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## **SERVICE AGREEMENT**

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CONSENT AND JOINDER OF THE MUNICIPALITIES' AUTHORITIES

CONSENT AND JOINDER OF LEHIGH COUNTY AUTHORITY

THIS SERVICE AGREEMENT, dated for convenience as of August 1, 1970, between COUNTY OF LEHIGH, a Pennsylvania municipal subdivision, on the one hand, and the TOWNSHIPS OF UPPER MACUNGIE and LOWER MACUNGIE and the BOROUGHS OF ALBURTIS and MACUNGIE, all Pennsylvania municipal subdivisions, on the other hand.<sup>1</sup>

WITNESSETH:

WHEREAS, Upper Macungie Authority has agreed to acquire and construct a Sewage Collection System for rendering sewage collection service, but not sewage treatment or disposal service, in and for a portion of the Township of Upper Macungie, Lehigh County, Pennsylvania, and to lease said Sewage Collection System to said Township of Upper Macungie for use and operation, pursuant to terms of the Upper Macungie Lease; and

WHEREAS, Lower Macungie Authority has agreed to acquire and construct a Sewage Collection System for rendering sewage collection service, but not sewage treatment or disposal service, in and for a portion of the Township of Lower Macungie, Lehigh County, Pennsylvania, and to lease said Sewage Collection System to said Township of Lower Macungie for use and operation, pursuant to terms of the Lower Macungie Lease; and

WHEREAS, Alburdis Authority has agreed to acquire and construct a Sewage Collection System for rendering sewage collection service, but not sewage treatment or disposal service, in and for the Borough of Alburdis, Lehigh County, Pennsylvania, and to lease said Sewage Collection System to said Borough of Alburdis for use and operation, pursuant to terms of the Alburdis Lease; and

WHEREAS, Macungie Authority has agreed to acquire and construct a Sewage Collection System for rendering sewage collection service, but not sewage treatment or disposal service in and for the Borough of Macungie, Lehigh County, Pennsylvania, and to lease said Sewage Collection System to said Borough of Macungie for use and operation, pursuant to terms of the Macungie Lease; and

WHEREAS, Each Municipality contemplates that the Sewage collected in the Sewage Collection System serving such Municipality will be transported to the Allentown Sewer System for the purpose of further transportation and for treatment and ultimate disposal; and

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<sup>1</sup> **Cross-Reference:** In addition, the Townships of Upper Milford, Lowhill, and Weisenberg agreed to be bound by this Agreement under Section 5.04 of the April 1, 1983 Wastewater Treatment Capacity Allocation Agreement. See Codified Ordinances ¶ 65-R(2).

WHEREAS, The Municipalities have determined that it is to their mutual advantage to provide for the acquisition and construction of certain facilities to be used jointly by all of the Municipalities and to jointly share in the costs and expenses related to the acquisition, construction and operation of such jointly used facilities and to jointly share in the costs and expenses to be incurred in connection with the receipt, transportation, treatment and disposal of Sewage by the Allentown Authority and/or the City; and

WHEREAS, The County Authority, pursuant to authority vested in it by law and pursuant to the request of the Municipalities and the County, has agreed to undertake the Project and to lease the Interceptor System to the County for use and operation pursuant to terms of the County Lease; and

WHEREAS, The County and the County Authority, with the consent and joinder of the Municipalities, have provided for transportation, treatment and ultimate disposal of the Sewage to be collected in the Sewage Collection Systems which will serve each Municipality in accordance with the terms and provisions of the Allentown Agreements; and

WHEREAS, It has been agreed by the County and the County Authority, on the one hand, and the Municipalities, on the other hand, that the County Authority shall proceed with and complete the Project and that the Sewage Collection System for each Municipality will be connected, directly or indirectly, to the Interceptor System in order that Sewage collected in each Sewage Collection System may be received by the Interceptor System for transportation to the Allentown Sewer System for further transportation and for treatment and disposal, and the parties desire to set forth terms and conditions relating thereto.

NOW, THEREFORE, The County, on the one hand, and the Municipalities, on the other hand, in consideration of 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 Agreement, as herein defined, shall have the meanings herein specified, unless the context clearly otherwise requires:

“*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.

“*Additional Bonds*” means Bonds of any series authorized under the Indenture, other than the Initially Issued 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 County Authority with respect to any project other than the Interceptor System.

“*Agreement*” 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.

“*Agreement Year*” means the twelve month period which coincides with the twelve month period designated as the “Fiscal Year” in the Indenture.

“*Alburtis Authority*” means Borough of Alburtis Sewer Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to an ordinance of the Borough of Alburtis, Lehigh County, Pennsylvania.

“*Alburtis Lease*” means the Agreement of Lease, by and between Alburtis Authority, as lessor, and the Borough of Alburtis, Lehigh County, Pennsylvania, as lessee, as referred to in the Preamble hereof, and all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof and constituting a part thereof.<sup>2</sup>

“*Allentown Agreements*” means, collectively, the Agreement<sup>3</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>4</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.

“*Allentown Authority*” means Allentown Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to action of the City.

“*Allentown Sewer System*” means all property and facilities, from time to time, owned by Allentown Authority and/or owned by or leased to the City for the purpose of collection, transportation, treatment and disposition of Sewage, 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 thereto which may be made or acquired, from time to time.

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

“*Capital Additions*” means new and additional property chargeable to plant or equipment account under sound accounting 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 Interceptor System, including, without intending to limit the generality of the foregoing, buildings, basins, machinery, mains, conduits, pipes, pipe lines, interceptor lines, outfall sewers, trunk lines, sewer plants and systems, tanks, shops, treatment and pretreatment plants and systems, pumping stations, ejector stations, force mains, fixtures, engines, boilers, pumps, meters and other equipment and personal property, and Extraordinary Repairs, as that term is defined in the Indenture, in each case made, constructed or acquired by the County Authority after the date of issuance and delivery of the Initially Issued Bonds, and which are used or useful in connection with the Interceptor 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 County 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 County Authority shall repay or shall be obligated to repay such funds so contributed or advanced.

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

<sup>3</sup> **Cross-Reference:** see Codified Ordinances ¶ 65-Q(1).

<sup>4</sup> No longer in effect.

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

“*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 governing body of a Municipality, qualified to pass upon engineering questions relating to sewage collection systems and having a favorable reputation for skill and experience in supervising construction and operation of sewage collection 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.

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

“*County Authority*” means Lehigh County Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to a resolution of the County.

“*County Lease*” means the Agreement of Lease, by and between the County Authority, as lessor, and the County, as lessee, as referred to in the Preamble hereof, and all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof and constituting a part thereof.<sup>5</sup>

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

“*Indenture*” means the Trust Indenture, between the County Authority and the Trustee, pursuant to which the Initially Issued Bonds are executed and delivered, including all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof.<sup>6</sup>

“*Independent*” means, with respect to the Certified Public Accountant and the Consulting Engineers, a Person who is independent in fact and who is not a member of the Board, officer or employe of the County Authority or an elected or appointed official or employe of any Municipality, 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 County Authority or an elected or appointed official or employe of any Municipality; Provided, however, that the fact that such person is retained regularly by the County Authority or any Municipality shall not make such Person an employe within the meaning of this definition.

“*Initially Issued Bonds*” means the series of Bonds of the County Authority issued, executed and delivered for and toward the purpose of paying costs of acquiring and constructing the first phase of the Interceptor System, which construction is to be in accordance with plans and specifications prepared or to be prepared by A.L. Wiesenberger Associates, Consulting Engineers, Allen-

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<sup>5</sup> **Cross-Reference:** see Codified Ordinances ¶ 65-O(3).

<sup>6</sup> **Cross-Reference:** see Codified Ordinances ¶ 65-O(4).

town, Pennsylvania, or in accordance with such changes, modifications and alterations of such plans and specifications, approved as provided in the Indenture.

“*Interceptor System*” means all facilities to be acquired and/or constructed by the County Authority, as contemplated by the Project, together with all appurtenant facilities and properties which the County 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, “*Interceptor 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 the County Authority; and the “*Interceptor 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 County Authority and used or useful in connection with the collection, transportation, treatment and/or disposition of Sewage.

“*Lower Macungie Authority*” means Lower Macungie Township Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to an ordinance of the Township of Lower Macungie, Lehigh County, Pennsylvania.

“*Lower Macungie Lease*” means the Agreement of Lease, by and between Lower Macungie Authority, as lessor, and the Township of Lower Macungie, Lehigh County, Pennsylvania, as lessee, as referred to in the Preamble hereof, and all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof and constituting a part thereof.

“*Macungie Authority*” means Borough of Macungie Sewer Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to an ordinance of the Borough of Macungie, Lehigh County, Pennsylvania.

“*Macungie Lease*” means the Agreement of Lease, by and between Macungie Authority, as lessor, and the Borough of Macungie, Lehigh County, Pennsylvania, as lessee, as referred to in the Preamble hereof, and all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof and constituting a part thereof.

“*Municipality*” or “*Municipalities*” means, individually or collectively, as applicable and appropriate, the Townships of Lower Macungie and Upper Macungie and the Boroughs of Alburdis and Macungie, all Pennsylvania municipal subdivisions located in Lehigh County, Pennsylvania.

“*Operating Expenses*” means, with respect to the Interceptor System or with respect to a Sewage Collection System, as appropriate, all expenses required in operating and maintaining the Interceptor System or a Sewage Collection System, as appropriate, including, in each case, without intending to limit the generality of the foregoing:

- A. Expenses of operation, maintenance, repair, alteration, insurance and inspection, including, with respect to the Interceptor System, any sums payable periodically by the County and/or the County Authority under provisions of the Allentown Agreements and/or

payable periodically to any other Person pursuant to any agreement relative to transportation, treatment or disposal of Sewage discharged into the Interceptor System, and including, with respect to a Sewage Collection System, any sums payable by a Municipality to the County pursuant to terms hereof.

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

C. Sums payable to any Person, which sums under sound accounting 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, including the Commonwealth and Federal Governments.

“*Project*” means the undertakings for and toward which the proceeds from the Initially Issued Bonds and any Additional Bonds, if applicable, are to be applied, as initially contemplated by the County Authority in connection with the acquisition and construction of a system of interceptor sewers, including a trunk sewer or trunk sewers and other related and necessary appurtenant facilities for the purpose of receiving Sewage to be collected in the Sewage Collection Systems contemplated to serve the Municipalities and transporting such Sewage to the Allentown Sewer System, which construction is to be in accordance with plans and specifications prepared or to be prepared by A.L. Wiesenberger Associates, Consulting Engineers, Allentown, Pennsylvania, or in accordance with changes, modifications and alterations of such plans and specifications, approved as provided in the Indenture.

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

“*Sewage Collection System*” or “*Sewage Collection Systems*” means, individually or collectively, as applicable and appropriate, the sewage collection facilities to be acquired and/or constructed by Alburts Authority and/or Lower Macungie Authority and/or Macungie Authority and/or Upper Macungie Authority, as applicable and appropriate, for use and operation by the applicable Municipality or Municipalities, as applicable, together with all appurtenant facilities and properties which have been acquired or hereafter shall be acquired 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; and each “*Sewage Collection 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, trunk lines, service lines, 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, used or useful in connection with collection and transportation of Sewage by the applicable Municipality.

“*Trustee*” means the bank or trust company designated by the County Authority as trustee under the Indenture.



“*Upper Macungie Authority*” means Upper Macungie Township Authority, a Pennsylvania municipality authority, incorporated under the Act pursuant to an ordinance of the Township of Upper Macungie, Lehigh County, Pennsylvania.

“*Upper Macungie Lease*” means the Agreement of Lease, by and between Upper Macungie Authority, as lessor, and the Township of Upper Macungie, Lehigh County, Pennsylvania, as lessee, as referred to in the Preamble hereof, and all modifications, alterations, amendments and supplements thereto made and delivered in accordance with provisions thereof and constituting a part thereof.

## ARTICLE II

### SERVICE COVENANT. TERM OF AGREEMENT

SECTION 2.01. **[Service Covenant.]** The County covenants that, upon receipt of a certificate of the consulting engineers of the County Authority for the Project stating that the facilities contemplated by the Project are sufficiently complete to receive and transport Sewage, it will receive, transport and provide for the ultimate treatment and disposal of Sewage from the Sewage Collection Systems, subject to the terms and conditions hereof.

SECTION 2.02. **[Right to Connect Collector Systems.]** The County grants to each Municipality the right to connect, directly or indirectly, the Sewage Collection System to be operated by such Municipality to the Interceptor System, at such point or points and in such manner as shall be agreed upon by the County, County Authority and such Municipality and approved by the consulting engineers of the County Authority.

SECTION 2.03. **[Requirement to Complete and Connect Collector Systems.]** Each Municipality covenants that, upon receipt of a certificate of the County Authority, signed by its Chairman or Vice Chairman and Secretary or Assistant Secretary, approved by the aforesaid consulting engineers of the County Authority, stating that the facilities contemplated by the Project are sufficiently complete to receive and transport Sewage, it will cause the Sewage Collection System to be operated by such Municipality to be promptly completed, if not theretofore completed, and to be connected directly or indirectly, as soon as possible, to the Interceptor System, as set forth in Section 2.02; Provided, however, that such connection shall not be required to be made until the Sewage Collection System to be operated by such Municipality shall be sufficiently complete to permit operation thereof, as determined by the applicable Consulting Engineers.

Except as otherwise permitted in Section 11.08 hereof each Municipality agrees that all Sewage collected in the Sewage Collection System serving such Municipality shall be discharged into the Interceptor System.

SECTION 2.04. **[Term of Agreement.]** This Agreement shall remain in effect so long as the County Authority and/or the County owns and/or operates the Interceptor System.

## ARTICLE III

### CONCERNING THE PROJECT

SECTION 3.01. **[Completion of Project.]** The County covenants to cause the County Authority to acquire, construct and complete the Project with all reasonable dispatch and diligence. The County further covenants that construction related to the Project will be undertaken and completed in accordance with plans and specifications as prepared by A.L. Wiesenberger Associates, 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. **[Grant of Easements in Property of Municipalities.]** Each Municipality grants to the County or the County Authority, as appropriate, all easements, rights of way and other rights

necessary and desirable in, along, over and under streets, roads, lanes, courts, alleys, public squares, highways and other properties of such Municipality, 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 Interceptor System.

SECTION 3.03. **[Reimbursement of Project Costs.]** The County covenants to cause the County Authority to reimburse the Municipalities, out of proceeds derived from sale of the Initially Issued Bonds or, if applicable, out of proceeds derived from sale of Additional Bonds or out of other legally available funds, for all sums paid or costs incurred by the Municipalities, if any, which properly are chargeable as Costs (as defined in the Indenture) of the Project.

SECTION 3.04. **[Additional Bonds.]** If the County Authority shall require additional funds with which to complete the Project, the County Authority may issue Additional Bonds for such purpose upon compliance with terms of the Indenture applicable thereto.

#### ARTICLE IV

##### CONNECTIONS TO EACH SEWAGE COLLECTION SYSTEM.

##### SEWER RENTALS OR CHARGES IMPOSED BY EACH MUNICIPALITY

SECTION 4.01. **[Municipal Ordinances to Require Connection.]** Each Municipality covenants that, prior to connection of the Sewage Collection System to be operated by such Municipality to the Interceptor System, it will enact an ordinance requiring all owners of improved property located within such Municipality which legally can be required to be connected to such Sewage Collection System to connect therewith and providing for enforcement of such ordinance as permitted by law. Each Municipality also covenants to thereafter keep such ordinance or a subsequent 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. **[Municipal Sewer Rentals or Charges.]** Each Municipality covenants that, prior to connection of the Sewage Collection System to be operated by such Municipality to the Interceptor System, it will enact an ordinance imposing sewer rentals or charges upon owners of improved property which shall be connected to such Sewage Collection System for use thereof. Each Municipality also covenants to thereafter 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.

In the event it should be determined to be advisable or required to have a municipality authority which owns a Sewage Collection System to determine, fix, alter, charge and/or collect sewer rates and charges to be imposed upon owners of improved property which shall be connected to such Sewage Collection System, each Municipality covenants to cause the municipality authority which owns such Sewage Collection System to take all desired or required action with respect thereto. If any such action is taken by such municipality authority, all moneys received with respect thereto shall be paid to or transferred to the Municipality which is the lessee of such Sewage Collection System to be used for and toward the purposes herein authorized.

SECTION 4.03. **[Enforcement and Collection of Sewer Rentals.]** Each Municipality covenants to enforce or to cause to be enforced any ordinance or resolution in effect at any particular time under Section 4.02 and to collect or cause to be collected all amounts becoming due thereunder. If any amounts becoming due thereunder shall not be paid, in accordance with provisions of such ordinance or resolution at the time in effect, each Municipality covenants to take or cause to be taken all necessary action to reduce the same to liens and to enforce or cause to be enforced payment of the liens and/or to enforce or cause to be enforced payment of such sewer rentals or charges in any other manner permitted by law.

SECTION 4.04. **[Minimum Sewer Rentals or Charges.]** Each Municipality covenants that sewer rentals or charges imposed pursuant to 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 in each Agreement Year, beginning with the first Agreement Year that Sewage will be discharged from the Sewage Collection System to be operated by such Municipality into the Interceptor System, together with: (1) any sums received periodically by it from any Person pursuant to any agreement between it and such Person whereby Sewage of such Person shall be accepted by it for transportation and discharge into the Interceptor System, if such agreement is permitted under provisions hereof; (2) any sums appropriated by it for the purposes from current revenues, within limits then provided by law, or from other legally available funds; (3) any other sums received by it on account of operation of the applicable Sewage Collection System; and (4) any other moneys required to be deposited in its Sewer Revenue Account pursuant to provisions of the applicable agreement of lease, will be sufficient to provide funds for the following purposes:

A. Payment by such Municipality in such Agreement Year of Operating Expenses relating to the Sewage Collection System to be operated by such Municipality; and

B. Payment by such Municipality in such Agreement Year to the County of: (1) the charges by the County for use of the Interceptor System and use of the Allentown Sewer System and for services rendered by the County in connection therewith; and (2) taxes, if any, levied against the County with respect to the sums payable to the County by such Municipality hereunder, constituting additional sums payable hereunder; and

C. Payment by such Municipality in such Agreement Year of: (1) minimum net rentals due under the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable; and (2) all other sums payable under the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable.

If such collections, receipts, appropriations and deposits in any such Agreement Year for any Municipality shall be less than the sum of requirements of subparagraphs A, B and C above, such Municipality covenants that it promptly will adjust or cause to be adjusted, 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 and deposits, as aforesaid, shall enable it to comply with requirements of this Section and to eliminate deficiencies of any prior Agreement Year; and, to the extent necessary, each Municipality, also covenants that if collections, receipts, appropriations and deposits in any such Agreement Year for such Municipality shall be less than the sum of requirements of subparagraphs A, B and C above, such Municipality 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 and deposits, will be sufficient to enable it to meet such requirements.

SECTION 4.05. **[Exception for Prior Year Surplus.]** Requirements of Section 4.04 shall be subject to the exception that, in making the determination for each Municipality for any Agreement Year, the requirements for such Agreement Year shall be decreased by the aggregate amount, if any, of moneys deposited in the Sewer Revenue Account of such Municipality in all prior Agreement Years which was in excess of the aggregate amount required to be collected in all such prior Agreement Years to meet requirements of Section 4.04, but only to the extent that such moneys, at the time of such determination, shall be available in the Sewer Revenue Account of such Municipality for purposes set forth in Section 4.04.

## ARTICLE V

### SEWER REVENUE ACCOUNTS

SECTION 5.01. **[Deposits to Sewer Revenue Account.]** Each Municipality covenants to deposit in its "Sewer Revenue Account", which hereby is created for each Municipality: (1) all moneys realized from collection of sewer rentals or charges imposed pursuant to Section 4.02; (2) all fees, fines and/or penalties resulting from enforcement of its ordinance or ordinances in effect at the time under Section 4.01; (3) all moneys received periodically by it from any Person pursuant to any agreement between it and such Person whereby Sewage of such Person shall be accepted by it for transportation and discharge into the Interceptor System, if such agreement is permitted under provisions hereof; (4) all other

moneys received by it on account of operation of the applicable Sewage Collection System, including any moneys received as provided in Section 5.04; and (5) any other moneys required to be deposited in its Sewer Revenue Account pursuant to provisions of the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable, together with all moneys appropriated by it for the purposes out of its current revenues, within limits then provided by law, or from other legally available funds.

Each Sewer Revenue Account shall be maintained with an incorporated bank or trust company doing business in the Commonwealth which, if the Municipality desires, may be the Trustee.

SECTION 5.02. **[Pledge of Accounts.]** Moneys in its Sewer Revenue Account shall be and are pledged by each Municipality for prompt and full satisfaction of all its obligations under this Agreement and all of its obligations under the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable, and shall be withdrawn, from time to time, by each Municipality to satisfy such obligations; Provided, however, that moneys in each Sewer Revenue Account may be transferred therefrom pursuant to terms and provisions of the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable.

SECTION 5.03. **[Insurance or Security.]** Each Municipality covenants that moneys in its 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 accrued interest, at all times at least equal to the balance not so insured or invested.

SECTION 5.04. **[Investment.]** Each Municipality, for its own benefit, may invest and reinvest all or part of the moneys in its Sewer Revenue Account, 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 5.03 for uninvested moneys. Any income and/or profits realized and any losses sustained from such investments shall be credited or charged, as appropriate, to its Sewer Revenue Account.

## ARTICLE VI

### RATES AND CHARGES OF COUNTY. METHOD OF PAYMENT

SECTION 6.01. **[In General.]** The County and the Municipalities agree that charges shall be made by the County against the Municipalities collectively for use of the Interceptor System and for services rendered by the County in connection therewith, including charges imposed for use of the Allentown Sewer System.

In the event it should be determined to be advisable or required to have the County Authority determine, fix, alter, charge and/or collect such charges against the Municipalities, the County covenants to cause the County Authority to take all desired or required action with respect thereto. If any such action is taken by the County Authority, all moneys received with respect thereto shall be paid to or transferred to the County to be used for and toward the purposes herein set forth.

SECTION 6.02. **[Amount of Charges.]** The parties hereto agree that the charges to be made against the Municipalities collectively pursuant to Section 6.01 hereof shall be such that the estimated amounts to be received by the County therefrom, together with all other receipts, revenues and moneys to be derived by the County or in behalf of the County in any manner from any source from or in connection with operation of the Interceptor System, will be sufficient to:

A. Pay the reasonable Operating Expenses of the County with respect to the Interceptor System, in each Agreement Year, to the extent that the same shall not otherwise be provided for under the Indenture; and

B. Pay all other obligations of the County under the terms and provisions of the County Lease, in each Agreement Year, including lease rentals provided thereunder.<sup>7</sup>

SECTION 6.03. **[Time of Payment and Apportionment of Charges.]** The charges to be made against the Municipalities pursuant to Section 6.01 hereof shall be made at the times and shall be apportioned between the Municipalities in accordance with the terms and provisions of an Agreement<sup>8</sup>, dated January 22, 1970, by and among the County Authority, the County, the Boroughs of Alburtis and Macungie, the Township of Upper Macungie and the Lower Macungie Authority, in which Agreement the Township of Lower Macungie has joined and has agreed to be bound by the terms and conditions thereof by execution of a Consent and Joinder thereto dated January 22, 1970.

SECTION 6.04. **[Net Sums.]** Charges required to be paid by the Municipalities pursuant to Section 6.01 hereof shall be received by the County as net sums and the Municipalities covenant to pay all charges against or which might diminish such net sums.

## ARTICLE VII CONSULTING ENGINEERS

SECTION 7.01. **[Employment by Municipalities.]** Each Municipality covenants to employ and to keep employed Consulting Engineers to perform duties imposed upon the Consulting Engineers of each Municipality hereunder.

## ARTICLE VIII INSURANCE

SECTION 8.01. **[Insurance of Physical Structures.]** Each Municipality covenants to maintain adequate insurance upon physical structures constituting part of the Sewage Collection System to be operated by such Municipality upon which insurance, as a trade practice in operation of sewage collection systems, normally is carried. Each Municipality covenants to maintain such insurance against fire and such other risks as usually and generally are included in extended coverage endorsements.

All policies of insurance shall be issued by a responsible insurance company or companies, duly qualified to do business in the Commonwealth.

SECTION 8.02. **[Collection and Application of Insurance Proceeds.]** Each Municipality covenants that if the Sewage Collection System to be operated by such Municipality shall be wholly or partially destroyed, damaged or injured by fire or other casualty covered by insurance it 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 insurance moneys may be collected. The total amount recovered, from time to time, shall be applied by such Municipality for the sole purpose of reconstructing, replacing or repairing such Sewage Collection System, unless the Consulting Engineers of such Municipality shall furnish to such Municipality

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<sup>7</sup> **Cross-Reference:** Under Article III of an Amendment applicable after June 30, 1993 (*see* Codified Ordinances § 65-R(11)), the Municipalities agree to the establishment of Working Capital Reserves to replace similar reserves in the 1971 Trust Indenture for the County Interceptor, which were charged through in the Lease to the County Interceptor and passed through to the Municipalities under this provision.

<sup>8</sup> **Cross-Reference:** *see* Codified Ordinances § 65-O(1).

a Consulting Engineers' Certificate stating that such reconstruction, replacement or repair is not required for proper and efficient operation of such Sewage Collection System.

SECTION 8.03. **[Other Insurance.]** Each Municipality covenants to maintain such public liability insurance, property damage insurance and workmen's compensation insurance with respect to the Sewage Collection System to be operated by such Municipality and operation thereof in such amounts, with such companies and with policies containing such terms as shall be approved by its Consulting Engineers.

## ARTICLE IX

### ADDITIONAL COVENANTS OF THE MUNICIPALITIES

SECTION 9.01. **[Annual Consulting Engineers' Report.]** Each Municipality covenants to require its Consulting Engineers to furnish to it on or before December 1 of each year, beginning on December 1 immediately succeeding the date the Sewage Collection System to be operated by such Municipality is connected to the Interceptor System, a report setting forth:

A. Advice and recommendations as to:

(1) Proper maintenance, repair and operation of the Sewage Collection System to be operated by such Municipality during its next Fiscal Year; and

(2) Estimated expenditures that should be made by it during such next Fiscal Year to keep the Sewage Collection System to be operated by such Municipality in good repair and operating condition;

B. An estimate of expenditures that should be made by it during such next Fiscal Year to comply with recommendations set forth in such report and to enable it to meet all its obligations hereunder and all of its obligations under the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable;

C. An estimate of receipts and revenues to be received by it from operation of the applicable Sewage Collection System 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 each Municipality with the other parties hereto and the Trustee.

Such report shall be used by a Municipality as the basis for preparation of such portions of its budget for such next Fiscal Year as shall relate to the Sewage Collection System to be operated by such Municipality, including obligations payable hereunder. Upon adoption of such budget, each Municipality shall file copies with the other parties hereto, the Trustee and its Consulting Engineers.

SECTION 9.02. **[Appropriations to Sewer Revenue Account.]** Each Municipality covenants that it will make such appropriations to its 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 then permitted by law, to enable it to meet all its obligations hereunder and all of its obligations under the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable.

SECTION 9.03. **[Audit of Sewer Revenue Account.]** Each Municipality covenants to keep accurate records with respect to its Sewer Revenue Account and, within 30 days after the end of each Agreement Year, to have made a complete audit of its Sewer Revenue Account by its Certified Public Accountant. Such audit shall show, among other things, the moneys in the Sewer Revenue Account at the end of the Agreement Year. A signed counterpart of such audit shall be furnished to the other parties

hereto, its 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 Sewage Collection System to be operated by such Municipality.

SECTION 9.04. **[Maintenance and Operation of Collection System.]** Each Municipality covenants to maintain the Sewage Collection System to be operated by such Municipality in good repair and operating condition, to operate the same continuously in an economical and efficient manner and to make all repairs, renewals, replacements and improvements in order to maintain adequate service and to prevent excessive infiltration of ground and surface waters.

SECTION 9.05. **[Annual Consulting Engineers' Certificate.]** Each Municipality covenants to furnish to the other parties hereto and the Trustee on or before December 1 of each year, beginning on December 1 immediately succeeding the date the Sewage Collection System to be operated by such Municipality is connected to the Interceptor System, a Consulting Engineers' Certificate, in form and content satisfactory to the Authority and the Trustee, stating that:

A. The Sewage Collection System to be operated by such Municipality is in good repair and operating condition; or

B. Such Sewage Collection 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 such Sewage Collection System in good repair and operating condition.

If such certificate shall read as in subparagraph B above, such Municipality covenants promptly to restore such Sewage Collection System to good repair and operating condition and upon such restoration, to furnish the other parties hereto and the Trustee a Consulting Engineers' Certificate reading as provided in subparagraph A above.

SECTION 9.06. **[Compliance with Statutes, Orders, etc.]** Each Municipality 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 Sewage Collection System to be operated by such Municipality.

SECTION 9.07. **[Prohibited Wastes.]** Each Municipality covenants that if will adopt, enforce and keep in full force and effect continuously during the term of this Agreement, an ordinance or ordinances prohibiting the discharge into the Sewage Collection System to be operated by such Municipality of any wastes which are prohibited to be discharged into the Allentown Sewer System under rules and regulations of the City or Allentown Authority; Provided, however, that the foregoing restriction shall not apply with respect to wastes which will be subject to pretreatment prior to entry into the Allentown Sewer System which will render such wastes acceptable under said rules and regulations of the City or Allentown Authority.

SECTION 9.08. **[No Prior Charges on Sewer Revenues.]** Each Municipality covenants not to create any charges upon or against its Sewer Revenues or against any other moneys required to be deposited in its Sewer Revenue Account prior to its obligations hereunder.

SECTION 9.09. **[Compliance with Collection and Interceptor System Leases.]** Each Municipality covenants to comply fully with all covenants, warranties and representations set forth in the Alburdis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease, as applicable, and not to permit such applicable Lease to be terminated during the term hereof; Provided, however, that the Alburdis Lease may be terminated during the term hereof if as a result of such termination the Borough of Alburdis shall become the owner of the Sewage Collection System to be leased to such Borough under the Alburdis Lease and such Borough shall agree with the County and the County Authority to remain in possession of such Sewage Collection System during the term hereof and, likewise, the Lower Macungie Lease may be terminated during the term hereof if as a result of such termination the Township of Lower

Macungie shall become the owner of the Sewage Collection System leased to such Township under the Lower Macungie Lease and such Township shall agree with the County and the County Authority to remain in possession of such Sewage Collection System during the term hereof and, likewise, the Macungie Lease may be terminated during the term hereof if as a result of such termination the Borough of Macungie shall become the owner of the Sewage Collection System leased to such Borough under the Macungie Lease and such Borough shall agree with the County and the County Authority to remain in possession of such Sewage Collection System during the term hereof and, likewise, the Upper Macungie Lease may be terminated during the term hereof if as a result of such termination the Township of Upper Macungie shall become the owner of the Sewage Collection System leased to such Township under the Upper Macungie Lease and such Township shall agree with the County and the County Authority to remain in possession of such Sewage Collection System during the term hereof.

The County covenants to comply fully with all covenants, warranties and representations set forth in the County Lease and not to permit the County Lease to be terminated; Provided, however, that the County Lease may be terminated if as a result of such termination the County shall become the owner of the Interceptor System and the County shall agree with the Municipalities to remain in possession of the Interceptor System or if at the time of such termination County Authority shall agree with the Municipalities to remain in possession of the Interceptor System or if at the time of such termination, the Interceptor System, at the request of all of the Municipalities, shall be conveyed and transferred to one or more of the Municipalities.

SECTION 9.10. **[Possession of Collection or Interceptor System by Authorities.]** If, during the term hereof, Alburdis Authority or any successor thereof or any trustee, receiver, officer, board, commission, agency, instrumentality or other Person to whom or which any right, power or duty of Alburdis Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Borough of Alburdis under the Alburdis Lease, then all covenants herein by, in behalf of or for the benefit of the Borough of Alburdis, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of such Sewage Collection System.

If, during the term hereof, Lower Macungie Authority or any successor thereof or any trustee, receiver, officer, board, commission, agency, instrumentality or other Person to whom or which any right, power or duty of Lower Macungie Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Township of Lower Macungie under the Lower Macungie Lease, then all covenants herein by, in behalf of or for the benefit of the Township of Lower Macungie, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of such Sewage Collection System.

If, during the term hereof, Macungie Authority or any successor thereof or any trustee, receiver, officer, board, commission, agency, instrumentality or other Person to whom or which any right, power or duty of Macungie Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Borough of Macungie under the Macungie Lease, then all covenants herein by, in behalf of or for the benefit of the Borough of Macungie, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of such Sewage Collection System.

If, during the term hereof, Upper Macungie Authority or any successor thereof or any trustee, receiver, officer, board, commission, agency, instrumentality or other Person to whom or which any right, power or duty of Upper Macungie Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Township of Upper Macungie under the Upper Macungie Lease, then all covenants herein by, in behalf of or for the benefit of the Township of Upper Macungie, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of such Sewage Collection System.

If, during the term hereof, County Authority or any successor thereof or any trustee, receiver, officer, board, commission, agency, instrumentality or other Person to whom or which any right, power or duty of County Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Interceptor System leased to the County under the County Lease, then all covenants herein by, in behalf of



or for the benefit of the County, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of the Interceptor System.

SECTION 9.11. **[Assignment.]** Each Municipality covenants that it will not voluntarily assign its interest in this Agreement without written consent of the County and, if such consent shall be given, then only subject to conditions which may be set forth in such consent.

SECTION 9.12. **[Inspection of Collection Systems.]** Each Municipality covenants that the County, by its duly authorized representatives, at reasonable times, may inspect any part of the Sewage Collection System at the time being operated by such Municipality.

## ARTICLE X

### ADDITIONAL COVENANTS OF THE COUNTY

SECTION 10.01. **[Maintenance and Operation of Interceptor System.]** The County covenants to maintain the Interceptor System in good repair and operating condition, to operate the same continuously in an economical and efficient manner and to make all repairs, renewals, replacements and improvements in order to maintain adequate service.

SECTION 10.02. **[Compliance with Statutes, Orders, etc.]** The County covenants to comply with all valid acts, rules, regulations, orders and directives of any legislative, executive, administrative or judicial body applicable to operation, repair and maintenance related to the Interceptor System.

## ARTICLE XI

### MISCELLANEOUS

SECTION 11.01. **[Additional Bonds.]** The Municipalities agree that the County Authority may issue Additional Bonds, from time to time, for purposes and in the manner provided in the Indenture. If the County Authority shall issue Additional Bonds, the Municipalities covenant to take such action as may be required under the Indenture.

SECTION 11.02. **[Source of Municipal Payments.]** The Authority and each Municipality agree that all obligations of such Municipality hereunder shall be paid from such Municipality's Sewer Revenue Account and from other moneys of such Municipality made available for such purposes from current revenues, within limits then provided by law or other legally available funds, and that neither the credit nor taxing power of such Municipality is pledged for such payments; Provided, however, that nothing herein shall prevent such Municipality from satisfying obligations hereunder from any funds which legally may be available therefor.

SECTION 11.03. **[Annual Statement and Report by County Authority; Examination of Records.]** The County agrees to cause the County Authority to furnish to each Municipality a copy of each annual statement relating to the Interceptor System and the Indenture, prepared by the certified public accountant of the County Authority, as required by the Act and the Indenture, and, if requested, County agrees to cause the County Authority to permit any duly authorized representative of any Municipality to make reasonable examinations of the accounts and records relating to the Interceptor System and the Indenture. The County also agrees to cause the County Authority to furnish to each Municipality a copy of each annual report relating to the Interceptor System, prepared by the consulting engineers of the County Authority, as required by the Indenture.

SECTION 11.04. **[Employment of Managers; Delegation of Management Powers.]** Nothing herein shall be construed to limit or restrict the right of each Municipality 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 Sewage Collection System in its possession in its behalf or to perform other functions of such Municipality with respect to such Sewage Collection System, whether such shall be a municipality authority, a management firm or other Person, and to delegate to such Person such duties of such Municipality

hereunder as it shall deem advisable and as it lawfully may delegate; Provided, however, that such employment and delegation shall not relieve such Municipality of its obligations hereunder.

Nothing herein shall be construed to limit or restrict the right of the County to employ, from time to time, to the extent permitted by law such Person as it shall deem advisable and in its best interest to manage or operate the Interceptor System in its behalf or to perform other functions of the County with respect to such Interceptor System whether such shall be a municipality authority, a management firm or other Person and to delegate to such Person such duties of the County as it shall deem advisable and as it lawfully may delegate; Provided, however, that such employment and delegation shall not relieve the County of its obligations hereunder.

SECTION 11.05. **[No Voluntary Discontinuance of Collection Systems.]** Each Municipality covenants that during the term of this Agreement it will not voluntarily discontinue operation of the Sewage Collection System in its possession.

SECTION 11.06. **[Extraterritorial Services by Municipalities.]** Any Municipality, with written consent of the County and each of the other Municipalities, may enter into agreements, from time to time, with any Person located beyond the geographical boundaries of each Municipality not then constituting a customer receiving sewage collection service from such Municipality, pursuant to which such Municipality shall agree to collect and transport Sewage of such Person to the Interceptor System; Provided, however, that prior to execution of any such agreement, such Municipality shall furnish to the County and the other Municipalities a Consulting Engineers' Certificate, approved by the consulting engineers of the County, 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 Sewage Collection System in possession of such Municipality or of the Interceptor System; and (3) will be advantageous, economically and financially, in connection with use and operation of the Sewage Collection System in possession of such Municipality and of the Interceptor System. The County covenants that it will join with such Municipality in execution of any such agreement if such joinder shall be legally necessary or desirable.

SECTION 11.07. **[Service to Other Persons by County.]** The County, with written consent of each of the Municipalities, may enter into agreements, from time to time, in addition to this Agreement and to the extent that the same do not conflict with this Agreement, with any Person pursuant to which the County shall agree to accept Sewage of the other party to such agreement in connection with use and operation of the Interceptor System; Provided, however, that prior to execution of any such agreement the County shall furnish to each of the Municipalities a certificate of the County's consulting engineers setting forth that:

A. The proposed agreement has been reviewed by the County's consulting engineers and the same is approved by such consulting engineers with respect to engineering and operating aspects thereof; and

B. Execution and performance of the proposed agreement, in the opinion of such consulting engineers: (1) will not affect adversely the security of holders of Bonds; (2) will not affect adversely operation and use of the Interceptor System; and (3) will be advantageous, economically and financially, in connection with use and operation of the Interceptor System.

SECTION 11.08. **[Municipalities to Use Interceptor System Exclusively.]** Each Municipality may provide for transportation and/or treatment and/or disposition of Sewage collected in the Sewage Collection System to be operated by such Municipality other than by discharge to the Interceptor System only

if: (1) County and/or County Authority shall state in writing that such Sewage cannot be accepted for transportation through the Interceptor System or further transportation, treatment and disposition by the facilities constituting the Allentown Sewer System without jeopardizing the rights and guarantees of any other Municipality as set forth in the Agreement<sup>9</sup>, dated January 22, 1970, as more particularly identified in Section 6.03 hereof; or (2) all other Municipalities shall consent in writing to the proposal of any Municipality not to discharge into the Interceptor System any Sewage collected in the Sewage Collection System to be operated by such Municipality.

In accordance with the above each of the Municipalities do hereby consent to the proposal of the Township of Lower Macungie not to discharge into the Interceptor System any Sewage emanating from that area of the Township of Lower Macungie which is located in the northeast section of said Township and is bounded as follows:

1. On the West by the Pennsylvania Turnpike.
2. On the North by Upper Macungie Township.
3. On the East by South Whitehall Township.
4. On the South by the hydraulic ridge separating the Little Lehigh Creek Watershed and the Cedar Creek Watershed.

SECTION 11.09. **[Severability; Governing Law.]** 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 11.10. **[Counterparts.]** This Agreement 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, each of the parties hereto has caused this Service Agreement to be duly executed and attested by its proper officers, pursuant to proper action of its governing body, all as of the day and year first above written.

{Signed and Attested by Officers of the County of Lehigh, Borough of Alburtis, Borough of Macungie, Township of Upper Macungie, and Township of Lower Macungie.}

### **CONSENT AND JOINDER**

UPPER MACUNGIE TOWNSHIP AUTHORITY (the "Upper Macungie Authority"), LOWER MACUNGIE TOWNSHIP AUTHORITY (the "Lower Macungie Authority"), BOROUGH OF ALBURTIS SEWER AUTHORITY (the "Alburtis Authority") and BOROUGH OF MACUNGIE SEWER AUTHORITY (the "Macungie Authority"), all of which are Pennsylvania municipality authorities located in Lehigh County, Pennsylvania, and which sometimes hereinafter are referred to collectively as the "Authorities", for value received, do hereby consent to all terms and provisions of the foregoing Service Agreement, dated for convenience as of August 1, 1970 (the "Agreement", which term shall include all modifications, alterations, amendments and supplements made thereto), by and between the County of Lehigh, party of the first part, and the Townships of Upper Macungie and Lower Macungie and the Boroughs of Alburtis and Macungie, all located in Lehigh County, Pennsylvania, parties of the second part, and all modifications, alterations, amendments

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<sup>9</sup> **Cross-Reference:** *see* Codified Ordinances ¶ 65-O(1).

and supplements thereto hereafter made and delivered, and do hereby join in said Agreement to the same effect as if said Authorities were additional parties of the second part therein.

Without in any way limiting the generality of the foregoing the Authorities specifically acknowledge the contents of and specifically agree to be bound by the provisions of Sections 9.09 and 9.10 of the Agreement.

Lower Macungie Authority agrees to comply fully with all covenants, warranties and representations which will be set forth in the Lower Macungie Lease, as that term is defined in the Agreement.

Upper Macungie Authority agrees to comply fully with all covenants, warranties and representations which will be set forth in the Upper Macungie Lease, as that term is defined in the Agreement.

Alburtis Authority agrees to comply fully with all covenants, warranties and representations which will be set forth in the Alburtis Lease, as that term is defined in the Agreement.

Macungie Authority agrees to comply fully with all covenants, warranties and representations which will be set forth in the Macungie Lease, as that term is defined in the Agreement.

Each of the Authorities covenants and agrees that this Consent and Joinder shall be binding upon itself and upon any successor, trustee, receiver, officer, board, commission, agency, instrumentality or other Person, as that word is defined in the Agreement, to whom or which any of its rights, powers or duties may be transferred, voluntarily or involuntarily, and that it will, in any trust indenture, instrument or document securing bonds, notes or other evidence of indebtedness issued by it so covenant and agree.

It is the intention of the parties hereto to be legally bound hereby.

IN WITNESS WHEREOF, UPPER MACUNGIE TOWNSHIP AUTHORITY, LOWER MACUNGIE TOWNSHIP AUTHORITY, BOROUGH OF ALBURTIS SEWER AUTHORITY and BOROUGH OF MACUNGIE SEWER AUTHORITY each has caused this Consent and Joinder 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, all as of this 24th day of November, 1970.

{Signed and Attested by Officers of the Upper Macungie Township Authority, Lower Macungie Township Authority, Borough of Alburtis Sewer Authority, and Borough of Macungie Sewer Authority.}

### **CONSENT AND JOINDER**

LEHIGH COUNTY AUTHORITY (the "County Authority"), a Pennsylvania municipality authority located in Lehigh County, Pennsylvania, for value received, does hereby consent to all terms and provisions of the foregoing Service Agreement, dated for convenience as of August 1, 1970 (the "Agreement", which term shall include all modifications, alterations, amendments and supplements made thereto), by and between the County of Lehigh, party of the first part, and the Townships of Upper Macungie and Lower Macungie and the Boroughs of Alburtis and Macungie, all located in Lehigh County, Pennsylvania, parties of the second part, and all modifications, alterations, amendments and supplements thereto hereafter made and delivered, and do hereby join in said Agreement to the same effect as if this County Authority was an additional party of the first part therein.

Without in any way limiting the generality of the foregoing this County Authority specifically acknowledges the contents of and specifically agrees to be bound by the provisions of Section 9.09 and 9.10 of the Agreement.

This County Authority agrees to comply fully with all covenants, warranties and representations set forth in the County Lease, as that term is defined in the Agreement.

This County Authority covenants and agrees that this Consent and Joinder shall be binding upon itself and upon any successor, trustee, receiver, officer, board, commission, agency, instrumentality or other Person, as that word is defined in the Agreement, to which or which any of its rights, powers or duties may be transferred, voluntarily or involuntarily, and that it will, in any trust indenture, instrument or document securing bonds, notes or other evidence of indebtedness issued by it so covenant and agree.

It is the intention of the County Authority to be legally bound hereby.

IN WITNESS WHEREOF, LEHIGH COUNTY AUTHORITY has caused this Consent and Joinder 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, all as of this 24th day of November, 1970.

{Signed and Attested by Officers of the Lehigh County Authority.}