

The Table of Contents, the footnotes, and the section headings shown in brackets and bold print, are NOT part of the Document, but have been added for the convenience of the reader. This Document includes certain amendments made by subsequent agreements, as described in the footnotes.

AGREEMENT

TABLE OF CONTENTS

SECTION 1.	Definitions <i>Act</i> <i>Alburtis Authority</i> <i>Alburtis Lease</i> <i>Allentown Treatment Agreements</i> <i>Allentown Sewer System</i> <i>Amortization Costs</i> <i>Cedar Creek Interceptor</i> <i>City</i> <i>County Authority</i> <i>Debt Service Requirements</i> <i>Dwelling Unit</i> <i>Emmaus Interceptor</i> <i>First Phase Project</i> <i>Fiscal Year</i> <i>gpd</i> <i>Lease(s)</i> <i>Little Lehigh Interceptor</i> <i>Lower Macungie Authority</i> <i>Lower Macungie Lease</i> <i>mgd</i> <i>Macungie Authority</i> <i>Macungie Lease</i> <i>Municipality (ies)</i> <i>Municipality Authority (ies)</i> <i>Operating Expenses</i> <i>Person</i> <i>Relief Interceptor System</i> <i>Salisbury Authority</i> <i>Salisbury Lease</i> <i>Second Phase Project</i> <i>Sewage</i> <i>Sewage Collection System(s)</i> <i>South Whitehall Authority</i> <i>South Whitehall Lease</i> <i>Upper Macungie Authority</i> <i>Upper Macungie Lease</i>
SECTION 2.	Designation of County Authority to Acquire, Construct, Finance, Operate and Maintain the Relief Interceptor System
SECTION 3.	Apportionment of Costs and Expenses of First Phase; Use of System by Non-Parties; Metering
SECTION 4.	Payment of Costs and Expenses by Municipalities

SECTION 5.	Use Generally Limited to Municipalities; Use by Lowhill, Weisenberg, and Upper Milford Townships; Construction and Use of Second Phase
SECTION 6.	Investment of Funds Pending Use
SECTION 7.	Financing
SECTION 8.	Municipal Approval of Plans for First Phase
SECTION 9.	Measurement of Sewage Volume
SECTION 10.	Collection System Sewer Rentals and Charges
SECTION 11.	Transfer of System to Proposed Regional Wastewater Agency
SECTION 12.	Transportation Provisions of Collector System Leases
SECTION 13.	Compliance with and Continuation of Collector System Leases
SECTION 14.	Payments Hereunder are Operating Expenses Under Collection System Leases; Obligations Under Collection System Leases Survive Expiration or Termination of Such Leases; Maintenance of Collection Systems; Compliance With Laws and Regulations; Inspection of Collection Systems by County Authority; Prohibited Wastes.
SECTION 15.	Binding Effect
SECTION 16.	Management and Operation of Collection Systems
SECTION 17.	No Discontinuance of Collection Systems
SECTION 18.	Records
SECTION 19.	Conflicts with Other Agreements
SECTION 20.	Severability
SECTION 21.	Counterparts
SECTION 22.	Effective Date; Minimum Number of Parties

CONSENT AND JOINDER OF COUNTY OF LEHIGH

EXHIBIT "A"

THIS AGREEMENT, dated for convenience as of February 10, 1981 (the "Agreement", which term sometimes is referred to in this document by the use of such words as "hereto", "hereby", "hereof" and "hereunder" or other descriptive words or phrases having similar import), by and among the Townships of Lower Macungie, Upper Macungie, Salisbury and South Whitehall and the Boroughs of Alburdis and Macungie, all Pennsylvania municipal subdivisions, Lower Macungie Township Authority, Upper Macungie Township Authority, Salisbury Township Authority, South Whitehall Township Authority, Borough of Alburdis Sewer Authority and Borough of Macungie Sewer Authority, all Pennsylvania municipality authorities each created by the appropriate municipal subdivision above named, and Lehigh County Authority, a Pennsylvania municipality authority created by the County of Lehigh, Pennsylvania.

WITNESSETH:

WHEREAS, Upper Macungie Authority has acquired and constructed 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 has leased 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 acquired and constructed 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 has leased said Sewage Collection System to said Township of Lower Macungie for use and operation, pursuant to terms of the Lower Macungie Lease; and

WHEREAS, South Whitehall Authority has acquired and constructed 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 South Whitehall, Lehigh County, Pennsylvania, and has leased said Sewage Collection System to said Township of South Whitehall for use and operation, pursuant to terms of the South Whitehall Lease; and

WHEREAS, Salisbury Authority has acquired and constructed 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 Salisbury, Lehigh County, Pennsylvania, and has leased said Sewage Collection System to said Township of Salisbury for use and operation, pursuant to terms of the Salisbury Lease; and

WHEREAS, Alburdis Authority has acquired and constructed 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 has leased 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 acquired and constructed 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 has leased said Sewage Collection System to said Borough of Macungie for use and operation, pursuant to terms of the Macungie Lease; and

WHEREAS, Sewage collected in the Sewage Collection System serving each Municipality is delivered to the Allentown Sewer System for the purpose of further transportation and for treatment and ultimate disposal; and

WHEREAS, County Authority has constructed, and leased to the County of Lehigh for operation, an intercepting sewer system for the purpose of transporting Sewage from the Sewage Collection Systems owned by Alburdis Authority, Macungie Authority, Lower Macungie Authority and Upper Macungie Authority to the Allentown Sewer System for the purpose of further transportation, treatment and ultimate disposal; and

WHEREAS, Each of the Municipalities, either directly or indirectly, are parties to one or more of the Allentown Treatment Agreements which set forth, inter alia, terms and conditions upon which the Municipalities may utilize capacity in certain sewer interceptors of the Allentown Sewer System and responsibilities and obligations of the Municipalities with respect to construction and operation of relief interceptors when necessary and appropriate; and

WHEREAS, The Municipalities and County Authority have been advised by the City that it is necessary for the Municipalities to provide for the construction and operation of a relief interceptor for the purpose of relieving a portion of the Little Lehigh Interceptor of the Allentown Sewer System, the First Phase Project portion of which relief interceptor is to start at a point on the Emmaus Interceptor which point of beginning is located approximately 3,200 feet upstream from the point of confluence of the Cedar Creek Interceptor and Emmaus Interceptor, of the Allentown Sewer System, to the Little Lehigh Interceptor approximately 1,300 feet upstream from the Sewage Treatment Plant of the Allentown Sewer System being operated by the City; and

WHEREAS, The Municipalities and County Authority have determined that it will be to their mutual advantage to undertake the construction and operation of the facilities deemed necessary and appropriate to so relieve the Little Lehigh Interceptor on a joint basis; and

WHEREAS, It is contemplated that the Relief Interceptor System may have to be constructed in phases, herein designated as the First Phase Project and the Second Phase Project; and

WHEREAS, It is contemplated that the Amortization Costs and Operating Expenses of the First Phase Project and the Second Phase Project shall be determined independently and shared by those parties using the facilities provided by each of such projects on the basis of volume of sewage as herein provided; and

WHEREAS, It is contemplated that initially the First Phase Project will be used by the Townships of Salisbury, South Whitehall, Upper Macungie and Lower Macungie and the Boroughs of Alburtis and Macungie and possibly at a later date by the City; and

WHEREAS, It is contemplated that the Second Phase Project will be constructed at such time as the capacity of the First Phase Project is fully utilized or at such time as the Emmaus Interceptor needs relief and that thereafter the facilities contemplated by the Second Phase Project will be utilized solely by the Municipalities discharging Sewage through the Interceptor System of the County Authority and possibly the City and possibly the Township of Salisbury; and

WHEREAS, It is necessary to provide, inter alia, the methods to be applied to determine the volume of Sewage to be discharged by each of the parties hereto and possibly by the City to the facilities to be provided by the First Phase Project upon completion thereof until the time of completion of the Second Phase Project and the methods to be applied to determine the volume of Sewage to be discharged by each of the parties hereto and possibly by the City to the facilities to be provided by both the First Phase Project and the Second Phase Project, respectively, subsequent to completion of the Second Phase Project; and

WHEREAS, County Authority has caused the First Phase Project to be designed by the firm of Malcolm Pirnie, Inc., Consulting Engineers, White Plains, New York; and

WHEREAS, County Authority has applied for and obtained from the United States Environmental Protection Agency (EPA) a Step 2 grant in connection with the design of the First Phase Project and has applied to the Pennsylvania Department of Environmental Resources (DER) for a Permit and to EPA for a Step 3 Construction Grant; and

WHEREAS, Each of the Leases provide, inter alia and in substance, that each of the Municipalities may, under certain conditions, enter into agreements with any Person pursuant to which, inter alia, such Person shall transport Sewage collected in the Sewage Collection System of said Municipality.

NOW, THEREFORE, The Municipalities, the Municipality Authorities and County Authority, in consideration of agreements, conditions and covenants herein contained, each intending to be legally bound, covenant and agree as follows:

SECTION 1. **[Definitions.]** The terms and phrases used herein, including the Preamble hereof, shall have the meanings specified in the Preamble hereof or in this Section 1, or in subsequent Sections hereof, 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.

“*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.¹

“*Allentown Treatment Agreements*” means, collectively, all existing agreements with the City which provide terms and conditions upon which Sewage collected in any of the Sewage Collection Systems shall be discharged to the Allentown Sewer System for transportation,

¹ **Cross-Reference:** see Modified Ordinances § 65-N(1).

treatment and/or ultimate disposal, and shall include any amendments and/or supplements to any of said agreements which at any time shall constitute a part thereof and shall include any new agreements entered into in substitution for any existing Allentown Treatment Agreements.²

“*Allentown Sewer System*” means all property and facilities, from time to time, 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.

“*Amortization Costs*” means the total Debt Service Requirements in each Fiscal Year (excluding any capitalized Debt Service Requirements) plus any mandatory payments in excess of Debt Service Requirements required to be deposited in any Fiscal Year in any reserve fund pursuant to provisions of the trust indenture securing any bonds to be issued to pay the costs related to acquisition and construction of the Relief Interceptor System.

“*Cedar Creek Interceptor*” means that interceptor sewer extending upstream along the route of Cedar Creek from the point of connection of the Emmaus Interceptor with the Little Lehigh Interceptor, as further identified on Exhibit “A” attached hereto and made a part hereof.

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

“*County Authority*” means Lehigh County Authority, a Pennsylvania municipality authority, owner of an interceptor sewer system which serves, inter alia, some of the Municipalities.

“*Debt Service Requirements*” mean, with respect to any Fiscal Year, the sum of amounts required to be set aside in such Fiscal Year for payment of interest on and principal of bonds under consideration and amounts required to be deposited in such Fiscal Year to the credit of any sinking, purchase, redemption or analogous fund established for such bonds; Provided, however, that Debt Service Requirements with respect to any Fiscal Year for a series of bonds for which there shall have been established a sinking, purchase, redemption or analogous fund shall be determined after projecting operation of such fund to retirement of bonds of such series, to the extent that the same shall be required to be retired, and giving effect to reduction in interest payments to be made with respect to such bonds by reason of such retirement.

“*Dwelling Unit*” means any room, group of rooms, building, house trailer or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together (excluding any institution or commercial dwelling unit) or by a person living alone.

“*Emmaus Interceptor*” means that interceptor sewer extending upstream along the route of the Little Lehigh Creek from the point of connection of the Cedar Creek Interceptor with the Little Lehigh Interceptor, as further identified on Exhibit “A” attached hereto and made a part hereof.

“*First Phase Project*” means the undertakings necessary in connection with the acquisition and construction of a pumping station to be known as the “Park Pumping Station”, a force main and related facilities, as identified on Exhibit “A” attached hereto and made a part hereof, which construction is to be in accordance with plans and specifications prepared or to be prepared by the firm of Malcolm Pirnie, Inc., Consulting Engineers, White Plains, New York, or in accordance

² **Cross-Reference:** see Codified Ordinances § 65-O with respect to the Western Lehigh system.

with approved changes, modifications and alterations of such plans and specifications, being the contemplated first stage of the Relief Interceptor System.

“*Fiscal Year*” means the period of twelve months ending on the date of each year which coincides with the maturity date of the series of bonds issued to pay the initial costs of acquisition and construction of the Relief Interceptor System.

“*gpd*” means gallons per day.

“*Lease*” or “*Leases*” means, individually or collectively, as applicable and appropriate, the Alburdis Lease, the Lower Macungie Lease, the Macungie Lease, the Salisbury Lease, the South Whitehall Lease and the Upper Macungie Lease.

“*Little Lehigh Interceptor*” means that interceptor sewer extending downstream along the Little Lehigh Creek from the confluence of the Emmaus Interceptor and the Cedar Creek Interceptor to the point of its connection with an interceptor sewer known as the Jordan Creek Interceptor, as further identified on Exhibit “A” attached hereto and made a part hereof.

“*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.

“*mgd*” means millions of gallons per day.

“*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, Upper Macungie, Salisbury and South Whitehall and the Boroughs of Alburdis and Macungie, all Pennsylvania municipal subdivisions located in Lehigh County, Pennsylvania.

“*Municipality Authority*” or “*Municipality Authorities*” means, individually or collectively, as applicable and appropriate, Lower Macungie Township Authority, Upper Macungie Township Authority, Salisbury Township Authority, South Whitehall Township Authority, Borough of Alburdis Sewer Authority and Borough of Macungie Sewer Authority, all Pennsylvania municipality authorities. County Authority shall not be construed to be included within the terms “*Municipality Authority*” or “*Municipality Authorities*”, when used herein, but shall be referred to individually whenever reference to the County Authority is intended herein.

“*Operating Expenses*” means, with respect to the Relief Interceptor System, all expenses properly required in operating and maintaining the Relief Interceptor System, including, without intending to limit the generality of the foregoing:

- A. Expenses of operation, maintenance, repair, alteration, insurance and inspection;

B. Expenses of managerial, supervisory, administrative, engineering, architectural, legal, accounting 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.

Whenever County Authority, as operator of the Relief Interceptor System, incurs Operating Expenses which are applicable in part to the operation or maintenance of the Relief Interceptor System and in part to the operation or maintenance of sewer facilities other than the Relief Interceptor System or of water or other types of facilities, County Authority shall properly and equitably allocate such Operating Expenses among the facilities or projects to which they relate.

“*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 of Pennsylvania and Federal Governments.

“*Relief Interceptor System*” means all facilities to be acquired and/or constructed, as contemplated by the First Phase Project and Second Phase Project, together with all appurtenant facilities and properties acquired or constructed and required in connection with the operation thereof, including all property, real, personal and mixed, rights, powers, licenses, easements, rights of way, privileges, franchises and any and all other 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.

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

“*Salisbury Lease*” means the Agreement of Lease, by and between Salisbury Authority, as lessor, and the Township of Salisbury, 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.

“*Second Phase Project*” means the undertakings necessary in connection with the acquisition and construction of a second pumping station to be known as “Kecks Bridge Pumping Station”, and a further force main and related facilities, as identified on Exhibit “A” attached hereto and made a part hereof, contemplated to be acquired and constructed as a second stage of the Relief Interceptor System; Provided, however, that said definition shall in no way be construed so as to prohibit the parties hereto from agreeing to change the location or type of facilities to be constructed in the Second Phase Project or to further divide the Second Phase Project into two or more separate projects, as circumstances may make advisable. In the event the Second Phase Project is so subdivided into two or more separate projects, each of such separate projects shall be considered a “Second Phase Project” for the purpose of this Agreement.³

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

³ **Cross-Reference:** see Modified Ordinances ¶ 65-P(3) for the 1985 Amendment redefining the Phase II project and the obligations of the parties with the respect to the Phase II project.

“*Sewage Collection System*” or “*Sewage Collection Systems*” means, individually or collectively, as applicable and appropriate, the sewage collection facilities acquired and/or constructed by Alburtis Authority and/or Lower Macungie Authority and/or Macungie Authority and/or Salisbury Authority and/or South Whitehall 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.

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

“*South Whitehall Lease*” means the Agreement of Lease, by and between South Whitehall Authority, as lessor, and the Township of South Whitehall, 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.

“*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.

SECTION 2. [Designation of County Authority to Acquire, Construct, Finance, Operate and Maintain the Relief Interceptor System.] The Municipalities hereby designate County Authority as the Person which shall be responsible for the acquisition and construction of the Relief Interceptor System, subject to the terms and conditions with respect thereto as set forth herein.

The Municipalities hereby designate the County Authority as the Person to finance the acquisition and construction of the Relief Interceptor System, subject to the terms and conditions with respect thereto as set forth herein.

The Municipalities hereby designate the County Authority as the Person to operate and maintain the Relief Interceptor System, subject to the terms and conditions with respect thereto as set forth herein.

County Authority agrees to obtain any required approvals of State and Federal agencies and to apply for Federal funding, as provided under the Water Pollution Control Act, P. L. 92-500, as amended. County Authority shall proceed expeditiously with construction of the First Phase Project at such time as such funding is approved.

SECTION 3. [Apportionment of Costs and Expenses of First Phase; Use of System by Non-Parties; Metering.] The parties hereto agree that all Amortization Costs and all Operating Expenses related to acquisition, construction and operation of the First Phase Project portion of the Relief Interceptor System shall be shared by the Municipalities on the basis of the total annual volume of Sewage discharged by each of the Municipalities into the Little Lehigh Interceptor measured as provided herein and regardless

of where such Sewage enters the Little Lehigh Interceptor and regardless of whether or not such Sewage flows through the First Phase Project portion of the Relief Interceptor System.

The portion of such costs to be paid by each of the Municipalities shall be determined by the fractions, converted to decimals computed to the nearest one thousandth, the denominator of each of which shall be the total volume of Sewage entering the Little Lehigh Interceptor collectively from the Sewage Collection Systems of all of the Municipalities, and the numerator of each of which shall be the volume of such Sewage so entering the Little Lehigh Interceptor from the Sewage Collection System of each Municipality, except that Sewage entering the Little Lehigh Interceptor from the Sewage Collection operated by the Township of South Whitehall shall be reduced by 500,000 gpd in the denominator and the numerator applicable to the Township of South Whitehall, which 500,000 gpd is chargeable to and the responsibility of City, pursuant to Agreement dated November 20, 1962.

Neither the City or any other municipality, municipality authority or other Person not a party to this Agreement shall be permitted to discharge Sewage into any of the facilities constituting a part of the Relief Interceptor System until such time as all of the parties to this Agreement shall agree with the City or other municipality, municipality authority or other Person not a party to this Agreement on the terms and conditions pursuant to which such Sewage can be so discharged.

To the extent necessary, if any, and as more specifically provided in Section 9 hereof, each Municipality agrees to install and maintain such measuring devices as shall be necessary in order properly to measure the volume of Sewage so discharged to the Little Lehigh Interceptor from its respective Sewage Collection System. It is understood and agreed that the Sewage so discharged to the Little Lehigh Interceptor from the Sewage Collection Systems of the Townships of Lower Macungie and Upper Macungie and the Boroughs of Alburtis and Macungie first may be measured collectively and thereafter said collective volume shall be allocated to each of said Municipalities in the manner provided for in an Agreement⁴, dated January 22, 1970, by and among the County Authority, the County of Lehigh, the Boroughs of Alburtis and Macungie, the Township of Upper Macungie and Lower Macungie Authority, to which Agreement the Township of Lower Macungie has consented and joined, as the same may be amended from time to time, adjusted upward, however, in the case of the Sewage Collection System of Lower Macungie Authority and, if and when applicable, the Sewage Collection System of Upper Macungie Authority, for the volume of Sewage discharged to the Little Lehigh Interceptor other than through the "Interceptor System" of County Authority, as defined in the aforementioned Agreement, dated January 22, 1970, as provided for under Section 11.08 of the Service Agreement⁵, dated August 1, 1970, between the County of Lehigh, on the one hand, and the Townships of Upper Macungie and Lower Macungie and the Boroughs of Alburtis and Macungie, on the other hand. It is contemplated that said Agreement⁶, dated January 22, 1970, is to be amended in order more properly to allocate infiltration and inflow volumes among the parties. The volume of Sewage discharged to the Little Lehigh Interceptor from the Sewage Collection System of the Township of Salisbury shall be measured by meters at each point of connection. The volume of Sewage discharged to the Little Lehigh Interceptor from the Sewage Collection System of the Township of South Whitehall shall be measured by a meter or meters at the point or points of connection directly connected to or ultimately discharging to the Cedar Creek Interceptor of the Allentown Sewer System, which Cedar Creek Interceptor connects to the Little Lehigh Interceptor downstream from the proposed location of the point of origination of the First Phase Project portion of the Relief Interceptor System on the Emmaus Interceptor. It is understood and agreed that certain Sewage of users of the Sewage Collection Systems of certain Municipalities is discharged (or deemed hereunder to be discharged) ultimately to the Little Lehigh Interceptor through a Sewage Collection System of another Municipality in accordance with existing agreements, which agreements provide methods for computing the volume of such Sewage. The methods provided under such

⁴ **Cross-Reference:** *see* Modified Ordinances ¶ 65-O(1).

⁵ **Cross-Reference:** *see* Modified Ordinances ¶ 65-O(2).

⁶ **Cross-Reference:** *see* Modified Ordinances ¶ 65-O(1).

existing agreements shall be utilized in measuring volume hereunder in order to determine properly the volume of Sewage discharged from each Sewage Collection System.

The parties hereto agree among themselves to determine if the City is discharging Sewage to the First Phase Project portion of the Relief Interceptor System by first measuring or estimating, as herein provided, over each calendar month, all Sewage discharged from the Sewage Collection System of the City to the Little Lehigh Interceptor, either directly at points upstream from the 30-inch portion of the Little Lehigh Interceptor or via the Emmaus Interceptor and/or the Cedar Creek Interceptor, to which shall be added the 500,000 gpd discharged from the Sewage Collection System of South Whitehall Authority to the Little Lehigh Interceptor and Sewage discharged to said Emmaus Interceptor, Cedar Creek Interceptor and the Little Lehigh Interceptor from Sewage Collection Systems of any other Person not a party to this Agreement, the transportation of which is the responsibility of the City, and at such time as the average daily discharge determined as aforesaid shall exceed 3.4 million gallons (the designed average daily discharge capacity of the City's existing Little Lehigh Interceptor), the excess shall be deemed to be a discharge of Sewage by the City to the First Phase Project portion of the Relief Interceptor System. Except as otherwise requested by a majority of the Municipalities, County Authority shall annually supply to the other parties only such information as it receives in the ordinary course of operation concerning discharges chargeable to the City in the three aforementioned City Interceptors.

The aforesaid methods of determination of volumes of discharge of Sewage by the parties hereto shall be applicable until such time as the Second Phase Project portion of the Relief Interceptor System shall be constructed and in operation. Thereafter, the volume of Sewage chargeable against the Townships of Lower Macungie and Upper Macungie and the Boroughs of Alburty and Macungie collectively (other than the volume of Sewage discharged from the Sewage Collection System of Lower Macungie Authority and, if applicable, the Sewage Collection System of Upper Macungie Authority to the Little Lehigh Interceptor other than through the "Interceptor System" of County Authority, as referred to in the fourth unnumbered paragraph of this Section 3), for the purpose of determining the percentage of sharing of Amortization Costs and Operating Expenses related to the First Phase Project portion of the Relief Interceptor System shall be determined by deducting the combined average daily volume of Sewage discharged to the Little Lehigh Interceptor by all of the parties hereto other than the volume of Sewage so discharged through the aforesaid "Interceptor System" of County Authority, computed for each calendar month, plus, if applicable, the volume of Sewage deemed to be discharged to the First Phase Project portion of the Relief Interceptor System by the City as computed in the fifth unnumbered paragraph of this Section 3, from 6.4 million gallons, but in no event shall the volume so chargeable be deemed to be in excess of 3.6 million gallons average daily flow. The method of measurement of the volume of other Sewage deemed to be discharged to the First Phase Project portion of the Relief Interceptor System shall continue unchanged by reason of construction of the Second Phase Project portion of the Relief Interceptor System.

SECTION 4. [Payment of Costs and Expenses by Municipalities.] In order to provide funds available to the County Authority when needed for payment of Amortization Costs and Operating Expenses related to the Relief Interceptor System, County Authority, at least sixty days prior to the beginning of each Fiscal Year, shall prepare and furnish to each Municipality a budget setting forth anticipated Amortization Costs and anticipated Operating Expenses related to the Relief Interceptor System with dates when said costs and expenses are anticipated to become due. Said budget also shall set forth the anticipated allocation of said costs and expenses among the Municipalities on the basis of volumes of discharge during the preceding twelve months adjusted, if applicable, for known changes of conditions. Said anticipated allocation of said costs and expenses shall set forth dates of payments by the Municipalities so as to provide funds to the County Authority at the times required. Said budget may provide a reasonable allowance for working capital and may be amended and modified by County Authority at any time as necessary in order always to provide to County Authority sufficient funds at the time required to meet Amortization Costs and Operating Expenses related to the Relief Interceptor System when the same become due and payable. Said budget also shall include an estimate of any annual or periodic grants or other moneys anticipated to be received and to be available to meet Operating Expenses and/or Amortization Expenses so as to provide for allocation only of net Operating Expenses and/or net Amortization Expenses. If any of the Municipalities desire to comment upon any item in the aforesaid budget or any amendment thereto prepared by the County

Authority, such comments shall be made within thirty-five days of the receipt of such budget or any amendment thereto.

Each of the Municipalities agrees to make payment of its proportionate share of Amortization Costs and Operating Expenses on or before the dates set forth in the aforesaid budget or any amendment thereto.

Within sixty days of the close of each Fiscal Year County Authority shall prepare and furnish to each Municipality a report setting forth the actual Amortization Costs and Operating Expenses with respect to the Relief Interceptor System incurred during the preceding Fiscal Year and the proper allocation of such costs and expenses among the Municipalities based upon actual records of volume of Sewage discharged from each Sewage Collection System during the preceding Fiscal Year. Each Municipality, within thirty days of such report, shall pay to County Authority any deficiency properly chargeable against such Municipality for the preceding Fiscal Year. Each Municipality making any overpayment for the preceding Fiscal Year, as reflected by said report, shall receive a credit against the first payment(s) thereafter coming due.

All payments required hereunder to be made by the Municipalities shall be made within thirty days of the determination by County Authority of the amount due and notice thereof by County Authority to the Municipalities. Said thirty day period shall begin on the date appearing on the notice of the determination which date shall coincide with the mailing date. If any Municipality fails to make such payment within said thirty day period, such Municipality shall pay a penalty payment of 5% of the payment due plus 1% of the payment due for each thirty day period (or part thereof) expiring between the date the payment was due and the date the payment was made. Such penalty payments shall be considered as other moneys available to meet Operating Expenses and/or Amortization Expenses and shall be applied by County Authority for such purposes, in effect allocating such penalties among all of the Municipalities, including the defaulting Municipality.

If any Municipality shall dispute the determination by the County Authority of the amount of any payment due from said Municipality, the Municipality nevertheless shall make the payment, in full, within the aforementioned thirty day period setting forth in writing to County Authority the amount of the payment it deems to be in dispute (being the amount determined by County Authority in excess of the amount determined by the Municipality to be due) and the reason(s), if any, for the different determination. County Authority shall place the disputed amount in an interest-bearing escrow account and shall use the undisputed amount for its proper purposes. In the event of any such dispute, County Authority shall schedule a joint meeting of all of the Municipalities on a date not less than 30 days or more than 45 days from the date County Authority notifies the Municipalities of the time and place of such meeting. Each Municipality may be represented by one or more representatives at said meeting, and each Municipality shall be authorized and shall have the right to cast one vote in favor of or against the determination made by the County Authority or any suggested modification or change thereof. If the Municipalities are evenly divided in their determination, the determination of County Authority shall control. Interest earned on any amount determined to be an overpayment by the Municipality shall be paid to the Municipality. All other interest earned on any disputed amount shall be considered as other moneys available to meet Operating Expenses and/or Amortization Expenses and applied by County Authority for such purposes in the same manner as is provided for penalties in the immediately preceding paragraph.

SECTION 5. [Use Generally Limited to Municipalities; Use by Lowhill, Weisenberg, and Upper Milford Townships; Construction and Use of Second Phase.] It is understood and agreed that the use of First Phase Project portion of the Relief Interceptor System is reserved for the Municipalities and no other Person shall be permitted to use the same without the written consent of each of the parties hereto, and then only subject to payment of such sum and subject to such terms and conditions as shall be set forth in writing executed by each of the parties hereto and such other Person or Persons. Provided, however, that the Township of Lowhill, the Township of Upper Milford, and the Township of Weisenberg shall have the right to discharge Sewage as permitted and limited in this paragraph into sewer systems that eventually flow into the Relief Interceptor System, the right of said three Townships being contingent and conditioned

upon their entering into written consents and joinders to the within Agreement whereby they commit themselves legally to be bound by all of the terms of this Agreement in the same manner as if they were additional Municipality parties hereto and setting forth satisfactory methods of measurement of the volume limitations herein set forth. The discharge of Sewage from Upper Milford Township shall be limited to, and shall not be permitted to exceed, an average of 100,000 gpd over an annual period. The discharge of Sewage from Lowhill Township shall be limited to Sewage from that portion of the Applewood development, as presently conceived, which lies within Lowhill Township and shall be limited to an average daily Sewage flow of 100,000 gpd over an annual period or 292 residential Dwelling Units, whichever limitation is first reached. The discharge of Sewage from Weisenberg Township shall be limited to Sewage from that portion of the Applewood development, as presently conceived which lies within Weisenberg Township and shall be limited to an average daily Sewage flow of 160,000 gpd or 460 Dwelling Units in the Applewood development, whichever limitation is first reached. In addition to the foregoing allowable Sewage flows from Lowhill and Weisenberg Township, said Townships together may discharge an additional average daily flow of Sewage of not more than 12,500 gpd from non-residential uses or users in the Applewood development in said Townships, as presently conceived, and Weisenberg Township may discharge an additional 7,500 gpd from the Pennsylvania State University facility. Upon any of said three Townships reaching any of the limitations, whether flow limitations or Dwelling Unit limitation, herein set forth, said Township shall forthwith discontinue the issuance of permits for connections to any and all parts of its sewer system which eventually flow into the Relief Interceptor System and shall prohibit any additional connections to its sewer system whether or not permits for such connections had been previously granted by it. The aforesaid limits shall in no way be construed as a guarantee of capacity in any facilities.

It is understood and agreed that no specific allocation of capacity in the First Phase Project portion of the Relief Interceptor System shall be made to any of the Municipalities with each of the Municipalities having the right to use the same without limit and without penalty so long as capacity remains available. At such time as the First Phase Project portion of the Relief Interceptor System shall become unable to handle the volume of discharge of Sewage thereto from the Sewage Collection Systems of all of the Municipalities, including sewage discharged from the Townships of Upper Milford, Weisenberg and Lowhill, as hereinbefore provided for, it shall be the responsibility of the Townships of Upper Macungie and Lower Macungie and the Boroughs of Macungie and Alburtis (sometimes herein referred to collectively as the "County Interceptor Municipalities"), together with any other municipalities not parties to this Agreement which may require the use of the Relief Interceptor System, to proceed with the acquisition and construction of the Second Phase Project portion of the Relief Interceptor System.⁷ The use of the Second Phase Project portion of the Relief Interceptor System shall be reserved for the use of the County Interceptor Municipalities and the County Interceptor Municipalities shall be responsible for all Amortization Costs and Operating Expenses related thereto unless and until said County Interceptor Municipalities shall agree in writing to the use of such facilities by other parties. (Township of Salisbury shall not be deemed to be using the Second Phase Project portion of the Relief Interceptor System so long as it is not discharging Sewage into the total Relief Interceptor System in excess of 3.5 mgd on an average annual basis notwithstanding that said Township discharges Sewage into the Relief Interceptor System upstream from the contemplated location of the Second Phase portion of the Relief Interceptor System.) In the event it should be deemed economically advantageous or otherwise necessary or advisable to divert Sewage from the First Phase Project portion of the Relief Interceptor System to the Second Phase Project portion of the Relief Interceptor System so that thereafter the First Phase Project portion of the Relief Interceptor System is not operating at full capacity, the parties hereto agree to enter into a supplemental agreement in order to equitably reimburse the County Interceptor Municipalities for any resulting increased Operating Expenses (but not Amortization Costs) of the Second Phase Project portion of the Relief Interceptor System.

SECTION 6. **[Investment of Funds Pending Use.]** Moneys paid to the County Authority hereunder shall be kept invested by the County Authority until such time as the same are required for pay-

⁷ **Cross-Reference:** see Modified Ordinances ¶ 65-P(3) for the 1985 Amendment redefining the Phase II project and the obligations of the parties with the respect to the Phase II project.

ment of Amortization Costs and Operating Expenses in the manner permitted by legal documents under which such moneys may be pledged and in such manner as permitted by law. Interest earned, profits realized or losses sustained with respect to such investments shall be charged or credited to each Municipality in the same proportionate basis as payments are made hereunder. For purposes of simplicity the parties hereto agree that any net earnings or profits made may be utilized directly by County Authority to meet payments of Operating Expenses related to the Relief Interceptor System. Any such application shall be apportioned equitably on the basis of the source of funds invested between Operating Expenses related to the First Phase Project facilities and the Second Phase Project facilities.

SECTION 7. **[Financing.]** It is contemplated that County Authority shall incur debt to finance the costs of acquisition and construction of the Relief Interceptor System. Such financing may involve the creation of certain reserve type funds and the funding thereof either through proceeds of the financing or by annual deposits thereinto. In such event if at any time moneys in said funds shall become unrestricted the same shall either be utilized to retire said debt prior to maturity or applied to payment of Operating Expenses, or for or toward extraordinary repairs or capital improvements. The utilization of such funds shall be apportioned equitably on the basis of the source of the funds between the First Phase Project and the Second Phase Project.

It is understood that the aforesaid debt will be for the purpose of financing the total cost of acquisition and construction of the proposed facilities for the First Phase Project and Second Phase Project reduced by any governmental grants or other contributions contemplated to be made available for and toward such cost. Such cost of acquisition and construction shall include the cost of planning and designing the particular project and shall include other related necessary or applicable items of cost such as capitalized interest, if desired, working capital, financing costs, inspection and supervision costs and similar customary costs. County Authority, after conference with its financial advisor and Bond Counsel and consideration of their recommendations shall prepare a proposed plan of financing which shall set forth proposed items of cost based upon the best estimates available to it at the time. Said plan of financing and estimated costs shall be submitted to each of the Municipalities at least twenty and not more than forty days prior to any scheduled date for receipt of construction bids. If any Municipality objects to such plan of financing such Municipality shall notify County Authority and all other Municipalities, in writing, of their objection within ten days. Upon receipt of any objection County Authority shall schedule a joint meeting of the governing bodies of all Municipalities at a time on or prior to the scheduled date for receipt of construction bids to consider all objections filed with it. Modifications, if any, shall be made to the plan of financing if any suggested modification is approved by a majority of all the Municipalities attending such joint meeting with each Municipality attending the meeting having the right to cast one vote approving or disapproving any suggested modification with the vote of each Municipality to be determined by the majority of the members of its governing body which shall be in attendance at such meeting and such modifications are found not to be unacceptable to Bond Counsel and Financial Advisor of County Authority.

Upon receipt of construction bids, County Authority, after conference with and upon recommendations of its Professional Engineer, Financial Advisor and Bond Counsel, shall prepare a proposed bond issue for sale in such manner it deems best, based upon construction bids received and/or engineering estimates, where applicable, and shall furnish a copy of the proposed bond issue to each Municipality. If the total of the lowest acceptable construction bids and the total proposed bond issue does not exceed the estimates of each of such items as previously furnished to each Municipality by more than fifteen percent, no further approval shall be required. If either of such items shall exceed the prior estimates by more than said fifteen percent, County Authority shall not proceed with award of construction contracts or the sale of bonds except upon written direction of the majority of the Municipalities.

It is understood and agreed that supplemental financing temporary nature may be required, in addition to the aforesaid proposed permanent financing, to provide moneys to pay costs when due and payable as a result of delays or contemplated delays in the receipt of government grants or other contributions contemplated to be received for and toward payment of costs of acquisition and construction.

County Authority, after consideration of recommendations made by its Bond Counsel and Financial Advisor, is authorized to use its discretion in determining the details and methods of consummating any such necessary or desirable supplemental financing.

County Authority agrees to use its best efforts to obtain a guarantee of the County of Lehigh, Pennsylvania, for any financing, if desirable and applicable, in order to achieve the lowest possible cost of financing. County Authority shall advise each of the Municipalities of the scheduled dates of significant meetings during the planning of construction and financing of any project, including the scheduled dates to receive bids for construction and proposals for financing. Representatives of Municipalities shall be welcome to attend such meetings and may participate in any discussions or deliberations at such meetings.

SECTION 8. [Municipal Approval of Plans for First Phase.] Each Municipality hereby accepts the plans and specifications for the First Phase Project and related documents as the same were submitted to and approved by the Pennsylvania Department of Environmental Resources (DER). Modifications thereto may be made if required by said Department of Environmental Resources of the United States Environmental Protection Agency (EPA). Additional minor modifications thereto may be made by County Authority.

Nontechnical Contract Documents shall be prepared by the Consulting Engineers of County Authority and approved by Bond Counsel of County Authority; subject and provided however, that it is understood and agreed that DER and EPA or other governmental agencies having jurisdiction may specify or require the use of certain provisions in the Contract Documents which hereby are approved by all of the parties hereto even though the same otherwise would not be prepared by said Consulting Engineers of County Authority and would not otherwise be approved by Bond Counsel of County Authority.

SECTION 9. [Measurement of Sewage Volume.]

A. For the purposes of measuring volume of Sewage discharged by any Municipality and, if applicable, the City into the Relief Interceptor System or, as applicable, into the Little Lehigh Interceptor, as herein provided, or the Emmaus Interceptor, or the Cedar Creek Interceptor or any other Interceptor Sewer leading into any of the above Interceptors, meters shall be used in every instance except where the same is not practical from an economic or engineering viewpoint as determined by County Authority.

B. Where discharge of Sewage occurs into any of the above Interceptor Sewers directly or indirectly without passing through a sewer meter, the following principles shall apply to the measurement of such Sewage to be charged against the usage of the applicable Municipality for any applicable Interceptor Sewer (or to determine any possible discharge by the City to any Interceptor Sewer):

(1) It is understood and agreed that the Municipalities and the City have entered into numerous agreements among themselves with respect to their Sewage Collection Systems, which agreements provide methods of determining volume attributable to certain users where meters are not economically feasible or practical from an engineering viewpoint. Wherever feasible, the methods set forth in said agreements shall be applied to determine volumes hereunder.

(2) Wherever any user other than a residential Dwelling Unit user discharges Sewage which does not pass through a meter before entering into any of the above Interceptor Sewers, such user or the Municipality or City which serves such user shall be required to meter all of such user's water consumption in such manner as shall be determined by County Authority to be reasonably accurate. Such water consumption or usage shall be considered the volume of discharge of Sewage by such user unless such user or the Municipality or City which serves such user shall meter in a manner satisfactory to County Authority water which does not enter into any Sewage Collection System serving any Municipality or the sewage collection and treatment system serving the City, in which case appropriate credit shall be

given for the volume of such water which is determined not to enter into any sewer system which does or would flow through the Relief Interceptor System or any Interceptor Sewer referred to herein.

(3) Any residential Dwelling Unit user discharging Sewage which does not pass through a meter before entering into any of the above Interceptor Sewers shall be deemed to have discharged Sewage in a volume equal to 350 gallons per day into the appropriate Interceptor Sewer and such volume shall be charged against the usage of the appropriate Interceptor Sewer or Interceptor Sewers by the Municipality or, if applicable, the City which renders the sewage service to such residential Dwelling Unit user.

SECTION 10. **[Collection System Sewer Rentals and Charges.]** Within sixty days of execution of this Agreement, each of the Municipalities shall have in effect Ordinances imposing sewer rentals or other charges against users of its Sewage Collection System which are not in violation of any applicable regulation of the United States Environmental Protection Agency. If required, said Ordinances, together with any necessary supporting data, shall be submitted to such Agency for its approval.

SECTION 11. **[Transfer of System to Proposed Regional Wastewater Agency; Transfer to Municipalities or their Designate.]**⁸ ~~The parties acknowledge that efforts currently are underway to establish a regional agency to provide some or all wastewater management services for areas tributary to the Allentown Wastewater Treatment Plant at Klines Island. If such efforts should result in the establishment of such an agency having the capacity to convey, treat and dispose of sewage collected in the Sewage Collection Systems, then the County Authority, to the extent permissible under the documents executed in connection with the financing of acquisition and construction of any portion of the Relief Interceptor System, may transfer or delegate responsibilities related to operation and maintenance of the Relief Interceptor System and/or ownership of the Relief Interceptor System, to said agency, subject to the conditions contained herein.~~

~~So long as a transfer has not occurred pursuant to the provisions of the first paragraph of this Section 11, County Authority agrees that, upon written request of all of the Municipalities and subject to payment or legal satisfaction of any and all obligations of the County Authority related to the Relief Interceptor System, County Authority will take all action necessary to cause conveyance to the Municipalities or any of them or to any municipality authority organized by the Municipalities or any of them the Relief Interceptor System for the purpose of acquiring the title to and assuming the operation and maintenance of the Relief Interceptor System. In the event of any such conveyance, County Authority agrees to transfer all rights and privileges then owned or held by the County Authority and assign all agreements to which the County Authority is a party which are in any way related to the ownership and operation of said Relief Interceptor System to the transferee of the Relief Interceptor System. It is the intention of the parties that this provision shall not be binding upon any transferee of ownership and/or operation of the Relief Interceptor System pursuant to provisions of the first paragraph of this Section 11.~~

~~Attached to this Agreement is a Consent and Joinder of the County of Lehigh, Pennsylvania, solely for the purpose of joining and consenting to the provisions of this Section 11 of this Agreement.~~

SECTION 12. **[Transportation Provisions of Collector System Leases.]** Each Municipality acknowledges that the Lease under which it operates its Sewage Collection System provides terms and conditions pursuant to which it may enter into agreements with any Person to, inter alia, transport Sewage collected in its Sewage Collection System. Each Municipality agrees to comply with all applicable provisions of its Lease prior to or concurrently with execution of this Agreement.

SECTION 13. **[Compliance with and Continuation of Collector System Leases.]** Each Municipality covenants to comply fully with all covenants, warranties and representations set forth in the

⁸ Deleted by Section 1 of the July 10, 1981 Amendment (*see* Codified Ordinances ¶ 65-P(2)). Original language shown ~~stricken through~~.

Alburtis Lease or the Lower Macungie Lease or the Macungie Lease or the Upper Macungie Lease or the Salisbury Lease or the South Whitehall Lease, as applicable, and not to permit such applicable Lease to be terminated during the term hereof; Provided, however, that the Alburtis Lease may be terminated during the term hereof if as a result of such termination the Borough of Alburtis shall become the owner of the Sewage Collection System presently leased to such Borough under the Alburtis Lease and such Borough shall agree 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 presently leased to such Township under the Lower Macungie Lease and such Township shall agree 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 presently leased to such Borough under the Macungie Lease and such Borough shall agree 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 presently leased to such Township under the Upper Macungie Lease and such Township shall agree to remain in possession of such Sewage Collection System during the term hereof and, likewise the Salisbury Lease may be terminated during the term hereof if as a result of such termination the Township of Salisbury shall become the owner of the Sewage Collection System presently leased to such Township under the Salisbury Lease and such Township shall agree to remain in possession of such Sewage Collection System during the term hereof and, likewise, the South Whitehall Lease may be terminated during the term hereof if as a result of such termination the Township of South Whitehall shall become the owner of the Sewage Collection System leased to such Township under the South Whitehall Lease and such Township shall agree to remain in possession of such Sewage Collection System during the term hereof.

The words “during the term hereof” or similar words, as used above or as used in other portions of this Agreement, shall refer to the time during which any applicable Municipality may be discharging Sewage from its Sewage Collection System to the Relief Interceptor System, or, if applicable, to the Little Lehigh Interceptor or during such longer time as any applicable Municipality shall remain obligated to make any payments pursuant hereto.

SECTION 14. [Payments Hereunder are Operating Expenses Under Collection System Leases; Obligations Under Collection System Leases Survive Expiration or Termination of Such Leases; Maintenance of Collection Systems; Compliance With Laws and Regulations; Inspection of Collection Systems by County Authority; Prohibited Wastes.] As provided in each of the Leases, each Municipality acknowledges that sums contemplated to be payable hereunder constitute Operating Expenses, as defined in each of the Leases, of each of the Municipalities with respect to the operation of its Sewage Collection System pursuant to each applicable Lease.

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.

Each Municipality covenants and agrees that, in addition to specific covenants contained herein, all other appropriate covenants and agreements presently set forth in the applicable Lease under which it operates its Sewage Collection System shall remain binding upon the Municipality and shall inure to the benefit of the other parties to this Agreement so long as said Municipality shall have the right to discharge Sewage to the Relief Interceptor System or, if applicable, to the Little Lehigh Interceptor or so long as the Municipality is under any obligation to make payments hereunder. It is the intention of the parties hereto that the foregoing covenant and agreement shall continue beyond any termination of any applicable Lease, whether such termination shall be by its terms or otherwise and, without intending to limit the gen-

erality of the foregoing, shall apply to covenants and agreements contained in each applicable Lease with respect to mandatory connections to the applicable Sewage Collection System, the imposition of sewer rentals or charges sufficient to meet all obligations of the applicable Municipality with respect to the Sewage Collection System operated by said Municipality, including obligations hereunder, the segregation of moneys to be deposited in the Sewer Revenue Account of each Municipality as provided for in each applicable Lease, provisions relating to investment of, insurance of, and security of, such moneys, provisions relating to insurance upon physical structures constituting part of the Sewage Collection System presently operated by each Municipality and provisions applicable to any damage or injury resulting from fire or other casualty, provisions relating to employment of Consulting Engineers and duties, reports and certificates required of said Consulting Engineers.

Each Municipality covenants to maintain the Sewage Collection System presently 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.

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 presently operated by such Municipality.

Each Municipality covenants that the County Authority, 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.

Each Municipality covenants that it 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; 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.

SECTION 15. **[Binding Effect.]** 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, Salisbury 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 Salisbury Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Township of Salisbury under the Salisbury Lease, then all covenants herein, by, in behalf of or for the benefit of the Township of Salisbury, 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, South Whitehall 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 South Whitehall Authority may be transferred, voluntarily or involuntarily, shall come into possession of the Sewage Collection System leased to the Township of South Whitehall under the South Whitehall Lease, then all covenants herein, by, in behalf of or for the benefit of the Township of South Whitehall, to the extent permitted by law, shall bind or inure to the benefit of such successor in possession of such Sewage Collection System.

SECTION 16. **[Management and Operation of Collection Systems.]** 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.

SECTION 17. **[No Discontinuance of Collection Systems.]** Each Municipality covenants that during the term hereof it will not voluntarily discontinue operation of the Sewage Collection System in its possession.

SECTION 18. **[Records.]** County Authority agrees to keep and maintain appropriate records in accordance with good accounting and/or engineering procedures with respect to items of income and expenses and any allocation thereof and with respect to volumes of Sewage discharged and with respect to all other matters required in order to carry out all of the terms and provisions of this Agreement in accordance with its full intent and purpose.

Each Municipality shall have the right to examine such records at the office of County Authority during regular business hours.

SECTION 19. **[Conflicts with Other Agreements.]** In the event any provision contained in this Agreement shall be determined to be inconsistent with any provision of any other existing agreement between or among any two or more of the parties hereto, the provisions of this Agreement shall be deemed to be controlling to the extent permitted by law.

SECTION 20. **[Severability.]** 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 of Pennsylvania shall govern construction hereof.

SECTION 21. **[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.

SECTION 22. **[Effective Date; Minimum Number of Parties.]** This Agreement shall become effective upon execution by County Authority and by not less than 80% of the Municipalities and 80% of the Municipality Authorities named herein. In the event one or more of the Municipalities and/or the Municipality Authorities named herein shall not execute this Agreement the remaining Municipalities and/or Municipality Authorities, as applicable, which do execute this Agreement shall be and hereby agree to be responsible on a pro rata basis for all obligations hereunder which otherwise would be the responsibility of the Municipality and/or Municipality Authority not executing this Agreement. Thereafter said Municipality and/or Municipality Authority shall be permitted to become a party to this Agreement only by reimbursing the other parties for all expenditures theretofore paid by said other parties in its behalf, together with interest at a rate per annum equal to 150% of the highest coupon interest rate on the bond issue or other form of financing used to finance the First Phase Project, compounded quarter-annually.

The execution of this Agreement by any Municipality or Municipality Authority shall not be construed in any manner to relieve any other Municipality or Municipality Authority from its obligation to execute the same or its obligation to bear its proper share of all obligations under this Agreement nor shall the same in any way act as a waiver by any Municipality or Municipality Authority so executing this Agreement to pursue any legal remedy related to the consequences resulting from the failure of any other Municipality or Municipality Authority to execute and join in this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this 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 Township of Lower Macungie, Township of Upper Macungie, Township of Salisbury, Township of South Whitehall, Borough of Macungie, Lower Macungie Township Authority, Upper Macungie Township Authority, Salisbury Township Authority, South Whitehall Township Authority, Borough of Macungie Sewer Authority, and Lehigh County Authority. In addition, the Agreement was signed in 1988 as a party, with proper attestation, by Officers of the Borough of Alburtis and the Borough of Alburtis Sewer Authority, with an asterisk footnote as follows: “* Signed in conformity with and subject to Settlement Stipulation (dated December 30, 1987) and reserving all rights contained therein.”}

CONSENT AND JOINDER⁹

~~COUNTY OF LEHIGH, Pennsylvania (the “County”), for value received and intending to be legally bound hereby, does hereby join in and consent to the provisions of Section 11 of the foregoing Agreement, dated for convenience as of February 10, 1981 (the “Agreement”), by and among the Townships of Lower Macungie, Upper Macungie, Salisbury and South Whitehall and the Boroughs of Alburtis and Macungie, all Pennsylvania municipal subdivisions, Lower Macungie Township Authority, Upper Macungie Township Authority, Salisbury Township Authority, South Whitehall Township Authority, Borough of Alburtis Sewer Authority and Borough of Macungie Sewer Authority, and Lehigh County Authority, all Pennsylvania municipality authorities.~~

⁹ Terminated and cancelled by Section 2 of the July 10, 1981 Amendment (*see* Codified Ordinances § 65-P(2)); replaced by a new Consent and Joinder in the July 10, 1981 Amendment (*see* Codified Ordinances § 65-P(2)). Original language shown ~~stricken through~~.

~~IN WITNESS WHEREOF, the COUNTY OF LEHIGH has caused this Consent and Joinder to be duly executed and attested by its proper officers, pursuant to proper action by its Board of Commissioners, this 18th day of March, 1981.~~

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

{Remainder of Page Intentionally Left Blank; See Next Page for Exhibit A}

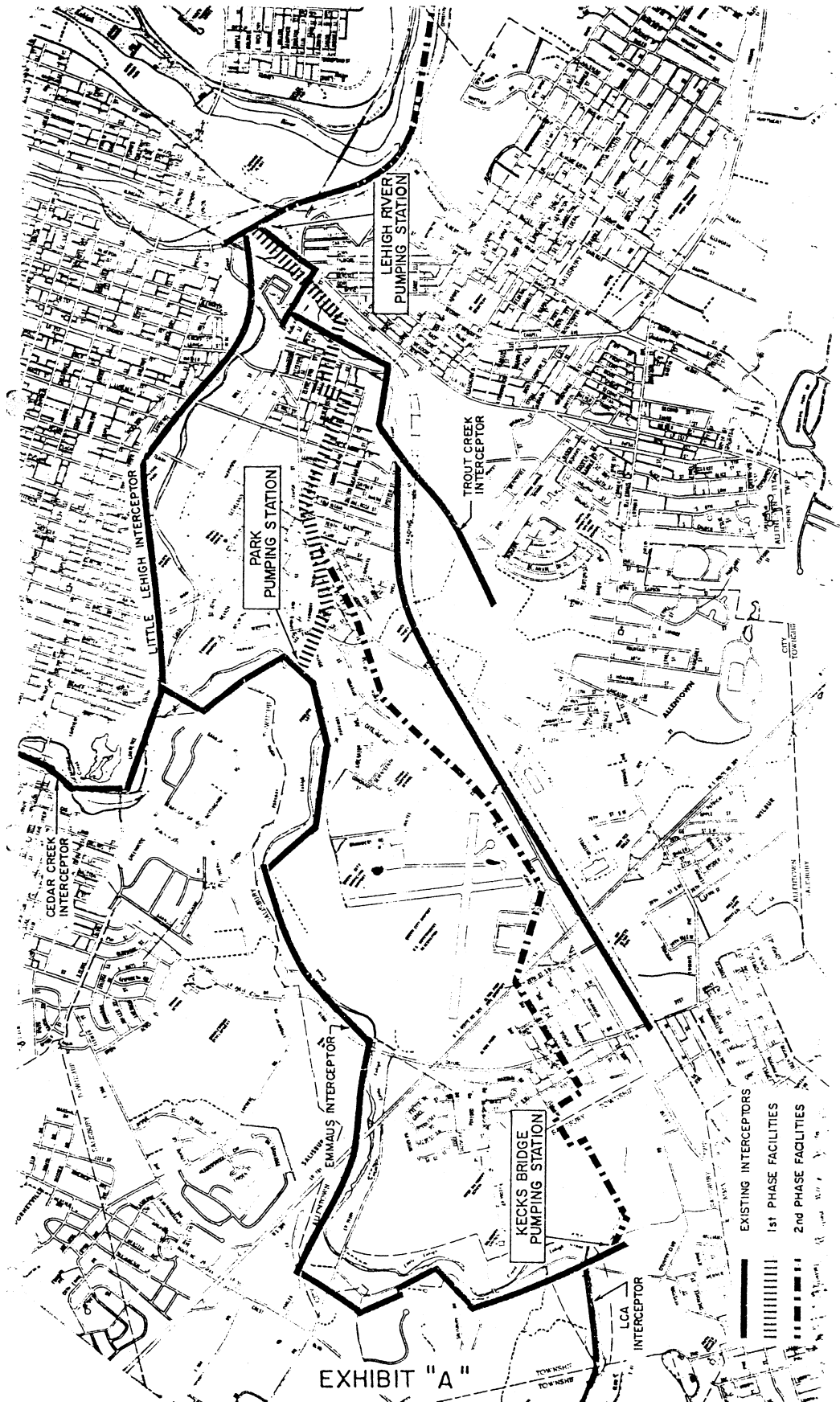


EXHIBIT "A"