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File #: 190741

December 9, 2021

VIA ELECTRONIC FILING

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

Re: Application of Pennsylvania American Water Company - Wastewater Division (PAWC-WD), under Sections 1102(a) and 1329 of the Pennsylvania Public Utility Code, 66 Pa. C.S. §§ 1102(a) and 1329 (relating to enumeration of acts requiring certificate and valuation of acquired water and wastewater systems), for approval of: (1) the transfer, by sale, of substantially all of the wastewater system assets, properties and rights related to the wastewater collection and treatment system owned by York City Sewer Authority and operated by the City of York; (2) the right of PAWC-WD to begin to offer or furnish wastewater service to the public in the City of York, Pennsylvania, and to three bulk service interconnection points located in North York Borough, Manchester Township and York Township, York County, Pennsylvania; and (3) the right of PAWC-WD to begin to offer and furnish Industrial Pretreatment Program to qualifying industrial customers in Manchester Township, Spring Garden Township and West Manchester Township, York County, Pennsylvania
Docket No. A-2021-3024681

Dear Secretary Chiavetta:

Enclosed for filing is the Protest of The York Water Company to the Application of Pennsylvania-American Water Company in the above-referenced proceeding. Copies are being provided per the Certificate of Service.

Rosemary Chiavetta, Secretary
December 9, 2021
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Respectfully submitted,



Devin Ryan

DR/ks
Enclosures

cc: Honorable Steven K. Haas
Certificate of Service

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 E-MAIL ONLY

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VIA FIRST CLASS MAIL ONLY

Gary Lehman
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Date: December 9, 2021

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes that form a cursive-style name.

Devin T. Ryan

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Application of Pennsylvania-American Water :
Company under Section 1102(a) of the Pennsylvania :
Public Utility Code, 66 Pa C.S. § 1102(a), for approval :
of (1) the transfer, by sale, to Pennsylvania-American :
Water Company, of substantially all of the assets, :
properties and rights related to the wastewater :
collection and treatment system owned by the York :
City Sewer Authority and operated by the City of York, :
(2) the rights of Pennsylvania American Water : Docket No. A-2021-3024681
Company to begin to offer or furnish wastewater :
service to the public in the City of York, Pennsylvania, :
and to three bulk service interconnection points located :
in North York Borough, Manchester Township and :
York Township, York County, Pennsylvania, and (3) :
the rights of Pennsylvania-American Water Company :
to begin to offer and furnish Industrial Pretreatment :
Program to qualifying industrial customers in :
Manchester Township, Spring Garden Township and :
West Manchester Township, York County, :
Pennsylvania :

**PROTEST OF
THE YORK WATER COMPANY**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

AND NOW, comes the York Water Company (“York Water”) and hereby files this Protest, pursuant to the Pennsylvania Public Utility Commission’s (“Commission”) at 52 Pa. Code §§ 5.51-5.53, to the above-captioned Application (“Application”) filed by Pennsylvania-American Water Company (“PAWC”) seeking Commission approval to, among other things, acquire the wastewater collection and treatment system owned by York City Sewer Authority (“YCSA”) and operated by the City of York (“City”).

The City currently provides the wastewater treatment service for York Water’s wastewater collection system located in West York Borough (“West York”). Therefore, York Water files this

Protest to the Application to protect its rights as a wastewater treatment customer. Specifically, York Water is concerned that the acquisition will significantly increase the rate that York Water pays for wastewater treatment service, both immediately and in the long term, the costs of which are ultimately passed onto York Water's ratepayers. As such, York Water will investigate PAWC's proposals and evaluate whether the Application presents substantial public benefits without the imposition of just and reasonable conditions pursuant to Section 1103(a) of the Public Utility Code, 66 Pa. C.S. § 1103(a). York Water also reserves the right to raise additional issues as may arise or be developed through the course of this proceeding.

In support thereof, York Water states as follows:

I. FACTUAL BACKGROUND

1. York Water is a "public utility" as defined in Section 102 of the Pennsylvania Public Utility Commission Code, 66 Pa. C.S. § 102. York Water is a public utility engaged in the business of supplying water and wastewater service in Pennsylvania subject to the regulatory jurisdiction of the Commission.

2. The City leases and operates a wastewater collection and treatment system owned by YCSA. Neither the City nor YCSA currently provides wastewater service subject to the jurisdiction of the Commission.

3. York Water currently receives wastewater treatment service for its West York wastewater collection system from the City's wastewater treatment system pursuant to a contract setting forth the rates, terms, and conditions of such service. York Water is also a customer for wastewater service at its offices in the City of York.

A. YORK WATER’S WASTEWATER TREATMENT SERVICE AGREEMENT WITH THE CITY

4. York Water’s wastewater treatment service agreement with the City was originally entered into by the City and West York on December 13, 1976 (“West York Agreement”). A true and correct copy of the West York Agreement is attached hereto as **Exhibit A**.

5. Under the West York Agreement, West York would connect to City’s wastewater treatment system, and the City would receive, treat, and dispose of West York’s sewage in exchange, subject to the rates, terms, and conditions for the service set forth in the West York Agreement.

6. Paragraphs 8 and 8-A of the West York Agreement set forth the rates and charges that West York must pay the City. *See Exhibit A ¶¶ 8, 8-A.*

7. Paragraph 21 of the West York Agreement provides that if West York or the City “should at any future time transfer its sewerage system to any other agency or municipality by deed, lease or otherwise,” then West York “shall assign this Agreement to such agency or municipality, and upon such assignment, the assignee shall be subject to all of the obligations and shall be entitled to receive all of the rights and benefits of this Agreement.” *See Exhibit A ¶ 21.*¹

8. On January 18, 2016, York Water executed an Asset Purchase Agreement (“APA”) with West York, under which York Water would acquire West York’s wastewater conveyance and collection system and facilities and would assume through express assignment West York’s rights and obligations under the West York Agreement with the City.

¹ The issue of whether the City may lawfully assign the West York Agreement to PAWC is currently the subject of an ongoing arbitration initiated by York Water against the City before the American Arbitration Association (“AAA”). *See* Section I.D, *infra*; *see also Exhibit A ¶ 23* (“The parties agree that all disputes concerning the interpretation or application of any provisions of this Agreement shall be settled by arbitration in accordance with the rules of the American Arbitration Association.”). That arbitration proceeding remains pending. Thus, no determination has been reached as to whether the City can lawfully assign the West York Agreement to PAWC.

9. Under the APA, the acquisition's closing was conditioned on the Commission issuing all necessary approvals of the transaction including, but not limited to, the Commission's approval of the acquisition and York Water's assumption of the West York Agreement.

10. On June 6, 2016, York Water filed an Application with the Commission at Docket No. A-2016-2552403 ("West York Application") requesting approval to enter into the APA with West York to acquire West York's wastewater system and facilities (66 Pa.C.S. §§ 507, 1102(a)(3)), assume West York's rights and obligations under the West York Agreement (66 Pa.C.S. § 507), assume West York's rights and obligations under a contract between West York and West Manchester Township (66 Pa.C.S. § 507), and begin providing wastewater service to the public in West York (66 Pa.C.S. § 1102(a)(1)).

11. Prior to filing the West York Application, and in recognition of the fact that York Water is neither an agency nor a municipality, York Water sought the express consent of the City to an assignment of the West York Agreement from West York to York Water.

12. By letter dated May 13, 2016, the City expressly consented to West York's assignment of the West York Agreement to York Water, stating that the "City of York acknowledge[d] and agree[d] that subject to successfully closing on this sale, The York Water Company will succeed West York Borough as party to the 1976 Agreement between the City of York and West York Borough and shall be subject to all of the obligations and shall be entitled to receive all of the rights and benefits of the 1976 Agreement." See **Exhibit B** (May 13, 2016 Letter of Jason R. Sabol, Esquire, York's Assistant Solicitor).

13. No Protests to York Water's West York Application were filed.

14. On December 22, 2016, the Commission entered an Opinion and Order at Docket No. A-2016-2552403 approving York Water's Application, subject to York Water filing a revised *pro forma* tariff supplement.²

15. On December 22, 2016, the Commission issued Certificates of Filing evidencing its approval of York Water's request to assume West York's rights and obligations under the West York Agreement and under West York's contract with West Manchester Township.

16. On February 23, 2017, York Water closed on its acquisition of West York's wastewater collection system and facilities.

17. Pursuant to the Commission's December 22, 2016 Order, York Water filed a letter with the PUC on February 27, 2017, advising that closing took place on February 23, 2017, and that York Water began providing wastewater services to customers previously served by West York on February 27, 2017.

18. On February 28, 2017, the Commission issued a Certificate of Public Convenience evidencing its approval of York Water's request to provide wastewater service in West York.

19. Since February 27, 2017, York Water has possessed all rights and obligations previously held by West York under the West York Agreement.

B. PAWC'S PROPOSED ACQUISITION OF THE CITY'S WASTEWATER COLLECTION AND TREATMENT SYSTEM

20. On or about July 1, 2021, PAWC filed its Application requesting approvals to, among other things: (1) acquire substantially all of the wastewater collection and treatment assets owned by the YCSA and operated by City (66 Pa.C.S. §§ 507, 1102(a)(3)); (2) begin providing wastewater service to the public in the City and at three bulk service interconnection points in

² On December 27, 2016, York Water filed the revised *pro forma* tariff supplement at Docket No. A-2016-2552403.

North York Borough, Manchester Township, and York Township (66 Pa.C.S. § 1102(a)(1)); (3) assume six intermunicipal agreements related to the wastewater collection and treatment system (66 Pa.C.S. § 507); (4) modify those six intermunicipal agreements as well as the West York Agreement between York Water and City related to the wastewater collection and treatment system (66 Pa.C.S. § 508); and (5) receive approval to use, for ratemaking purposes, the lesser of the fair market value or the negotiated purchase price of the wastewater collection and treatment assets (66 Pa.C.S. § 1329).

21. In PAWC's Application, PAWC avers that the West York Agreement, as well as the six intermunicipal agreements, will be "lawfully assigned . . . to PAWC upon Closing." *See* Application, p. 18.

22. PAWC also claims that the Commission's authority to modify public utility contracts under 66 Pa.C.S. § 508 should be exercised because it will "ensure that regionalization and consolidated of wastewater systems in the Commonwealth -- along with all of the attendant public benefits -- is not unreasonable hindered due to the unwillingness of a limited group of customers to cooperate on the reasonable modification of service contracts that have been lawfully assumed (pursuant to the express terms of the contracts) by the public utility." *See* Application, p. 18.

23. Neither PAWC nor the City approached York Water about whether York Water consented to the City's assignment of the West York Agreement to PAWC.

24. Neither PAWC nor the City approached York Water about whether York Water consented to PAWC's proposed modifications of the West York Agreement.

25. Instead, the City sent York Water a letter dated May 17, 2021, in which the City: (1) provided notice of its assignment of the Agreement to PAWC upon closing of the proposed

transaction; and (2) claimed York Water must negotiate a new bulk collection and treatment agreement with PAWC pursuant to Paragraph 12 of the Agreement, since the transaction would cause the retirement of bonds and redemption or defeasance by York City Sewer Authority of all debt obligations outstanding that are secured by the wastewater collection and treatment system. A true and correct copy of City's May 17, 2021 letter is attached hereto as **Exhibit C**.

C. THE CITY'S ORDINANCE NO. 15 OF 2021

26. On June 1, 2021, the City issued Ordinance No. 15 of 2021 dated May 19, 2021 ("Ordinance"), "AMENDING ARTICLE 933 'SEWER RENTALS' OF THE YORK CITY CODIFIED ORDINANCES TO IMPLEMENT ALTERNATIVE SEWER FEES APPLICABLE TO WHOLESALE CUSTOMERS WITHOUT A CURRENTLY EFFECTIVE SEWER SERVICE AGREEMENT." A true and correct copy of the Ordinance attached hereto as **Exhibit D**.

27. In its recitals, the Ordinance states that "wholesale customers additionally receive sewer services through intermunicipal sewer service agreements with the City of York, York County, Pennsylvania" and that "it has been determined that alternatives rates shall be established to allow for continued sewer service to a wholesale customer in the event an intermunicipal sewer service agreement has lapsed or is otherwise no longer effective." See **Exhibit D**, p. 1. (emphasis added).

28. The Ordinance's "Rates for Wholesale Customers Without a Currently Effective Intermunicipal Sewer Service Agreement" states that the "Usage Charge per 1,000 gallons" for "West York Borough/The York Water Company" would be \$3.1180. See **Exhibit D**, p. 2. (emphasis added).

D. YORK WATER'S ONGOING ARBITRATION CONCERNING THE CITY'S MATERIAL BREACHES OF THE WEST YORK AGREEMENT

29. On August 25, 2021, York Water filed a Statement of Claim against the City with AAA at Case No. 01-21-0016-2942. In its Statement of Claim, York Water asserted that the City materially breached the West York Agreement by: (1) enacting the Ordinance in violation of the West York Agreement's terms; and (2) assigning the West York Agreement to PAWC without the express consent of York Water, which renders the purported assignment null and void. York Water also requested declaratory judgment that to the extent an assignment to PAWC has occurred, the City has materially breached the Agreement by such assignment and that York Water is entitled to all damages resulting from the breach.

30. Relatedly, Manchester Township, North York Borough, Spring Garden Township, York Township, and West Manchester Township ("Interconnected Municipalities") filed a Statement of Claim against the City with AAA at Case No. 01-21-0016-2228, similarly alleging that the City materially breached their agreements with the City for wastewater treatment service and seeking declaratory judgments.

31. AAA subsequently consolidated these two arbitration proceedings.

32. The City filed its Answering Statements in response to York Water's and the Interconnected Municipalities' Statements of Claim on September 10, 2021.

33. On September 24, 2021, York Water and the Interconnected Municipalities filed their Responses to the City's Answering Statements.

34. The case is set for hearing on May 16, 2022, in York, Pennsylvania, with a discovery cutoff date of March 15, 2022.

41. By its express terms, PAWC’s proposed tariff states that this higher rate will apply “unless a valid contract between [PAWC] and the bulk wastewater customer” (here, York Water) “is in effect.”⁴

42. Yet, in its Application, PAWC proposes that the Commission exercise its powers under Section 508 of the Public Utility Code to modify the West York Agreement and impose this higher rate on York Water “during a possible short transition period between Closing and the earlier of (i) termination of the assumed agreements or (ii) renegotiation of the assumed agreements (which the agreements require upon retirement of [YCSA’s] bonds).” Application, p. 17.

43. Then, “[a]fter the transition period,” PAWC states that York Water and the other bulk service customers would “be served by PAWC either pursuant to renegotiated bulk service agreements or pursuant to PAWC’s tariffed default bulk service rates (as adopted from the City’s default bulk service rate ordinance),” *i.e.*, the Ordinance. Application, p. 17.

44. Therefore, if the Commission approves PAWC’s Application,⁵ York Water’s rate would immediately increase upon the transaction’s closing by \$0.6203 per 1,000 gallons, or an increase of approximately 25%.

⁴ Application, Appx. A-12, Supp. No. XX to Tariff Wastewater PA P.U.C. No. 16, Original Page 11.13.

⁵ PAWC claims that the Ordinance “was intended to set bulk service rates for the municipalities,” including West York, “at current levels in the event that the municipal agreements were terminated for whatever reason.” Application, p. 17. As explained by York Water, the Ordinance does not keep the rates at their current levels. Moreover, the West York Agreement has no term specified, nor does it contain any termination clause. The express terms of the Agreement provide that the Agreement itself, and the rate set forth therein, shall only be “renegotiated” under the following circumstances:

- a) Upon the final retirement of the bonds issued by the Authority of York, Pennsylvania to finance construction of the 1976 additions of the sewage disposal plant; and
- b) Upon the retirement of any other bonds issued by the Authority of York, Pennsylvania relating to the York City Wastewater Treatment Plant.

See Exhibit A ¶12. The West York Agreement does not state that the contract expires or terminates upon retirement of those bonds. Therefore, it is unclear how PAWC believes that the West York Agreement will be “terminated for whatever reason

45. Then, unless York Water agrees to a new rate under a “renegotiated agreement” with PAWC, York Water would keep paying that higher rate after the “transition period.”

46. Neither the City, PAWC, nor YCSA has provided evidence to support the proposed new rates for bulk wastewater treatment service set forth in PAWC’s *pro forma* tariff supplement.

47. PAWC’s proposed rate, if approved by the Commission, would be the largest dollar amount and percentagewise increase in these charges since York Water acquired West York’s system in 2017.

48. In fact, the highest rate paid by York Water was in 2019, when it paid treatment and service charges totaling \$2.5228 per 1,000 gallons.

49. PAWC’s proposed rate for York Water even exceeds that highest rate by \$0.5952 per 1,000 gallons or approximately 24%.

50. Critically, York Water’s wastewater treatment costs are passed onto ratepayers in its base rate cases.

51. Therefore, PAWC’s proposal to significantly increase York Water’s wastewater treatment rate would adversely affect the rates paid by York Water’s customers.

III. STANDING TO PROTEST

52. York Water has a substantial, direct, and immediate interest in this Application proceeding.⁶

53. As a current wastewater treatment customer of the City, York Water and its ratepayers will be directly affected if the Commission grants the Application.

54. Indeed, as explained previously, PAWC proposes to significantly increase the rate that York Water pays for wastewater treatment service, both through its proposed *pro forma* tariff

⁶ See *Del-Aware Unlimited. v. Commonwealth*, 551 A.2d 1117, 1121 (Pa. Cmwlth. 1988) (citation omitted); *1000 Grandview Ass’n v. Mt. Washington Assocs.*, 434 A.2d 796, 797 (Pa. Super. 1981) (citation omitted).

supplement and its proposal for the Commission to modify the West York Agreement pursuant to Section 508 of the Public Utility Code. *See* Section II, *supra*.

55. Therefore, York Water has standing to protest PAWC's Application.

IV. CONCLUSION

WHEREFORE, The York Water Company respectfully requests that Pennsylvania-American Water Company's Application at Docket No. A-2021-3024681 be denied.

Respectfully submitted,



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Of Counsel:

Post & Schell, P.C.

Date: December 9, 2021

Attorneys for The York Water Company

Exhibit A

ARTICLES OF AGREEMENT

City of York and West York Borough

This Agreement, made and entered into this 13th day of December, 1976, by and between the City of York, a Municipal Corporation of the Commonwealth of Pennsylvania, being a City of the Third Class, (hereinafter called "City"), and the Township [Borough], of West York, York County, Commonwealth of Pennsylvania, (hereinafter called "Municipality"):

Whereas, the City and the Municipality entered into an agreement granting the right of Municipality to make connection to City's Sewerage System and providing that the City would receive, treat and dispose of Municipality's sewage under and subject to the terms of said Agreement, and

Whereas, the Department of Environmental Resources of the Commonwealth of Pennsylvania (hereinafter called "DER") has issued a Notice of Violation and has obtained a Consent Agreement requiring that the York City Wastewater Treatment Plant be expanded and upgraded to a size and efficiency of treatment prescribed by the DER, and

Whereas, the United States Environmental Protection Agency (hereinafter called "EPA") has agreed to the program of expansion and upgrading, and

Whereas, the cost of the expansion and upgrading of the Wastewater Treatment Plant has been estimated to be in excess of \$17,000,000, and

Whereas, the York City Sewer Authority (hereinafter called "Authority") has made application for and received an offer of a grant for the partial funding of the project.

Whereas, the estimated cost to the Authority is in excess of \$7,000,000 after allowance for anticipated State and Federal Grants and this improvement follows a preceding improvement at a cost exceeding \$100,000, and

Whereas, the Authority intends and has or will receive such approvals as may be required from the DER and EPA to enlarge and improve the York Wastewater Treatment Plant in two stages:

Stage I Will expand the York Wastewater Treatment Plant (hereinafter referred to as the "Plant") capacity by 8 million gallons per day of sewage and will provide improvement in treatment efficiency.

The new facilities are designed and expected to comply with current treatment efficiency requirements.

The Plant, as a whole, will be improved in treatment efficiency as follows:

Stage II Will be undertaken to bring the York Wastewater Treatment Plant within the requirements of the current National Pollution Elimination Discharge Permit.

Whereas, the DER and EPA have given adequate assurances that the program of the City is acceptable and that they will not take any additional enforcement action requiring acceleration of the program, interim treatment, or limitation of the plant capacity below 26,000,000 gallons per day, and

Whereas, the City of York notified Municipality that a rate increase is necessary to expand the treatment capacity and efficiency and the parties hereto by this Agreement intend to revoke the aforementioned Agreement and replace same with this renegotiated Agreement which after execution will become effective on the date the improvements to the treatment plant are certified by the York Consulting Engineers to be in operation in accordance with all DER and EPA requirements and the Consulting Engineers have further certified that all required permits for operation have been issued.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained herein the parties agreeing to be legally bound agree as follows:

All Agreements made and executed between City of York and Municipality concerning this subject matter are to be deemed revoked on the effective date of this Agreement and in their place the parties agree to be bound as follows:

1. The boundary of the area from which sewage will be received shall be the limits of the area within the municipal boundaries of Municipality which will ultimately be served by sewers connected to the City Sewerage System as shown on attached Exhibit "A".

2. The City grants to the Municipality the right (and shall take all such steps as may be necessary to permit the Municipality) to connect all sanitary sewers constructed or to be constructed within areas shown on Exhibit "A" to the City's Sewerage System, sewage from said sewers so to be received by the City.

The City agrees to treat and dispose of the sewage from Municipality and all other sewage so to be received by the City in accordance with such DER, EPA or other governmental requirements as may be in effect from time to time. The sewage from Municipality shall not exceed the agreed loading limits as follows:

- a) Maximum of 1,524,600 gallons during any period of 24 consecutive hours.
- b) Maximum average of 1,200,500 gallons per 24 hours during any period of seven consecutive days.
- c) Maximum flow at any instant of 2,084 gallons per minute.
- d) Maximum of 2,795 pounds of biochemical oxygen demand during any period of 24 consecutive hours.
- e) Maximum average of 2,204 pounds of biochemical oxygen demand per 24 hours during any period of seven consecutive days.
- f) Maximum of 2,476 pounds of suspended solids during any period of 24 consecutive hours.
- g) Maximum average of 1,954 pounds of suspended solids per 24 hours during any period of seven consecutive days.

3. It is agreed between the parties that flow measuring devices referred to herein as sewage flow meters must be installed at all points of connections where a flow in excess of 70,000 gallons per day occurs. Said meters will be installed by the City, which shall use a standard type. The acquisition, installation, operation, maintenance, and calibration of the meters shall be done by the City and the costs thereof charged to the Municipality. Meters shall be maintained at a calibration accuracy of 5% +, which shall be certified to once every 90 days, and Municipality shall reserve the right at its expense to make an independent

check of its meters to insure accuracy. In the event a meter is found to be inaccurate or out of repair, Municipality shall be billed according to its last yearly average flow until said meter is repaired, which repair the City agrees to accomplish as quickly as possible. Flow meters are to be installed at least six months prior to the date the renovated plant becomes operative. Where no meter is installed, flow will be calculated for billing purposes at 350 gallons per day per Equivalent Dwelling Unit. The City reserves the right to measure and sample commercial and industrial users separately.

4. The point of connection of the said sanitary sewerage system of Municipality with the sanitary sewerage system of the City, shall be at the following locations and shall be provided with metering facilities at the following specified location unless it is noted in this listing that a meter will not be required:

See Annex 1

A point of connection shall be defined as that location where three or more Equivalent Dwelling Units connect to the sanitary sewerage system of the City. All connections to the system not meeting this requirement will be listed as various connections along a referenced street.

5. All sanitary sewer mains to be built, or which may be built by a Municipality in said area, shall be built in accordance with specifications to be filed with the City, and the City shall have the right during construction and from time to time thereafter, in its sole discretion, upon such reasonable prior notice to Municipality as circumstances permit, to inspect, and Municipality shall cooperate with City in such inspections.

The Stage I and Stage II construction of the Plant shall be in accordance with plans and specifications of the City's and Authority's Consulting Engineers which plans and specifications shall be made available for inspection to Municipality's Consulting Engineers. Municipality and the Consulting Engineer shall have the right during construction and from time to time thereafter, in their sole discretion, upon such reasonable prior notice to City as circumstances permit, to inspect the Plant and all related facilities and City or Authority, as appropriate, shall cooperate and cause the Authority to cooperate with Municipality in such inspections.

The Municipality shall notify the City two days prior to commencement of construction and two days prior to final testing of sewage facilities. The City shall notify Municipality seven days prior to commencement of construction and at least seven days prior to start-up tests and all other tests of the Plant and related facilities including sewage flow meters.

6. It is agreed between the parties that as an ultimate user of the capacity provided by the expansion of the Plant, Municipality shall participate with City and Authority in the funding construction, maintenance and operation of the Plant under Stage I and Stage II in return for the vested right to discharge wastewater from the sewer systems of Municipality into said facilities, subject to State and Federal laws and regulations. The funding and use of such facilities to be under the terms, conditions and limitations set forth herein.

6A. The City, Authority and Municipality and all other Municipality parties to similar agreements hereby covenant

to take such steps as may be necessary to assure that Municipality shall be entitled to, and have available at all times, the full amount of its reserve capacity.

City and Authority warrant that such capacity will be available upon completion of the Plant and Municipality, City, Authority and all other Municipalities covenant not to enter into any agreements or permit any occurrence which directly or indirectly limits Municipality's entitlement and use of its full reserve capacity.

7. The parties hereto agree that notwithstanding any provisions of this Agreement relating to contribution by Municipality for the cost of construction, operating and/or maintenance of the York Wastewater Treatment Plant or interceptor sewers, the sole and exclusive ownership of the aforesaid facilities shall be vested exclusively in the Authority and that Municipality shall, as necessary, from time to time execute any and all documents required to assure any person, Federal or State agency that Municipality has no ownership interest in the aforesaid facilities. The parties agree that the Agreement shall not be deemed or construed as creating a partnership or joint venture between the parties hereto or the Authority and provisions of this Agreement regarding payment by Municipality of a percentage of construction costs constitute solely a reservation of rent for the use of a percentage of the capacity of the facilities.

8. Municipality agrees to pay the City, for the cost of wastewater treatment services rendered, an annual sum or sums based on the total number of metered gallons (or EDU's where applicable) discharged to the Plant. The cost of these services will include all of the costs normally associated with the operation, maintenance and administration of the Plant but excluding, inter alia, all costs relating to collector systems, interceptors not used by Municipality.

The cost of services shall be reduced by any annual or periodic grants or contributions received by the City or Authority from any federal, state or other government agency attributable to or on account of or for the cost of operation of the Plant.

The itemization of accounts and their percentage assignment to the cost of operation allocable to the plant shall be determined by an audit by certified public accountants acceptable to the parties hereto which audit shall separate such costs of operation from all other costs incurred by the City including administrative and billing expenses of the York City Sewer Rental Bureau.

Said Audit shall be performed within one year from the date of execution of this Agreement.

Treatment charges resulting from such costs of operation shall be equal to that portion of the rates attributable to the cost of operation of the Plant charged by the City to similar classes of users of the sewer system within the limits of the City.

Within ninety (90) days after the close of each Fiscal Year, City shall furnish an audit report, certified by an independent certified public accountant, whose certification shall be addressed to Municipality showing the actual cost of operation of the Plant and the proper allocation to each participating Municipality of the cost of operation of the Plant.

The audit report shall include such management letters and other documentation as required by applicable American Institute of Certified Public Accountant audit guides and related opinions.

Within ninety (90) days after the close of each Fiscal Year, the Authority shall furnish to the Municipality, a copy of such audit reports as may be required pursuant to its various indentures.

City and Authority shall keep appropriate records and accounts with respect to the cost of operation of the plant so that determinations which shall be necessary under this Agreement can be made promptly at the required times, with fairness and accuracy. The City and Authority agree to permit such review of their operations relating to the plant and its collection and interceptor systems in York as may be required by Municipality. Such operational and financial reviews shall be conducted at the sole cost and expense of the party requesting such review and shall be performed at a reasonable time acceptable to the party subject to said review. Any audit or review shall be performed without

disruption to the normal operating procedures of the party subject to such review or audit.

Municipality and City agree that they shall annually provide in their Budgets for obtaining the necessary funds to meet their respective obligations under this Agreement and relating to the operation of the plant and to that end shall by proper ordinances or resolutions make provision for the imposition of sewer rentals, the levying of special taxes or any other lawful method or methods to provide for obtaining sufficient revenues, in such manner as to assure that Municipality and City shall obtain or collect during each year, the amounts which may be due or may become due under the terms of this Agreement or for the City as required for payment of the costs of operation of the plant allocable to the City.

The rates referred to herein, are expressly made subject to the following provisions:

If at any time the City shall, upon the lawful requirement of the Commonwealth of Pennsylvania, or any of its agencies, boards, or departments, or upon any lawful order, rule, law or directive of the United States Government, or in order to qualify for grant-in-aid from any agency, or for any other reason subject to approval by Municipality, extend, enlarge, alter or improve its existing sewage treatment works at a cost, at any one time of more than \$100,000 or more or if operation costs increase to the extent that a

rate increase is necessary, Municipality agrees that there shall be a new schedule of rates as determined by proper justification and binding arbitration.

Charge for Treatment Services (Sample Calculation)

Total Gallons Treated

19,000,000 gallons/day x 365/year = 6,935,000,000 gallons

Total Annual Cost of Operation, Maintenance and Administration (minus any operating subsidies or credits)

\$2,200,000

Cost Per 1,000 Gallon

$$\frac{\$2,200,000}{6,935,000,000} = \$.32/1,000 \text{ gallons}$$

8-A. Municipality agrees to pay to the City a service charge based on the total number of gallons (or EDU's where applicable) discharged into the existing York City Sewer System located within the City of York on an annual basis as billed by the City. The charge will be \$.04/1,000 gallons (or \$5.10 per EDU per year where applicable). This charge shall be in addition to the treatment charge established in Section 8.

These revenues shall be deposited in a separate account for Municipality and will be used toward the cost of maintenance, repair and replacement of the existing interceptor system as provided for in paragraph 9 and as described in Exhibit "C" attached hereto.

9. Municipality agrees to pay to the City in consideration of a vested interest in an allotted usage capacity of any York City interceptor sewers to accommodate any increase flow from Municipality which would in the judgment of the City and Municipality overburden any of the City intercepting sewers, an amount of money giving consideration

to the capacity allotted Municipality in relation to capacity to be used by others. Municipality's share of costs will be a percentage of the costs bearing the same relation to the total costs as Municipality's share of capacity bears to the total capacity for each section of new intercepting sewer constructed. Capacity means the calculated maximum hydraulic capacity. Municipality shall be a party to arriving at the final solution in correcting the problem.

10. Municipality agrees to pay to the City, in consideration of a vested interest in an allotted capacity of the expanded treatment capacity to be provided as part of Stage I of the Plant, a lump sum, at the time the Authority sells bonds to finance the project and makes settlement therefor, in an amount of money calculated by the City upon the agreed average daily flow capacity allotted to Municipality in the new facilities and the net cost of those facilities exclusive of all Federal and State grants received or expected to be received. In lieu of a lump sum payment, Municipality may elect to pay annually to the City the calculated proportionate share of the annual debt service or lease rental incurred by the City to finance the project as hereinafter computed.

The first payment shall become due not later than one week prior to the first interest or principal payment which payment is not capitalized in the bond issue.

In addition, until such first payment, the City and Municipality shall continue their sewer rental payments at the rate provided for in prior agreements or practice.

The expansion portion of this lump sum or annual amount shall be in the same proportion as the additional average daily flow allotted to Municipality bears to the 8 MGD capacity being added to the plant. The upgrading portion of the lump sum or annual amount shall be in the same proportion as the total average daily flow allotted to Municipality bears to the total 26 MGD capacity of the expanded plant.

Upon the completion of the construction of each Stage of the Plant expansion, the Authority shall deliver to Municipality a certificate of the Consulting Engineers stating: (a) the fact of such completion and (b) in reasonably itemized form, the actual cost of Construction of the Plant (i) after deducting therefrom the unexpended contingency fund, if any, and the amount of any applicable federal or state grants paid into the Construction Fund and not previously used to reduce the lump sum payments made by Municipality pursuant to this Section and (ii) after making appropriate adjustments in respect of net income, gain or loss from investments. If the Municipality share of the actual Cost of construction after adjustments (i) and (ii) is less than the total amount previously deposited by Municipality as required by this Section, the excess of such deposits shall forthwith be refunded to Municipality, within thirty (30) days of receipt of said certificate and if not then paid, shall be subject to interest at the rate of six percent (6%) per annum until paid, unless Municipality shall have requested a re-adjustment or audit within the aforesaid thirty (30) day period, and, in the event of such a request, shall be refunded promptly after the matter is resolved. If the Municipality share of the actual cost of construction after

adjustments (i) and (ii) is more than the total amount previously deposited by it pursuant to this Section, such deficiency shall be charged to and paid by Municipality and shall be due within thirty (30) days of notice to pay, and if not then paid shall be subject to interest at the rate of six percent (6%) per annum until paid, unless Municipality shall have requested, within thirty (30) days, a re-adjustment or audit, and, in the event of such a request, Municipality shall make the aforesaid payment, but shall receive interest at a rate of six percent (6%) per annum on any refunded amount determined as a result of re-adjustment or audit.

The said certificate of the Authority Consulting Engineers as to the actual cost of construction of each Stage of the Plant expansion and upgrading and the records from which it is compiled shall be audited by a certified public accountant selected by Authority. Municipality shall be entitled to make such audit as its sole expense of said certificate and all information relating thereto as it requires.

The additional average daily flow capacity allotted to Municipality in the 8 MGD capacity being added to the plant is 0.2305 MGD. The total average daily flow capacity allotted to Municipality in the 26 MGD wastewater treatment plant is 1.2005 MGD.

The City shall cause Authority to notify Municipality of all changes or alterations in the Plant Expansion Plans and Specifications. When any change order concerning said Plans and Specifications exceeds a net expense to the parties hereto and all other municipalities party to similar agreements exclusive of grant funds of \$50,000, it shall be approved by

the Municipality; provided, however, that if written notification of disapproval by Municipality is not received by Authority within (5) days of the respective date or dates upon which a request for approval of any change order is delivered to Municipality, such change order shall be deemed to have been approved by Municipality. Copies of all change orders in excess of \$10,000 shall be sent to Municipality by Authority within five (5) working days from the date of the Authority or City approval thereof. Authority further agrees that, without the prior approval of Municipality, no change or alteration will be made in any of the plant expansion plans and specification which will cause the cost of construction to exceed the amount available in the plant expansion construction fund.

The parties hereto further agree that the sums payable hereunder or any sums payable by the City for reservation of its allocated share and for operating expenses shall continue to be payable at the time and in the amount herein specified without suspension or abatement of any kind.

11. Municipality shall pay to City or Authority, as appropriate, Municipality's share of City's actual cost of restoring, replacing or upgrading any waste treatment facility handling sewage under this Agreement. Municipality's share of the costs shall be based upon that percent of the design capacity of the facility allotted through negotiations with the Municipality in the replaced facility as it bears to the maximum design capacity of the facilities replaced (which cost shall be determined in accordance with Section 10 hereof). Municipality, City and Authority, as appropriate,

shall repair their lines and appurtenances whenever necessary to correct excessive infiltration. Excessive infiltration shall be as defined by EPA under its guidelines as they exist and as they are from time to time amended. The City agrees to complete construction, at its own expense, of the separation of existing combined sewers as shown on Exhibit "B" as soon as possible so as not to infringe on the reserve capacity vested in outside municipalities to their detriment.

12. Notwithstanding any provisions herein to the contrary, this Agreement shall be entirely renegotiated by the City, and Municipality upon the final retirement of bonds issued by the Authority of York, Pennsylvania, which are issued to finance the construction of the 1976 additions of the sewage disposal plant of the City, said issue is ^{Alt. No. 3-32 Yr. Term} expected to be in the [sum] principal amount of \$7,250,000.00, and expected to be dated as of _____, as well as any additional bonds which may be issued by said Authority to finance the cost of any necessary or required additions, extensions, enlargements or improvements to said City Wastewater Treatment Plant for the operation thereof.

The City or Authority shall, in advance of each bond sale planned to finance the Plant expansions and upgradings, mail to the Municipality copies of the form of authorizing legislation restrictions, indentures and leases and the decision of the Municipality whether or not to disapprove the sale shall be forwarded to the City within thirty (30) days after the mailing of the copies of such documentation.

13. No connection shall be made to the Sanitary Sewerage System in said Sewer District and no plumbing fixtures or appliances shall be installed in any property in Municipality connected with said System without a permit first being obtained from the Municipality and a copy of said permit being forwarded to a designated agency of the City.

14. The use of the sanitary sewerage system served by the Plant in said Municipality as well as the installation, maintenance and use of plumbing fixtures and appliances therein, shall be subject to a Plumbing Code, Rules and Regulations substantially similar to that of the City as may be in effect from time to time and further subject to all laws of the Commonwealth, present or future, applicable to the use of the Municipality's sanitary sewerage system, as well as to the installation, maintenance and use of plumbing fixtures and appliances in the Municipality. The City, its Plumbing Inspector and other proper officials and agents shall have, upon notice to Municipality, a right of reasonable inspection of the Municipality Sewage System, connections therewith, plumbing fixtures and appliances and the use thereof. If the City or its proper officials or agents shall find from such inspection any condition, use, practice, discharge of waste or plumbing fixture or appliance harmful to the City's Sewerage System or its sewerage treatment works or the processes of said works, upon agreement by the Municipality, the orders of the City or its proper official or agent for the correction thereof shall be complied

with and Municipality agrees to cooperate fully with the City in this regard, and to pass such ordinances as permitted by law giving the City the authority and power and means to carry out the provisions of this paragraph.

15. Municipality and all other users of the Plant, including City, agrees that none of the following shall be discharged or caused to be discharged into the City's Sewerage System:

- a) any liquids or vapor having a temperature higher than 150[F.],
- b) any water or waste which may contain more than 100 parts per million, by weight, of fat, oil, or grease,
- c) any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas,
- d) any unground garbage,
- e) any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch, manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works,
- f) any waters or wastes having a pH lower than 5.5, higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structure, equipment and personnel of the sewage works,

- g) any waters or wastes 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 sewage treatment plant,
- h) any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant,
- i) any noxious or malodorous gas or substance capable of creating a public nuisance.

16. Municipality and City agree that they will not permit the connection and discharge of industrial waste from any industry except after the formulation of a contract between industry and Municipality within which the industry is located and all Codes, Rules and Regulations, all Laws of the Commonwealth, and Ordinances of the City, present or future, shall be applicable to use of the sanitary sewer system and the Plant by industry. The responsibility for the enforcement shall be with Municipality. The City, however, reserves the right to enforce said Rules, Regulations, Laws of the Commonwealth, or City Ordinances, present or future, in the event Municipality would fail to do so.

17. The parties hereto shall, each at its own expense, maintain proper primary liability insurance with a reputable insurance company or companies licensed to do business in the Commonwealth of Pennsylvania in the minimum single limit (or equivalent split limits) of \$10,000,000 for the City and Authority and \$1,000,000 for the Municipality. Each party shall be furnished with a copy of the certificate of insurance, and such insurance shall not be subject to cancellation without at least thirty (30) days advance written notice to all parties. In addition to the foregoing specified minimum amounts of liability insurance, City or Authority, as appropriate, shall carry additional amounts of liability insurance from time to time in such amounts as are generally regarded as necessary or advisable in connection with the operation of a regional sewage treatment Plant. The failure among party hereto, at any time or from time to time, to enforce the foregoing provisions of the paragraph concerning insurance coverage shall not constitute a waiver of those provisions nor in any respect reduce the obligation of the party to defend and hold and save the other parties harmless with respect to any items or injury or damage covered by this paragraph.

18. Housing or redevelopment projects set up in Municipality or City by any housing or redevelopment authority, financed wholly or in part by State and/or Federal loans or grants-in-aid, shall not be entitled to, nor given free or reduced rate sewerage service.

19. In order that the purpose and intent of this Agreement may be carried out, the City and Municipality agree to enact and keep in force, and to enforce all necessary ordinances or resolutions.

20. The City does not, by this Agreement, commit itself to give to Municipality any sewerage service other than that mentioned in this Agreement. The City and Authority covenant to:

A. Maintain the Plant and related facilities in good repair, working condition and order;

B. Continuously and efficiently operate the Plant in accordance with generally accepted operating practices;

C. From time to time make all necessary, ordinary repairs, renewals and replacements thereof and all necessary improvements thereto in order to maintain adequate service to Municipality, all of which shall be deemed to be a part of the cost of operation;

D. Comply with all present and future laws.

21. If Municipality or City should at any future time transfer its sewerage system to any other agency or municipality by deed, lease or otherwise, then Municipality shall assign this Agreement to such agency or municipality, and upon such assignment, the assignee shall be subject to all of the obligations and shall be entitled to receive all of the rights and benefits of this Agreement.

22. If at any time the City, in making application or agreements for State or Federal Grants to aid in any improvements, restoration, expansion, or repair to or operations of its facilities, may need cooperative action by Municipality, such action will not unreasonably be withheld by the Municipality and the City and Authority agree to make all such applications as may be required to obtain such funds as may be available to subsidize any charges to the Municipality pursuant to this Agreement.

23. The parties agree that all disputes concerning the interpretation or application of any provisions of this Agreement shall be settled by arbitration in accordance with the rules of the American Arbitration Association.

24. The effective date of this Agreement shall be the date on which the improvements to the treatment are certified by the York Consulting Engineers to be in operation in accordance with all DER and EPA requirements and written notice thereof is sent to all Municipalities.

25. The City or any Municipality who is a party to this Agreement may buy from or sell to each other any capacity it has reserved at a price equal to what it has paid for said capacity, plus interest from the date of this Agreement or the date of acquisition of the capacity, as applicable at a rate not to exceed the average yield for 20 municipal bonds in the latest four weeks reported in the Bond Buyers Index, or, if such index is not published, its equivalent.

26. This Agreement shall be declared null and void if the City Bond Issue described herein to fund expansion of the Plant exceeds \$8,500,000.00 or if any of the participating Municipalities fail to execute agreements of like form containing only such variables as plant capacity reserved and other data necessarily variable.

27. If for any reason the capacity of the Plant should be rerated and assigned a capacity in excess of 26 MGD, this excess capacity shall be distributed to each party in the same percentages as capacity allotted to expansion of the wastewater treatment plant.

28. Any fines levied upon the City as a result of any participating municipality's effluent, that Municipality shall indemnify and reimburse the City for the amount of such fine and any costs connected therewith.

IN WITNESS WHEREOF, the parties have fully executed this Agreement the day and year aforesaid.

ATTEST:

Miriam S. Millan
City Clerk

CITY OF YORK

John D. Frost
Mayor

[Signature]
Controller

ATTEST:

John L. Bundy

WEST YORK BOROUGH

William Valentine

ADDENDUM

The Agreement to which this addendum is attached shall be amended as follows:

Page 16 Section 12 line 18 after the word "the" strike "sale" and insert "documentation" and strike the word "Thirty (30)" and insert "Fifteen (15)".

It is further understood that approval shall be deemed to have been given if no response is received and that any disapproval must be by Municipalities representing not less than 50% of the gallonage reserved in the plant expansion.

In addition, the initial sale contemplated hereby in the amount of \$ 7,250,000 for a term of 32 years from the date of the bonds with interest capitalized for a period of two years (except for an amount of approximately \$ 300,000) is hereby approved.

IN WITNESS WHEREOF, the parties have fully executed this Agreement the day and year aforesaid.

ATTEST:

Miriam S. Miller
City Clerk

CITY OF YORK

John D. Kent
Mayor

[Signature]
Controller

WEST YORK BOROUGH

ATTEST:

John L. Bundy

William Valentine

J O I N D E R

YORK CITY SEWER AUTHORITY, a Municipal Authority organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called "Authority"), owner of the York City Wastewater Treatment Plant, and a party to all contracts for the expansion and upgrading of said plant, joins in the attached Agreement, and covenants and agrees to comply with all of the duties and obligations imposed upon it by either the existing or future Lease or Trust Indenture and to comply with any orders, rules, or regulations of the Department of Environmental Resources of the Commonwealth of Pennsylvania or of the United States Environmental Protection Agency.

IN WITNESS WHEREOF, York City Sewer Authority has fully executed this Joinder on the 15th day of December, 1976.

YORK CITY SEWER AUTHORITY

By Albert J. Miller
Chairman

Attest:

John K. B. [Signature]
Secretary

C. S. DAVIDSON, INC.

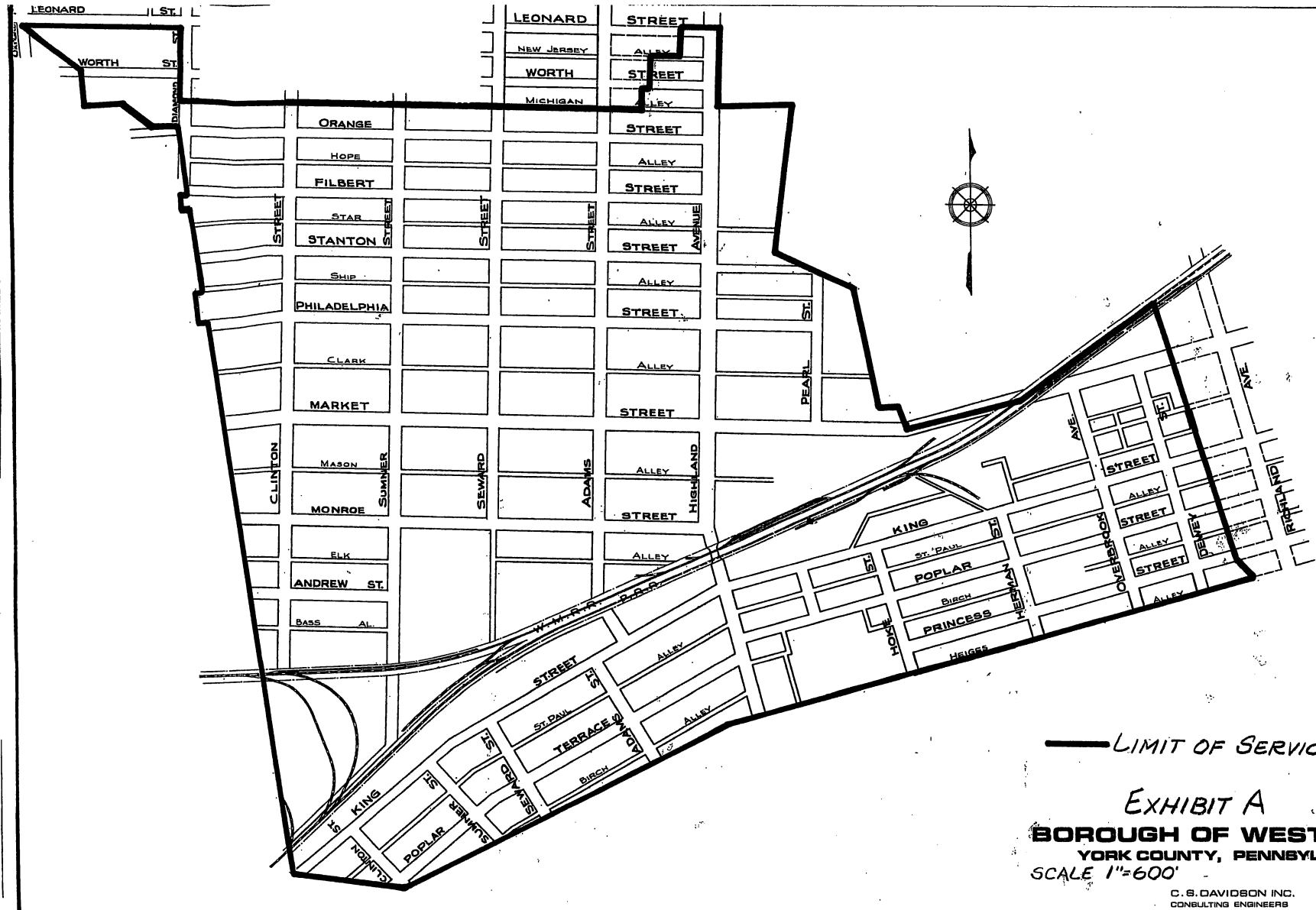
October 6, 1976

Annex 1

1. In Richland Avenue at the intersection of West College Avenue and Richland Avenue (metered).

Page 1 of 1

West York Borough



— LIMIT OF SERVICE AREA

EXHIBIT A
BOROUGH OF WEST YORK
 YORK COUNTY, PENNSYLVANIA.
 SCALE 1"=600' 9-28-76

C. S. DAVIDSON INC.
 CONSULTING ENGINEERS

Council of the City of York, PA
Session 2003
Resolution No. 179

Introduced by: **Mary Anne Bacas**

Mary Anne Bacas

Date: October 21, 2003

WHEREAS, the City of York entered into an Intermunicipal Agreement with Manchester Township, West Manchester Township, West York Borough, North York Borough, Spring Garden Township, and York Township in December of 1976 for the collection and disposal of the municipalities' sanitary sewage; and

WHEREAS, the above municipalities desire to amend Annex #1 (Points of Connection) of the existing agreements,

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of York, Pennsylvania, that the Mayor is authorized and the Controller is authorized and directed to execute the Amendments to the Articles of Agreement, attached hereto and made a part hereof, on behalf of the City of York, Pennsylvania.

PASSED FINALLY: **October 21, 2003** BY THE FOLLOWING VOTE:

YEAS: Smallwood, Texter, Bacas, Musso - 4, Smith

NAYS: None

Mary Anne Bacas

Mary Anne Bacas
PRESIDENT OF COUNCIL

Attest:

Dianna L. Thompson

Dianna L. Thompson
CITY CLERK

INTERMUNICIPAL AGREEMENT – AMENDMENT #2

This agreement made and entered into this 21ST day of OCTOBER,
2003, between the City of York (hereinafter CITY), and West York Borough
(hereinafter MUNICIPALITY):

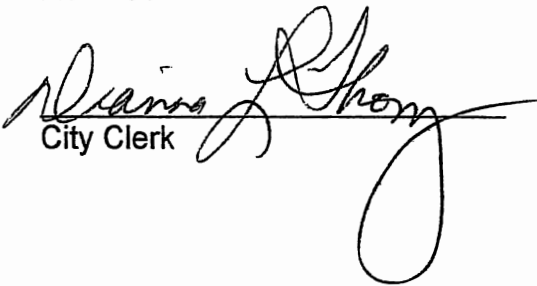
WHEREAS, the CITY leases and operates a wastewater treatment system,
owned by the York City Sewer Authority; and

WHEREAS, MUNICIPALITY currently utilizes this wastewater treatment system
pursuant to the Intermunicipal Sewer Agreement (“Articles of Agreement”)
between the CITY and MUNICIPALITY dated December 13, 1976.

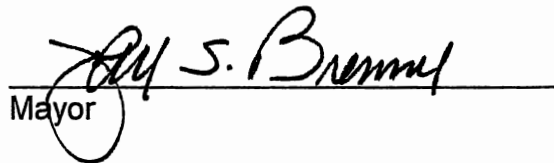
This agreement replaces Annex 1 of the Intermunicipal Sewer Agreement with
Annex 1 dated October 7, 2003 that is attached and made a part hereto.

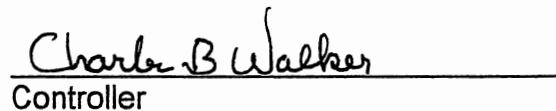
IN WITNESS WHEREOF, the parties have fully executed this Amendment the
day and year aforesaid,

ATTEST:


City Clerk

CITY OF YORK


Mayor


Controller

ATTEST:

WEST YORK BOROUGH

Revised October 21, 2003

Exhibit A

Annex 1 – Revised West York Borough Connections to the City of York Sanitary Sewer System		
Point No.	Description of Intermunicipal Connection	Nearest City MH Nos.
1	In Richland Avenue at intersection with West College Avenue connection to the City of York Upper Codorus Creek Interceptor (metered, tributary to City of York Sewage Flow Meter WY01).	A81

JOINDER

YORK CITY SEWER AUTHORITY, a Municipal Authority organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called "Authority"), owner of the York City Wastewater Treatment Plant, and a party to all contracts for the expansion and upgrading of said plant, joins in the attached Agreement, and covenants and agrees to comply with all of the duties and obligations imposed upon it by either the existing or future Lease or Trust Indenture and to comply with any orders, rules, or regulations of the Department of Environmental Protection of the Commonwealth of Pennsylvania or of the United States Environmental Protection Agency.

IN WITNESS WHEREOF, York City Sewer Authority has fully executed this Joinder on the 19TH day of NOVEMBER, 2003.

YORK CITY SEWER AUTHORITY
By Philip W. Buddell
Chairman

ATTEST
John Brown
Secretary

Exhibit B



The City of York Pennsylvania

101 South George Street ❖ PO Box 509 ❖ York, PA 17405
www.yorkcity.org
Honorable C. Kim Bracey, Mayor

Jason R. Sabol, Esquire
Assistant Solicitor

May 13, 2016

J.T. Hand
Chief Operating Officer
The York Water Company
130 E. Market Street
York, PA 17401

Dear Mr. Hand:

The City of York is aware of York Water's Agreement of Sale and intent to acquire the wastewater collection assets of West York Borough. The City of York acknowledges and agrees that subject to successfully closing on this sale, The York Water Company will succeed West York Borough as party to the 1976 Agreement between the City of York and West York Borough and shall be subject to all of the obligations and shall be entitled to receive all of the rights and benefits of the 1976 Agreement.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Jason R. Sabol", written over the typed name "Assistant Solicitor".

Assistant Solicitor

Exhibit C

**The City of York
Pennsylvania**

The Honorable Michael R. Helfrich, Mayor



York City Hall

101 South George Street
York, PA 17401
www.yorkcity.org

May 17, 2021

Jeffrey R. Hines
President and CEO
The York Water Company
130 East Market Street
York, PA 17404

John M. Longstreet
Assistant Superintendent – Wastewater Service
The York Water Company
130 East Market Street
York, PA 17404

RE: NOTICE OF ASSIGNMENT AND DUTY TO RENEGOTIATE

Dear Mr. Hines and Mr. Longstreet:

The City of York (“City”) and the York City Sewer Authority (“Authority”) have entered into an Asset Purchase Agreement with Pennsylvania-American Water Company (“PAWC”) to sell the Authority’s wastewater collection and treatment system (“System”), as operated by the City, to PAWC (“Transaction”). As part of the Transaction, the City will, upon closing of the Transaction (“Closing”), cause the retirement of bonds and the redemption or defeasance by the Authority of all debt obligations outstanding that are secured by the System (“Debt Retirement”).

This correspondence serves as official notice of: (i) the City’s assignment of its interest in the December 13, 1976 Intermunicipal Agreement, as amended, (“IMA”) between West York Borough (“Borough”) and the City (and subsequently assigned by the Borough to the York Water Company) to PAWC upon Closing; and (ii) the York Water Company’s contractual duty under Section 12 of the IMA to renegotiate a new bulk collection and treatment agreement with PAWC because of the Debt Retirement. The City strongly encourages the York Water Company to immediately commence renegotiations of the IMA with PAWC, as assignee of the City, in order to avoid any potential gap in the bulk collection and treatment service provided to the York Water Company and any uncertainty regarding the rates to be charged by PAWC to the York Water Company upon Closing.

Sincerely,

Michael R. Helfrich
Mayor

Exhibit D

Council of the City of York, PA
Session 2021
Bill No. 15
Ordinance No. 15

INTRODUCED BY: Lou Rivera

DATE: May 19, 2021

AN ORDINANCE

AMENDING ARTICLE 933 “SEWER RENTALS” OF THE YORK CITY CODIFIED ORDINANCES TO IMPLEMENT ALTERNATIVE SEWER FEES APPLICABLE TO WHOLESALE CUSTOMERS WITHOUT A CURRENTLY EFFECTIVE SEWER SERVICE AGREEMENT.

WHEREAS, Article 933 of the York City Codified Ordinances provides monthly sewer fees for all persons owning property connected to the sewer system and served with metered water service by the Water Company.

WHEREAS, wholesale customers additionally receive sewer services through intermunicipal sewer service agreements with the City of York, York County, Pennsylvania (the “City”); and

WHEREAS, it has been determined that alternatives rates shall be established to allow for continued sewer service to a wholesale customer in the event an intermunicipal sewer service agreement has lapsed or is otherwise no longer effective.

NOW, THEREFORE BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 933 “Sewer Rentals” of the York City Codified Ordinances is hereby amended as follows:

Section 1. That Article 933.03 “Annual Sanitary Sewer Rates” of the York City Codified Ordinances is amended as follows:

933.03 ANNUAL SANITARY SEWER RATES

Rates for Domestic and Commercial Metered Water Users. All persons owning property used for domestic or commercial purposes which property is connected to the sewer system and served with metered water service by the Water Company shall pay a monthly rental for sanitary sewage service based on quantity of water used as evidenced by meter readings of water meters installed and maintained by the Water Company for the purpose of measuring water purchased from such Water Company and such other meters as may be installed pursuant to the provisions of this article, and subject to the minimum charges hereinafter provided as follows:

(a) Monthly quantity charge,

For each 1000 gallons per month: \$9.37

(b) Minimum charge. All domestic and commercial users shall pay a minimum charge of \$18.00 per month which shall entitle users to 1920 gallons per month sewer service.

Appendix A-18-b.4

(c) Rates for Wholesale Customers Without a Currently Effective Intermunicipal Sewer Service Agreement. All customers connected to the sewer system and receiving wholesale treatment and conveyance sewer service during any period during which an intermunicipal sewer service agreement is not currently effective shall be subject to the following charges and conditions:

Usage Charge per 1,000 gallons:

<u>Manchester Borough</u>	<u>\$3.5850</u>
<u>North York Borough</u>	<u>\$4.3060</u>
<u>Spring Garden Township</u>	<u>\$3.8130</u>
<u>Springettsbury Township</u>	<u>\$2.6680</u>
<u>West Manchester Township</u>	<u>\$4.1420</u>
<u>West York Borough/The York Water Company</u>	<u>\$3.1180</u>
<u>York Township</u>	<u>\$3.9520</u>

(d) Wholesale wastewater treatment in the York Wastewater Treatment Plant is subject to the following conditions:

1. Additional capacity beyond that identified in this section, if available, shall be determined by a contract between the City and the wholesale customer.
2. Fines levied upon the City caused by flow or water quality parameter exceedances shall be charged to the creating wholesale customer.
3. Unless otherwise provided for in a valid intermunicipal sewer service agreement between the City and the wholesale sewer customer, capacity in the York wastewater treatment plant is allocated and limited as follows:

<u>Description</u>	<u>Manchester Township</u>	<u>North York Borough</u>	<u>Spring Garden Township</u>	<u>Springetts-bury Township</u>	<u>West Manchester Township</u>	<u>West York Borough/ York Water Company</u>	<u>York Township</u>
<u>Max gallons over 24 hrs</u>	<u>3,092,100</u>	<u>674,600</u>	<u>3,821,400</u>	<u>6,500,000*</u>	<u>4,291,000</u>	<u>1,524,600</u>	<u>4,268,742</u>
<u>Max avg gallons per 24 hrs /7 consecutive days</u>	<u>2,434,900</u>	<u>531,200</u>	<u>3,011,500</u>	<u>4,800,000*</u>	<u>3,378,800</u>	<u>1,200,500</u>	<u>3,363,000</u>
<u>Max flow GPM</u>	<u>4,226</u>	<u>940</u>	<u>5,222</u>	<u>--</u>	<u>5,960</u>	<u>2,084</u>	<u>5,834</u>
<u>Max BOD - over 24 hrs (lbs)</u>	<u>7,479</u>	<u>1,630</u>	<u>9,250</u>	<u>11,609</u>	<u>10,380</u>	<u>2,795</u>	<u>10,328</u>
<u>Max avg BOD per 24hrs/ 7 consecutive days</u>	<u>5,889</u>	<u>1,285</u>	<u>7,284</u>	<u>--</u>	<u>8,170</u>	<u>2,204</u>	<u>8,133</u>
<u>Max TSS - over 24 hrs (lbs)</u>	<u>5,287</u>	<u>1,150</u>	<u>6,539</u>	<u>8,207</u>	<u>7,340</u>	<u>2,476</u>	<u>7,301</u>
<u>Max avg TSS per 24hrs/ 7 consecutive days</u>	<u>4,163</u>	<u>910</u>	<u>5,149</u>	<u>--</u>	<u>5,780</u>	<u>1,954</u>	<u>5,750</u>
<u>Max Ammonia Nitrogen - over 24 hrs (lbs)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>600</u>	<u>--</u>	<u>--</u>	<u>--</u>
<u>Max Total Phosphorus - over 24 hrs (lbs)</u>	<u>--</u>	<u>--</u>	<u>--</u>	<u>280</u>	<u>--</u>	<u>--</u>	<u>--</u>

“GPM” means “Gallons Per Minute.”

“TSS” means “Total Suspended Solids.”

“BOD” means “Biological Oxygen Demand.”

*Springettsbury Township allocations include 800,000 gallons from the York Township allocations.

Section 2. This Ordinance shall take effect immediately.

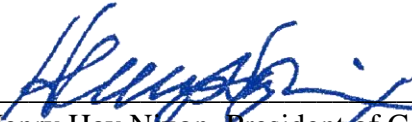
PASSED FINALLY: June 1, 2021

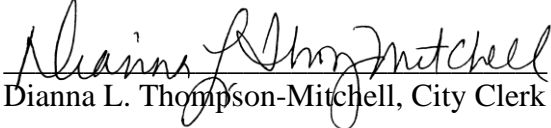
BY THE FOLLOWING VOTE:

YEAS: Rivera, Ritter-Dickson, Walker, Nixon - 4, _____

NAYS: Washington - 1

ATTEST:


Henry Hay Nixon, President of Council


Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 1st day of June 2021

Approved:  6/1/21
Mayor Date

Vetoed: _____
Mayor Date

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