **[Provision of Permanent Public Water and Sewer Service.]** In consideration of Schaefer agreeing to locate its brewery project at the above location in Lehigh County, this will confirm and acknowledge our Agreement to provide permanent public sewer and water service to the project on the following terms and conditions:

(a) **[Services to be Financed and Constructed by LCA and Operated by Lehigh County.]** All involved governmental units and authorities have agreed that the sewer and water service to industries in the West Lehigh County area (including the Schaefer Project) will be financed and constructed by the County Authority and operated by the County.

(b) **[Schaefer to Deal Directly with LCA and the County.]** As a result Schaefer will deal directly with the County and the County Authority with respect to these services. Although not finally determined, invoicing may be handled by Upper Macungie Township, but in any event, at the rates set forth in this Agreement. Hence, the rates contemplated by this Agreement will represent total user rates to Schaefer, with the County or County Authority being responsible for all allocating charges among all the involved governmental and municipal groups.

(c) **Sewer.**

(i) **Volume:** A system which will satisfy Schaefer's average daily waste discharge of 1,700,000 to 2,130,000 gallons.

(ii) **Nature of Effluent:** The wastes will have the following strengths:

(A) B.O.D.: 1,100 ppm

(B) Suspended Solids: 300 ppms.

(C) Acidity or Alkalinity (pH): 7.0 AVE. pH range: 5.0 to 9.0

In this connection, and in accordance with your written advices dated January 9 and January 31, 1969, and consistently reiterated thereafter both orally and in writing, Schaefer shall also have the right to discharge diatomaceous earth directly into the sewer system without pretreatment, leaching or surcharge over twenty-four hour periods of time.

(iii) **Availability date:** Sewers will be completely operational on or before August 1, 1971.

(iv) **Rate:** The rate to Schaefer shall be at least as favorable as the rate to all other users, industrial, domestic or otherwise. There will be no special charges or assessments to Schaefer by virtue of diatomaceous earth discharge, B.O.D. content or otherwise and whether in the nature of surcharge, pre-treatment charge or penalty. In addition, if any rate or discount is established for large volume users, Schaefer will receive such rate or discount. The total direct and indirect cost of sewer service, including without limitation sewer user, rental and tapping charges, if any, shall not exceed the amounts set forth in the attached Schedule based on present good-faith estimates, a breakdown of which has been supplied to you. This estimate is based on an average daily waste discharge as set forth above and on a 250-day year. In addition, any front foot or similar assessment shall be on a non-recurring basis and shall not exceed the amounts set forth in the Schedule based on present good-faith estimates, and, in any event, shall be on at least as favorable a basis as for all other users in Upper Macungie Township.

(d) **Water.**

(i) **Volume:** A system which will satisfy Schaefer's average daily use of water of 2,160,000 gallons with maximum daily consumption being 2,880,000 gallons.

(ii) **Availability date:** The water system will be fully operational with available water in the above quantities by August 1, 1971.

(iii) **Rate:** The rate to Schaefer shall be at least as favorable as the rate to all other users, industrial, domestic or otherwise. There will be no special charges or assessments to Schaefer whatsoever. If any rate or discount is established for large volume users of water, Schaefer will receive such rate or discount. The total direct and indirect cost of water service, including without limitation user fee, and tapping fee, if any, shall not exceed the amounts set forth in the attached Schedule based on present good-faith estimates, a breakdown of which has been supplied to you. This estimate is based on an average daily water use as set forth above and on a 250-day year. In addition, any front foot or similar assessment shall be on a non-recurring basis and shall not exceed the amounts set forth in the Schedule based on present good-faith estimates, and, in any event, shall be on at least as favorable a basis as for all other users in Upper Macungie Township.

(iv) **Construction and Testing Water:** Schaefer will provide this water at its own cost.

(e) **Capital Costs.** In Schaefer's initial letter dated July 1, 1968, concerning this project, it stated that "Both with respect to sewer and water, it is our understanding that we would not be responsible for the capital costs of making these services available." This condition still applies and is acceptable.

(f) **Time.** We recognize that time is of the essence, and that you will not be able to satisfy your customer demands for beer unless these utility services are completed and fully operational on the terms outlined within the time frames indicated above.

(g) **Contracts.** Counsel for the involved municipal and governmental groups have been directed to proceed with documentation that will formalize the necessary agreements.

(h) **Prior Agreements.** This Agreement cancels, supersedes and amends the Agreement dated November 7, 1968 between Upper Macungie Township and Schaefer to the extent inconsistent with the above.

Will you kindly confirm your Agreement with the above terms in writing at the earliest possible date so that we can promptly proceed with the legal and design work to meet the necessary requirements and availability dates.

Very truly yours,

{Signed and Attested by Officers of Lehigh County, Lehigh County Authority, and Upper Macungie Township.}

**SCHEDULE<sup>1</sup>**

(a) Sewer and water figures are presented on the basis of 250 operating days and 850,000 gallons per day average discharge for sewer during Phase I and 1,700,000 gallons per day sewer discharge in Phase II; 1.1 million gallons per day average usage of water during Phase I and 2.2 million gallons average daily use of water during Phase II.

(b) Rates as follows:

	<u>PHASE I</u>		<u>PHASE II</u>
	<u>Maximum</u>	<u>Minimum</u>	<u>Per Year</u>
	<u>Per Year</u>		
WATER	\$150,000	\$77,000	\$154,000
SEWER	<u>\$150,000</u> (A)	<u>\$75,000</u>	<u>\$150,000</u> (A)
TOTAL	\$300,000	\$152,000	\$304,000

The minimum sewer figure during Phase I is on the basis of Kraft coming on target at the same time as Schaefer; the maximum is on the basis of nobody else of significance coming on target at the time; the 35¢ sewer figure is on the basis of a usage of 1,780,000 gallons per day; the maximum sewer figure is on the basis of only the Schaefer 850,000 gallons per day, or approximately 61¢; the Phase II sewer figure was computed on the basis of 1,700,000 gallons daily and 250 days, or 425 million gallons per year times 35¢; the 28¢ water figure is on the basis of 2.2 million gallons per day usage; it is anticipated that the rate would be 21¢ or 22¢ with Kraft on target; and 17¢ with full system usage; it is also anticipated that there would be further reductions on water rates on completion of the Trexler Dam.

The above outlined figures should not be construed as precluding the availability to Schaefer of any lower rates that may be available to volume users and as provided for in paragraphs 2(c)(iv) and 2(d)(iii).

In addition, there will be front foot assessments for both sewer and water on the same basis as all other users — domestic, industrial or otherwise.

$$\begin{aligned}
 (A) \quad & 1.7 \text{ MGD} \times 0.35 / 1000 \times 250 = \$150,000 \\
 & 0.85 \text{ MGD} \times 0.35 / 1000 \times 250 = 75,000 \\
 & 0.85 \text{ MGD} \times 0.61 / 1000 \times 250 = \text{~~150,000~~} \text{ [sic. } \$130,000\text{]}
 \end{aligned}$$

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<sup>1</sup> Material shown in *italics* is handwritten onto the Schedule. The remainder is typed.

**[CONFIRMATION]**

THE F. & M. SCHAEFER BREWING CO.  
430 KENT AVENUE, BROOKLYN, NEW YORK 11211 – EVERGREEN 7-7000

June 30, 1969  
Our 127th Year

Commissioners of Lehigh County  
7th Floor  
Court House  
Hamilton Street  
Allentown, Pennsylvania

Lehigh County Authority  
7th Floor  
Court House  
Hamilton Street  
Allentown, Pennsylvania

Upper Macungie Township  
Lehigh County  
R.D. #1  
Breinigsville, Pennsylvania

Gentlemen:

In response to the letter dated June 30, 1969 concerning the supply of permanent public sewer and water services to our proposed new brewery project in Lehigh County, this will confirm our Agreement to locate the project in Lehigh County on the terms and conditions set forth in the above letter which is attached to and made part of this response by reference.

As per our prior advices to all concerned, the estimated costs of these services is considerably higher than the amounts paid at other company plants located in high labor cost urban areas, and the maximum costs during Phase I are materially higher. Likewise, the cost of other major recurring expenses at our other locations appears to be lower on a comparable size plant basis. Just as you as public officials have obligations to all the citizens of the involved area, we, of course, have obligations to our shareholders. Hence, these cost elements are of considerable importance. On the other hand, we have taken into consideration your advices as to the cost and other difficulties in providing these services in the area and the beneficial economic climate as outlined by you available to new industries locating in Lehigh County. On this basis and in light of the continuing advices to make every effort to supply these utility services at the lowest reasonable rates that would be fair and equitable to the public generally and to Schaefer, we are willing to proceed to locate in Lehigh County provided the involved terms and conditions are satisfied.

We have little doubt that construction of this project will open up the entire Western Lehigh County area to major tax-paying industrial users and provide significant benefits to the citizens of Lehigh County. We look forward to joining the ranks of the many good citizens of your County.

Very truly yours,

THE F. & M. SCHAEFER BREWING CO.

By \_\_\_\_\_ /s/ \_\_\_\_\_  
R.J. Schaefer, III, President