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File #: 175354

July 26, 2019

**VIA HAND DELIVERY**

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RECEIVED

JUL 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**Re: The York Water Company, Agreement for Assignment of Sewage Capital  
Contribution and Treatment Agreement  
Docket No. U-2019-**

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Dear Secretary Chiavetta:

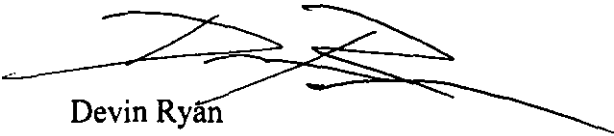
Enclosed for filing on behalf of The York Water Company ("York Water") is the Agreement for Assignment of Sewage Capital Contribution and Treatment Agreement ("Assignment Agreement") by and between York Water, Jacobus Borough Sewer Authority ("JBSA"), and Springfield Township, York County, Sewer Authority ("STYCSA").

By way of background, the Pennsylvania Public Utility Commission ("Commission") entered an Opinion and Order on July 11, 2019, at Docket No. A-2019-3007355, approving York Water's Application to acquire the wastewater system assets owned by JBSA. However, the Commission observed that JBSA and STYCSA previously entered into a Sewage Capital Contribution and Treatment Agreement dated August 16, 1995. Therefore, the Commission directed York Water to file a copy of the executed Assignment of the Sewage Capital Contribution and Treatment Agreement with the Commission's Secretary's Bureau and the Bureau of Technical Utility Services prior to closing and at least 30 days prior to the effective date of the Agreement of Sale.

Accordingly, York Water hereby submits this Assignment Agreement in compliance with the July 11, 2019 Order. Pursuant to the terms of the enclosed Assignment Agreement, JBSA assigns, transfers, and conveys to York Water all rights, duties, and responsibilities of JSBA under the Sewage Capital Contribution and Treatment Agreement. No rates under the Sewage Capital Contribution and Treatment Agreement are being changed through this assignment.

Rosemary Chiavetta  
July 26, 2019  
Page 2

Respectfully submitted,



Devin Ryan

DTR/jl  
Enclosure

cc: Certificate of Service  
Bureau of Technical Utility Services

## AGREEMENT FOR ASSIGNMENT OF SEWAGE CAPITAL CONTRIBUTION AND TREATMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (the "Assignment") is made as of this 24<sup>th</sup> day of July, 2019, by and between The YORK WATER COMPANY, with an address of 130 E. Market Street, P.O. Box 15089, York, PA 17405 ("Assignee" or "Water Company") and JACOBUS BOROUGH SEWER AUTHORITY, with an address of 126 North Cherry Lane, Jacobus, PA 17407 ("Assignor" or "JBSA"), and the SPRINGFIELD TOWNSHIP, YORK COUNTY, SEWER AUTHORITY (the "Authority") with an address of P.O. Box 75, Seven Valleys, Pennsylvania 17360 (all collectively the "Parties").

### WITNESSETH:

**WHEREAS**, JBSA and Springfield Township previously entered into a Sewer Capital Contribution and Treatment Agreement dated August 16, 1995 (the "Agreement") regarding the utilization by JBSA of portions of the Township Sewer System and to define the extent and terms of its capital contribution for the construction of the JBSA connection to the System and the future terms, conditions of and charges for the use of the Township Sewer System. A copy of the Agreement is attached hereto as Exhibit "A" and incorporated by reference herein;

**WHEREAS**, Springfield Township formed the Authority by Ordinance No. 1996-6 dated May 1, 1996;

**WHEREAS**, the Authority handles matters arising from and related to the Sewer System pursuant to the Ordinance and applicable law, including the Municipality Authorities Act;

**WHEREAS**, Water Company intends to purchase the JBSA Sewer System;

**WHEREAS**, upon the purchase by the Water Company of the JBSA Sewer System, the Agreement must be assigned to the Water Company.

**RECEIVED**

JUL 26 2019

**INTENDING TO BE LEGALLY BOUND, IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:**

1. Effective as of the date of this Assignment, JBSA hereby assigns, transfers and conveys to the Water Company all rights, duties and responsibilities of JBSA as set forth in the Agreement.

2. Water Company hereby assumes all of the duties, responsibilities, obligations and liabilities as set forth in the Agreement and agrees to fulfill all of the terms and conditions set forth in the Agreement. By way of explanation and not limitation, Water Company hereby indicates its understanding as to how the Authority has been billing and JBSA has been paying under the Agreement, utilizing EDUs. It is expressly understood and agreed that the calculation of the number of EDUs for intermunicipal billing purposes shall continue as specified in the Agreement, notwithstanding the fact that JBSA and the Water Company may utilize water consumption as the basis for billing Jacobus Borough customers pursuant to Resolution No. 2018-01. Continuation of this EDU based billing system is agreed to be necessary to allow for fair allocation of costs among all of the customers of the sewer systems affected by the Agreement.

3. Water Company understands and agrees that it shall provide information to the Authority upon request with regard to the exercise of its rights and performance of its obligations under the Agreement. Such information may include, but not be limited to, individual and aggregated water consumption of its customers, individual and aggregated sewer billing to its customers, and such other operational data as may be necessary to establish conformance with the terms of the Agreement. Upon request of the Water Company, the Authority will hold such information as confidential to the maximum extent permitted by applicable law.

4. Water Company and JBSA shall reimburse the Authority for its expenses incurred in the preparation of this Assignment, to include reasonable engineering, attorney and administrative fees.

5. Water Company and JBSA, jointly and severally, hereby agree to indemnify, defend and hold harmless the Authority and Township for any and all liabilities, claims, damages, or costs, arising out of or relating to this Assignment, including reasonable attorney's fees and court costs.

6. The Authority consents to this Assignment Agreement.

7. All other terms and conditions of the Agreement, except as modified herein, remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and sealed as of the date first above written.

Attest:

THE YORK WATER COMPANY

Mally E. Malins  
Assistant Secretary

By: Joseph J. Hand  
JOSEPH J. HAND, CHIEF OPERATING OFFICER  
Print Name and Title

Attest:

JACOBUS BOROUGH SEWER  
AUTHORITY

Larry E. Thompson Sec.

By: Roger W. Coleman  
ROGER W. COLEMAN, CHAIRMAN  
Print Name and Title

Attest:

SPRINGFIELD TOWNSHIP, YORK  
COUNTY, SEWER AUTHORITY

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
Chairman

## **AGREEMENT FOR ASSIGNMENT OF SEWAGE CAPITAL CONTRIBUTION AND TREATMENT AGREEMENT**

THIS ASSIGNMENT AGREEMENT (the "Assignment") is made as of this 24<sup>th</sup> day of July, 2019, by and between The YORK WATER COMPANY, with an address of 130 E. Market Street, P.O. Box 15089, York, PA 17405 ("Assignee" or "Water Company") and JACOBUS BOROUGH SEWER AUTHORITY, with an address of 126 North Cherry Lane, Jacobus, PA 17407 ("Assignor" or "JBSA"), and the SPRINGFIELD TOWNSHIP, YORK COUNTY, SEWER AUTHORITY (the "Authority") with an address of P.O. Box 75, Seven Valleys, Pennsylvania 17360 (all collectively the "Parties").

### **WITNESSETH:**

**WHEREAS**, JBSA and Springfield Township previously entered into a Sewer Capital Contribution and Treatment Agreement dated August 16, 1995 (the "Agreement") regarding the utilization by JBSA of portions of the Township Sewer System and to define the extent and terms of its capital contribution for the construction of the JBSA connection to the System and the future terms, conditions of and charges for the use of the Township Sewer System. A copy of the Agreement is attached hereto as Exhibit "A" and incorporated by reference herein;

**WHEREAS**, Springfield Township formed the Authority by Ordinance No. 1996-6 dated May 1, 1996;

**WHEREAS**, the Authority handles matters arising from and related to the Sewer System pursuant to the Ordinance and applicable law, including the Municipality Authorities Act;

**WHEREAS**, Water Company intends to purchase the JBSA Sewer System;

**WHEREAS**, upon the purchase by the Water Company of the JBSA Sewer System, the Agreement must be assigned to the Water Company.

**INTENDING TO BE LEGALLY BOUND, IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:**

1. Effective as of the date of this Assignment, JBSA hereby assigns, transfers and conveys to the Water Company all rights, duties and responsibilities of JBSA as set forth in the Agreement.

2. Water Company hereby assumes all of the duties, responsibilities, obligations and liabilities as set forth in the Agreement and agrees to fulfill all of the terms and conditions set forth in the Agreement. By way of explanation and not limitation, Water Company hereby indicates its understanding as to how the Authority has been billing and JBSA has been paying under the Agreement, utilizing EDUs. It is expressly understood and agreed that the calculation of the number of EDUs for intermunicipal billing purposes shall continue as specified in the Agreement, notwithstanding the fact that JBSA and the Water Company may utilize water consumption as the basis for billing Jacobus Borough customers pursuant to Resolution No. 2018-01. Continuation of this EDU based billing system is agreed to be necessary to allow for fair allocation of costs among all of the customers of the sewer systems affected by the Agreement.

3. Water Company understands and agrees that it shall provide information to the Authority upon request with regard to the exercise of its rights and performance of its obligations under the Agreement. Such information may include, but not be limited to, individual and aggregated water consumption of its customers, individual and aggregated sewer billing to its customers, and such other operational data as may be necessary to establish conformance with the terms of the Agreement. Upon request of the Water Company, the Authority will hold such information as confidential to the maximum extent permitted by applicable law.

4. Water Company and JBSA shall reimburse the Authority for its expenses incurred in the preparation of this Assignment, to include reasonable engineering, attorney and administrative fees.

5. Water Company and JBSA, jointly and severally, hereby agree to indemnify, defend and hold harmless the Authority and Township for any and all liabilities, claims, damages, or costs, arising out of or relating to this Assignment, including reasonable attorney's fees and court costs.

6. The Authority consents to this Assignment Agreement.

7. All other terms and conditions of the Agreement, except as modified herein, remain in full force and effect.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be signed and sealed as of the date first above written.

Attest:

THE YORK WATER COMPANY

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

Attest:

JACOBUS BOROUGH SEWER  
AUTHORITY

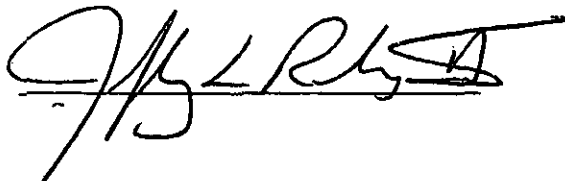
\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

Witness:

SPRINGFIELD TOWNSHIP, YORK  
COUNTY, SEWER AUTHORITY



By:  \_\_\_\_\_

Chairman

EXHIBIT "A"

RECEIVED

JUL 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

SEWAGE CAPITAL CONTRIBUTION AND TREATMENT AGREEMENT

THIS AGREEMENT, dated as of Aug 16, 1995, by and among SPRINGFIELD TOWNSHIP ("ST"), party of the first part, and the JACOBUS BOROUGH SEWER AUTHORITY ("JBSA"), party of the second part, all of York County, Pennsylvania.

BACKGROUND

ST is undertaking the construction of sewage collection facilities, sewage interceptor facilities and sewage treatment facilities, including pumping station and force main facilities. ST will operate the facilities being constructed by it or cause the facilities to be operated by a municipal authority formed by ST.

JBSA intends to construct a sewer system for the collection and transportation of sewage and wastes to be connected to the ST Sewer System for ultimate transportation to and disposal at the Treatment Plant.

JBSA is interested in and desires to utilize portions of the ST Sewer System and for that purpose is entering into this Agreement to define the extent and terms of its capital contribution to the Project and to define future terms, conditions of and charges for the Parties' use of the ST facilities.

ST is interested in and desires to utilize portions of the JBSA Sewer System and for that purpose is entering into this Agreement to define the terms, conditions of and charges for the Parties' use of the JBSA facilities.

In furtherance of the Project ST will enter into substantially similar agreements with other municipal contributors to the ST Sewer

System who have elected to reserve capacity in the facilities to be constructed in the Project and/or who discharge sewage into the ST Sewer System for treatment.

NOW THEREFORE, ST and JBSA, for and in consideration of the mutual promises and covenants hereby contained and intending to be legally bound hereby, do covenant and agree as follows:

1. DEFINITIONS. The following terms and phrases shall, unless the context clearly otherwise requires, for the purpose of this Agreement have the following meanings:

"Construction Cost" means the actual costs or expenses or the estimated costs or expenses, as applicable, of acquisition and construction of new and additional property chargeable to a plant or equipment account under generally accepted accounting principles and/or engineering practice, including, without intending to limit the generality of the foregoing, land, rights of way, easements, licenses, rights and similar interests in real property, and additions, extensions, alterations and improvements of or to the Treatment Plant, pumping station and sewer lines, as applicable, including, without intending to limit the generality of the foregoing, buildings, basins, machinery, mains, conduits, pipes, pipe lines, tanks, shops, fixtures, engines, boilers, pumps, meters, instruments, and other equipment and personal property, and Extraordinary Repairs, in each case made, constructed or acquired by ST after the date hereof, and which are used, useful or convenient in connection with the Treatment Plant, pumping station and sewer lines, including property in the process of

construction or erection, and any audits required by this Agreement to determine actual Construction Cost.

"Cost of Operation" means the actual costs or expenses or the estimated costs or expenses, as applicable, expended in operating, repairing and maintaining the Treatment Plant, pumping station or sewer line, as applicable, as determined in accordance with generally accepted accounting principles and/or engineering practices, including, without intending to limit the generality of the foregoing, expenses and costs of operation (including fines, penalties and judgments imposed by any agency of the United States, Commonwealth of Pennsylvania or any Court having jurisdiction and not recovered from a third party, as well as the costs incident to the preparation for, conducting or the settlement of litigation or threatened litigation, concerning any Party's sewer system), maintenance (including insurance), repair, auditing, administration and inspection and other expenses in relation to the Treatment Plant, pumping station or sewer line, as applicable, and including income, profits, property or franchise taxes, if any, payable with respect to the Treatment Plant, pumping station or sewer line, as applicable, which costs and expenses shall not include any amount attributable to debt service requirements with respect to indebtedness of any portion of the JBSA Sewer System or the ST Sewer System, and which costs and expenses shall be determined in accordance with generally accepted accounting principles and/or engineering practices; Provided, however, that all reimbursements, subsidies or other payments made by the Commonwealth of Pennsylvania, the United States of America, or any agency of either thereof, for costs of

operation of any Party's sewer system or any portion thereof and all miscellaneous income attributable to or in connection with any Party's sewer system or any portion thereof, including but not limited to revenues derived from compost sales, treatment of sewage from bulk haulers, industrial waste surcharges and management and operation service fees, but excluding all revenues from treatment service charges under this or any similar agreement from any Party's direct customers, shall be deducted from the above costs in determining the costs of operation for any Party's sewer system or portion thereof. If a Party's method of financing causes ST to lose any state or federal grants concerning the operation of its Treatment Plant, the amount of such lost grant money shall be added to the Cost of Operation to determine the amount to be shared by such Party. Cost of Operation shall not include depreciation.

"DER" shall mean the Commonwealth of Pennsylvania Department of Environmental Resources or the successor Department or agency of the Commonwealth of Pennsylvania charged with the responsibility of regulating environmental matters as they relate to the ST Sewer System.

"Design Flow Capacity" shall mean the capacity of a facility measured in EDU's.

"EDU" shall mean a dwelling consisting of a room, group of rooms, manufactured housing or other enclosure occupied or intended for occupancy as separate living quarters for a family, persons living together or persons living alone. In non-dwelling settings, an EDU shall be considered an average of 280 gallons per day of water usage.

"EPA" shall mean the United States Environmental Protection Agency or the successor Department or agency of the United States of America charged with the responsibility of regulating environmental matters as they relate to the ST Sewer System.

"Extraordinary Maintenance and Repairs" shall mean any alterations, repairs, renewals, improvements or replacements with respect to any Party's sewer system which are necessary or desirable for the proper operation and maintenance thereof and which are of a type which ordinarily would not be made out of current sewer system operating expense funds.

"Industrial Connection" shall mean a sewer system connection by any contributor whose sewage or waste discharge is of a volume or contains wastes of a character, type or strength as are subject to ST ordinances or regulations from time to time in effect concerning discharge of industrial wastes.

"JBSA" shall mean the Jacobus Borough Sewer Authority, a Pennsylvania municipality authority.

"JBSA Sewer System" shall mean the sewage collection system and sewage transmission facilities, including all related and necessary facilities, from time to time owned by JBSA for operation and use, including all future additions, alterations and improvements thereto.

"Net Capital Cost" shall mean (i) a lump sum payment, the total capital contribution or portion thereof as calculated in paragraph 4, below, (ii) an annual sum to amortize debt of ST, amounts sufficient, from time to time, to pay the debt service on any sums borrowed to pay for the Project, or (iii) a combination of (i) and (ii). In the event

) that the payment of debt service is structured in a fashion that requires the payment of cover or creates funds that will earn interest used to offset payments of principal and interest on the debt, Net Capital Cost shall include such additional requirements as cover and exclude interest earned by funds in an indenture or similar instrument as is used for such offsets.

"Party" shall mean and refer to any one or both of JBSA and ST as the context of use of the term shall make appropriate, being sometimes collectively referred to as "Parties".

"Project" shall mean the undertakings necessary in connection with facilities planning, design, construction, acquisition and financing by ST of the ST Sewer System.

) "Reserved Capacity" shall mean the treatment or conveyance capacity in the ST Sewer System, as appropriate, as set forth in subparagraphs A and B, respectively, of paragraph 4 hereof as has been reserved for the Parties as shown on Exhibit "B" attached hereto.

"Shared Facilities" shall mean ST's pumping station in the vicinity of Nixon Drive, its associated force main and all associated facilities to, but not including, the flow meter at the Treatment Plant.

"ST" shall mean Springfield Township, a Pennsylvania township of the second class.

"ST Sewer System" shall mean the sewage collection system, sewage interceptor system, pumping station and force main facilities, and sewage treatment plant, including all related and necessary facilities,

from time to time owned by ST and all future additions, alterations and improvements thereto.

"Test Year" shall mean the calendar year 199\_ and each calendar year thereafter.

"Treatment Plant" shall mean the sewage treatment and disposal facilities constituting part of the ST Sewer System to be constructed as part of the Project.

2. CONSTRUCTION. The Parties will pursue, with due diligence, the design of and bidding for their respective sewer systems and, upon receipt of satisfactory construction bids and satisfactory financing arrangements and all requisite governmental approvals, covenant to complete the construction of their respective sewer systems in accordance with plans and specifications prepared by their respective consulting engineers, or in accordance with such changes or modifications which do not make substantial changes in such plans and specifications. Each Party shall secure all required permits or approvals from DER and EPA and any other governmental body having jurisdiction necessary for the acquisition and construction of its sewer system. The Parties will keep each other advised of the progress of the work on their respective Sewer Systems. Any proposed change order involving the expenditure of \$10,000 or more by ST shall be given to the consulting engineer of JBSA for review and comment seven (7) days before its implementation.

3. SEWAGE TRANSPORTATION AND TREATMENT AFTER CONSTRUCTION. ST covenants that it will receive, transport, treat and dispose of all sewage and waste flows from the JBSA Sewer system after construction of

the Project and JBSA will, after notice to it, make all necessary connections of the JBSA Sewer System to the new facilities constructed under the Project at the connecting points shown on Exhibit "A" attached hereto. JBSA covenants that it will receive and transport all sewage and waste flows from ST customers who will be connecting at points or along sewer lines of JBSA as shown on Exhibit "A" attached hereto.

4. CALCULATION OF CAPITAL CONTRIBUTION.

A. Treatment Plant. The Parties agree that the Treatment Plant, as constructed as part of the Project, has been designed for flows to be allocated and capacity to be reserved for the Parties during the term of this Agreement, all as set forth in Exhibit "B" attached hereto and made a part hereof. The capital cost of the Treatment Plant to JBSA shall be calculated in the following manner:

(1) The capital cost of the Treatment Plant attributable to a Party shall be calculated separately in the following manner:

(a) The consulting engineers for ST shall determine the Construction Cost of the Treatment Plant portion of the Project.

(b) The percentage which the Design Flow Capacity of the Treatment Plant reserved for a Party, expressed in EDU's, bears to the total Design Flow Capacity of the Treatment Plant, expressed in EDU's, shall be applied to the Construction Cost of the Treatment Plant determined under subparagraph (a) above. The result shall equal the capital cost of the Treatment Plant attributable to a Party; provided,

however, that such amount shall be subject to adjustment, as appropriate, as hereinafter provided in subparagraph C of this paragraph 4.

B. Shared Facilities. The Parties agree that the Shared Facilities portion of the Project has been initially designed with a Design Flow Capacity to be allocated and reserved for the Parties, which Design Flow Capacity is set forth in Exhibit "B" attached hereto and made a part hereof. The capital cost of such Shared Facilities attributable to JBSA shall be calculated in the following manner:

(1) The capital cost of the Shared Facilities portion of the Project attributable to a Party and others, shall be calculated separately in the following manner:

(a) The consulting engineers for ST shall determine the Construction Cost of the Shared Facilities portion of the Project.

(b) The percentage which the Design Flow Capacity of the Shared Facilities portion of the Project under consideration reserved for a Party, expressed in EDU's, bears to the total Design Flow Capacity of the Shared Facilities, expressed in EDU's, shall be applied to the Construction Cost of the Shared Facilities portion of Project under consideration determined under subparagraph (a) above. The result shall equal the capital cost of the Shared Facilities portion of the Project under consideration attributable to a Party; provided, however, that such amount shall be subject to adjustment, as appropriate, as hereinafter provided in subparagraph C of this paragraph 4.

C. Total Capital Contribution. The sum of the capital costs calculated under subparagraphs A and B above of this paragraph 4 shall equal the relative capital contributions of JBSA and ST applicable to the Project; provided, however, that such amount shall be subject to adjustment as herein provided. In the event the United States of America or the Commonwealth of Pennsylvania, acting through any agency or department, shall make a grant to ST for application and toward any portion of the Project and in the event ST shall earn interest on invested project capital during construction of the Project then:

(1) Regarding the Treatment Plant portion of the Project, the ST consulting engineer shall determine the portion, if any, of such grant or interest attributable to the Treatment Plant portion of the Project. The portion, if any, of such grant or interest attributable to the Treatment Plant under consideration shall be multiplied by the percentage which the Design Flow Capacity of the Treatment Plant reserved for JBSA bears to the total design capacity of the Treatment Plant, and the result shall be deducted from the capital cost of the Treatment Plant portion of the Project attributable to JBSA calculated under subparagraph A of this paragraph 4.

(2) Regarding the Shared Facilities portion of the Project, the ST consulting engineer shall determine the portion, if any, of such grant or interest attributable to the Shared Facilities portion of the Project. The portion, if any, of such grant or interest attributable to the Shared Facilities under consideration shall be multiplied by the percentage which the Design Flow Capacity of the

Shared Facilities reserved for JBSA bears to the total Design Flow Capacity of such Shared Facilities and the result shall be deducted from the capital cost of the Shared Facilities under consideration attributable to JBSA as calculated under subparagraph B of this paragraph 4.

(3) It is the intent of this subparagraph C that JBSA shall receive a credit for its proportional share of any grant received or interest earned by ST attributable to the Project under consideration. However, if JBSA has elected to pay a portion or all of its capital contribution in a lump sum in accordance with paragraph 5, below, its credit for interest shall be calculated to reflect only the amount borrowed by ST for JBSA's capital contribution in relation to the entire amount borrowed by ST.

D. Other Shared Sewer Lines. The Parties agree that the anticipated portions of each other's sewer systems, other than the Treatment Plant and the Shared Facilities, that will be used in common are in such balance that there shall be no capital contribution made between the Parties as to these portions.

5. PAYMENT OF CAPITAL CONTRIBUTION. JBSA, in consideration of the reservation of capacity in the Treatment Plant and the Shared Facilities as constructed in the Project, covenants and agrees to pay to ST its share of the Net Capital Cost of the Project determined under paragraph 4 hereof from current revenues and/or other legally available funds at its option, (i) in a lump sum, (ii) in an annual sum sufficient to amortize the debt incurred to finance the total amount of the Net Capital Cost of the Project or (iii) in a combination of a lump sum

and annual sum at the times, in the manner and in the amount as hereinafter provided.

A. Amortized Payments.

(1) Annual Payment. The Parties recognize that the portion of the Net Capital Cost of the Project attributable to JBSA not paid in a lump sum by JBSA must be obtained by ST from the proceeds of borrowed funds initially financing the Project. The portion of any debt attributable to JBSA will be retired from payments made by JBSA to ST.

(a) The annual sum payable by JBSA to ST, attributable to its proportional share of the Net Capital Cost of the Project, as contemplated by this paragraph 5, shall be (1) estimated initially by ST for every calendar year over the stated life of the debt, (2) estimated by ST annually for each following calendar year, and (3) in subsequent calendar years, adjusted by ST for any variances from estimates for the prior calendar year. If the annual cost of amortization shall include coverage required under any trust indenture or debt instrument, any buildup of funds as the result of such coverage may be used only to benefit the Parties in proportion to the contribution of such coverage by the Parties. If it is necessary to borrow to fund a debt service reserve or similar fund, such fund may only be used to retire the debt for which such fund was created and funded.

(b) Such total annual sums shall be payable no less frequently than quarterly and no more frequently than monthly, depending on the amortization schedule for the debt, commencing when the debt is issued to finance construction of the Project. The total

payment in the first calendar year shall be a pro rata portion of the regular annual payment contemplated by this paragraph 5 representing the applicable portion of the calendar year. Annual payments shall continue until the amount equal to the Net Capital Cost of the Project attributable to a Party shall have been fully amortized.

(2) Adjustment for Refinancing. If the debt which financed the costs and expenses of the Project is refinanced, ST shall cause the annual sums payable by a Party which are attributable to their proportional share of the Net Capital Cost of the Project to be recomputed, such recomputation to be made in accordance with the principles set forth in this paragraph 5.

B. Lump Sum Contribution. In lieu of or in addition to making the annual capital contribution payments contemplated by subparagraph A of this paragraph 5, JBSA may elect to pay ST its share of the Net Capital Cost of the Project in whole or in part in a lump sum payment to be paid no later than the day ST settles on the financing for the Project. In order for JBSA to properly plan for its financing, ST will periodically advise JBSA of the estimated cost of the Project. Within 5 days of opening of bids, ST will advise JBSA of the amounts bid for the Project and ST will again advise JBSA of the estimated cost of the Project. Within 15 days of opening of bids, ST will advise JBSA of the estimated amount to be borrowed, assuming that JBSA will not be making any lump sum contribution. Within 15 days of receipt of such notice, JBSA will notify ST concerning its intentions to participate in ST's borrowing or its intention to make a lump sum contribution.

C. Capital Contribution Adjustment for Actual Costs. Upon completion of the Project the actual Construction Cost for the Treatment Plant and the Shared Facilities shall be determined by audit of an independent certified public accountant satisfactory to JBSA and retained by ST for such purpose. The estimated Net Capital Cost contribution attributable to a Party shall thereafter be adjusted to reflect the actual Construction Cost as determined by the audit. Any overpayment shall be refunded to JBSA from the construction fund for the project or balance shall be collected from JBSA in accordance with the principles set forth in this paragraph 5.

6. OPERATION AND MAINTENANCE RESERVE. If ST is required by its lender or if ST's consulting engineer recommends and ST approves a reasonable operation and maintenance reserve, such reserve shall be funded. The amount required shall initially be collected as a Construction Cost or a Cost of Operation, depending upon the time when the reserve must be funded; provided that the relative amounts contributed by the Parties shall be determined in accordance with the principles set forth in paragraph 7, hereof. Amounts required to replenish or increase the reserve shall be collected as a Cost of Operation within the time required.

7. TREATMENT SERVICE CHARGES. In consideration of the payment of treatment charges to be calculated and payable in accordance with the terms of this paragraph 7, ST shall permit use of the ST Sewer System for transmission and treatment of sewage and waste flows from the JBSA Sewer System in an amount not exceeding JBSA's Reserved

Capacity in the Treatment Plant and the Shared Facilities, as applicable.

A. Initial Service Charge. Effective immediately, the initial service charge rate shall be \$ 13.50 per EDU discharged from the JBSA Sewer System into the ST Sewer System and shall be payable to ST quarterly on the 1<sup>st</sup> day of MAR., JUNE, Sept. and Dec. in each year commencing 1998. Each quarterly payment shall be based upon the number of EDU's discharged from JBSA into the ST Sewer System during the preceding calendar quarter. The initial payment shall be based on 540 EDU's. The initial rate shall remain in effect without adjustment until and throughout the calendar year 1999.

B. Future Service Charges. After calendar year 1999 the initial service charge shall be subject to automatic annual adjustment upon and in accordance with the following terms and conditions:

(1) Method of Computation. In every calendar year following the first Test Year, ST shall engage an independent certified public accountant satisfactory to JBSA who shall determine the following matters and deliver a detailed written report thereon to the Parties not later than March 15 of the calendar year following such Test Year:

(a) The Cost of Operation of the Treatment Plant for such Test Year;

(b) The Cost of Operation of the Shared Facilities for such Test Year;

(c) The number of EDU's of sewage and wastes treated in such Test Year in the Treatment Plant;

(d) The number of EDU's of the total sewage and wastes transported in such Test Year in the Shared Facilities; and

(e) The amount obtained by dividing subparagraph (c) above into subparagraph (a) above, plus the amount obtained by dividing subparagraph (d) above into subparagraph (b) above, the result being the Costs of Operation of the ST Treatment Plant and the Shared Facilities, respectively, in such Test Year per EDU. The respective Costs of Operation of the Treatment Plant and Shared Facilities per EDU as so determined shall be the service charge rates per EDU of sewage and wastes discharged from the JBSA Sewer System payable by JBSA to ST for the calendar year following such Test Year and until the charges per EDU are again changed in accordance with the above procedure, subject to (f), below, of this subparagraph 7.

(f) In sufficient time for the independent certified public accountant to deliver the required detailed written report, JBSA shall deliver to such accountant the records of the Costs of the Operation of its pumping station and force main in the vicinity of Main Street at Boundary Avenue, also known as School Road. Using the same methodology as is indicated above in this paragraph 7, the accountant shall determine the Cost of Operation for such facilities per EDU and, in calculating the service charges for JBSA, shall give it a credit for the Cost of Operation for such facilities attributable to sewer customers in Springfield Township.

(2) Service Charge Adjustment for Test Year. In addition to the basic quarterly payment due for treatment charges, on the 1<sup>st</sup> day of April, Aug. and Dec. of every calendar year

following the first Test Year, an adjustment to the payment due on such dates shall be made to provide for:

(a) Payment to ST of an amount equal to one-third (1/3) of the amount by which the actual treatment costs attributable to JBSA exceed the amount of service charge actually paid by JBSA to ST on account of the preceding Test Year resulting from the recalculation of the service charge; or

(b) Credit to JBSA of an amount equal to one-third (1/3) of any amount of any service charge overpayment in the preceding Test Year as a result of the recalculation of the service charge.

C. Calculation of EDU's.

(1) Initially, the number of EDU's contributed by the Parties shall be deemed to be as follows:

(a) Treatment Plant. ST 1843; JBSA 767.

(b) Shared Facilities. ST 879; JBSA 767.

(2) Future Calculations. In every calendar year following the first Test Year, the consulting engineers of ST and JBSA shall confer and shall determine the number of EDU's discharged from each system at the following locations: the pumping station in the vicinity of Nixon Drive, the pumping station in the vicinity of Main Street at Boundary Avenue, also known as School Road, and the Treatment Plant. These determinations shall be made as of January 1 of each year, beginning January 1, 1999. If the consulting engineers cannot make a determination, the above named independent certified public accountant shall make a determination, which shall be conclusive.

D. Special Handling or Treatment Charge. In the event the sewage wastes or flows discharged from the JBSA Sewer System or the ST Sewer System violate the covenant of subparagraph A(4) of paragraph 9 hereof and require special handling for treatment or sludge disposal, the total costs incident to providing such special handling or treatment shall be borne solely by JBSA or ST, as applicable, as an additional treatment charge.

E. ST Sewer System Financial Records. The Parties shall keep appropriate records and accounts with respect to Costs of Operation of their respective sewer systems, and portions thereof, so that determinations which shall be necessary under this paragraph 7 can be made promptly, at the required times, with fairness and accuracy. Such records and accounts shall be open to inspection by any Party, upon reasonable notice, at reasonable times. ST shall also provide to JBSA its operating budget for the ST Sewer System for the next occurring calendar year so that the Parties can project for budgeting purposes any potential increase or decrease in treatment charges in said calendar year that might arise resulting from, the annual treatment service charge recalculation. ST shall segregate the funds and keep separate accounts for its dealings with its own sewer customers on the one hand, and its dealings with municipal or authority customers on the other hand. ST shall make fair allocations of cost of owning and operating equipment used in part for purposes unrelated to the transportation and treatment of sewage from the JBSA Sewer System.

8. FLWS. JBSA shall prohibit any connection to the JBSA Sewer System without a permit.

9. SEWER SYSTEM OPERATION COVENANTS.

A. General. The Parties covenant that all sewage and wastes collected by them and discharged into the ST Sewer System shall be subject to the terms and conditions of this Agreement and do further covenant:

(1) To maintain their Sewer Systems as sanitary sewers and not permit the discharge into their systems by any contributor of roof drainage water, storm water, surface drainage or building foundation drainage nor permit the excessive infiltration or inflow of ground water into the systems.

(2) To prohibit any contributor from discharging into the Sewer Systems any sewage or waste containing any substance or matter or having any characteristic which violates the sewage discharge limitations, criteria, standards or provisions of the ordinance or ordinances and regulations of Springfield Township or its municipal authority in effect at the time governing the discharge of sewage and wastes into the ST Sewer System.

(3) To not discharge into the ST Sewer System any sewage or waste containing any substance or matter or having any characteristic which violates the sewage discharge limitations, criteria, standards or provisions of the ordinance or ordinances and regulations of ST or its municipal authority in effect at the time governing the discharge of sewage and wastes into the ST Sewer System.

(4) To adopt, maintain and enforce such ordinances<sup>1</sup> and regulations as are necessary to fulfill the obligations of subpara-

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<sup>1</sup> Jacobus Borough joins in this Agreement for the purpose of making this covenant.

graphs A 1, 2 and 3 above and subparagraph B below of this paragraph 9 which shall be at least as stringent as the ordinance or ordinances and regulations of ST and its municipal authority in effect at the time governing connection to and discharge of sewage and wastes into the ST Sewer System, and to grant no exceptions or variances to discharge limits or criteria except as have been approved in writing by ST or its municipal authority, as applicable, which approval shall not be withheld unless the request could not have been approved under the ordinance or ordinances and regulations of ST and its municipal authority, as applicable, in effect at the time governing the discharge of sewage and wastes into the ST Sewer System if the contributor had been directly connected thereto.

B. Industrial Waste Contributors. JBSA agrees to notify ST or its municipal authority, as applicable, immediately of each Industrial Connection to the JBSA Sewer System, showing the name and address of such industry, the nature of its business and, in general, the characteristics of the sewage and wastes which will be discharged into the JBSA Sewer System and such other information as ST or its municipal authority, as applicable, may reasonably require, including any information that may be required to be reported to DER, EPA or any other governmental body having jurisdiction.

(1) JBSA agrees, on request of ST or its municipal authority, as applicable, to take appropriate measures to require any occupant of property discharging industrial wastes into the JBSA Sewer System, to provide, at such occupant's sole expense, suitable facili-

ties to enable sewage and waste samples to be collected by the appropriate Party.

(2) In the event that any report submitted to JBSA, ST or its municipal authority, as applicable, stating the results of an analysis of any sample, shall include a finding that sewage or wastes discharged from the industrial waste contributor violates the covenant set forth in subparagraph A(2) of this paragraph 9 in regard to contents or components of sewage or wastes, JBSA shall have the right at its sole expense to submit a portion of the same sample to an independent testing laboratory, satisfactory to ST or its municipal authority, as applicable, for determination and whose determination of the question shall be final.

(3) If the ST, or its municipal authority, as applicable, determination is not challenged or is confirmed, JBSA or the Borough of Jacobus, as applicable, agrees to take such action against the contributor as is necessary to cure the violation and upon such terms and using such compliance options as would be available to ST or its municipal authority, as applicable, if the contributor were directly connected to the ST Sewer System, and to grant no exceptions or variances to the discharge limits or criteria except in accordance with subparagraph A(4) of this paragraph 9.

(4) JBSA agrees that in the event a contributor of industrial wastes located in Jacobus Borough discharges sewage or waste into the JBSA Sewer System of a quantity or character such that if directly connected to the ST Sewer System, the contributor would be subject to ST or its municipal authority, as applicable, then in effect

industrial waste surcharge, then JBSA shall, upon billing to JBSA by ST or its municipal authority, as applicable, pay to ST or its municipal authority, as applicable, an amount equal to such industrial waste surcharge.

C. Indemnification. JBSA agrees to pay the cost of any damage to the ST Sewer System, or fine imposed upon ST or its municipal authority resulting from discharge of improper sewage or waste from the JBSA Sewer System, in violation of this Agreement, or from improper operation or maintenance of or high flows from such system. ST agrees to pay or to cause its municipal authority to pay the cost of any fine imposed upon it or its municipal authority resulting from discharge of improper sewage and waste from the ST Sewer System in violation of this Agreement, and from improper operation or maintenance of or high flows from such system. Each Party agrees to indemnify and save harmless the other Party against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Agreement, due to the negligence of a Party or its respective servants, agents or employees. A Party shall not at any time and under no circumstances, be liable to another Party for any damages to another Party's sewer system caused by reason of any condition beyond the control of such Party; conditions detailed in this paragraph C shall not be deemed beyond such control.

10. SEWER SYSTEM MAINTENANCE COVENANTS.

A. JBSA Sewer System. JBSA covenants and agrees that it will:

(1) Maintain its sewer system, in good repair, working order and condition;

(2) Continuously operate the same;

(3) from time to time make all necessary repairs, renewals and replacements thereof and all necessary improvements thereto in order to maintain adequate service and prevent infiltration and inflow;

(4) Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by the DER, EPA or any other governmental body having jurisdiction; and

(5) Provide authorized representatives of ST with access at reasonable times to the JBSA Sewer System in order to assure compliance with the terms of this Agreement.

B. ST Sewer System. ST covenants and agrees that it will:

(1) Maintain the ST Sewer System in good repair, working order and condition;

(2) Continuously operate the same;

(3) From time to time make all necessary repairs, renewals and replacements thereof and all improvements thereto in order to maintain adequate service and prevent infiltration and inflow;

(4) Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by the DER, EPA or any other governmental body having jurisdiction; and

(5) Provide authorized representatives of JBSA with access at reasonable times to the ST Sewer System in order to assure compliance with the terms of this Agreement.

11. REQUIRED UPGRADING OF FACILITIES. If, pursuant to any requirement of DER or EPA, ST is required to upgrade the level of sewage waste treatment or sludge stabilization and disposal at the Treatment Plant, then JBSA shall pay the same share of the costs of such upgrading as its Reserved Capacity bears to the total capacity of the Treatment Plant. Payment of such share shall be made in accordance with paragraph 5 hereof.

12. ADDITIONAL TREATMENT AGREEMENTS. ST may enter into additional agreements concerning transportation, treatment and disposal by ST of sewage and wastes from any other municipality or municipality authority; provided, however, that no such agreement shall impair the ability of ST to receive, transport, treat and dispose of sewage and wastes collected in the JBSA Sewer System in accordance with the terms of this Agreement or increase the costs of JBSA for the treatment or transportation of its sewage; provided, further, that any such agreements include the provisions found in sections 8 through 10 of this Agreement.

13. RESERVE CAPACITY OVERFLOWS:

Excess Discharge. In the event that the total discharge of sewage and wastes from the JBSA Sewer System into the ST Sewer System shall exceed in volume the Reserve Capacity of JBSA in any portion of the ST Sewer System, JBSA shall not permit any further connections to its sewer system and the Parties agree that they will negotiate in good faith with respect to appropriate methods of providing additional capacity or reallocation of existing capacity and for any appropriate additional payments by reason thereof. In the event that the Parties

shall fail to agree with respect to provisions for additional capacity or reallocation of existing capacity and appropriate payments thereof, JBSA shall continue to have the right to discharge sewage and wastes from the JBSA Sewer System into the ST Sewer System in an amount not exceeding its Reserve Capacity.

14. MISCELLANEOUS PROVISIONS.

A. Payments. JBSA covenants and agrees that:

(1) The sums payable to ST hereunder will be paid at the times set forth herein without suspension, set-off or abatement of any nature, irrespective of delays in completion of any construction relating to the Project or the Shared Facilities.

(2) It will provide in its annual budget during the term hereof, commencing with the annual budget for the first year in which payments are due hereunder to ST, for sufficient current revenues which, together with such other funds as legally may be available, will enable JBSA to pay all its obligations to ST hereunder in each such year.

(3) If during any year any obligation hereunder remains unpaid, the unpaid balance shall be provided for and paid from current revenues for the succeeding year, in addition to all obligations payable hereunder in such succeeding year.

B. Factual Disputes. The Parties hereto agree that if, at any time, disputes shall arise between them concerning factual determinations under the terms of this Agreement, the matter in dispute shall be referred to three arbitrators chosen as follows: one member to be appointed by ST, one to be appointed by JBSA, and the third to be

agreed upon by the two appointees so selected; provided, however, that in the event such appointees cannot agree on the third arbitrator, the President Judge of the Court of Common Pleas of York County, Pennsylvania, shall appoint the third arbitrator. The decision or award of the majority of such arbitrators shall be final and binding upon the Parties hereto, their respective successors and assigns. Each Party to the dispute shall pay the costs of its own appointee and one-half of the costs of the third arbitrator.

C. User Meetings. Representatives of the Parties to this Agreement shall initially meet quarterly to discuss mutual concerns and issues relating to the subject matters of this Agreement. Such meetings may be held less frequently unless one of the Parties requests that they be held quarterly.

D. Term. This Agreement shall continue until amended or terminated by the Parties.

E. Headings. Paragraph and subparagraph headings are provided for the convenience of users and are not a part of this Agreement.

F. Agreement Binding. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns as of the date of execution. It is contemplated that ST will incorporate a municipal authority under the Pennsylvania Municipality Authorities Act to construct, finance and operate the Project. This Agreement may be assigned in whole to such an authority incorporated solely by ST; provided that ST shall remain responsible for the same covenants as are undertaken herein by Jacobus Borough; provided further, that all other

obligations undertaken herein by ST are assigned to such municipal authority.

G. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized appropriate officers and their respective seals to be affixed hereunto, all as of the day and year first above written.

Attest:

Barbara C. Switzer  
Secretary  
(SEAL)

SPRINGFIELD TOWNSHIP

BY E. Thomas Lehman  
Supervisor

BY Patricia S. White  
Supervisor

BY \_\_\_\_\_  
Supervisor

Attest:

Raymond L. Kich  
Secretary  
(SEAL)

JACOBUS BOROUGH SEWER AUTHORITY

BY Steph B. Shultz  
Chairman

JOINDER

Jacobus Borough hereby joins in the foregoing Agreement for the purposes stated therein.

Attest:

H. Bernell Ballinger  
Secretary  
(SEAL)

JACOBUS BOROUGH

BY Francis L. Shaffer  
President, Borough Council

EXHIBIT "A"

Points of Connection

RECEIVED

JUL 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

EXHIBIT "B"

Reserve Capacity

Treatment Plant

Shared Facilities

RECEIVED

JUL 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

**VIA FIRST CLASS MAIL**

Tanya J. McCloskey, Esquire  
Senior Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

John R. Evans  
Small Business Advocate  
Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

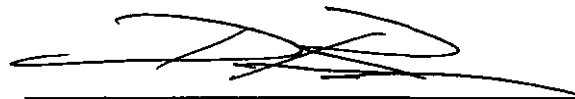
Richard A. Kanaskie, Esquire  
Director and Chief Prosecutor  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
PO Box 3265  
Harrisburg, PA 17105-3265

**RECEIVED**

JUL 26 2019

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Date: July 26, 2019



Devin Ryan

RECEIVED

2019 JUL 26 AM 10:06

PA PUC  
SECRETARY'S BUREAU  
FRONT DESK

**First Class Mail**

**POST &  
SCHELL**<sup>PC</sup>  
ATTORNEYS AT LAW

CELEBRATING **50** YEARS

17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601

**To:** Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265