

AGREEMENT

THIS AGREEMENT executed on various dates, for delivery on August 8, 2007 (the “Effective Date”), by and among:

HERSHEY TRUST COMPANY, Trustee of Milton Hershey School. (“Trust”), a Pennsylvania business corporation with a mailing address of 100 Mansion Road East, Hershey, PA 17033;

AND

CONEWAGO MUNICIPAL AUTHORITY, (“CMA”), Dauphin County, Pennsylvania, a municipal authority organized and existing under the “Municipalities Authorities Act” 53 Pa. C.S. Ch. 56, having its administrative office at 3279 Old Hershey Road, Elizabethtown, PA 17022;

AND

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

AND

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

RECITALS

WHEREAS, Trust is the owner of a tract of land known as Tax Parcel No. 24-47-009 which tract lies partly in Conewago Township and partly in Derry Township, Dauphin County, Pennsylvania, as more particularly described and depicted on Exhibit A attached hereto (“Tract 9”); and

WHEREAS, CMA intends to construct sanitary sewer facilities in certain portions of Conewago Township (“Facilities”), and also a gravity sewer main in Derry Township (“Main”; the Facilities and Main referred to collectively as “Project”); and

WHEREAS, the Main will be connected to existing sewer lines in Derry Township owned and operated by DTMA, and wastewater collected from the area serviced by the Project will be conveyed thereby to DTMA’s Clearwater Road Treatment Plant (DTMA’s sewer lines and treatment plant referred to collectively as “DTMA System”); and

WHEREAS, DTMA, CMA, and Conewago Township have entered into a Sewer Service Agreement and Lease dated February 19, 2007 (“Service Agreement”), which provides for the Project to be leased to DTMA for operation as agent for CMA; and

WHEREAS, as lessee of the Project and pursuant to the Service Agreement, DTMA has the exclusive right to impose and collect Tapping Fees (hereinafter defined) and other fees for improvements connected to and served by the Project; and

WHEREAS, a two unit residential establishment, bearing an address of 3790 Old Hershey Road, currently exists on Tract 9, and a one unit residential establishment, bearing an address of 220 McCorkle Road, currently exists on a separate tract of land owned by the Trust in Derry Township, and all such units shall be connected to and served by the Project (these establishments referred to collectively as “Existing Establishments”); and

WHEREAS, Trust now owns other tracts of land which may be capable of being served by the Project, as more particularly described and depicted on Exhibit B attached hereto (“Additional Tracts”); and

WHEREAS, Trust may in the future purchase other tracts of land which may be capable of being served by the Project (“Future Tracts”; Tract 9, the Additional Tracts and the Future Tracts hereinafter referred to collectively as “Property”); and

WHEREAS, Trust desires to prepay Tapping Fees for 110 EDUs (hereinafter defined) of capacity in the Project and DTMA System in order serve improvements which in the future may be constructed on the Property (“Future Improvements”); and

WHEREAS, the Pennsylvania Municipality Authorities Act provides that when certain requirements are met the projects and property of an authority are to be conveyed to the governmental entity which created the authority after which the authority shall cease to exist; and

WHEREAS, CMA, DTMA, and Trust desire to provide for the possibility of CMA’s termination by making Conewago Township a party to this agreement.

NOW THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows:

SECTION 1.00

GENERAL PROVISIONS

A. The Recitals above are incorporated herein by reference and made a part of this Agreement.

B. Definitions. Unless the context clearly indicates otherwise, the following terms shall have the meanings indicated below:

1. “Act” means the Municipality Authorities Act 53 Pa. C. S. Chapter 56 as amended. References to specific provisions of the Act mean and include the corresponding provisions of any future law.
2. “Tapping Fee” means the tapping fee authorized by the Act charged to property owners who desire to or are required to connect to the Project, or any analogous or substitute fee or charge to the extent that such connections cease to be governed by the Act. The Tapping Fee includes a capacity part, a distribution or collection part, a special purpose part, and a reimbursement part.
3. “Equivalent Dwelling Unit” or “EDU” is a unit of measure of the amount of wastewater which equates the daily amount of wastewater discharged by a nonresidential establishment to that of a typical single-family home. For purposes of this Agreement, one EDU is equal to an actual or estimated wastewater discharge of 228.1 gallons per day.
4. “Up-Zoning Event” means any of the following events which permits more intensive development of any land capable of being connected to the Project than would be allowed under the zoning restrictions applicable to such land’s zoning district on the Effective Date: (a) the zoning district is changed; (b) any of the zoning restrictions applicable to such land’s zoning district is changed; or (c) any relief or exemption from any of the zoning restrictions applicable to such land’s zoning district is granted or determined.
5. “Up-Zoned Plan” means a land development plan for any land capable of being connected to the Project, which land development plan contemplates any use which is permitted on such land as a result of an Up-Zoning Event.

C. Term. The term of this Agreement shall begin on the Effective Date and shall extend until the earliest of the following events: (1) the period commencing on the Effective Date and ending thirty years after the Effective date expires; (2) the Trust connects to the System the 110th EDU located on the Property (or such lesser number as the Trust may own as a result of refunds made pursuant to this Agreement), or (3) the last unused Tapping Fee prepaid by the Trust is refunded pursuant to this Agreement.

D. Termination. This Agreement shall terminate in the event that Trust fails to make the payment as required by Section 3.00., or at the end of the term. Termination for any other reason or at any other time shall be permitted only upon mutual written consent of the parties.

E. Nothing in this Agreement affects DTMA’s right to charge connection fees, customer facilities fees, inspection fees and usage rates and charges for sanitary sewer service to any Future Improvements, pursuant to Sections 5607(d)(9) and 5607(d)(24)(A and –(B) of the Act, or otherwise.

F. If the charges for sanitary sewer service to any Future Improvements cease to be governed by the Act, the relationship among the parties with respect to any Future Improvements shall not be affected thereby, and for such purpose the parties incorporate by reference as a matter of contract the applicable provisions of the Act (including the limitations on the types and amounts of charges), as in effect on the date on which the charges cease to be governed by the Act.

G. This Agreement shall not apply to the Existing Units.

SECTION 2.00

PROJECT TAPPING FEES

A. The parties acknowledge that at the Effective Date, DTMA may not have officially established pursuant to the Act, the aggregate amount of the Tapping Fee applicable to connections made to the Project, nor the amount of the individual parts making up the Tapping Fee. Nevertheless, DTMA estimates that the aggregate amount of the Tapping Fee for a single-family home (one EDU) will be \$6,400, composed of the following parts:

Capacity Part	\$1,500.00
Special Purpose Part	<u>4,900.00</u>
Total	<u>\$6,400.00</u>

B. Pursuant to the Service Agreement, DTMA has exclusive authority to charge Tapping Fees and other applicable fees to the Trust with respect to connection of any Future Improvements to and use of the Project. CMA and Conewago Township have no such authority and shall make any such charges for any Future Improvements.

SECTION 3.00

PREPAYMENT OF TAPPING FEES

A. Within 30 days of the execution of this Agreement, Trust shall pay to CMA, the sum of \$704,000.00 as a prepayment of Tapping Fees for 110 EDUs worth of capacity in the Project and DTMA System in order to serve any Future Improvements (“Prepayment”). DTMA authorizes CMA to receive such prepayment and shall, upon CMA’s receipt of the prepayment, credit the amount of the payment to Trust’s account for the purposes stated in this Agreement. The Prepayment may be refunded in whole or part as provided hereinafter.

B. CMA shall accept the Prepayment on behalf of DTMA as payment in full of the Tapping Fees for 110 EDUs worth of capacity in the Project and DTMA System. DTMA, CMA, and Conewago hereby waive all rights to charge all parts of a Tapping Fee, and all fees and charges described in Sections 5607(d)(21) and –(22) of the Act, and all fees and charges analogous to or in substitution for any of the foregoing, for any Future Improvements for which prepayment has been made hereunder.

C. Trust acknowledges that DTMA may in the future increase the aggregate cost of the Tapping Fee and any of its component parts pursuant to provisions in the Act. DTMA shall not, however, increase the total amount of the Tapping Fee or any analogous or substitute fee or

charge applicable to any Future Improvements to the extent such have been paid for by the Prepayment. In other words, the cost of the Tapping Fee for 110 EDUs (or such lesser number as the Trust may own as a result of refunds made pursuant to this Agreement) worth of capacity in the Project and DTMA System shall not be increased.

D. Trust acknowledges that DTMA shall in the future charge connection fees, customer facilities fees, inspection fees and usage rates and charges for sanitary sewer service to any Future Improvements. At the time of connection to the Project of any Future Improvements, Trust shall be obligated to pay all prevailing fees at the prevailing rates for such connection except for the Tapping Fee or any analogous or substitute fee or charge.

E. The economic value and legal rights arising from the Prepayment shall run with the Property and shall not be sold to any third person or transferred for the benefit of any other property.

F. If an Up-Zoned Plan is approved for improvements which will be connected to the Project, then the Trust shall have the right to require DTMA to refund Tapping Fees to the Trust, up to the number of EDUs required by the improvements on the Up-Zoned Plan which will be connected to the Project, subject to a maximum of 110 EDUs or such lesser number as the Trust may own as a result of refunds made pursuant to this Agreement. The refund shall be made within 30 days of the time when the Tapping Fees for the improvements on the Up-Zoned Plan are required to be paid to DTMA. The refund of the Tapping Fee per EDU refunded to Trust shall be equal to the amount of all parts of the Tapping Fee per EDU paid for improvements on the Up-Zoned Plan. DTMA shall provide written notice to the parties reflecting the reduction in the number of prepaid EDUs owned by the Trust after any refund under this subsection.

SECTION 4.00

ADJUSTMENT BETWEEN DTMA AND CMA FOR THE PREPAYMENT

A. After CMA receives Trust's Prepayment, DTMA and CMA shall adjust the accounts between them to reflect CMA's receipt of the Prepayment, but such adjustment (or any failure of DTMA and CMA to agree on the amount, time or manner of the adjustment) shall not affect Trust's credit for the Prepayment.

B. CMA shall send written confirmation to DTMA that it has received the Prepayment within three days of its receiving the Prepayment.

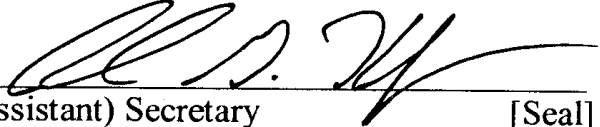
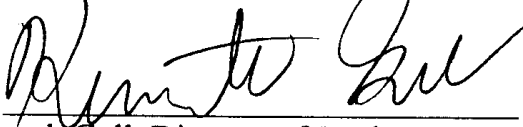
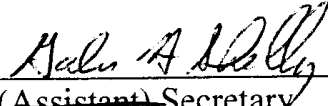
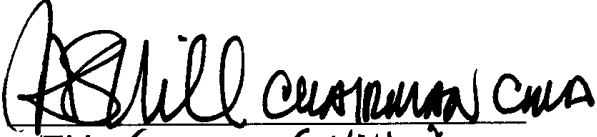
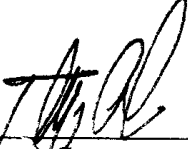

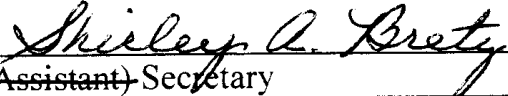
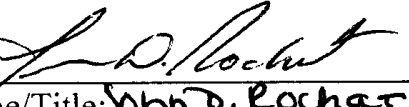
SECTION 5.00

OTHER PROVISIONS

A. Termination of CMA. In the event that CMA's existence expires or is terminated, Conewago Township shall assume and perform any remaining obligations of CMA under this Agreement, and it shall be bound by the provisions of the Act governing fees and charges as in effect on the date on which CMA's existence expires or is terminated, notwithstanding the fact that Conewago Township may not otherwise be subject to the Act.

- B. 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.
- C. Recording. This Agreement shall be recorded at the Trust's expense.
- D. 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.
- E. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania.
- F. Entire Agreement. This Agreement contains the entire understanding between the parties hereto and supersedes any prior written or oral agreement between the parties respecting the subject matter hereof. There are no representations, agreements, or understandings, oral or written, between or among the parties hereto relating to the subject matter of this Agreement which are not fully expressed herein.
- G. Authority to Execute. The parties hereby certify that the persons executing this Agreement on their behalf have full and complete authority to do so and that upon execution hereof, this Agreement shall be a binding legal agreement enforceable in accordance with its terms.
- H. 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 render this Agreement null and void *ab initio*, and all unused Tapping Fees prepaid by the Trust shall be refunded by DTMA at cost.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, intending to be legally bound, the day and year first above written.

<p>ATTEST:</p> <p> _____ (Assistant) Secretary [Seal]</p>	<p>HERSHEY TRUST COMPANY, TRUSTEE FOR MILTON HERSHEY SCHOOL:</p> <p>By:  _____ Kenneth Gall, Director of Real Estate</p>
<p>ATTEST:</p> <p> _____ (Assistant) Secretary [Seal]</p>	<p>CONEWAGO MUNICIPAL AUTHORITY:</p> <p>By:  _____ Name/Title: Gregory S. Hill</p>
<p>ATTEST:</p> <p> _____ (Assistant) Secretary [Seal]</p>	<p>DERRY TOWNSHIP MUNICIPAL AUTHORITY:</p> <p>By:  _____ Name/Title: Richard E. Lenker Jr. Chairman</p>
<p>ATTEST:</p> <p> _____ (Assistant) Secretary [Seal]</p>	<p>TOWNSHIP OF CONEWAGO:</p> <p>By:  _____ Name/Title: John D. Locher Chairman or Board</p>