

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2004, by
and between:

BOROUGH OR MARKLEYSBURG, a body politic and corporate created under the laws of the Commonwealth of Pennsylvania, (hereinafter called the “Borough”),

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NATIONAL PIKE WATER AUTHORITY, a quasi municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, having its principal office in Markleysburg, Fayette County, Pennsylvania, (hereinafter called the “Water Authority”).

WHEREAS, the Borough is the operator in charge of a sanitary sewer system and appurtenances serving the Borough of Markleysburg and adjacent areas of Henry Clay Township; and,

WHEREAS, the Water Authority is engaged in the business of providing water service to the general public in the area, including some of the customers of the Borough’s sanitary sewer system; and,

WHEREAS, the Water Authority is authorized and required, at the request and direction of the Borough, pursuant to the provisions of 53 P.S. Sections 2261-2265, inclusive, to shut off the water from its system to any premises, in which the rentals, rates and charges for sewer, sewage and sewage treatment service supplied by the Borough are unpaid for a period of thirty (30) days from the due date thereof.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED AS FOLLOWS, in consideration of the sum of One and no/100 (\$1.00) Dollar and other good and valuable consideration, and the covenants hereinafter expressed, the parties hereto do mutually agree as follows:

1. That upon written request by the Borough specifying a premises in the Borough or Township with regard to which the rentals, rates and charges for sewer, sewerage or sewage treatment service shall not have been paid for a period of at least thirty (30) days from the due date thereof, together with a statement in writing by a responsible officer of the Borough setting forth,

- (a) that the Borough has given ten (10) days notice in writing of its intention to request the Water Authority to shut off the supply of water from its system to such premises to the person liable for the payment of such rentals and charges;
- (b) that there has been posted a written notice to this effect at the main entrance to the premises; and,
- (c) that the Borough has not received a written statement, under oath or affirmation, from the person liable for the payment of the said rentals and charges stating that the said owner has a just defense to the claim or part thereof,

the Water Authority shall shut off the supply of water from its system to such premises until it is advised in writing by the Borough that all such overdue rentals, rates and charges, together with any interest thereon, have been paid, or until the Borough directs otherwise.

2. The Borough shall pay to the Water Authority concurrently with the delivery of the written request written in paragraph 1 above, the sum of Twenty-Five and no/100 (\$25.00) Dollars to cover the Water Authority's cost of shutting off the water supply to each premises listed in such request. Such amount shall not be subject to refund for any reason. The Borough shall also pay to the Water Authority, upon the request therefore, the further sum of

Twenty-Five and no/100 (\$25.00) Dollars to cover the Water Authority's cost of restoring water service to such premises. In the event that more than one hour is required for either the shutting off or restoration of water service to any such premises, the Borough shall pay the actual costs thereof to the Water Authority based on time, materials, transportation and other fixed charges. The fees fixed hereunder may be amended from time to time as agreed by the parties hereto. The Borough further agrees that it will also pay to the Water Authority any charges due and owing for restoring service as specified in the Rules and Regulations of the Water Authority.

3. The Borough shall pay to the Water Authority the estimated loss of water revenue resulting from each such shut off made hereunder. Such estimated loss of water revenue shall be based upon the actual period of time during which the supply of water is shut off in each instance and the average water revenue received by the Water Authority for a like period of time during the year prior to each shut off from the class of customer involved in each instance, as determined from the books and records of the Water Authority. The estimated loss of revenue shall be billed by the Water Authority to the Borough periodically at the same time as the Water Authority would have billed the customer if the water had not been shut off, and the Borough shall pay each such bill within thirty (30) days of receipt thereof.

4. The Water Authority shall not be liable for any loss, damage or other claim asserted by the owner of the premises, the water customer or any other person or corporation based on or arising out of the shutting off such supply of water, and the Borough shall indemnify and save harmless the Water Authority, its agents, officers, servants and employees, from any such loss, damage or other claim including counsel fees and expenses incurred in connection therewith.

5. The parties agree that at the time scheduled for shutoff the Borough shall designate one of its employees to accompany the employee of the Water Authority to the premises where service is to be terminated and specifically designate the premises affected by said shut off; the presence of the employee of the Borough shall be a condition precedent to any shut off.

6. If a dispute shall arise between the parties hereto regarding any of the provisions of this Agreement, such dispute shall be submitted for resolution to arbitration under the Rules of the American Arbitration Association. In addition, an amount equal to any amount paid by the Borough to the Water Authority for loss of water revenue shall be added to the delinquent account and shall be payable in the same manner as rates and charges.

7. This Agreement may be terminated by either of the parties hereto by ten (10) days written notice given to the other party at its principal place of business.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and attested by their proper officer and their respective seals to be hereto affixed the day and year first above written.

BOROUGH OF MARKLEYSBURG

ATTEST:

Secretary

President

ATTEST:

NATIONAL PIKE WATER AUTHORITY

Secretary
