

**SEWER SERVICE AGREEMENT
CONEWAGO/DTMA**

THIS SEWER SERVICE AGREEMENT made and entered into this _____ day of _____, 2003, by and between:

DERRY TOWNSHIP MUNICIPAL AUTHORITY (“DTMA”), a municipal authority organized and existing under the “Municipality Authorities Act” 53 Pa. C.S. Ch. 56, having its administrative office at 670 Clearwater Road, Hershey, PA 17033.

AND

CONEWAGO TOWNSHIP (“Conewago”), Dauphin County, a political subdivision of the Commonwealth of Pennsylvania, having its administrative office at 3279 Old Hershey Road, Elizabethtown, PA 17022 (collectively, the “Parties”).

RECITALS

WHEREAS, Conewago prepared an Act 537 Sewage Facilities Plan in 1998 (“537 Plan”), which was submitted to and subsequently approved by the Pennsylvania Department of Environmental Protection on December 30,1998; and

WHEREAS, Conewago is desirous of implementing the requirements of the 537 Plan in the most efficient and cost effective way; and

WHEREAS, Conewago is rural in nature and does not have a trained and experienced staff with which to own, operate and maintain a wastewater collection and treatment system; and

WHEREAS, DTMA owns and operates a wastewater collection, conveyance, and treatment system adjacent to Conewago in Derry Township, and has many years of experience in designing, financing, owning, and operating wastewater facilities and providing sanitary sewer service; and

WHEREAS, Pursuant to an agreement dated June 26, 1989 (“1989 Agreement”), DTMA provides sewer service to a limited number of Conewago Township properties, the availability of such service being merely the coincidental result of the Conewago properties directly abutting sewers which DTMA installed in Laurel Drive, Foxglove Circle, and Nye Road (collectively “Laurel Drive Properties”) to serve properties in Derry Township; and

WHEREAS, for a number of years the Parties have discussed the possibility of DTMA extending its sewer facilities (“DTMA Facilities”) into and providing sewer service to significant portions of Conewago Township; and

WHEREAS, the provision of service to significant portions of Conewago Township involves the design and construction of gravity sewer mains, laterals, pump stations, force mains, and other appurtenances (“Sewer Facilities” or “Facilities”); and

WHEREAS, pursuant to an agreement dated July 11, 2001, DTMA through its consulting engineer designed Sewer Facilities to serve a significant portion of Conewago Township as set forth in plans and specifications developed by Buchart Horn Inc., dated January 2003 and bearing a contract number of 2003-01 (“Project” or “Project Facilities”); and

WHEREAS, Conewago subsequently requested that DTMA construct the Project Facilities pursuant to a Sewer Service Agreement and a Supplement to Sewer Service Agreement, both of which were dated March 24, 2003 (collectively “March 2003 Agreement”); and

WHEREAS, DTMA acquired lands and rights-of-way on which are located certain of the Project Facilities; and

WHEREAS, on March 24, 2003 DTMA awarded a contract for the construction of the Project Facilities; and

WHEREAS, at the time of the execution of the March 2003 Agreement the Parties were uncertain as to the exact manner in which the Project would be financed, owned, and operated; and

WHEREAS, on May 21, 2003 Conewago applied to the Pennsylvania Infrastructure Investment Authority (“Pennvest”) for financial assistance in regard to the Project and on July 27, 2003 received a funding offer for the Project from Pennvest, consisting of a grant of up to \$1,906,666.00 (“Pennvest Grant”) and a loan of up to \$2,843,334.00 (“Pennvest Loan”), collectively (“Pennvest Funding”); and

WHEREAS, the Parties understand that Pennvest will require that Conewago hold legal title to and provide for the operation of the Project Facilities during the term of the Pennvest Loan; and

WHEREAS, for good and practical business reasons Conewago desires, to the maximum extent permitted by Pennvest, that DTMA regard, operate and use the Project Facilities as though they were an extension of DTMA Facilities located in, and directly serving customers in Conewago Township; and

WHEREAS, the Parties now desire to enter into this new sewer service agreement (“Service Agreement” or “Agreement”) which takes into consideration the Pennvest Funding and certain Pennvest requirements including the requirement for Conewago to be the legal owner of the Project and which replaces the 1989 Agreement and the March 2003 Agreement; and

WHEREAS, concurrent with the execution of this Service Agreement, the Parties are entering into a Bilateral Lease Agreement (“Lease”) which will make land, rights-of-way and Project Facilities available to Conewago and DTMA for their use in carrying out the purposes of this Service Agreement, a copy of which Lease is attached to this Agreement as Exhibit A and incorporated herein by reference.

NOW THEREFORE, in consideration of the premises, the mutual terms, covenants, and conditions herein contained, the Parties hereto, intending to be legally bound, do hereby agree and covenant as follows:

SECTION 1.00
OVERVIEW AND GENERAL PROVISIONS

Section 1.10 - Overview. This Agreement provides (Iter. Alia) a legal framework within which Conewago and DTMA can provide sewer service to the Project area while satisfying Pennvest requirements for ownership and operation of the Project. It provides for DTMA to finance and construct the Project Facilities and upon completion, transfer them to Conewago. It further provides for DTMA to lease to Conewago, land on which Project pump stations are situated and to license to Conewago the use of rights-of-way that contain gravity and force mains. In turn, it provides for Conewago to lease the Project Facilities back to DTMA for operation and maintenance. Concurrent with the termination of Conewago's obligation to Pennvest, DTMA has the irrevocable right to purchase the Project Facilities from Conewago upon the exercise of the Option to Purchase by DTMA as provided for in the Bilateral Lease Agreement.

This Section 1.10 gives only a general overview of the major premise of this Agreement and in the event of any conflict between this section and the detailed terms and conditions contained in the following Sections, the following Sections shall govern.

Section 1.20 - General.

- A. The Recitals above are incorporated herein by reference and made a part of this Agreement.
- B. Except as provided in Section 1.30, the 1989 Agreement and the March 2003 Agreement are hereby terminated and replaced by this Agreement.

Section 1.30 - Invalidity. In the event that Pennvest is unwilling to fund the Project due to the provisions of this Service Agreement, this Agreement shall be null and void and the March 2003 Agreement between Conewago and DTMA shall remain in full force and effect.

Section 1.40 - Additional Definitions.

- A. “Conewago Customer” means any owner of property in Conewago who is required to connect or whose property is already connected to a DTMA Sewer (as defined in Section 1.40 D).
- B. “Laurel Drive Customer” means any owner of a Laurel Drive Property who is required to connect or whose property is already connected to a DTMA Sewer.
- C. “Project Customer” means any owner of property in Conewago who is required to connect or whose property is already connected to the Project Facilities.
- D. “DTMA Sewer” or “DTMA Sewer System” means all of the Sewer Facilities located in Conewago Township which are owned or leased by DTMA. It includes the Sewer Facilities serving the Laurel Drive Properties, the Project Facilities, and any future extensions to them which are owned or leased by DTMA.

SECTION 2.00

CONSTRUCTION OF THE PROJECT

- A. Conewago requests and DTMA agrees to complete construction of the Project Facilities and bring them to a state of readiness for operation. The estimated date for substantial completion of the Project is October 18, 2004.
- B. Conewago agrees to cooperate with DTMA to complete the construction of Project Facilities and to take, in a timely manner, any and all official actions necessary in furtherance of this objective.

SECTION 3.00

INTERIM FINANCING, OWNERSHIP, AND LEASING OF THE PROJECT

Section 3.10 - Interim Financing.

- A. DTMA shall pay out of proceeds from its 2002 bond issue the capital costs of the Project which have not previously been paid for by Conewago. Capital costs of the Project include, but not by way of limitation, costs for: design, legal and engineering expenses associated with acquisition of rights-of-way and pump station property, bidding, construction, construction administration including full-time resident construction representation and observation, a fixed fee of \$15,000 for DTMA to administer and manage the Project from inception through completion of construction, and interest on DTMA bond funds which DTMA has used to pay for capital costs of the Project (collectively “Project Costs”). A schedule of estimated Project Costs is attached as Exhibit B.

- B. Disbursements of bond funds made by DTMA for Project Costs shall bear interest at an annual rate of 4.91%. Interest shall accrue from the date the disbursement is approved by DTMA’s Board until the date of the transfer of the Project Facilities to Conewago or the date the disbursement is reimbursed to DTMA by Conewago, whichever first occurs.

Section 3.20 - Transfer of the Project Facilities to Conewago.

- A. Promptly upon completion of the construction and final acceptance of the Project Facilities by DTMA, DTMA shall transfer legal title to the Project Facilities to Conewago provided that:
 - 1. Conewago pays to DTMA all of the Project Costs which have not been previously paid to DTMA by Conewago regardless of whether or not such Project Costs qualify for Pennvest Funding.

2. Conewago pays to DTMA the additional sums required by Section 3.20 B regardless of whether or not such additional sums qualify for Pennvest Funding.

Legal title shall be in a form satisfactory to Conewago and shall be free and clear of all liens and encumbrances which could arise out of the construction of the facilities.

B. At the time of the transfer, in addition to payment of the previously unreimbursed Projects Costs, Conewago shall:

1. Pay to DTMA the lump sum of \$240,000.00 to purchase capacity in DTMA's sewer treatment and conveyance system to serve 200 existing homes in the Project service area .
2. Pay to DTMA the lump sum of \$280,000.00 which is estimated to be sufficient together with the other payments provided for herein, and Project revenue and interest thereon, to maintain a positive ending cash balance for the Project in each of the years during which DTMA is making rental payments to Conewago pursuant to the Lease. Estimated projections of these cash balances are shown on the Economic Analysis Spreadsheet attached as Exhibit C.
3. In lieu of purchase and installation of grinder pumps as part of the Project Facilities, Conewago shall pay to DTMA a sum of money representing the reimbursement for the aggregate amount of payments or credits issued (or to be issued) to customers who connect to the Project Facilities by means of privately-owned and installed sewage grinder pumps as provided in Section 5.20. Conewago's total liability to DTMA under this Paragraph 3 shall not exceed \$35,000.

Section 3.30 - Lease of the Project to DTMA. In order to satisfy Conewago's desire that DTMA regard, operate, and use the Project as though it were an extension of DTMA

facilities located in, and directly serving, customers in Conewago Township and to also satisfy Pennvest's requirement that Conewago be the legal owner of the Project, the Parties shall, concurrent with the execution of this Service Agreement, enter into the Lease which is attached hereto as an addendum and incorporated herein by reference.

SECTION 4.00

OPERATION OF THE PROJECT AND OTHER DTMA SEWERS

Section 4.10 - Operation of the Project.

- A. Conewago hereby expressly grants to DTMA an exclusive and perpetual right to operate and maintain the wastewater facilities to be constructed as part of the Project pursuant to the terms of the Bilateral Lease Agreement and any subsequent extensions to the Project Facilities approved by Conewago and DTMA.
- B. DTMA shall be solely responsible to take all actions necessary to operate and maintain the Project Facilities whether or not the detailed requirements of such operation and maintenance are specifically set forth in this Agreement or the Lease.
- C. DTMA shall be entitled to all of the revenue derived from operating the Project and shall be solely responsible for payment of lease rentals and all other Project expenses. Debt service payments on the Project Facilities shall be Conewago's sole responsibility.
- D. DTMA, at its sole cost and expense, shall be responsible for billing and collecting all amounts due from Project Customers.
- E. To the extent permitted by law and regulation and Pennvest, DTMA shall apply for and hold any permits and licenses required in connection with the Project Facilities.

- F. DTMA shall operate the Project Facilities in compliance with all laws, regulations, permits, and licenses.

Section 4.20 - Operation of Other DTMA Sewers.

- A. Conewago hereby expressly grants to DTMA the exclusive and perpetual right to operate and maintain the Sewer Facilities which serve the Laurel Drive Properties and any subsequent additions thereto approved by Conewago and DTMA.
- B. Conewago hereby requests and DTMA agrees to serve the Laurel Drive Customers as direct customers of DTMA subject to the applicable provisions of this Agreement. Such service includes billing and collecting all amounts due from the Laurel Drive Customers.

SECTION 5.00
GRINDER PUMPS

Section 5.10 - General.

- A. In certain circumstances the use of grinder pumps (“Pumps”) is necessary in order to provide sewer service to a property. This may occur where the outlet of the building sewer is below the elevation of the sewer main in the street. It may also occur where the design of the Sewer Facilities includes low pressure sewer mains to which properties must be connected.
- B. Where Pumps are required, they shall be located on the individual property to be served. They shall be provided by the property owner and shall meet DTMA’s specifications and requirements for such Pumps.
- C. The property owner, at their sole cost and expense, shall be responsible for the continuing operation and maintenance of and processing any warranty claims on their Pump pursuant to DTMA’s Rates, Rules, and Regulations.

- D. As a condition precedent to DTMA issuing a sewer connection permit, property owners requiring the use of Pumps shall execute an agreement with DTMA which sets forth the terms and conditions for installation and use of the Pump including the property owners continuing responsibility for the operation and maintenance of such Pump. DTMA, at its own expense, shall record the agreement in the office of Recorder of Deeds, Dauphin County, PA.

Section 5.20 - Pump Credits.

- A. DTMA may issue to Conewago Customers who are required to install a Pump, a payment or a credit on their Connection Fee (collectively “Credit”) to help offset the cost of purchasing and installing the pump. The amount of a Credit shall be based on DTMA’s estimate of the difference in cost between a standard gravity sewer connection and a grinder pump connection for a typical property. The arrangement for Credits under this paragraph is subject to the following further provisions:
1. Project Customers. DTMA shall issue Credits to the seven (7) Project Customers who are required to use pumps. The amount of the Credit shall be determined solely by DTMA and shall not exceed \$5,000 for single-family homes. Conewago shall reimburse DTMA for the aggregate amount of such Credits as provided in Section 3.20.
 2. Laurel Drive Customers. In the event that Conewago agrees in writing to fully reimburse DTMA for Credits issued to Laurel Drive Customers who are required to use pumps, DTMA shall agree to issue such Credits. In the absence of such an agreement, DTMA, in its sole discretion, shall determine whether or not to issue, and the amount of such Credits which shall be payable from its own funds.

3. Customers Connecting to Developer-Installed Sewers. DTMA shall not issue Credits to Conewago Customers who connect to developer-installed sewers.

SECTION 6.00

FEES, RATES, AND CHARGES

Section 6.10 - Connection Fees. Act 203 of 1990 [53 PA. C.S.A. Chap. 5607 (d) (24)] (“Act”) authorizes municipal authorities to charge certain enumerated fees to property owners who desire to or are required to connect to an authority’s sewer system. The Act also regulates the maximum amount of such fees. The authorized fees may consist of various parts defined in the Act including: connection fee, customer facilities fee, tapping fee (capacity part, distribution or collection part, special purpose part, and reimbursement component). For purposes of this Agreement all of the foregoing fees, parts, and components shall be collectively referred to as “Connection Fee(s)”.

A. General

1. Conewago acknowledges DTMA’s right to charge a Connection Fee to any Conewago Customer who connects to a DTMA sewer.
2. DTMA shall be solely responsible for the calculation of the maximum and actual amount of the Connection Fees chargeable to its Conewago Customers pursuant to the Act.
3. DTMA shall provide the same Connection Fee financing options and interest rates to its Conewago Customers as it does to its own similarly-situated customers within Derry Township. DTMA will attempt to provide any available information to its Conewago Customers on alternate financing options such as grants from government agencies.

B. Connection Fees Applicable to Project Customers

1. The Parties agree that the initial Connection Fee chargeable to Project Customers connecting existing single-family homes to the Project Facilities shall not exceed \$5,000 unless otherwise required by DTMA's understanding of the Act or amendments thereto or unless otherwise agreed to in writing by the parties. DTMA may adjust the amount of the Connection Fee from time to time as permitted under the Act, provided however that the initial Connection Fee chargeable to Project Customers shall not be increased for at least one year following the date that the first mandatory connection notice is issued to a property owner in the Project service area. The interest rate applicable to Connection Fees for Project Customers shall be 4.91%.
 2. To the extent permitted by law as determined by DTMA, DTMA shall charge a connection fee for improved properties that in the future are connected to the Project Facilities or any extensions thereto.
 - a. Such fees shall be charged to connecting properties whether located inside or outside of Conewago Township.
 - b. The amount of such fees shall be as similar as possible to those Connection Fees charged under Paragraph B.1 above, as increased by DTMA from time to time pursuant to the escalation provisions in the Act.
- C. Sewer User Rates and Charges. The sewer user rates and charges which DTMA applies to its Conewago Customers shall be the same sewer user rates and charges it applies to its customers located in Derry Township, which rates and charges DTMA in its sole discretion may adjust from time to time pursuant to applicable law.
- D. Other Rates and Charges and Billing Matters. Conewago Customers shall be subject to any other applicable rates and charges contained in DTMA's Rates, Rules, and Regulations. This could include, for example, penalties for late

payments, charges for excess strength wastewater, and sampling fees for commercial or industrial establishments.

SECTION 7.00

REQUIREMENTS RELATED TO THE DTMA SEWER SYSTEM

Section 7.10 - Mandatory Connection Ordinance.

- A. On or before December 31, 2003 Conewago shall enact an ordinance pursuant to 53 P.S. Chap. 67502 requiring all owners of improved property located within Conewago Township and whose properties are adjacent and adjoining the DTMA Sewer System to connect thereto upon notice by Conewago (“Mandatory Connection Ordinance”). Conewago further agrees to issue such notice upon request from DTMA. This requirement shall also include all Conewago properties currently available for hook up to the DTMA Sewer System but which have not yet been connected, provided however, Conewago may with DTMA’s written consent defer issuing mandatory connection ordinances to such properties for a period of time not to exceed one year from the date of execution of this Agreement.
- B. Conewago’s Mandatory Connection Ordinance shall contain all of the applicable elements regarding mandatory connection that are contained in Township of Derry Ordinance No. 140 as amended, a copy of which is attached as Exhibit D.
- C. Conewago agrees to submit its draft Mandatory Connection Ordinance to DTMA for review and approval prior to adoption by Conewago. DTMA shall indicate its approval in writing.
- D. Conewago agrees to perpetually keep its Mandatory Connection Ordinance in full force and effect and to take any and all actions necessary to promptly enforce its provisions.

- E. Upon request by Conewago, DTMA may, but shall not be obligated to, serve as Conewago's agent to notify Conewago property owners of their obligation under the Mandatory Connection Ordinance to connect to the Sewer System. If DTMA agrees to serve as Conewago's agent, Conewago shall reimburse DTMA for the cost of such service.

Section 7.20 - Sewer Use Ordinance.

- A. On or before December 31, 2003, Conewago shall enact an ordinance setting forth requirements for use of the DTMA Sewer System ("Use Ordinance"). The Use Ordinance may be incorporated within the Mandatory Connection Ordinance required under Section 7.10. It shall incorporate all of the applicable requirements for sewer use that are contained in Township of Derry Ordinance No. 140. The Use Ordinance shall specifically provide for the following:
1. That any violation of DTMA's Rates, Rules, and Regulations regarding sewer use shall constitute a violation of Conewago's Use Ordinance. A copy of DTMA's Rates, Rules, and Regulations in effect on the date of execution of this Agreement is attached as Exhibit E and incorporated herein by reference. DTMA shall send to Conewago a copy of any amendments to its Rates, Rules, and Regulations within ten (10) days of its adoption.
 2. That the discharge of wastewater or any other substance into the DTMA Sewer System, other than by and through a direct piped connection, is prohibited. The Use Ordinance shall provide for fines in the maximum amount permitted by law. Accordingly, discharges from tank trucks or similar sources are prohibited.
 3. That DTMA has the right to inspect all new dwellings connected to the DTMA Sewer System prior to issuance of an occupancy permit for the purpose of examining and evaluating all sewer connections and appurtenances associated with that dwelling unit for conformance with

DTMA's Rates, Rules, and Regulations; to assure that no unauthorized sewer connections exist and that all wastewater is conducted into the building sewer; and to provide for a fee, if any, to be paid directly to DTMA for the reasonable cost of such inspections. Conewago shall require proof of such inspection, approval, and fee payment as part of the Conewago process for issuance of applicable occupancy permits.

4. That to the extent permitted by law DTMA has the right to inspect any dwelling unit connected to the DTMA Sewer System at any time for the purposes outlined in the immediately preceding Paragraph 3.
 5. That the discharge of industrial wastes, the quantity or quality of which may in DTMA's opinion, have a deleterious effect upon its treatment plant, Sewer Facilities, or receiving stream, shall be prohibited and prevented. Further DTMA and Conewago shall act cooperatively to physically disconnect from the DTMA Sewer System any facility discharging such industrial waste.
- B. Conewago acknowledges that any inspections authorized or performed by DTMA pursuant to Section 7.20 A 3 or 4 are solely for the purposes stated and shall not constitute inspections to determine the property owner's compliance with State or local plumbing codes.
- C. To the extent necessary to put into effect the requirements of this Agreement, Conewago shall enact appropriate amendment(s) to its building permit ordinance and/or other ordinances.
- D. In the event that the Township of Derry amends Ordinance No. 140 so as to materially affect the sewer use requirements within Derry Township, DTMA shall send notification of such event to Conewago together with a copy of the amendment. Within sixty (60) days of the date of such notification Conewago shall amend its Use Ordinance to conform with Derry Township's amendments.

- E. Pretreatment Program. Conewago's Use Ordinance shall specifically grant to DTMA all of the legal authority which Conewago may possess to implement 40 CFR 403.8 (f) (1) regarding the establishment and conduct of industrial pretreatment programs. Conewago hereby authorizes and empowers DTMA to exercise all authority and powers that Conewago may have under Act 9 of 1992 (35 P.S. 752.1 et. seq), the "Publicly Owned Treatment Works Penalty Law," which relates to the assessment of penalties on industrial users of the sewage collection system for violations of the industrial waste discharge requirements imposed by DTMA's Rates, Rules, and Regulations, Industrial Pretreatment Program and any applicable requirements of the State and Federal governments.
- F. All Conewago Customers shall be subject to DTMA's Rates, Rules, and Regulations. Conewago shall fully cooperate with any enforcement action taken by DTMA against any Conewago Customer who violates DTMA's Rates, Rules, and Regulations, and shall take such action in the exercise of its own rights and police powers as may reasonably be requested by DTMA to ensure compliance with the Rates, Rules, and Regulations.

Section 7.30 - Planning Requirements.

- A. On or before December 31, 2003, Conewago shall amend its subdivision and land development ordinance to require that applicants for subdivision and land development projects who propose to connect to the DTMA Sewer System conform to DTMA's Rates, Rules, and Regulations, Standard Construction Specifications, and any other sanitary sewer extension requirement as a condition of Conewago's approval of such projects.
- B. When Conewago receives subdivision, land development, or other plans; project narratives or planning modules; and building permit applications and plans for a project which will connect to the DTMA Sewer System ("Development Information"), it shall promptly provide copies of such information to DTMA. DTMA shall be provided with opportunity to comment upon, to make

recommendations, and to impose certain requirements with regard to the project prior to the issuance of Conewago Township approval of such plan(s). DTMA's comments, recommendations, and requirements shall be confined to matters that affect its wastewater facilities including the treatment plant, their operation or maintenance, or its other rights and responsibilities under this Agreement. The parties hereto shall develop procedures for the implementation of the requirements set forth in this section, and upon failure of Conewago to follow such procedures, DTMA (1) shall have no obligation to execute planning modules or other documents or to issue capacity verifications; and (2) shall have the right (notwithstanding any provision in this Agreement to the contrary), to proceed in Dauphin County Court for specific performance of this Agreement, and Conewago shall pay DTMA's costs and reasonable attorney's fees in connection therewith.

- C. Conewago agrees not to issue building permits to applicants within the DTMA Sewer System service area until receiving written notification from DTMA that either a sewer connection permit has been obtained or that DTMA has no objection to release of the building permit. Such projects include, but may not be limited to, improvements or building additions that add or modify plumbing facilities. In the event DTMA determines that an inspection of the same is required, DTMA may charge a reasonable fee for the same, to be paid directly to DTMA, and Conewago shall require proof of payment of the same, if applicable, as part of the appropriate Conewago approval process for such projects.

Section 7.40 - Extensions to the DTMA Sewer System.

- A. Conewago shall withhold final approval of any subdivision or land development plan which proposes connection to or extension of DTMA Sewers until such plan is unequivocally approved in writing by DTMA.
- B. DTMA shall take dedication of all extensions to DTMA Sewers directly from the developers constructing such extensions.

- C. DTMA shall have the same rights, responsibilities, and authorities with respect to developers of land in Conewago Township as they have toward developers of land in Derry Township including but not limited to the right to:
1. Require the developer to enter into a Sewer Extension Agreement.
 2. Require posting of performance surety.
 3. Require developer deposits to an escrow account to cover DTMA's costs of legal and engineering reviews of the plans and of inspection.
 4. Require that Sewer Facilities be constructed in accordance with DTMA-approved plans and specifications.
 5. Inspect the construction of Sewer Facilities.
 6. Require record drawings indicating where Sewer Facilities have actually been constructed.
 7. Require a Deed of Dedication from the developer for the Sewer Facilities.

Section 7.50 - Rights-of-Way. Conewago hereby grants to DTMA all easements or rights-of-way in and to public streets or other public property controlled by it which are reasonably required in the performance of this Agreement, and DTMA shall comply with all reasonable rules and regulations imposed by Conewago regarding use of those streets, easements, and rights-of-way. Where required and necessary, Conewago shall secure for DTMA any and all easements, rights-of-way, licenses or privileges necessary to DTMA in the exercise by DTMA of its rights or in the carrying out by DTMA of its obligations under this Agreement. DTMA shall apply for any road occupancy permits required by Conewago for work to be performed on DTMA Sewers. Conewago agrees to waive any permit fees for Project Facilities and any subsequent sewer lines installed by DTMA at Conewago's request but not for developer-installed extensions thereto.

SECTION 8.00
OTHER PROVISIONS

Section 8.10 - Communication Among Conewago, DTMA, and Pennvest.

- A. DTMA shall be provided an opportunity to attend and participate in all meetings that Conewago may have with Pennvest officials and any and all meetings Conewago may have with any consultants, advisors, or staff regarding the Project.
- B. DTMA shall be provided with copies of any and all communication among Conewago, its consultants, and Pennvest officials regarding the Project including, but not limited to: letters, applications, and agreements.

Section 8.20 - Indemnifications.

- A. DTMA shall indemnify, defend and hold Conewago, its members, directors, officers, employees and agents harmless from and against all losses, claims, damages, liabilities, actions, decrees, orders, judgments, and expenses, including reasonable professional fees and disbursements, to the extent not reimbursed by insurance, whether or not in connection with loss of life, bodily injury, and damage to property, of any kind or character, howsoever caused and arising to the extent from (1) DTMA's breach of obligations under this Agreement; and or (2) DTMA's negligence within the scope of DTMA's obligations under this Agreement; and or DTMA's negligent operation of the facilities.
- B. Conewago shall indemnify, defend and hold DTMA, its members, directors, officers, employees and agents harmless from and against all losses, claims, damages, liabilities, actions, decrees, orders, judgments and expenses, including reasonable professional fees and disbursements, to the extent not reimburses by insurance, whether or not in connection with loss of life, bodily

injury, and damage to property, of any kind or character, howsoever caused and arising to the extent from (1) Conewago's breach of obligations under this Agreement and or (2) Conewago's negligence within the scope of Conewago's obligations under this Agreement.

Section 8.30 - Remedies.

- A. DTMA shall have all rights and remedies available at law and in equity, including specific performance and declaratory judgment, available to enforce the intent and all provisions hereof. In the event of any default in performance of any obligation by Conewago under the terms of this Agreement, Conewago shall be required to pay any and all costs incurred by DTMA including reasonable legal, expert, court, and service costs expended in enforcement of any provision of this Agreement, as well as any other relief to which DTMA may be entitled. The rights and remedies granted to DTMA herein are cumulative and the exercise of any right or remedy shall be without prejudice to the enforcement of any other right or remedy authorized herein, by law or, in equity. The waiver of one breach shall not be deemed a waiver of any other breach. Forbearance to enforce one or more of the remedies herein shall not be deemed or construed to constitute a waiver of that right or remedy or any other right or remedy for that default.
- B. Conewago shall have all rights and remedies available at law and in equity, including specific performance and declaratory judgment, available to enforce the intent and all provisions hereof. In the event of any default in performance of any obligation by DTMA under the terms of this Agreement, DTMA shall be required to pay any and all costs incurred by Conewago including reasonable legal, expert, court, and service costs expended in enforcement of any provision of this Agreement, as well as any other relief to which Conewago may be entitled. The rights and remedies granted to Conewago herein are cumulative and the exercise of any right or remedy shall be without

prejudice to the enforcement of any other right or remedy authorized herein, by law or, in equity. The waiver of one breach shall not be deemed a waiver of any other breach. Forbearance to enforce one or more of the remedies herein shall not be deemed or construed to constitute a waiver of that right or remedy or any other right or remedy for that default.

Section 8.40 - Waiver of Rights. The failure of any party hereto to insist upon strict performance of this Agreement or its terms and conditions shall not be construed as a waiver of any of its rights.

Section 8.50 - Arbitration. If any dispute arises between the parties hereto concerning the terms, conditions and covenants of this Agreement, the subject of such dispute shall be submitted to a board of arbitrators within thirty (30) days after written notice from any of the parties. For financial matters, each arbitrator shall be either an attorney, engineer, rate consultant or certified public accountant. For all other matters, each arbitrator shall be an attorney or an engineer. The board of arbitrators shall consist of three members, one of which shall be chosen by each party to the dispute, and the third shall be chosen by the arbitrators chosen by the parties. If the arbitrators chosen by the parties cannot reach agreement upon the identity of the third arbitrator within ten (10) days of the appointment of the last of them to be appointed, the parties shall file a joint request to the Court of Common Pleas of Dauphin County for appointment of a third arbitrator. Each party shall choose its arbitrator within ten (10) days of receipt of notification of request for arbitration. The costs of arbitration shall be borne equally by the parties. Except as otherwise provided in this Section, the arbitration shall be conducted in accordance with the Uniform Arbitration Act, 42 Pa. C.S.A. 7301, et. seq.

Section 8.60 - Entire Agreement. This writing, the addendum and the exhibits attached hereto constitute the entire Agreement between the parties, and there are no other representations or agreements, verbal or written, other than those contained herein. This Agreement, the addendum, and the exhibits attached hereto may not be modified, amended or supplemented except by written agreement of all parties hereto.

Section 8.70 - Severability. Should any one or more of the provisions of this Agreement for any reason be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall, under the circumstances, be construed and enforced as if such illegal, invalid or unenforceable provision had not originally been contained herein.

Section 8.80 - Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be properly executed by all parties hereto, and all of which shall be regarded for all purposes as one original, and all of which shall constitute one agreement, legally binding upon the parties.

Section 8.90 - Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers, as authorized or approved by action of their respective governing bodies, the day and year first above written.

ATTEST:

DERRY TOWNSHIP MUNICIPAL AUTHORITY

(Asst.) Secretary

(Vice) Chairman

(SEAL)

ATTEST:

CONEWAGO TOWNSHIP

Secretary

Chairman

(SEAL)

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