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AGREEMENT

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CONSENT AND JOINDER OF ALLENTOWN AUTHORITY, LOWER MACUNGIE TOWNSHIP AUTHORITY, BOROUGH OF MACUNGIE SEWER AUTHORITY, BOROUGH OF ALBURTIS SEWER AUTHORITY, UPPER MACUNGIE TOWNSHIP AUTHORITY, TOWNSHIPS OF LOWER MACUNGIE AND UPPER MACUNGIE, BOROUGH OF MACUNGIE AND ALBURTIS, COUNTY OF LEHIGH

CONSENT AND JOINDER OF COPLAY-WHITEHALL SEWER AUTHORITY, SOUTH WHITEHALL TOWNSHIP AUTHORITY, SALISBURY TOWNSHIP AUTHORITY, TOWNSHIPS OF SOUTH WHITEHALL AND SALISBURY

THIS AGREEMENT, made this 22nd day of December, 1969, by and between the City of Allentown, Lehigh County, Pennsylvania (the "City"), party of the first part, and Lehigh County Authority (the "County Authority"), a Pennsylvania municipality authority, party of the second part.¹

WITNESSETH:

WHEREAS, Allentown Authority (the "Allentown Authority"), municipality authority, presently owns a sewage collection system, including interceptor sewers, trunk sewers, branch sewers, outfall lines and service lines (the "Allentown Collection System") and a sewage treatment plant located on Klines Island along the Lehigh River near the place where the Little Lehigh River flows into the Lehigh River in the City and other sewage treatment facilities (the "Treatment Plant"), which Allentown Collection System and Treatment Plant hereinafter are referred to collectively as the "Allentown Sewer System"; and

WHEREAS, The Allentown Sewer System has been leased by Allentown Authority to the City for use and operation under an Agreement of Lease, dated as of May 1, 1960 (the "Allentown Lease"); and

WHEREAS, The Allentown Lease has been assigned by the Allentown Authority to Lehigh Valley Trust Company, now Industrial Valley Bank and Trust Company, Trustee under a Trust Indenture, dated as of May 1, 1960 (the "Allentown Indenture", which term, as used herein, shall include any supplements and amendments thereto); and

WHEREAS, Each of the Municipalities is planning to acquire and construct or to cause to be acquired and constructed a sewage collection system in and for all or a portion of the area of each of the Municipalities; and

WHEREAS, The parties hereto have determined that it will be to their mutual advantage to have sewage and wastes collected in the sewage collection systems to be constructed and acquired by the Municipalities or caused to be so constructed and acquired by the Municipalities to be conveyed to the Treatment Plant operated by the City for treatment and disposal; and

WHEREAS, The Municipalities, in order to provide for the transportation of said sewage and wastes collected in said sewage collection systems, 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 for such purpose (the "County Interceptor System"); and

¹ **Cross-Reference:** In addition to the Consents and Joinders attached to this Agreement, each of the Western Lehigh Municipalities, including 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 designated the County Authority as the body to construct and acquire the County Interceptor System for the purpose of transportation of said sewage and wastes to the Allentown Sewer System; and

WHEREAS, The County Authority proposes to lease the County Interceptor System to the County of Lehigh (the "County") for use and operation; and

WHEREAS, The County Authority and the County have entered into an Agreement with the Municipalities setting forth the general terms and conditions relating to the acquisition and construction of the County Interceptor System and the sharing of the costs and expenses related to the acquisition, construction and operation of the County Interceptor System; and

WHEREAS, The Municipalities, pursuant to provisions of the aforesaid Agreement, have designated the County Authority as their agent to negotiate with the City and/or the Allentown Authority with respect to securing allocated capacities in the Allentown Sewer System; and

WHEREAS, The Municipalities contemplate that all payments to be provided for hereunder by or in behalf of the County Authority will be paid to the City and/or Allentown Authority by the County so long as it remains lessee of the County Interceptor System; and

WHEREAS, The parties hereto desire to set forth the terms and conditions pursuant to which sewage and wastes conveyed through the County Interceptor System will be received, treated and disposed of by the facilities of the Allentown Sewer System.

NOW, THEREFORE, the parties hereto represent, covenant and agree as follows:

SECTION 1. [Additional Design Capacity in Treatment Plant for Use of County Authority.] The parties hereto understand and agree that in order to treat the quantity of sewage and wastes herein contemplated, it will become necessary to enlarge and modify the existing Treatment Plant and to make additions and improvements thereto. In order to accomplish the purposes herein contemplated the City agrees that improvements and additions to the Treatment Plant shall be made and financed by Allentown Authority so that there will be available therein a design capacity for use of County Authority of 4.5 MGD.²

County Authority authorizes the Allentown Authority, its Chairman or agents, to apply for and accept any grants or contributions from any federal, state or other governmental agency. The proceeds of such grants or contributions shall be applied as described in Subsections 2B and 2C hereof.

The City covenants and agrees to acquire and construct or to cause to be acquired and constructed, from time to time, such improvements, modifications and additions to the Treatment Plant as shall be necessary to provide the aforementioned capacity for use of the County Authority. City covenants and agrees that said average MGD design capacity reserved for use by County Authority will be made available on a permanent basis not later than January 1, 1976.

SECTION 2. [Types of Charges for Use of Allentown Sewer System; Charges Prior to Completion of Proposed Improvements.] City agrees that it will accept sewage and wastes from County Authority prior to the date when sewage and wastes are first introduced on a permanent basis into the proposed improvements and/or additions to the Treatment Plant, to the extent of 4.0 average MGD, for treatment and disposal through the facilities of the existing Allentown Sewer System. The total charges for such sewage and wastes discharged by County Authority to the existing Allentown Sewer System shall be determined and paid in accordance with the terms and provisions of a certain Loan Agreement, dated

² **Cross-Reference:** The December 29, 1981 Sewer Service Agreement made substantial changes to the capacity allocated to County Authority and made other significant revisions of this 1969 Agreement. *See* Codified Ordinances ¶ 65-Q(2). In addition, the County Authority purchased additional capacity under an August 1, 1986 Agreement. *See* Codified Ordinances ¶ 65-Q(5).

simultaneously herewith, by and among the City, as party of the first part, 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.

At the times hereinafter specified, the City shall impose five (5) types of charges, as set forth below, in addition, if applicable, to charges under the aforesaid Loan Agreement which shall continue for the time specified in said Loan Agreement:

A. Charges for the use of the Treatment Plant facilities as the same exist as of the date of this Agreement which will continue in use subsequent to Treatment Plant modifications and additions.

B. Charges in connection with costs related to modifications, improvements and additions to the existing Treatment Plant as contemplated in Section 1 hereof.

C. Charges related to reasonable and necessary operating and maintenance expenses of the Treatment Plant and jointly-used Intercepting Sewers.

D. Charges related to use of existing Intercepting Sewers excluding the existing Emmaus Intercepting Sewer.

E. Additional charges related specifically to use of the existing Emmaus Intercepting Sewer.

SUBSECTION 2A. **[Charge for Use of Existing Treatment Plant Facilities.]** Beginning with the first calendar year subsequent to the date when sewage and wastes are first introduced on a permanent basis into the proposed modifications, improvements and/or additions to the Treatment Plant or beginning with the first calendar year subsequent to a date two years from the date debt is incurred by Allentown Authority to finance construction of the aforesaid improvements and/or additions, whichever first occurs, an annual charge of \$4,460 shall be made to the County Authority for the use of existing Treatment Plant facilities. The computation of this charge is based upon a design capacity for the improved Treatment Plant of 36.1 MGD, as computed on Exhibit A attached hereto. In the event the final design capacity of the improved Treatment Plant varies from 36.1 MGD, the charge hereunder shall be recomputed in accordance with the principles set forth on Exhibit A attached hereto and proportionately increased or decreased, as applicable.

Said charges shall continue until the debt incurred by Allentown Authority pursuant to its bond issue, dated as of May 1, 1966, or any future debt or portion thereof issued by Allentown Authority for the purpose of refunding said bond issue is retired.

The annual charges made pursuant to this Subsection 2A shall be payable on or before December 31 of each year.

SUBSECTION 2B. **[Charge for Amortization of Debt for Treatment Plant Improvements.]** At such time as debt is incurred by the Allentown Authority for the purpose of financing acquisition and construction of those modifications, improvements and/or additions to the existing Treatment Plant which are required solely to provide the additional capacity for the parties hereto, as herein contemplated, the cost of amortizing the repayment of such debt shall be apportioned among the parties hereto by a charge to be made against County Authority calculated and imposed on the basis of the proportion which the additional capacity to be provided thereby for the use of the County Authority bears to the additional capacity of the improved Treatment Plant. The annual charge to the County Authority under this Subsection 2B shall be in an amount which, together with any amount properly attributable to capacity provided for the City (or any other user designated by the City), in accordance with the aforementioned principle, shall be sufficient to cover the amortization of debt service requirements on the debt incurred for such purposes, plus such coverage as is required under the Allentown Indenture. Such charges shall be based upon the

amortization of the debt over a period of forty years; repayment of principal on such debt shall be deferred for a period of five years; and interest on such debt shall be capitalized for a period of 1 1/2 years. This shall not prohibit a bond issue being issued by the Allentown Authority upon other terms upon the mutual agreement of the parties hereto.

It is understood and agreed that there shall be included in the aforesaid bond issue provisions for paying the costs of acquisition and construction modifications, improvements and/or additions to the existing Treatment Plant for the benefit of all parties participating in the use of said Treatment Plant, as well as provisions for paying the costs of acquisition and construction of modifications, improvements and/or additions to the existing Treatment Plant solely to provide the additional capacity for the parties hereto as illustrated on the hereinafter mentioned Exhibit B. The computation of charges to the County Authority under this Subsection 2B shall be based on the cost of amortizing the repayment of the aforesaid total bond issue less the cost of amortizing the repayment of that portion of said bond issue which is applicable to pay the costs of acquisition and construction of said modifications, improvements and/or additions to the existing Treatment Plant for the benefit of all parties participating in the use of said Treatment Plant.

For the purpose of illustration only, there is attached hereto as Exhibit B a schedule showing the amount of annual charges attributed to each party under this Subsection 2B, assuming that the total debt to be incurred shall amount to \$4,740,000; that the portion of said debt applicable to the modifications, improvements and/or additions to the existing Treatment Plant to be acquired and constructed for the benefit of all parties participating in the use of said treatment plant shall amount to \$368,000; and the net interest cost of the debt shall be at the rate of 6 per cent per annum. It, of course, is understood and agreed that charges imposed under this Subsection 2B shall be based on the actual amount of debt incurred for the purpose of acquiring or constructing modifications, improvements and/or additions to the existing Treatment Plant which are required solely to provide additional capacity for the parties hereto and the actual amount of debt incurred for the purpose of acquiring or constructing modifications, improvements and/or additions to the existing Treatment Plant for the benefit of all parties participating in the use of said Treatment Plant and the actual interest cost incurred for said debt.

County Authority and its consulting engineers shall continuously be kept informed of the design of the proposed new construction. Preliminary plans for such new construction shall be subject to review and approval of the County Authority. Final plans shall be completed in conformity with such approved preliminary plans and shall be made available to and subject to review by County Authority prior to the incurring of any debt therefor. Upon approval of preliminary plans as above provided all parties hereto, including those parties executing consents and joinders attached hereto shall be consulted and shall approve the allocation of items of construction between those applicable solely to the provision of additional capacity for the parties hereto (Exhibit B-I) and those applicable for the benefit of all parties participating in the use of said Treatment Plant (Exhibit B-II). The total project costs shall be allocated in the ratio of actual construction costs.

The parties hereto agree that the cost of amortizing the repayment of debt incurred to finance acquisition and construction of said modifications, improvements and/or additions to the existing Treatment Plant for the benefit of all parties participating in the use of said Treatment Plant as illustrated on Exhibit B attached hereto shall be considered and treated as additional operating expenses until such time as the debt applicable thereto is retired and shall be shared by all parties participating in the use of said Treatment Plant in the manner contemplated by Subsection 2C hereof.

It is understood and agreed among the parties hereto that moneys resulting from charges made pursuant to Subsection 2B because of coverage required by the Allentown Indenture shall be used only for one or more of the following purposes: (a) required deposits in reserve funds in the Allentown Indenture; and/or (b) costs of extraordinary repairs or capital additions to

Treatment Plant facilities used jointly by the parties hereto; and/or (c) retirement of debt incurred for the purpose of acquisition or construction of such modifications, improvements and/or additions as are contemplated hereunder. The intent of this paragraph shall be preserved if the Allentown Indenture shall be terminated or modified as the result of any refunding procedure or refinancing by Allentown Authority.

If City or Allentown Authority receive any grants with respect to the cost of acquisition and construction of modifications, improvements and/or additions to the existing Treatment Plant which cannot be applied toward such costs or the costs of operation and/or maintenance as contemplated in Subsection 2C below, such moneys shall be applied only for the purposes provided in the immediately preceding paragraph of this Subsection 2B.

The annual charges imposed under this Subsection 2B shall be paid in equal semi-annual installments on or before March 15 and September 15 of each year, beginning on the March 15th or September 15th of the first year in which rentals become payable under a supplement to the Allentown Lease executed for the purpose of providing moneys for debt service on indebtedness issued by the Allentown Authority for the purpose of financing such acquisition and construction of modifications, improvements and/or additions to the Treatment Plant, as contemplated herein, and shall cease at the time such debt is retired.

If either of the parties to this Agreement should in any calendar year discharge or permit to be discharged sewage and/or wastes for treatment (as calculated in accordance with Section 6 of this Agreement) in excess of its reserved capacity in the Treatment Plant (the annual reserved capacity of each party shall be arrived at by multiplying the daily reserved capacity of such party by 365 days), the cost of amortizing and repaying the debt incurred to modify, improve and/or enlarge the Treatment Plant shall be reapportioned to reflect such increased use by such party for any calendar year in which such excess discharge occurs. In no event shall any of parties hereto discharge for treatment sewage and/or waste in excess of 115% of the reserved capacity of such party.

SUBSECTION 2C. [Charge for Operating Expenses of Interceptor Sewers and Treatment Plant.] At such time as charges provided for under Paragraph 7 of the Loan Agreement terminate, operating expenses of the Intercepting Sewers and Treatment Plant (including, for purposes hereof, certain amortization costs as provided in the fifth paragraph of Subsection 2B hereof) shall be apportioned as hereinafter provided on an annual basis among all parties connected to the Treatment Plant in proportion to the annual volume of waste contributed by each of the parties connected to the Treatment Plant, subject to adjustments as hereinafter set forth in this Subsection 2C. The County Authority shall pay a percentage of such reasonable and necessary operating expenses, which percentage shall be determined for the County Authority by dividing the total volume of sewage handled at the Treatment Plant into the volume of sewage delivered under terms of this Agreement by the County Authority. The balance of the operating expenses shall be paid by the City and the other parties connected, directly or indirectly, to the Treatment Plant.

In apportioning the annual reasonable and necessary operating expenses, there first shall be deducted from the gross cost any grants or contributions received by either of the parties hereto from any federal, state or other governmental agency which may be applied toward payment thereof.

After deduction of grants or contributions mentioned in the second paragraph of this Subsection 2C, the balance of the reasonable and necessary operating expenses shall be apportioned as set forth in the first paragraph of this Subsection 2C.

In order to permit the apportionment of reasonable and necessary operating expenses as contemplated in this Subsection 2C each of the parties agrees to install and maintain or to cause to be installed and maintained such measuring devices as shall be necessary in order to properly

measure the volume of sewage or other wastes contributed by each of the parties connected, directly or indirectly, to the Treatment Plant.

In order to provide working capital for payment of operating expenses as contemplated in this Subsection 2C the County Authority shall supply to the City, on or before October 1 of each year, an estimate of the volume of sewage and other waste to be discharged from the County Interceptor System during the next succeeding calendar year. The City shall prepare an estimate setting forth the estimated costs and the charges to be made against the County Authority for its proportionate share of such estimated reasonable and necessary operating expenses and supply copies thereof to the County Authority on or before December 15 of each year.

County Authority, on or before March 31, June 30, September 30 and December 31 of each year shall pay to City the estimated amount to be charged to the County Authority under this Subsection 2C. Within sixty days after the close of each calendar year, the City shall furnish a report to the County Authority showing the actual reasonable and necessary operating expenses and the proper apportionment of such operating expenses. Within sixty days of such report County Authority shall pay to the City any deficiency properly chargeable against County Authority for the preceding year and City, within such time, shall repay to County Authority any overpayment made by County Authority during such preceding fiscal year.

The formula setting forth the nature and portion of the reasonable and necessary operating expenses of the Intercepting Sewers and Treatment Plant which are to be paid by all parties connected, directly or indirectly, to the Treatment Plant, pursuant to this Subsection 2C are set forth in Exhibit C attached hereto and made part hereof. For purposes of illustration, Exhibit C contains a calculation of such charges using said formula and the actual 1968 expenses of the City. It is understood that the formula set forth in Exhibit C will be applied each year in apportioning and allocating costs under this Subsection 2C even though the figures used will change from year to year to reflect the actual expenses incurred and will include, when applicable, certain amortization costs as provided in the fifth paragraph of Subsection 2B hereof.

SUBSECTION 2D. [Charge for New Interceptor or Trunk Sewers.] Fundamentally it shall be the responsibility of each of the parties hereto to pay its share of the cost of amortizing the repayment of any debt incurred by Allentown Authority for construction of necessary new interceptor or trunk sewers. If more than one party sharing the use of the Treatment Plant requires or desires additional capacity in new interceptor or trunk sewers, the cost of amortizing such debt shall be apportioned among such parties. Such apportionment of cost shall be on the basis of allocation of capacity to be provided by such new interceptor or trunk sewers among such parties who require or desire such additional capacity. The obligation of County Authority with respect to the recently constructed Emmaus Interceptor Sewer shall be governed by the provisions of Subsection 2E hereof.

The parties who shall share the use of such new interceptor or trunk sewers shall enter into a collateral agreement with respect to sharing the cost of amortizing such debt, which new agreement shall provide for such sharing on the same basic principles as is provided herein in Subsection 2B relative to sharing the cost of financing acquisition and construction of modifications, improvements and/or additions to the existing Treatment Plant, to the extent that the same are applicable.

The City agrees that, subject to the terms and provisions of the Loan Agreement, to the extent capacity, from time to time, remains available in its Intercepting Sewers, County Authority may utilize the same upon payment of a charge of \$0.01 per 1,000 gallons of sewage and wastes conveyed. However, at such time as the City requires for its own use, or the use of Coplay-Whitehall Sewer Authority, South Whitehall Township Authority and/or Salisbury Township Authority, as provided in the Loan Agreement, the capacity being utilized by County Authority, in any section of said Interceptor Sewers, then County Authority, singly or in conjunction with other parties,

upon twelve (12) months prior written notice from the City, shall commence construction of a relief interceptor line for such section to the extent required.

Whenever the City requires or desires to share in the use of additional capacity in new interceptor or trunk sewers to be constructed, the construction and financing thereof shall be undertaken by Allentown Authority.

Whenever the City does not require or desire to share in the use of such sewers, County Authority, singly, or in conjunction with other parties, may provide for the construction and financing thereof. In order to facilitate installation of required facilities as contemplated in this paragraph, 'City shall grant required rights of way, easements, licenses and privileges in, over and under City streets, lanes, highways, roads and other City-owned properties for the purpose of construction, maintenance and replacement of such facilities without consideration or charge and shall otherwise cooperate in such required construction and acquisition of property or interests in property subject to approval of City Engineer as to location. The aforesaid grant shall be subject to all City ordinances and regulations relating to the manner of opening the surface and the repair of streets, lanes, alleys, highways and roads.

The parties hereto agree to cooperate with each other in order to carry out the intent and purpose of the provisions set forth in this Subsection 2D.

SUBSECTION 2E. [Charge for Use of Emmaus Interceptor.] City does hereby grant to the County Authority the perpetual right to convey sewage and wastes in an amount not to exceed 10 cubic feet per second (c.f.s.) through the City's Interceptor Sewer known as the Emmaus Interceptor which Interceptor Sewer runs from a point at Keck's Bridge limit to a point at Shreibers Bridge, subject to the condition that the 10 c.f.s. may be exceeded by 20% for a period of 2 hours per day for not more than one day per week. Should the limits heretofore set forth be exceeded, the County will either (1) make plans to reduce the maximum flow or (2) relieve such sections of the said Emmaus Interceptor as shall be necessary.

In consideration of the above grant and privilege, County Authority agrees to pay to the City a charge of \$0.02 per 1,000 gallons of sewage and wastes discharged by County Authority into said Emmaus Interceptor until an aggregate sum of \$420,000 is paid to the City pursuant hereto.

City agrees that in the event said Emmaus Interceptor requires relief as a result of the above grant and privilege to County Authority, such relief sewer lines shall be constructed by the City at no cost and expense to County Authority or County or the Municipalities.

SECTION 3. [Grant of Perpetual Right to Use Treatment Plant.] The City hereby grants to County Authority the perpetual right to discharge sewage and wastes conveyed through the County Interceptor System to the Treatment Plant subject to the limitations and charges set forth herein and City agrees perpetually to treat and dispose of such sewage and wastes in a manner approved by the Pennsylvania Department of Health and in accordance with the terms and provisions herein set forth.

It is agreed by all the parties hereto that once a service connection has been made that results in sewage and wastes being delivered therefrom to the Treatment Plant for final disposition such sewage and wastes shall not thereafter be diverted therefrom unless mutually agreed upon in writing by the parties hereto. However, the right shall be reserved by County Authority to establish such other treatment plants as may be necessary for the efficient and economical treatment of sewage and other wastes emanating from any of the Municipalities which by good engineering practice cannot be delivered to the Treatment Plant on a practical and economical basis and/or to handle the treatment and disposition of sewage and other wastes which would result in County Authority exceeding its reserved capacity in the Treatment Plant as provided herein.

SECTION 4. **[Prohibited Wastes.]** The City and County Authority agree that the sewage and wastes discharged by any user into a City sewer line shall not contain storm water, roof or surface drainage. No industrial waste, chemicals or other matter shall be so discharged, with or without pre-treatment:

- a. having a temperature higher than 150°F.;
- b. containing more than 100 milligrams per liter (mg/l) by weight of fat, oil or grease;
- c. containing any gasoline, benzene, naphtha [*sic*], fuel oil or other inflammable or explosive liquid, solid or gas;
- d. containing any unground garbage;
- e. containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the proper operation of the Treatment Plant;
- f. having a "pH" lower than 6.0 or higher than 9.0 or having any other corrosive or scale-forming property capable of causing damage or hazard to structures, equipment or personnel operating the Treatment Plant;
- g. containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constituting a hazard. to humans or animals, or creating any hazard in the receiving waters of the Treatment Plant. Toxic wastes shall include wastes containing cyanide copper and/or chromium ions;
- h. containing Suspended Solids in excess of 3 pounds per 1000 gallons and of such character that unusual attention or expense is required to handle such materials at the Treatment Plant;
- i. containing noxious or malodorous [*sic*] gas or substance capable of creating a public nuisance;
- j. containing B.O.D. in excess of 2.5 pounds per 1000 gallons and being of such character that unusual attention or expense is required to handle such materials at the Treatment Plant, unless otherwise agreed to by all the parties hereto and permitted by the Commonwealth of Pennsylvania or any duly constituted Board, Commission or Department thereof;
- k. having a chlorine demand in excess of 0.1 pound per 1000 gallons;
- l. prohibited by any permit issued by the Commonwealth of Pennsylvania.

County Authority, in order to comply with this Section 4, will construct and operate or cause to be constructed and operated all necessary pre-treatment facilities.

SECTION 5. **[Samples.]** Samples of sewage and wastes may be obtained and analyzed by either of the parties hereto at any place at any reasonable time in order to insure compliance with the terms of this Agreement.

SECTION 6. **[Methods for Determining the Volume and Character of Wastes.]** For the purpose of determining and calculating the volume and/or character of sewage and wastes conveyed through the County Interceptor System into the Treatment Plant the following methods shall be used:

- A. County Authority shall install, maintain and operate recording meters located at or near the point of connection of the County Interceptor System to the Allentown Sewer System. Said meters shall be of the size and type approved by the City. All metering pits shall provide space for installing temporary chlorine injection equipment.

B. For the purpose of determining the characteristics of sewage or wastes as set forth under Section 4 of this Agreement, County Authority shall install, or cause to be installed, a sampling manhole at the point of discharge from the property of any user considered capable of discharging sewage or wastes of unacceptable character or quality or at such other point as shall be appropriate under the circumstances to accomplish said purpose.

C. The volume of sewage and wastes discharged into the Treatment Plant by the City shall be computed by deducting from the total volume of sewage and wastes entering the Treatment Plant the volume of sewage and wastes discharged into the Treatment Plant by all parties other than the City except sewage and wastes discharged pursuant to an Agreement, dated March 17, 1959, related to the discharge of sewage and wastes from the Borough of Emmaus and except sewage and wastes discharged pursuant to an Agreement, dated November 20, 1962, related to the discharge of sewage and wastes from a district in the Township of South Whitehall. It is agreed that the sewage and wastes discharged pursuant to the aforesaid two Agreements is chargeable against the capacity allocated to the City.

SECTION 7. **[City Meters of Total Volume Handled at Treatment Plant.]** For purposes of making computations hereunder, City agrees to install and maintain in good working order meters or other suitable measuring devices required to measure the total volume of sewage and wastes handled at the Treatment Plant and to cause to be so installed and maintained such other meters or measuring devices as are necessary to make computations hereunder.

SECTION 8. **[Meter Records; Meter Failures.]** Meter records and access to meter installations or other suitable measuring devices of either party hereto shall be made available to the other party hereto upon request therefor. The record of sewage flow through recording meters operated and maintained by County Authority will be forwarded to the City on or before the fifth day of the first month of each quarter annum showing the total and daily sewage flows discharged during the previous quarter-annum.

In the event of failure of a sewage meter maintained by County Authority, repairs will be made as soon as practicable. In the case of missing flow records due to faulty meter registration or otherwise, an estimate of flows will be made for purposes of determining volume of sewage and wastes discharged. This estimate will be based on an evaluation of past flow records as applied to present conditions and as reviewed and approved by County Authority and the City.

In the absence of meter readings during the early period of low flows when the sewage recording meters may not register effluent, quantity shall be estimated on the basis of 3.5 persons per connected Equivalent Dwelling Unit with a discharge rate of 100 gallons per capita per day or upon the minimum meter calibration. The smaller quantity shall be used for billing purposes by the City.

SECTION 9. **[Maintenance of City System.]** City agrees at all times to keep and maintain the Treatment Plant and all Interceptor Sewers owned by the City in good repair and operating condition and to comply with all applicable laws, orders, rules and regulations of any governmental body or agency having jurisdiction with respect thereto.

SECTION 10. **[Prevention of Dangerous or Prohibited Wastes.]** Each of the parties hereto covenants and agrees at all times to use all reasonable methods and due diligence to prevent the discharge into the Treatment Plant of any waste, industrial or otherwise, which is dangerous to the public health and safety or in violation of any of the restrictions set forth in Section 4 hereof.

SECTION 11. **[Local Ordinances, etc. to Conform with City Ordinances, etc.]** Subject to the provisions of Section 4, County Authority further agrees that it will cause to have enacted and enforced ordinances, resolutions, rules and regulations governing sewer connections and the admission of sewage into the sewers, which ordinances, resolutions, rules and regulations shall conform with existing ordinances, rules and regulations of the City and further agrees to cause to be enacted and enforced additional ordinances, resolutions, rules and regulations to conform with future ordinances, rules and regulations adopted by

the City to govern the admission of sewage into the Allentown Collection System or the Treatment Plant. County Authority agrees to cause to be submitted to the City appropriate copies of all ordinances, resolutions, rules and regulations, in triplicate and approved reproducible prints of all plans of completed sewers within ninety (90) days after enactment of the ordinance and completion of plans.

SECTION 12. **[Maintenance of County Interceptor System.]** County Authority agrees to keep and maintain the County Interceptor System at all times in good repair and operating condition.

SECTION 13. **[Indemnification.]** Each of the parties hereto agrees to indemnify and save harmless the other party against all losses, costs or damages on account of any injury to persons or property occurring in the performance of this Agreement due to the negligence of such party, its respective servants, agents or employees or resulting from the failure of the Treatment Plant and lines leading thereto to properly function due to such negligence.

SECTION 14. **[Assignment.]** County Authority may assign all of its right, title and interest hereunder to any one or more of the Municipalities or to any municipality authority created by any one or more of the Municipalities. City may assign all of its right, title and interest hereunder to the Allentown Authority. Any such assignment shall not relieve the parties hereto of their obligations and responsibilities hereunder.

SECTION 15. **[Access to Records; Access to County Interceptor Facilities.]** City agrees to make available at all reasonable times to County Authority, its agents, servants, employees and representatives, access to all records of the City pertaining to cost of acquisition, construction, operation and maintenance of the Treatment Plant. City also agrees that County Authority, its agents, servants, employees and representatives, shall have access to the physical facilities of the Treatment Plant at all reasonable times. However, it is to be specifically understood that this section in no way is to be interpreted as giving County Authority any rights whatsoever to dictate to the City the manner of operating and/or maintaining the Treatment Plant. The provisions of this Section also shall apply to Interceptor Sewers.

County Authority agrees to make available at all reasonable times to the City, its agents, servants, employees and representatives access to all records of County Authority insofar as the same relate to matters covered in this Agreement. County Authority also agrees that the City, its agents, servants, employees and representatives shall have access to the physical facilities of County Authority at reasonable times in order to assure compliance with the terms and provisions of this Agreement.

SECTION 16. **[Definitions.]** The following terms and phrases shall have the following meanings whenever used herein:

- (a) “*B.O.D.*” means biochemical oxygen demand.
- (b) “*Equivalent Dwelling Unit*” means any room, group of rooms, house trailer or other enclosure occupied or intended for occupancy as separate living quarters by a family or other enclosure occupied or intended for occupancy as separate living quarters by a family or other group of persons living together or by persons living alone.
- (c) “*Intercepting Sewer*” means a sanitary sewer, which is part of the Allentown Sewer System, and which receives sewage or wastes from a sewage collection system or from the County Interceptor System and conducts such sewage and wastes to the Treatment Plant.
- (d) “*Loan Agreement*” means the Agreement dated simultaneously herewith by and among the City, as party of the first part, 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.³

³ This Agreement is no longer in effect.

(e) “*MGD*” means million gallons per day.

(f) “*Municipality*” or “*Municipalities*” means, individually or collectively, as appropriate, the Boroughs of Alburtis and Macungie and the Townships of Upper Macungie and Lower Macungie, all Pennsylvania municipal subdivisions located in Lehigh County, Pennsylvania, or, if and whenever appropriate to give effect to any provision contained herein, in the place and stead of any of the aforesaid municipalities, any municipality authority incorporated by any of the aforesaid municipalities and owning, leasing or operating sewage collection facilities in and for any of the aforesaid municipalities.

(g) “*pH*” means the logarithm of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution, indicating the degree of acidity or alkalinity of a substance.

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

SECTION 17. [**Sale of Unused City Capacity.**] City shall have the right to sell any unused capacity allocated to it hereunder to the County Authority or to any party executing any consent and joinder to this Agreement.

SECTION 18. [**Succession.**] This Agreement shall be binding upon the parties hereto and this respective successors and assigns.

SECTION 19. [**Counterparts.**] This Agreement may be executed in any number of counterparts, each of which shall be considered an original, but such counterparts together shall constitute but one and the same instrument.

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 City of Allentown and Lehigh County Authority.}

EXHIBIT "A"

COMPUTATION OF CHARGES
TO BE PAID ANNUALLY BY COUNTY AUTHORITY
UNDER SECTION 2A FOR USE OF EXISTING PLANT

Chlorination Building and Equipment	\$135,650
Elutriation Tanks	91,330
Dewatering Building and Equipment	597,530
Outfall	<u>15,525</u>
Total	\$840,035
Less PL660 (33%)	<u>277,211</u>
	\$562,824
Less Reinvestment Income (5 1/2%)	<u>30,955</u>
	\$531,869

$$\frac{4.5}{36.1} + \frac{\$531,869}{\$3,500,000^{(1)}} \times \$235,900^{(2)} = \$4,460$$

(1) Bond issue of 1966.

(2) Lease Rental of 1966 Bond Issue - 35-year level.

EXHIBIT "B"

**ILLUSTRATION OF THE CALCULATION FOR ANNUAL AMORTIZATION
OF BOND ISSUE APPLICABLE TO 7.6 MGD ADDITION TO
KLINE'S ISLAND WASTEWATER TREATMENT PLANT**

I – Items for Additional Capacity Only

Item	Description	Construction Cost	
1	Pump Station, Rack, and Grit Removal	\$ 465,000	
2	Primary Settling Tanks	218,000	
3	Trickling Filters	1,894,000	
4	Final Settling Tanks	253,000	
5	Chlorine Contact Tank Addition	50,000	
6	Sludge Pumping Stations	102,000	
7	Sludge Thickening Tank	96,000	
8	Primary Digestion Tank	452,000	
9	Instrumentation	62,000	
10	Outside Piping	165,000	
11	Storm Drainage, Roads and Site Conditions	<u>400,000</u>	\$4,157,000

II – Items for Benefit of Entire Plant

12	Additional Vacuum Filter & Appurtenances	\$ 253,000	
13	Additional Office Space	26,000	
14	R. R. Siding For Chlorine Tank Car	56,000	
15	Instrumentation	<u>15,000</u>	\$ 350,000
	Total Construction Cost		\$4,507,000
	Contingencies (1)		<u>902,000</u>
			\$5,409,000
	Engineering (2)		865,000
	Legal & Fiscal		110,000
	Administrative		<u>54,000</u>
	Total Cost		6,438,000
	Less PL660 33%		<u>2,125,000</u>
	TOTAL PROJECT COST		\$4,313,600
	Bond Issue With Capitalized Interest (Cost x 109.9)		\$4,740,000
	Bond issue for "I" (3)		4,372,000
	Bond Issue for "II"		368,000
	Amortization – 35-yr. level (Bond issue x 0.858)		\$406,700
	Amortization "A" Facilities for Additional Capacity		375,000
	Amortization "B" Facilities for Entire Plant		31,700 (4)
	County Share "I" (4.5/7.6 mgd)		\$222,000
	City Share "I" (3.1/7.6 mgd)		\$153,000

(1) Interest earned during construction to be added to construction fund.

(2) Engineering includes – Feasibility Study, Preliminary & Final Design, Construction Services, Resident Representative, Operating Manual, Land Surveys, Soil Borings, Services of Materials Testing Laboratory.

(3) $\frac{\$4,157,000}{\$4,507,000} \times 4,740,000 = \$4,372,000$

(4) Amortization to be included in Annual Operating Costs

EXHIBIT "C"

TREATMENT PLANT

Salaries and Wages		\$ 260,000.00
Blue Cross – Blue Shield	12,000.00	
Social Security	13,600.00	
Insurance	11,800.00	
Pensions	22,500.00	
Allocation of Blue Cross, Etc.		
\$59,900 x 57.78%		34,610.00
Insurance – Fire (Building and Equipment)		1,000.00
Materials and Supplies		45,000.00
Repairs to Sewage Treatment Plant		3,000.00
Fuel, Light and Electrical Power		40,000.00
Maintenance, Purchase & Repair of Equipment		3,000.00
Operation		3,000.00
Communications		<u>1,500.00</u>
	TOTAL TREATMENT PLANT COSTS	\$391,110.00

SANITARY SEWERS

Salaries and Wages		\$ 55,000.00
Allocation of Blue Cross, Etc.		
\$59,900 x 12.22%		7,320.00
Materials and Supplies		3,000.00
Equipment		1,500.00
Operations and Motor Equipment (Includes Insurance)		7,000.00
Communications		600.00
Repairs to Sewer System		40,000.00
Sewer Maintenance		5,000.00
Capital Outlay		10,000.00
Extraordinary Expense		<u>0.00</u>
Allocation: (10.93%)		
	TOTAL SANITARY SEWER COST	\$ 14,145.61

$$\frac{\text{Mileage of Jointly-Used Interceptor Sewers}}{\text{Total Mileage of City Sewer System}} = \frac{27.84}{254.77} \times \$129,420.00$$

197? PLANT EXPANSION — AMORTIZATION "B" OF FACILITIES FOR ALL PARTICIPANTS \$ 31,700.00

ADMINISTRATIVE COSTS

Office of Director (20%)		\$ 5,000.00
Office of City Engineer (20%)		38,000.00
Office of Sewerage Engineer (20%)		32,600.00
Communications		0.00
Printing		500.00
Audit <u>2,000.00</u>		
	TOTAL ADMINISTRATIVE COSTS	\$ 78,100.00

Total Operating and Maintenance Costs	\$515,055.61
Less Miscellaneous Income (State Grants)	<u>49,000.00</u>
Net Operating and Maintenance Costs	466,055.61
Total Gallons Treated	7,800,000,000
Cost per Thousand Gallons Treated	5.98¢

CONSENT AND JOINDER

ALLENTOWN AUTHORITY, LOWER MACUNGIE TOWNSHIP AUTHORITY, BOROUGH OF MACUNGIE SEWER AUTHORITY, BOROUGH OF ALBURTIS SEWER AUTHORITY, UPPER MACUNGIE TOWNSHIP AUTHORITY, all Pennsylvania municipality authorities, and the TOWNSHIPS OF LOWER MACUNGIE and UPPER MACUNGIE and the BOROUGHS OF MACUNGIE and ALBURTIS and the COUNTY OF LEHIGH, all Pennsylvania municipal subdivisions, for themselves, their respective successors or assigns, for value received, intending to be legally bound, do hereby consent to the execution of the foregoing Agreement and do hereby agree to be bound by the terms and conditions set forth therein. The parties hereto further agree, to the extent any action by any of them is legally required or deemed necessary or desirable in order to permit the parties to the aforesaid Agreement to comply with the terms and provisions and covenants and representations set forth therein, that they will take such action, perform such acts and otherwise cooperate to accomplish the purpose and intent of the foregoing Agreement.

The parties hereto further agree that if at any time any of said parties shall come into possession of the Allentown Collection System or Treatment Plant, as defined in the foregoing Agreement, or the County Interceptor System, as defined in the foregoing Agreement, said party or parties, as applicable, will be bound by and will perform all acts necessary to comply with all of the terms and conditions of the aforementioned Agreement, to the extent applicable and to the extent said party or parties are legally permitted to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Consent and Joinder to be duly executed and attested by their proper officers, pursuant to appropriate actions of their respective governing bodies.

{Signed and Attested by Officers of Allentown Authority, Lower Macungie Township Authority, Borough of Macungie Sewer Authority, Borough of Alburdis Sewer Authority, Upper Macungie Township Authority, Township of Lower Macungie, Township of Upper Macungie, Borough of Macungie, Borough of Alburdis, and the County of Lehigh.}

CONSENT AND JOINDER

COPLAY-WHITEHALL SEWER AUTHORITY, SOUTH WHITEHALL TOWNSHIP AUTHORITY and SALISBURY TOWNSHIP AUTHORITY, all Pennsylvania municipality authorities, and the TOWNSHIPS OF SOUTH WHITEHALL and SALISBURY, Pennsylvania municipal subdivisions, as the assignees of South Whitehall Township Authority and Salisbury Township Authority, respectively, to certain rights and interests in the 1965 Agreement hereinafter mentioned and defined, for themselves, their respective successors or assigns, for value received, intending to be legally bound, do hereby consent to the execution of the foregoing Agreement by the parties thereto.

The foregoing parties agree to be bound by the terms and conditions set forth in the foregoing Agreement to the extent such agreement is required or necessary or desirable to accomplish the purposes and intent of the foregoing Agreement. The foregoing parties further agree, to the extent any action by any of them is legally required or deemed necessary or desirable in order to permit the parties to the aforesaid Agreement to comply with the terms and provisions and covenants and representations set forth therein, that they will take such action, perform such acts and otherwise cooperate to accomplish the purposes and intent of the foregoing Agreement.

This Consent and Joinder is executed by the foregoing parties upon the following specific conditions which shall be deemed to be a material part of this Consent and Joinder:

A. All charges to the County Authority made pursuant to Subsection 2A of the foregoing Agreement shall be received by the City of Allentown, Lehigh County, Pennsylvania (the “City”), for the benefit and use of City and the foregoing parties and shared by the City and the foregoing parties as follows:

1. Share of the City – 50.9% of such charges.
2. Share of Coplay-Whitehall Sewer Authority – 20.6% of such charges.
3. Share of South Whitehall Township Authority and/or the Township of South Whitehall – 17.8% of such charges.
4. Share of Salisbury Township Authority and/or the Township of Salisbury – 10.7% of such charges,

B. The foregoing parties consent to the procedure contemplated in the fifth unnumbered paragraph of Subsection 2B of the foregoing Agreement as illustrated on Exhibits B and C attached to the foregoing Agreement and do hereby expressly agree that the cost of amortizing the repayment of debt incurred to finance acquisition and construction of modifications, improvements and/or additions to the existing Treatment Plant (as that term is defined in the foregoing Agreement) for the benefit of all parties participating in the use of said Treatment Plant shall be considered and treated as additional operating expenses until such time as the debt applicable thereto is retired and shall be shared by all parties participating in the use of said Treatment Plant, including the foregoing parties, in the manner contemplated by Subsection 2C of the foregoing Agreement.

C. The foregoing parties do not waive or surrender any rights or interests they may have or hold under and pursuant to an Agreement, dated April 12, 1965, by and between 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 (the “1965 Agreement”), except to the extent that such waiver or surrender is required to accomplish the purposes and intent of the foregoing Agreement or other provisions of this Consent and Joinder.

The City, by joining in the execution of this Consent and Joinder, expressly agrees to the specific condition set forth in paragraph A above.

IN WITNESS WHEREOF, the parties hereto have caused this Consent and Joinder to be duly executed and attested by their proper officers, pursuant to appropriate actions of their respective governing bodies.

{Signed and Attested by Officers of Coplay-Whitehall Sewer Authority, South Whitehall Township Authority, Salisbury Township Authority, Township of South Whitehall, Township of Salisbury, and the City of Allentown.}