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{Case caption: IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA; CIVIL DIVISION—LAW: *Borough of Alburdis and Borough of Alburdis Sewer Authority, Plaintiffs, vs. County of Lehigh, City of Allentown, et al., Defendants, and Borough of Alburdis, et al., Defendants on the Counterclaim of Lehigh County Authority (Civil Action No. 81-C-1947) and Borough of Alburdis and Alburdis Sewer Authority, Plaintiffs vs. County of Lehigh, Defendant (Civil Action No. 84-C-1120).*}

ORDER

NOW, this 8th day of January, 1988, the attached Settlement Stipulation is hereby made an Order of Court and the parties are hereby Ordered to comply with the provisions of that Settlement Stipulation.

BY THE COURT:

/s/ Maxwell E. Davison

J.

SETTLEMENT STIPULATION

NOW, this 30th day of December, 1987, the parties to the above-captioned actions enter into the following stipulation:

Whereas, the Plaintiffs in the above-captioned actions have filed a Declaratory Judgment Action (81-C-1947) and a Summons (84-C-1120) against the above-captioned Defendants and the Lehigh County Authority has filed a Counterclaim against the Plaintiffs; and

Whereas, the parties are desirous of settling all of the issues raised in those actions; and

Whereas, the parties have reached an agreement which is fair and equitable to all involved;

Now, the parties to the above-captioned actions, intending to be legally bound and intending to fully and completely settle both of the above-captioned actions, including all claims and cross-claims, hereby agree as follows:

1. **[Payment to Alburdis for 1981-1986 Subsidy.]** Within forty-five days of the date of signing of this agreement, the County of Lehigh will pay to the Borough of Alburdis (hereinafter referred to as Alburdis) Two Hundred and Seventy Five Thousand (\$275,000) Dollars which will be in full and complete settlement of all claims by the Borough of Alburdis and the Borough of Alburdis Sewer Authority for sewer subsidy from the County of Lehigh for the years Nineteen Eighty-one (1981), Nineteen Eighty-two (1982), Nineteen Eighty-three (1983), Nineteen Eighty-four (1984), Nineteen Eighty-five (1985), and Nineteen eighty-six (1986).

2. **[Subsidy Payments for 1987-2010.]** The County of Lehigh will make future payments to the Borough of Alburdis in compliance with the Subsidy Agreement (dated: August 1, 1970), said payments to recommence for the calendar year Nineteen Eighty-seven (1987) (payable in January of 1988), at an annual amount computed pursuant to the Subsidy Agreement and calculated as required by that agreement, to be paid within thirty (30) days of billing, up to and including the calendar year Two Thousand Ten (2010) (payable in January, 2011). Notwithstanding the Subsidy Agreement, said payments shall not exceed the actual shortfall, if any, computed pursuant to the said Subsidy Agreement or the sum of Fifty-One Thousand Six Hundred (\$51,600.00) Dollars, whichever is less, for any calendar year.

3. **[Payments by Alburdis to LCA for Bills through 6/19/87.]** The Borough of Alburdis agrees to pay to the Lehigh County Authority the sum of One Hundred eighty-four thousand eight hundred and eighty-seven dollars and twenty-eight cents (\$184,887.28), representing any and all claims by the Lehigh County Authority, Upper Macungie Township, Lower Macungie Township, and the Borough of Macungie, against the Borough of Alburdis or the Borough of Alburdis Sewer Authority as a result of sewer bills, interest, and/or penalties for all years through and including June 19, 1987. No additional interest or penalties shall be charged on sewer bills issued prior to June 19, 1987, through the date of payment. Said payment shall be made immediately upon receipt by Alburdis of the sums payable to Alburdis by the County of Lehigh pursuant to Paragraph 1 of this stipulation and shall include additional interest at the settlement rate in the event interest is received by Alburdis on the said monies owed by the County. The sewer bills for the Second (2nd) and Third (3rd) Quarters of 1987 shall not be subject to interest and penalties. The 2nd and 3rd Quarter bills shall also be paid by the Borough of Alburdis to Lehigh County Authority at the time of payment of the aforesaid settlement sum. Contingent upon payment of said monies, Lehigh County Authority, Upper Macungie Township, Lower Macungie Township, and the Borough of Macungie release and forever discharge the Borough of Alburdis and the Alburdis Sewer Authority from any and all claims for monies due through and including June 19, 1987, and including sewer charges, interest, and penalties to the date reflected in the last quarterly billing paid by Alburdis.

4. **[Alburdis and Authority to Sign System Agreements from 1981 through 1987.]** The Borough of Alburdis and the Borough of Alburdis Sewer Authority, as the case may be, will within thirty (30) days consent and join or sign, as the case may be, the following agreements subject only to the rights created by this settlement stipulation:

- a. 10 February 1981 Relief Interceptor Agreement among LCA and the various municipalities using the Relief Interceptor system¹;
- b. 10 July 1981 Amendment Agreement²;

¹ **Cross-Reference:** *see* Codified Ordinances ¶ 65-P(1).

² **Cross-Reference:** *see* Codified Ordinances ¶ 65-P(2).

- c. 29 December 1981 Agreement among the City of Allentown, et al.³;
- d. 12 July 1982 Addendum Agreement with the City of Allentown, et al.⁴;
- e. 1 April 1983 Allocation Agreement among LCA, the County and Signatories⁵;
- f. 4 June 1985 Addendum Agreement to the original Relief Interceptor Agreement providing for participation by Allentown in Phase II of those facilities⁶;
- g. 1 July 1985 Amendment to the Allocation Agreement⁷;
- h. 5 December 1985 Allocation Agreement Amendment;⁸
- i. 27 November 1985 Pretreatment Program Agreement;⁹
- j. 6 December 1985 Allocation Agreement¹⁰;
- k. 1 August 1986 LCA//Allentown [*sic*] Agreement for purchase of additional treatment capacity¹¹;
- l. 29 December 1986 Addendum Agreement¹²;
- m. 1 August 1987 Amendment Agreement¹³; and
- n. 4 August 1987 Allocation Agreement¹⁴.

The parties agree that by signing these agreements Alburdis is not waiving any right to receipt of the aforesaid sewer subsidy payment in an amount not to exceed Fifty-One Thousand Six Hundred (\$51,600.00) Dollars in any calendar year from the County of Lehigh and that the parties further agree that the Borough of Alburdis and the Alburdis Sewer Authority shall be subject to no charge for interest and/or penalty (except as may be included in the sum outlined in paragraph 3) under said agreements as a result of prior acts of the Borough of Alburdis or the Borough of Alburdis Sewer Authority prior to June 19, 1987. The parties agree that Alburdis will be subject to such charges as may be properly imposed pro-

³ **Cross-Reference:** *see* Codified Ordinances ¶ 65-Q(2).

⁴ **Cross-Reference:** *see* Codified Ordinances ¶ 65-Q(3).

⁵ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(2).

⁶ **Cross-Reference:** *see* Codified Ordinances ¶ 65-P(3).

⁷ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(3).

⁸ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(3).

⁹ **Cross-Reference:** *see* Codified Ordinances ¶ 65-Q(4).

¹⁰ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(4).

¹¹ **Cross-Reference:** *see* Codified Ordinances ¶ 65-Q(5).

¹² **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(5).

¹³ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(6).

¹⁴ **Cross-Reference:** *see* Codified Ordinances ¶ 65-R(7).

spectively pursuant to the terms of those agreements from June 19, 1987, or the effective date of the respective agreement, whichever is later. The required consents and joinders shall specifically reference this stipulation and shall provide that any consent and joinder shall not be interpreted to waive, alter, or contradict any terms of this stipulation.

5. **[Billings of Alburdis to be Based on Agreements and Report.]** The Lehigh County Authority agrees to bill the Borough of Alburdis and the Borough of Alburdis Sewer Authority pursuant to the terms of the aforesaid agreements and as is described in the Report on Waste Water User Charges produced by the Lehigh County Authority (dated July 1985, as last revised October 1985 and all agreed upon amendments thereto). The Borough of Alburdis and the Alburdis Sewer Authority agree to pay all bills properly computed pursuant to said agreements and to said report. The computation of sewer bills pursuant to the user charge system shall not be interpreted to prohibit Alburdis' receipt of the subsidy payment referenced in Paragraph 2 of this agreement.

6. **[Amendment of Alburdis Act 537 Sewage Facilities Plan to Include Relief Interceptor.]** The Borough of Alburdis agrees to amend Act 537 plans to incorporate the relief interceptor project.

7. **[Approval by Governing Bodies.]** The obligations of the parties under this stipulation are contingent upon the approval of the respective Boards.

8. **[Full Settlement; Requirement of Court Order.]** This Settlement Agreement is intended by the parties to settle, in full, all claims and issues raised in the aforesaid litigation and is contingent upon the Court's willingness to enter this settlement as an Order of Court and upon its entry of an appropriate Order requiring compliance by all parties with said settlement 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 Borough of Alburdis, Borough of Alburdis Sewer Authority, County of Lehigh, Lehigh County Authority, City of Allentown, Township of Upper Macungie, Borough of Macungie, Township of Lower Macungie, Lower Macungie Township Authority, Upper Macungie Township Authority, Borough of Macungie Sewer Authority.}