

ADDENDUM NO. 1
TO
THE 17 APRIL 1991 AMENDMENT
TO
THE 1 APRIL 1983 WASTEWATER
TREATMENT CAPACITY ALLOCATION AGREEMENT
(6.15 MGD)

This ADDENDUM to the 17 April 1991 Amendment to the 1 April 1983 Wastewater Treatment Capacity Allocation Agreement (6.15 MGD) , dated for convenience this 8th day of November 1994, by and among LEHIGH COUNTY AUTHORITY ("Authority"), a Pennsylvania municipal authority; COUNTY OF LEHIGH ("County"), a Pennsylvania municipal subdivision; and the Boroughs of ALBURTIS and MACUNGIE, Townships of LOWER MACUNGIE, LOWHILL, UPPER MACUNGIE, UPPER MILFORD, and WEISENBERG, all Pennsylvania municipal subdivisions located in Lehigh County, Pennsylvania, (referred to collectively as "Municipalities").

WITNESSETH:

WHEREAS, the parties entered into an amendment agreement dated 17 April 1991 ("1991 Amendment") to the 1 April 1983 Wastewater Treatment Capacity Allocation Agreement (6.15 MGD) ("1983 Agreement") to deal with the fact that because of its location within Upper Macungie Township, the then newly-built County Pretreatment Plant ("Plant") would treat wastewater from the Stroh Brewery, the Kraft facility, Upper Macungie Township and other upstream municipalities; and

WHEREAS, the discharge from the Plant was below assumed strength concentrations and the 1983 Agreement had no mechanism for the Authority to reflect this benefit in wastewater charges to the Plant; and

WHEREAS, the parties agreed to exempt the discharge from the Plant from certain requirements of the 1983 Agreement and establish a system whereby the Plant receives certain credits against its billings from the Authority to reflect the reductions in strength concentrations in its discharges; and

WHEREAS, in accordance with §3 of the 1991 Amendment, these benefits are to expire on 31 December 1994 unless the parties agree to a further exemption.

NOW THEREFORE, the parties hereto intending to be legally bound hereby represent, covenant and agree as follows:

1. Nothing in this Addendum is intended, and nothing in this Addendum shall be construed to in any way amend, modify, or supersede existing agreements between and among the parties to this Addendum, nor shall this Addendum waive, release, surrender or bar any rights, any issues, transactions

or controversies among any of the parties, or to in any other way affect any rights, privileges or obligations of any of the parties, directly or by implication, except to the extent specifically set forth in this Addendum. All provisions of the 1983 Agreement and 1991 Amendment, other than the term of the Amendment, shall remain in full force and effect.

2. The parties extend the term of the Amendment for three (3) additional years beyond 31 December 1994, precluding the reinstatement of §3.02 of the 1983 Agreement on 1 January 1995 as provided in §3 of the 1991 Amendment. The reinstatement of §3.02 of the 1983 Agreement shall now occur on 1 January 1998 unless all of the parties agree to a further exemption for the discharge from the Plant prior to that date.

3. 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 provision had not been contained herein. The Laws of the Commonwealth of Pennsylvania shall govern interpretation hereof.

4. This Addendum 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.

5. This Addendum shall be binding upon the parties and their respective successors and assigns.

IN WITNESS THEREOF, the parties each have 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.

LEHIGH COUNTY AUTHORITY

ATTEST:

By: _____

Name:
Position:

COUNTY OF LEHIGH

ATTEST:

By: _____

Name:
Position:

BOROUGH OF ALBURTIS

ATTEST:

By: _____

Name:
Position: