

AGREEMENT

This Agreement made and entered into this 11th day of July, 1978, by and between the Belmont County Sanitary Sewer Districts Board of County Commissioners and Belmont County Sewer Authority No. One, being political subdivisions organized and existing under the laws of the State of Ohio, being hereinafter referred to as "Districts" and "Authority", respectively and being fully authorized to enter into and execute this Agreement by resolutions duly adopted by the County Commissioners of Belmont County, Ohio, on the 24th day of September, 1979 and the Board of Trustees of Belmont County Sewer Authority No. One on the 12th day of April, 1979.

WHEREAS, the Belmont County Commissioners under authority of Ohio Revised Code Chapter 6117, heretofore established Belmont County Sanitary Sewer District No. 1 and Belmont County Sanitary Sewer District No. 2 for the purpose of preserving and promoting the public health and welfare; and

WHEREAS, the Authority was organized pursuant to Ohio Revised Code Chapter 6119, as being conducive to the public health, safety, convenience or welfare of the inhabitants of the municipalities of Bridgeport, Brookside, Martins Ferry and Bellaire, and

WHEREAS, Belmont County Sanitary Sewer District No. 2 has interceptor and trunk line sewers in Belmont County east of the corporation line of St. Clairsville that connect with the sanitary sewerage system of Belmont County Sanitary Sewer District No. 1, and

WHEREAS, Revised Code Sections 6117.01, 6119.06 and 307.15 authorize the Districts and the Authority to enter into this Agreement,

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, and of other good and valuable consideration, the Districts and Authority do hereby promise and agree as follows:

Section 1. The Authority promises and agrees, subject to the covenants and conditions hereinafter contained, to accept the sewage from Districts 1 and 2 from their sewerage systems now in existence, and to treat said sewage according to E.P.A. requirements. The service area of the Districts to be served by the Authority's treatment plant is attached herein as Exhibit A and made a part hereof.

Furthermore, the Authority agrees to proceed as soon as practicable, after receiving a Federal Construction Grant of 75% of the eligible costs, as outlined in the E.P.A. approved Facility Plan, with the construction of a pumping station with metering devices on land presently owned by the District adjacent to the District's Boydsville treatment plant and to construct secondary treatment facilities at its treatment plant, and to provide adequate personnel, facilities and equipment to operate, maintain and service said pumping station and treatment plant.

Section 2. Subject further to the covenants and conditions herein contained, the District promises and agrees as follows:

(A) To convey to the Authority by Warranty Deed sufficient land owned by the District at Boydsville adjacent to the present treatment plant of District 1 for the construction of the pumping station as heretofore described with means of ingress and egress to same.

(B) Deliver all sewage from the sewerage systems of District 1 and District 2, as now constructed, to the Authority's pumping station to be constructed at Boydsville as soon as said pumping station is constructed and operable.

If the sewer lines of Districts 1 and 2 ever exceed the hydraulic design capacity of said sewer lines, the Belmont County Commissioners, by mutual consent with the Authority, shall be permitted to transmit, divert or treat the flows in excess of said design capacity to any area they see fit.

In the event of any new construction or new development within the service area of Districts 1 and Districts 2 wherein it would be a hardship, either economically or physically to transmit these sewage flows to the Authority's pump station at Boydsville, permission shall be granted by mutual consent for the Belmont County Commissioners to treat, divert or transmit said flows to another area.

It is understood by this agreement that the Belmont County Commissioners do not have any intention, and in fact, will not divert flows from the Authority's treatment plant or pumping station due to the necessity of required flows and income to meet the Authority's bonded indebtedness and expenses.

(C) Maintain its sewerage systems, at no cost to the Authority, to ultimate capacity and to save the Authority harmless from any and all liability that may arise from the operation of said systems.

(D) To be responsible for meeting E.P.A. requirements, now and in the future, as to pretreatment of sewage and industrial waste delivered to the Authority.

(E) The Authority has the right to inspect any and all establishments having unacceptable waste according to the Authority and E.P.A. standards and to order corrective measures. If said corrective measures are not accomplished within a reasonable time, the Authority has the right to surcharge said establishment which shall be payable to the Authority according to the Authority's Standard Rate Resolution.

(F) Pay the sewage rate monthly to the Authority for the treatment of the District's metered sewage flow as per the rate formula attached hereto marked Exhibit B and made a part hereof as if completely written herein.

Section 3. The Districts and Authority further agree:

(A) That the Authority shall maintain and read the meter at the Boydsville pumping station to determine the total flow transported from the County and treated at the treatment plant of the Authority.

It is understood and agreed that authorized representatives of the Districts shall have the opportunity to examine and read the meters any time during usual business hours. The Districts may request that the meter be recalibrated and unless the meter is found to be in error by more than 5%, the cost of said recalibration shall be borne by the Districts. The meters shall be calibrated only by a fully qualified factory-trained representative of the meter manufacturer.

(B) The Districts will be billed monthly by the Authority for the sewage flow of the previous month. Said billing shall be sent on the first business day of the month and is due and payable by the Districts within thirty (30) days after billing and if not paid when due, a penalty of 10% shall be added thereto.

(C) The County may construct additional interceptor and trunk lines to be connected to the lines already in existence or under construction and the provisions of this Agreement, in the event that such additional lines are constructed, will apply to such additional lines. In the event that the Districts wish to construct such additional lines it shall, prior to construction, submit the plans for such construction to the Board of Trustees of the Authority for its review or approval or rejection but such approval shall not be unreasonably withheld. The Board of Trustees shall, within a period of thirty (30) days after submission thereof, approve such plans or indicate the way in which the same must be changed for approval. Failure to so approve or to indicate within the 30-day period required by this paragraph shall be deemed to be approval.

(D) This Agreement shall take effect on the date hereof and shall remain in effect until terminated by mutual agreement of the parties and shall be for the benefit of and shall be binding upon the successors and assigns of the parties hereto.

(E) In the event that any controversy or difference shall arise between the Districts and the Authority with respect to the interpretation and effect of this Agreement, including any limitation contained herein or their respective rights, obligations or liabilities hereunder, then such controversy or difference shall be submitted to a board of three arbitrators, one to be chosen by the Districts, one to be chosen by the Authority and the third to be chosen by the other two, and the decision of any two of such arbitrators shall be final and binding upon the Authority and the Districts on the condition that all three arbitrators participate in the decision.

Arbitration shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then obtaining. This agreement so to arbitrate shall be specifically enforceable under the prevailing arbitration law.

Notice of the demand for arbitration shall be filed in writing with the other parties to this contract and with the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations.

The award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction thereof.

(F) A determination by any court of competent jurisdiction that any part of this Agreement is invalid shall not invalidate or impair the force or effect of any other part thereof, except to the extent that such other part is wholly dependent for its operation upon the part so declared invalid.

(G) This Agreement shall be submitted to and require the approval of the Director of Environmental Protection of the State of Ohio.

IN WITNESS WHEREOF, the Districts and the Authority have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

SIGNED IN PRESENCE OF:

Mary Kopelke  
Patricia Bittingle

BELMONT COUNTY SANITARY SEWER  
DISTRICT NO. 1  
BELMONT COUNTY SANITARY SEWER  
DISTRICT NO. 2

BY:

A. J. Burgess  
C. J. Fink

N. E. Olefs  
Board of County Commissioners

LAW OFFICES  
MALIK, MALIK  
& KNAPP  
381 BELMONT STREET  
BELLAIRE, OHIO

BELMONT COUNTY SEWER AUTHORITY  
NO. ONE

Anita L. Brewer

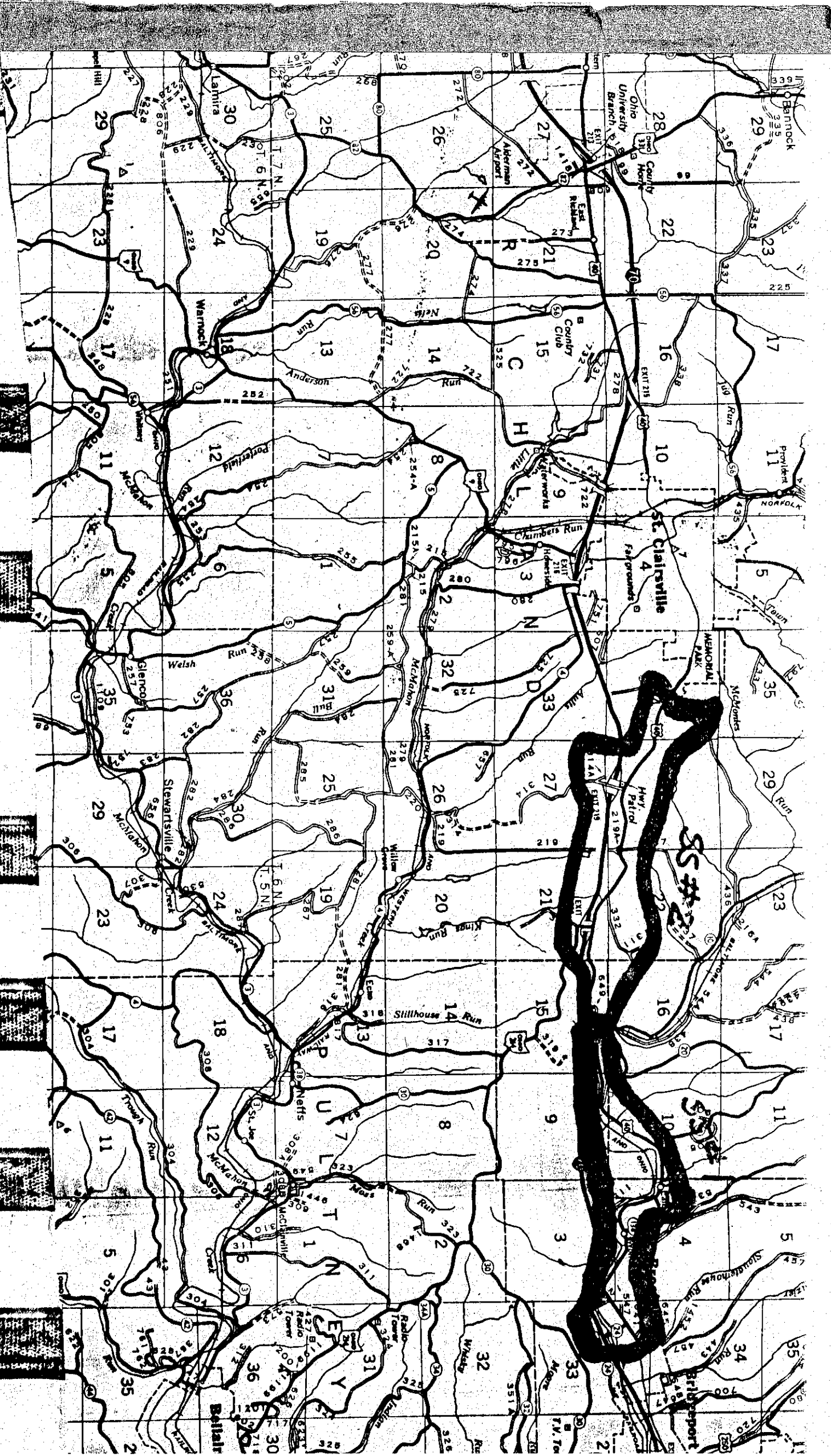
BY: Charles J. Knapp  
President

Linda Mayhugh

BY: Michael R. Thomas  
Secretary

APPROVED AS TO FORM:

Edward G. Sustersic  
Edward G. Sustersic,  
Prosecuting Attorney,  
Belmont County





EXAMPLE FIGURES ESTIMATED

$$\text{Rate} = \frac{(A + B) (\text{crf-i-n}) + Z + (O \& M) + \frac{R}{n Y}}{X}$$

$$A \ B = 0.25 \ (164,300) = \$ \ 41,100$$

$$B \ B = 0.25 \ (6,500,000) = \$ \ 1,625,000$$

$$Z = \$262,000/\text{yr}$$

$$O\&M = \$560,000/\text{yr}$$

$$R = \$164,300$$

$$X = 1,460,000 \times 10^3 \text{ gal per year}$$

$$Y = 150,000 \times 10^3 \text{ gal per year}$$

$$n = 20 \text{ yr}$$

$$\text{crf-i-n} = 0.09812$$

$$\text{Rate} = \frac{1,666,100(0.09812) + 262,000 + 560,000}{1,460,000 \times 10^3} + \frac{164,300}{150,000 \times 10^3}$$

$$\text{Rate} = 0.675 + 0.555$$

$$\text{Rate} = \$0.73/1000 \text{ gal}$$

All flow figures and O & M figures to be used as determined on an annual basis.

In the first year using estimates and thereafter using actual costs.