

**LOWER NAZARETH SEWER SERVICE AGREEMENT**

**THIS SERVICE AGREEMENT**, dated as of the \_\_\_\_\_ day of October 2014, by and between the **CITY OF BETHLEHEM**, a municipal corporation of the Third Class of the Commonwealth of Pennsylvania, domiciled by law in Northampton and Lehigh Counties, Pennsylvania (hereinafter referred to as “City”), party of the first part,

and

**TOWNSHIP OF LOWER NAZARETH**, a municipal corporation and Township of the Second Class, located in Northampton County, Pennsylvania (hereinafter referred to as “Lower Nazareth”).

WITNESSETH:

WHEREAS, Lower Nazareth has constructed or will construct a wastewater collection system, including all related and necessary facilities, for the purpose of rendering sanitary sewer service in and for certain portions of the Township of Lower Nazareth, Northampton County, Pennsylvania (the “Lower Nazareth Sewer System”); and

WHEREAS, City has constructed a wastewater collection and treatment system for the purpose of rendering sanitary sewer service in and for the City of Bethlehem (together, the “City Sewer System”); and

WHEREAS, only a small portion of Lower Nazareth known as the “Griffin Land Subdivision and Land Development” (“Griffin”), currently receives wastewater collection through a direct connection to a wastewater collection system located in Bethlehem Township and owned by the Bethlehem Township Municipal Authority, utilizing treatment capacity in the City wastewater treatment plant borrowed from a treatment allocation owned by Bethlehem Township Municipal Authority; and

WHEREAS, Township of Hanover, Northampton County, Pennsylvania (“Hanover”) has constructed a wastewater collection system, including all related and necessary facilities, for the purpose of rendering sanitary sewer service in and for the Hanover Sewer System (the “Hanover Sewer System”); and

WHEREAS, Hanover and Lower Nazareth have or will enter into an agreement pursuant to which Hanover grants authority to Lower Nazareth to discharge wastewater from certain areas of Lower Nazareth into and through the Hanover Sewer System for transmission to the City Sewer System and eventual transmission through the City Sewer System to its wastewater treatment plant for treatment and disposal; and

WHEREAS, the existing Treatment Plant has capacity to meet the projected needs of the City and various adjacent municipalities, including Hanover and City in Northampton County, for which City is obligated to provide sewage treatment service under existing agreements; and

WHEREAS, City is in the process of upgrading its wastewater treatment plant to enhance treatment efficiencies and to add additional treatment capacity; and

WHEREAS, until the upgrade of the wastewater treatment plant is completed, Lower Nazareth desires to acquire from City up to 23,250 gallons per day (“gpd”) in additional wastewater treatment capacity currently owned by City (the “Initial Allocation”) to serve properties in and around Hanoverville Road, east of Township Line Road, in the area designated on **Exhibit A** which was prepared by DH Enterprises, dated August 6, 2013, entitled Sewer Service Area Expansion and is attached hereto; and

WHEREAS, Lower Nazareth has expressed an interest in reserving a permanent treatment capacity of 230,000 gpd in the upgraded wastewater treatment plant which will include the Initial Allocation (the “Permanent Capacity”); and

WHEREAS, City is willing to make the Initial Allocation of wastewater treatment capacity and commit to future permanent capacity for Lower Nazareth upon receipt of satisfactory commitments from Lower Nazareth that it shall pay its fair share of the cost of that portion of the wastewater treatment plant upgrade and enhancement that provides capacity and treatment; and

WHEREAS, Lower Nazareth and City desire to establish the terms and conditions under which treatment capacity in the Treatment Plant will be provided to Lower Nazareth, how payment of its share of treatment capacity will be paid by Lower Nazareth to City, and other related matters to be addressed by and between Lower Nazareth and City, including but not

limited to provisions for maintenance and repair of the Lower Nazareth Sewer System, billing services regarding Lower Nazareth properties to which sewer services are provided, and the creation of future capital reserves; and

WHEREAS, it is the intent of City and Lower Nazareth that the within Agreement shall represent the entire agreement between them relating to wastewater collection, treatment, and disposal, and shall supersede any existing agreements between them with respect to the transmission, treatment and disposal of wastewater.

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

1. Definitions: The following terms and phrases; for purposes of this Agreement, shall have the following meanings, unless the context clearly otherwise requires:

“Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

“City Sewer Collection System” shall mean a series of interconnected pipes constituting a sewage collection system owned by City which is located within the City, including all related and necessary pumps, manholes, connections, facilities and other appurtenances, which collect and convey sewage and wastewater from buildings and properties within the City, and from interconnected pipes owned by other municipalities which transport sewage and wastewater from those municipalities to the Treatment Plant for treatment, together with future additions, alterations and improvements thereto.

“City Sewer System” shall mean the City Sewer Collection System and the Treatment Plant.

“Consulting Engineers for City” or “Consulting Engineers” shall mean engineering firms or professional engineers having a favorable reputation for skill and experience in the construction and operation of sewage treatment plants, registered in Pennsylvania and employed by City.

“Cost of Operation of the City Sewer System” shall mean the actual costs or expenses or the estimated costs or expenses, as applicable, required in operating, repairing and maintaining City Sewer System, including without being limited to the following: salaries and wages of operating, supervisory and administrative personnel engaged directly in the operation, repair and maintenance of the City Sewer System, including benefits, which currently include pensions, social security and employment taxes, workers compensation premiums, health and accident premiums all allocated in accordance with time spent by each such employee in matters directly related to the City Sewer System except with regard to Costs and Expenses of Treatment Plant Enhancements and Improvements which are recovered or reimbursed separately; power; the cost to acquire, store, apply and utilize fuel, materials, supplies, pipes, appurtenances, equipment and tools used or employed in the operation and maintenance of the City Sewer System; costs of purchase, storage and application of chemicals and bioagents used or supplied in the operation and maintenance of the City Sewer System; the cost of maintenance and repairs (including minor replacements), and costs of any minor work done under any contract with respect to the City Sewer System, or both; fees and expenses of attorneys, engineers and accountants for services performed in connection with the management, operation and maintenance of the City Sewer System, in compliance with the terms hereof; premiums for casualty and liability insurance on the City Sewer System; cost of storing, hauling, dumping and disposal of residue or sludge from the City Sewer System, including composting; and all other costs and expenses not of a capital nature (but including capital costs reasonably necessary for assuring continued compliance with Federal and Commonwealth regulations and permit requirements), reasonably incurred and properly attributable, under sound engineering and accounting practice, to the operation, maintenance and/or repair of the City Sewer System, from time to time, but not including Costs and Expenses of Treatment Plant Enhancements and Improvements which are recovered or reimbursed separately. Written records and accounts of all such costs and expenses shall be prepared and maintained by City and such accounts and records may be inspected at reasonable times by Lower Nazareth, its agents and representatives.

All Federal and/or State contributions or grants in aid received by City, Bethlehem Authority, Lower Nazareth or by any other municipality or municipal authority using the Treatment Plant which are properly allocable to the Cost of Operation of the City Sewer

Collection System, as above defined, shall be paid over to City and/or used by City to pay any portion of the Cost of Operation of the City Sewer System and shall be deducted before determining such annual Cost of Operation of the City Sewer System.

“Costs and Expenses of Treatment Plant Enhancements and Improvements” (a portion of which shall be allocated to Lower Nazareth as the “Lower Nazareth Share,” as that term is defined in paragraph 4), shall mean the actual costs or expenses or the estimated costs or expenses, as applicable, incurred and to be incurred by City and required to increase the hydraulic or organic capacity of the Treatment Plant to, inter alia, accommodate a reservation of 230 K gpd of treatment plant capacity for Lower Nazareth, including without being limited to the following: an allocation of the salaries and wages of operating, supervisory and administrative personnel engaged directly in the planning, design, permitting, construction, inspection and certification of the completion of improvements and enhancements to the Treatment Plant necessary to provide treatment plant capacity to Lower Nazareth of 230 K gpd, including pensions, social security and employment taxes, worker’s compensation premiums, health and accident premiums related to said personnel; permit fees and other expenses related thereto; contractor costs and expenses; materials and capital acquisitions; fees and expenses of Consulting Engineers and other professionals employed by City regarding same; and all other costs and expenses reasonably incurred and properly attributable, under sound engineering and accounting practice, to such improvements and enhancements; including interest and carrying costs on funds expended and debt incurred before payment by Lower Nazareth of the Lower Nazareth Share, as determined in paragraphs 4 and 5.

“Equivalent Dwelling Unit” means 250 gpd, which is an approximation of the average amount of waste water customarily discharged to a sewer collection system from a typical single family dwelling over a twenty-four (24) hour period.

“Fiscal Year” shall mean the period of twelve (12) months beginning January 1 and ending the following December 31.

“GPD” or “gpd” means gallons per day.

“Hanover Sewer System” shall mean the sewage collection system, and all related and necessary facilities located within Hanover Township and used to transmit sewage and waste water to be treated in the Treatment Plant.

“Holding Tank Waste” means any waste from holding tanks such as, but not limited to, treatment units, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

“I&I” means infiltration and inflow.

“Improved Property” means any property upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure wastewater and/or industrial waste is or may be discharged.

“Indirect Discharge” means the discharge or the introduction of pollutants from any non-domestic source regulated under Section 307 (b) or (c) of the Act (33 U.S. 1317), into the Treatment Plant (including Holding Tank Waste discharged into the sewer system).

“Industrial User” means a source of Indirect Discharge.

“K gpd” means thousands of gallons per day.

“Lower Nazareth Customer” a person, business or entity of any kind or nature which or who places sewage in the Lower Nazareth Sewer System from property located in Lower Nazareth owned by such person, business or entity.

“Lower Nazareth Sewer System” shall mean the sewage collection system and sewage treatment and disposal facilities, if any, including all related and necessary facilities, to be acquired, constructed, or otherwise permitted, owned or operated within Lower Nazareth which transmit sewage and wastewater to be treated in the Treatment Plant, and including sewer laterals within public rights of way and easements to and including shut off valves only. The building sewer (which is defined as the sewer line which runs from the public right of way or easement to the building shall be owned and maintained by the owner of the property served.

“Lower Nazareth Share” shall mean those portions of the cost of the City Sewer System Enhancements and Improvements to be paid by Lower Nazareth as set forth in Paragraph 4 and 5, infra.

“M gpd” means millions of gallons per day.

“Pa. DEP” means the Pennsylvania Department of Environmental Protection, or its successor.

“Sewage,” “Wastewater,” “Domestic Waste,” and “Sanitary Waste” each mean water and organic effluent which are the waste product of human domestic activity, as well as water and organic effluent from processing, industrial, and manufacturing activities whether or not pretreated in a manner consistent with standards established by the United States Environmental Protection Agency to reduce it to organic load parameters.

“Lower Nazareth Service Area” means that portion of Lower Nazareth authorized by City and Pa. DEP to collect and transport sewage to be treated at the Treatment Plant, as shown on **Exhibit B** hereto.

“Treatment Capacity Allocation” shall mean the maximum amount of hydraulic flow of sewage and wastewater which the City may allow a municipality to transport to the Treatment Plant, averaged over any consecutive one hundred twenty (120) day period, provided that the peak hydraulic flow (measured over any consecutive five (5) day interval) does not exceed that municipality’s allocation by more than 150%.

“Treatment Plant” shall mean all facilities used by the City of Bethlehem for the treatment of sewage, including the discharge of treated effluent and removal and disposal of materials removed from sewage and wastewater through the treatment or waste separation process.

## 2. Construction of Lower Nazareth Sewer System:

A. Lower Nazareth agrees to build a sewer system sufficient to serve customers in the Lower Nazareth Service Area, and to connect the Lower Nazareth Sewer System to the

existing Hanover Sewer System in a manner necessary for wastewater from the Lower Nazareth Service Area to be conveyed to the Treatment Plant, at Township's sole cost and expense, and to do so in a good and workmanlike manner. City shall have the right to inspect the construction of the Lower Nazareth Sewer System utilizing individuals retained by City at such times and for such durations as City chooses, at Lower Nazareth's sole cost and expense, to 1) assure that the construction will minimize I&I of ground water and surface water into the Lower Nazareth Sewer System; 2) assure that pipe size, grades and pumps are adequate to permit sewage to properly flow to the Treatment Plant; and 3) assure that the Lower Nazareth Sewer System is secure from the introduction of unauthorized sewage and other debris, waste and materials.

B. Lower Nazareth shall secure all permits and approvals required by the Pa. DEP and Delaware River Basin Commission ("DRBC"), and any other governmental regulatory body for the construction of the Lower Nazareth Sewer System, and for its connection to the Hanover Sewer System.

3. Allocation of Treatment Plant Capacity to Lower Nazareth Township: The Initial Allocation of Treatment Capacity to be acquired by to Lower Nazareth will be 23,250 gpd. At such times as ongoing Treatment Plant upgrade activities by City result in a re-rating of the Treatment Plant which will allow treatment of up to 20 M gpd, the total Lower Nazareth capacity in the Treatment Plant shall be 230 K gpd. In the meanwhile, Lower Nazareth shall have access to such portions of the Permanent Capacity as may be required for bona fide users as and when such requirements are verified, and an application for access to such capacity is remitted by Lower Nazareth and approved by City.

4. Treatment Plant Capital Cost Allocation: In order for City to fulfill its obligation to Lower Nazareth to provide 230 K gpd of treatment plant capacity, substantial enhancements and improvements to the Treatment Plant are required. Lower Nazareth agrees to pay its pro rata share of the costs and expenses related to such enhancements and improvements (the "Lower Nazareth Share")<sup>1</sup> which are currently planned in order for the Treatment Plant to reasonably

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<sup>1</sup> Lower Nazareth's pro rata share of costs and expenses includes costs associated with structuring and administering debt and loans acquired to finance the enhancements and improvements, debt service on such debt at rates actually incurred by City, interest on unborrowed funds used for enhancements and improvements at the average borrowing rate for funds borrowed for enhancements and improvements, reimbursement for the time value of funds expended before the time of payment referenced in this Paragraph 4. Lower Nazareth's

accommodate the 230 K gpd of capacity in the Treatment Plant desired by Lower Nazareth, in the amount of \$2,542,314.00 within sixty (60) days of the date of execution of this Agreement. Sums subsequently required for Treatment Plant improvements necessary to reasonably to accommodate the 230 K gpd of capacity hereby reserved may be subsequently assessed.

5. City Sewer Collection System Cost Allocation. In order for City to be able to transmit wastewater from Lower Nazareth to the Treatment Plant for treatment, various collection system enhancements and improvements are also required. Lower Nazareth agrees to pay the Lower Nazareth Share identified in Paragraph 4 above, in order to obtain and reserve the capacity in the Treatment Plant hereby allocated to Lower Nazareth.

6. Excess Treatment Plant Capacity. Lower Nazareth shall not be entitled to Treatment Plant capacity in excess of 230 K gpd without a separate written agreement or amendment hereto executed by both City and Lower Nazareth.

7. Service to Customers in the Township Service Area:

A. No sewage or wastewater treatment service shall be provided to any Lower Nazareth Customer in the Township Service Area until all of the following shall have occurred: 1) City shall have approved the plans and specifications for the Lower Nazareth Sewer System sought by Lower Nazareth to be constructed; 2) approval of Lower Nazareth's revised Act 537 Plan by City and Pa DEP; 3) a water quality permit has been issued which permits Lower Nazareth wastewater to be conveyed to the Treatment Plant; 4) Pa DEP and the DRBC has approved the headwaters of the Treatment Plant for discharge of treated Lower Nazareth wastewater (if required by law); 5) a certificate of substantial completion has been issued by Lower Nazareth to its contractor for the construction of the Lower Nazareth Sewer System; 6) installation of appropriate and functional meters, manholes and monitoring ports at the connection point between the Lower Nazareth Sewer System and the Hanover Sewer System, utilizing such metering devices as are mutually acceptable to Lower Nazareth and City; 7) the connection between the Lower Nazareth Sewer System and the Hanover Sewer System is

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pro rata share shall not include costs and expenses incurred in routine Treatment Plant and City Sewer Collection System maintenance which does not increase treatment or transmission capacity made available to Lower Nazareth. The amount set forth in this paragraph is agreed by both parties to reflect these allocation parameters.

completed; 8) Lower Nazareth has identified each Lower Nazareth Customer to be served and certifies to City, following an inspection, that there are no groundwater or stormwater I&I into such Customer's building sewer; and 9) as to nonresidential uses only, each prospective Customer and City, on behalf of Lower Nazareth certifies that, after testing, the effluent entering the Lower Nazareth Sewer System from the prospective user's facility meets the treatment parameters in this Agreement.

B. Following the issuance of a certificate of completion by Lower Nazareth to the contractor of the Lower Nazareth Sewer System and remittance of a copy of the certificate of completion by Lower Nazareth to City; written approval of the design and construction of the Lower Nazareth Sewer System by an in-house City Engineer or its agent; approval to connect the Lower Nazareth Sewer System to the Hanover Sewer System from City Engineer and Treatment Plant operator; installation of a master meter satisfactory to City to monitor flows from the Lower Nazareth Sewer System; receipt by City from Lower Nazareth of the certifications called for in subparagraph A above; and connection of the Lower Nazareth Sewer System to the Hanover Sewer System, sewage and wastewater may flow from the Township Service Area through the Lower Nazareth Sewer System and into the Hanover Sewer System for conveyance to the Treatment Plant for treatment.

C. All Lower Nazareth Customers whose wastewater is collected through the Lower Nazareth Sewer System shall be part of the Lower Nazareth Service Area, and shall be Customers of Lower Nazareth. Lower Nazareth shall be a "bulk" customer of City, City shall be paid a portion of the Cost of Operation of the City Sewer System based upon the amount of wastewater generated in the Lower Nazareth Service Area in amounts equal to those rates City charges its own customers, plus a surcharge of 5%, which shall include all services provided to Lower Nazareth by City, including operation and maintenance of the Lower Nazareth Sewer System, as well as capital improvements or capital replacement reserves relating to the Lower Nazareth Sewer System (but not including pumping stations, if any, or capital improvements needed to increase transmission capacity), nor excess strength testing costs, which shall remain the responsibility of each customer.<sup>2</sup> Upon request, City shall provide Lower Nazareth with an

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<sup>2</sup> Lower Nazareth shall assure that it has adopted adequate ordinances to require Customers to assume that responsibility.

itemization of costs and expenses which make up the operation costs. City shall have no control over any additional fees and costs Lower Nazareth may charge its own Customers within the Lower Nazareth Service Area, and City shall have no responsibility or liability relating to such additional charges, except as collection agent for Lower Nazareth at such terms as are mutually agreed to from time to time by City and Lower Nazareth.

D. Prior to connection of a non-residential Lower Nazareth Customer, and at any time thereafter, City may review such Customer's industrial discharge processes to assure that its wastewater discharges comport with the parameters set forth in paragraph 14 hereof, that Indirect Discharges from such Customers are not permitted, and that its discharges do not otherwise interfere with the operation of the Treatment Plant. Should City at any time determine that such wastewater discharges do not comport with the parameters set forth in paragraph 14, Indirect Discharges are occurring, or that discharges are likely to interfere with the operation of the Treatment Plant, City reserves the right to require such Customer to pretreat its wastewater at its own site to such parameters as City may determine from time to time. Testing of Lower Nazareth wastewater to monitor its composition may be accomplished by City at any time, but not more frequently than quarterly, and the costs thereof shall be paid by Lower Nazareth to City within sixty (60) days of receipt of any invoice therefor. Nothing set forth herein shall preclude Lower Nazareth from passing this cost through to any and all of its wastewater customers.

8. Obligation of City to Transport Sewage and Wastes Emanating from Within Lower Nazareth to its Treatment Plant and to Treat and Dispose of Same:

A. The City does hereby grant unto Lower Nazareth the right to discharge into the City Sewer System for transportation to and treatment and disposal at the Treatment Plant sewage emanating from within Lower Nazareth in amounts not to exceed the Lower Nazareth Treatment Plant capacity allocation set forth in Paragraph 3 hereof.

B. It is agreed that the City shall not be liable to Lower Nazareth for any damages in case of a failure or inadequacy of the City Sewer System or Treatment Plant to receive, treat or dispose of sewage emanating from within Lower Nazareth which failure or inadequacy is caused by any condition beyond the reasonable control of City.

C. City agrees to transport sewage received into the City Sewer System to the Treatment Plant for treatment and ultimate disposal, and to treat and dispose of said sewage and wastes in accordance with regulations from time to time placed in effect by the Pa DEP and any other governmental agency having jurisdiction in the matter.

9. Billing and Collection Agency Relationship:

A. Billing: City hereby agrees to act as the billing agent for Lower Nazareth, and shall remit sewer bills to Lower Nazareth Customers in the same manner and pursuant to the same schedule as City bills its own domiciliary customers. Such bills shall be in amounts equal to sums charged by City as set forth in paragraph 7C (the “Base Charge”) plus whatever costs, fees and expenses Lower Nazareth desires to add to the Base Charge, plus any excess strength or Indirect Discharge surcharge as is in place from time to time. A flat rate billing option shall be available for Lower Nazareth Customers not served by metered water service.

B. Tapping Fees: City shall not charge separate tapping fees to Lower Nazareth Customers or Lower Nazareth. City reserves the right to charge fees incidental to the cost of inspecting new taps, expansions and connections.

C. Collections:

(i) Delinquent Lower Nazareth Customers shall receive reminders from City pursuant to the same policies and schedules as City uses for delinquent accounts for its customers domiciled in the City. Should City be unsuccessful in collection after two such notices, or should a Lower Nazareth Customer become delinquent in excess of two (2) billing cycles, City may place a lien on the Customer’s property, in the name of Lower Nazareth, to include all reasonable and lawful costs, collection charges and expenses.

(ii) Lower Nazareth shall, prior to the commencement of services by City to Lower Nazareth hereunder, pass appropriate ordinances acceptable to the City Solicitor, which authorize civil fines and penalties for non-payment of sewer charges, and shall enter into appropriate agreements acceptable to City with Easton Suburban Water Authority and any other water supplier to Lower Nazareth Customers, which require such water suppliers to discontinue water service upon notice from Lower Nazareth, or its billing agent, that such Customer has

failed or refused to hook up to the Lower Nazareth Sewer System when lawfully required, or has failed or refused to pay sewer rates, charges or rentals when due. Lower Nazareth may, at its option, authorize City to act as its collection agent, or may collect such delinquencies and enforce connection requirements on its own behalf, in which later case, Lower Nazareth shall promptly pursue connection and collection and shall remit charges otherwise payable to City promptly upon receipt. Any fines levied shall inure to the benefit of the municipality performing the collection services.

D. The right of Lower Nazareth to use the City Sewer System and to have sewage and wastes emanating from within Lower Nazareth transported to and treated and disposed of by the Treatment Plant in the manner set forth in this Agreement shall be without any charge or cost other than as specifically set forth in this Agreement.

10. Measuring Volume:

A. For the purpose of determining the total volume of sewage and wastewater discharged from the Lower Nazareth Sewer System into the City Sewer System through the Hanover Sewer System for transportation to the Treatment Plant, Lower Nazareth shall cause to be installed and maintained, at its own cost and expense, a master meter with a remote, electronic read-out, in type and model acceptable to City, at the point of connection between the Hanover Sewer System and the Lower Nazareth Sewer System. In the event of failure of said master meter, repairs shall be made or replacement shall occur as soon as reasonably possible by Lower Nazareth and the cost and expenses thereof shall be borne by Lower Nazareth. In the case of missing, incomplete or inaccurate flow records due to faulty meter calibration or otherwise, an estimate of flow shall be made for the purpose of determining volume of sewage and wastes deemed to have been discharged into the Lower Nazareth Sewer System. This estimate shall be based on either cumulative water usage data determined from individual water meters, or upon an evaluation of past sewage meter records, as applicable to current conditions, and may be used for Customer billing purposes. If sewage from the Lower Nazareth Sewer System is discharged through the Hanover Sewer System before the master meter between those two systems has been installed, it shall be conclusively presumed for purposes of this Agreement that the amount of sewage discharged into the City Sewer System from the Lower Nazareth Sewer System through

the Hanover Sewer System during that period shall be two hundred fifty (250) gallons of sewage per day for each Equivalent Dwelling Unit in Lower Nazareth which discharges sewage into that portion of the Lower Nazareth Sewer System that flows through the Hanover Sewer System. All meters shall be re-calibrated not less frequently than annually by a qualified engineer, selected by City at the expense of Lower Nazareth.

B. For the purpose of determining the amount of sewage discharged into the City Sewer System from and through the Griffin, the water meter readings of all Improved Properties which flow into the City Sewer System from Griffin through Bethlehem Township shall be added together. In addition, if any Improved Property in Lower Nazareth which discharges sewage through Bethlehem Township is not served by municipal water and therefore has no water meter, the volume of sewage discharge from such Improved Property shall be conclusively presumed to be two hundred fifty (250) gpd for each Equivalent Dwelling Unit; provided, however, that no industrial or commercial Improved Property in Lower Nazareth shall be permitted to discharge sewage for transport to the City Sewer System through Bethlehem Township unless it is served by a water meter or individual sewer meter acceptable to City. The total amount of sewage discharged into the City Sewer System through the Griffin Bethlehem Township connection shall be calculated and determined by adding together the water meter and sewer meter readings and the 250-gallon-per-day totals from unmetered Improved Properties. City reserves the right to require the installation of a meter station to measure total sewage flows from the Griffin Sewer System at any time that additional customers are added to the Griffin Sewer System and at such other locations as City may deem appropriate. Should a meter station be required, it shall be installed at the cost and expense of Lower Nazareth, with responsibility for costs and expenses related thereto to be consistent with subparagraph 10A above, in which case flow calculations shall be made from the meter in the meter station rather than from individual customer data; provided that individual customer data may be used to confirm meter readings, or in lieu of dysfunctional meter readings.

C. Except as set forth in subparagraph 10B above, all sanitary sewer lines in Lower Nazareth which remit sewage to the Treatment Plant shall be metered.

D. The total sewage discharged into the City Sewer System from the Lower Nazareth Sewer System shall be the total of the flows calculated and determined under the preceding subparagraphs A and B.

11. Operation and Expansion of Lower Nazareth Sewer System:

A. City agrees to operate, maintain and repair the Lower Nazareth Sewer System, including, inter alia, fishing, televising, root removal and resultant line repairs, manholes, and infiltration and inflow monitoring in accordance with applicable laws, regulations and the provisions of this Agreement, as agent for Lower Nazareth, without additional remuneration.

B. Capital costs, including the replacement, extension or expansion of any portion of the Lower Nazareth Sewer System, upgrades or improvements required by Pa. DEP or the United States Environmental Protection Agency, and infiltration and inflow removal involving line replacement and slip lining, structural failure, and any pump stations required to serve Lower Nazareth Customers shall be built to City standards, but shall be the responsibility of Lower Nazareth. To help insure the necessary capital for such work, Lower Nazareth shall maintain sinkhole insurance, which is designed to recover the cost of sinkhole and pipe repairs, which names City as an additional insured and provide evidence of same at the City's request.

12. Discharge of Sewage:

A. Lower Nazareth shall prohibit any discharge of any sewage into the City Sewer System through the Lower Nazareth Sewer System by any municipality or municipal authority which has not been granted prior written approval by City.

B. Lower Nazareth shall prohibit any discharge of sewage into the Lower Nazareth Sewer System from other than customers identified and approved by City, which approval shall not be unreasonably withheld, and shall adopt an effective program for identifying, interdicting and prohibiting unauthorized discharges, including, if requested by City, I&I.

C. Lower Nazareth reserves the right to provide alternative transportation, treatment and disposal arrangements for sewage emanating from other areas of Lower Nazareth not served

by the Lower Nazareth Sewer System at the time Lower Nazareth opts to provide alternative transportation, treatment or disposal, to be discharged into the City Sewer System.

13. Drainage Water: Lower Nazareth covenants to use its best efforts, including the adoption or enactment and the enforcement of appropriate ordinances, resolutions, rules and regulations, to provide that no roof drainage water, storm water, excessive ground water infiltration, surface drainage or building foundation drainage shall be discharged from the Lower Nazareth Sewer System into the City Sewer System, either directly or indirectly.

14. Restrictions on Sewage and Wastes:

A. Lower Nazareth shall adopt and agrees to enforce, with the assistance of the City, an industrial waste discharge ordinance governing the admission of sewage into the Lower Nazareth Sewer System, which ordinance is and shall be at least as restrictive as existing ordinances, resolutions, rules and regulations of City, including but not limited to an Enforcement Plan Ordinance or Resolution, a Surcharge Ordinance or Resolution, and those local limitations found in Chapter 923 of the Codified Ordinances of the City, prior to commencement of operation of the Lower Nazareth Sewer System. Lower Nazareth further agrees to enact or adopt, within sixty (60) days after written request to do so by City, and enforce thereafter, additional ordinances, resolutions, rules and regulations, to be as restrictive as future ordinances, resolutions, rules and regulations adopted by City, from time to time, to govern the admission of sewage and wastes into the City Sewer System. Copies of all such ordinances, resolutions, rules and regulations shall be submitted by Lower Nazareth to City, within sixty (60) days after enactment or adoption of the same.

B. City shall have the right to test the sewage of any non-residential Lower Nazareth Customer, to require the removal by such Customer of fats, oils and grease from its sewage flow, to require pre-treatment by such Customer to normal domestic residential strength parameters before discharge into the Lower Nazareth Sewer System, and to charge such Customer for the cost of such testing.

C. In the event sewage is being discharged to the Treatment Plant which requires special handling or additional treatment cost, Lower Nazareth agrees, at City's request, to impose

a surcharge on all users discharging such sewage at least equal to the extra cost of handling such sewage. Such surcharge shall be paid or transmitted to City, as collection agent for Lower Nazareth.

D. Notwithstanding provisions for dispute resolution through arbitration stated in this Agreement, the City reserves the right to take legal action to enforce the terms of the contributing municipality's, Lower Nazareth Township's, ordinance required by this Agreement and to impose and enforce Pretreatment Standards or Requirements.

15. Inspection: Lower Nazareth shall provide authorized representatives of City with access at reasonable times to the Lower Nazareth Sewer System, and to discharge facilities of Lower Nazareth Customers which discharge waste to the Lower Nazareth Sewer Systems, in order to assure compliance with the terms of this Agreement. City shall provide authorized representatives of Lower Nazareth with access at reasonable times to the City Sewer System and Treatment Plant in order to assure compliance with the terms of this Agreement.

16. Lower Nazareth Covenants: Lower Nazareth covenants and agrees that it will:

A. Adopt and enforce all ordinances, regulations and agreements required of Lower Nazareth to be adopted or enforced in connection with Customers and prospective Customers of the Lower Nazareth Sewer System;

B. Assure that the sewage flow from Lower Nazareth does not exceed its approved Treatment Capacity Allocation pursuant to Paragraph 3 of this Agreement without purchase of additional allocation; and

C. Incur such capital costs as are reasonably required to replace, repair, enhance, extend or expand any portion of the Lower Nazareth Sewer System (including removal of infiltration and inflow;)

D. Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by Pa. DEP or any other governmental body having jurisdiction.

E. To pay the Lower Nazareth Share of any future capital costs associated with the Treatment Plant, as contemplated by the City's capitalization policy, as it exits from time to time, unless such capital cost is required for additional capacity neither desired nor required by Lower Nazareth for Lower Nazareth Customers.

F. Between December 1 and December 31 of each calendar year, compile and submit to the City an inventory of all persons, businesses or entities whom Lower Nazareth reasonably believes will be Customers as of January 1 of the succeeding calendar year.

G. No later than thirty (30) days after the execution of this Agreement, provide the City, upon request, with 1) an inventory of all Customers located within Lower Nazareth who will be discharging wastewater or sewage into the City Sewer Collection System and 2) such other information as the City may deem reasonably necessary.

17. City Covenants: City covenants and agrees that it will:

A. As agent of Lower Nazareth, maintain the Lower Nazareth Sewer System in good repair, working condition and order;

B. As agent of Lower Nazareth, make all necessary repairs to the Lower Nazareth Sewer System and all necessary improvements thereto in order to maintain adequate service to Lower Nazareth Customers, but at no time and under no circumstances shall City be liable for any damages in case of failure of the said System to transport sewage to the Treatment Plant, if such failure or inadequacy is caused by any condition beyond the control of City, or if City did not have prior notice and a reasonable opportunity to cure;

C. Maintain the Treatment Plant and the portion of the City Sewer System conveying sewage that emanates from the Lower Nazareth Sewer System to the Treatment Plant in good repair, working order, and condition; but at no time and under no circumstances shall City be liable for any damages in case of failure or inadequacies of said Treatment Plant or the City Sewer System to receive, treat or dispose of sewage emanating from within Lower Nazareth which failure or inadequacy is caused by any condition beyond the control of City, or if City did not have prior notice of such failure or inadequacy and a reasonable opportunity to cure;

D. Continuously operate the Treatment Plant, the City Sewer System, and as agent of Lower Nazareth, Lower Nazareth Sewer System, except when prevented from doing so by an act of God, riot, rebellion, sabotage, act of the public enemy, public calamity or other force majeure, in which event City may suspend operation of the Treatment Plant and the City Sewer System and the Lower Nazareth Sewer System until the cause of such suspension shall no longer exist and for such reasonable time thereafter as may be required to effect a resumption in operations; and

E. Maintain all meters which monitor flows into the Lower Nazareth Sewer System in good repair, working condition and order, and in proper calibration;

F. Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by PA DEP or any other governmental body having jurisdiction.

18. Additional Agreements: City may enter into any additional sewer agreements concerning transportation, disposal or treatment by City of sewage and wastes from any other municipality as City deems appropriate, in its sole discretion; provided, however, that no such additional agreement shall impair the capacity of the Treatment Plant or the City Sewer System to receive, transport and dispose of sewage and wastes collected in the Lower Nazareth Sewer System in accordance with the terms of this Agreement.

19. Assignment: Lower Nazareth may assign its right, title and interest hereunder, and then with the prior written consent of City, which consent may be withheld.

20. Arbitration:

A. In the event of any dispute or disagreement arising from or relating to this Agreement or the breach thereof, City and Lower Nazareth shall use their best efforts to settle the dispute or disagreement. Accordingly, City and Lower Nazareth shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within thirty (30) days after the dispute or disagreement arises, then, within ten (10) days thereafter, either party, upon notice to the other, may request that the dispute or disagreement be subject to non-binding mediation. The party to whom the request is made shall, within ten (10) days,

respond in writing by either agreeing or refusing to mediate the dispute or disagreement. A failure to respond to a request for mediation within the time provided in this subparagraph shall be deemed a refusal to mediate.

B. If the parties agree to non-binding mediation, they shall, by agreement, select a single mediator acceptable to both parties. If the parties cannot agree to the selection of a mediator, then, upon petition by either party, the President Judge of the Court of Common Pleas of Northampton County, Pennsylvania, shall appoint the mediator. Upon appointment of the mediator, the parties and the mediator shall, by agreement, schedule the mediation session(s) as promptly as possible. The mediation session(s) shall be conducted in accordance with the provisions and procedures of the American Arbitration Association related to mediation.

C. If a mediation request has been refused or neither party has requested mediation within the time set forth in subparagraph A, or the parties are unable to settle their dispute or disagreement through mediation, then the dispute or disagreement shall be referred to three (3) arbitrators, one to be appointed by City, one to be appointed by Lower Nazareth, and the third to be agreed upon by those two appointees; provided, however, that in the event the two appointees cannot agree on the third, the President Judge of the Court of Common Pleas of Northampton County, Pennsylvania, shall appoint the third arbitrator. The decision or award of the majority of such arbitrators shall be made promptly and shall be final and binding upon the parties hereto, and their respective successors and assigns.

21. Successors and Assigns: This Agreement shall be binding upon the parties hereto and their respective successors and assigns. The successor or assignee of a party shall succeed to the rights of that party, so long as consent is granted pursuant to Paragraph 19 above.

22. Entire Agreement: This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and thereof, and supersedes all prior understandings and agreements of the parties with respect thereto.

23. Term: The term of this Agreement shall be perpetual. City and Lower Nazareth agree to meet and discuss issues not addressed in this Agreement no later than July 31, 2030.

24. Amendments: This Agreement may not be amended except by the written agreement of both parties.

25. Notices: Except as otherwise provided in this Agreement, any notice, demand or communication required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the business address of a party and handed to the receptionist or authorized agent thereof, or sent by facsimile transmission or overnight express to the party to whom the same is directed or, if sent by certified mail, postage and charges prepaid, addressed to the party's address, at its principal place of business, or at such other address as a party may direct in writing.

26. Headings: The titles of the paragraphs and the headings of any sections of this Agreement are for convenience of reference only and are not to be considered in construing the terms and provisions of this Agreement.

27. Pronouns: All pronouns shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the person or persons, or entity may require in the context thereof.

28. Waivers: The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act that would have originally constituted a violation, from having the effect of an original violation.

29. Severability: If any provision of this Agreement or its application to any person or circumstance shall be held or declared to be invalid, illegal or unenforceable to any extent by a court of competent jurisdiction, the remainder of this Agreement and its application shall not be affected and shall be enforceable to the fullest extent permitted by law.

30. No Third Party Beneficiaries: None of the provisions of this Agreement shall be for the benefit of or enforceable by any person other than the parties to this Agreement and their respective successors and assigns.

31. Interpretation: It is the intention of the parties that, during the term of this Agreement, the rights of the parties and their successors-in-interest shall be governed by the terms of this Agreement, and the right of any party or successor-in-interest to assign, transfer, sell or otherwise dispose of any interest in this Agreement shall be subject to limitations and restrictions of this Agreement. The parties acknowledge that each has had an active role in the drafting of this Agreement, and no language interpretation shall be construed against either party on the basis of its role in the drafting of such language.

32. Further Assurances: Each party shall execute all such certificates and other documents and shall do all such other acts as are appropriate to comply with (a) the requirements of law for entering into this Agreement, which shall specifically include, on the part of both entities, the proper adoption of ordinances, (b) any laws, rules, regulations and third-party requests, including those of Pa. DEP, DRBC or USEPA, relating to the subject matter hereof, and (c) the intent and purposes of this Agreement.

33. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be duly executed and attested by its proper officers, pursuant to proper action of its governing body, all as of the day and year first above written.

Attest:

CITY OF BETHLEHEM

By \_\_\_\_\_  
City Controller

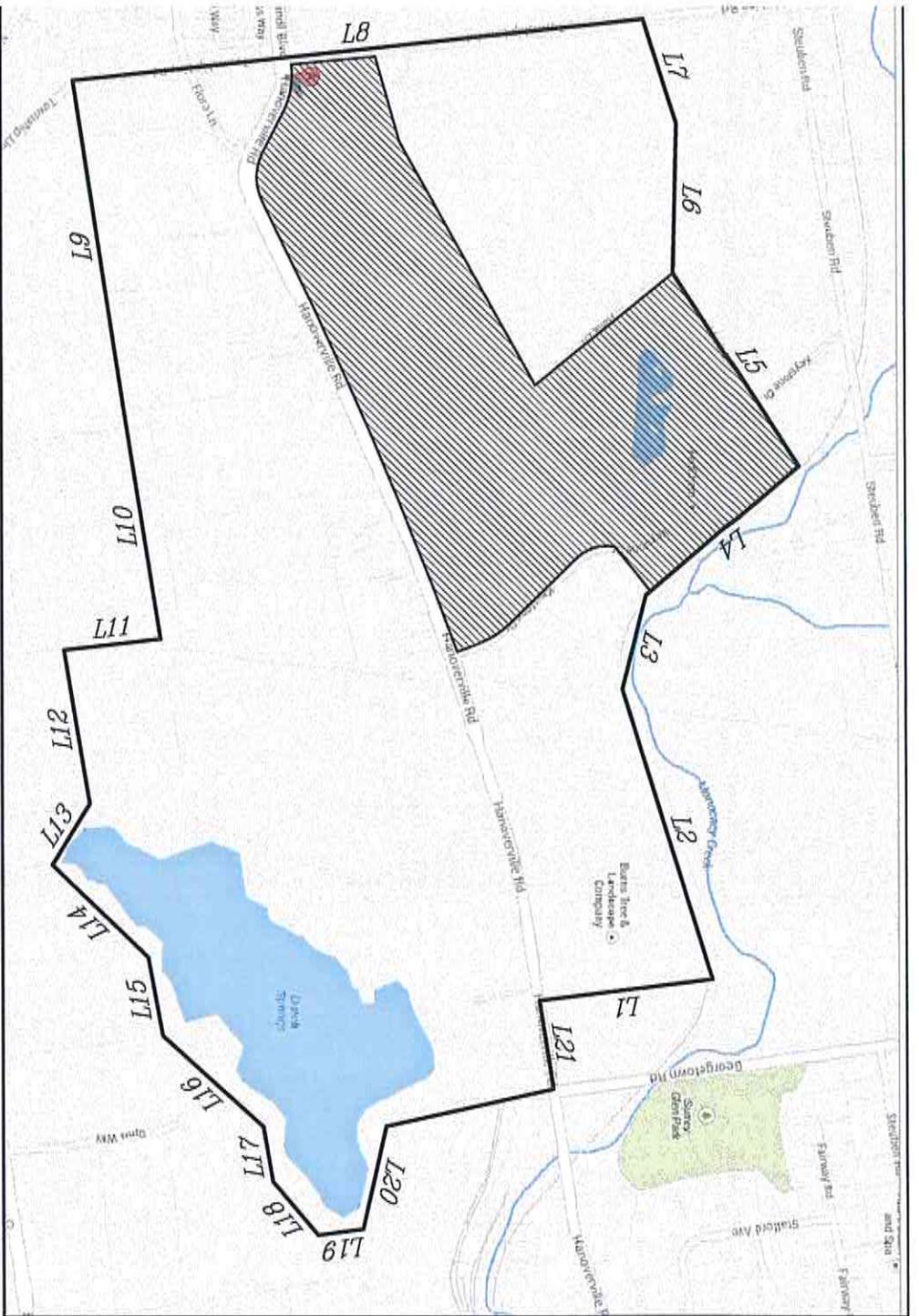
By \_\_\_\_\_  
Mayor

Attest:

TOWNSHIP OF LOWER NAZARETH

By: \_\_\_\_\_  
Secretary

By \_\_\_\_\_  
President, Board of Supervisors



AREA CURRENTLY SERVICED BY  
EASTON SUBURBAN WATER AUTHORITY

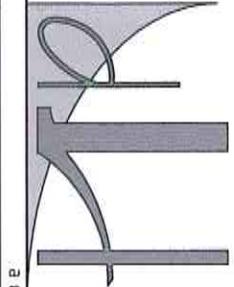
Line Table		
Line #	Length	Direction
L1	1004.54	S06° 59' 53"E
L2	1149.53	N73° 02' 44"E
L3	560.48	S75° 44' 36"E
L4	1147.62	S40° 31' 49"E
L5	1317.18	N57° 23' 57"E
L6	863.56	S88° 23' 49"E
L7	627.24	N72° 30' 39"E
L8	3303.04	N06° 04' 27"W
L9	1913.26	S81° 27' 30"W
L10	1343.18	S80° 58' 36"W
L11	557.94	N06° 27' 03"W
L12	899.41	S80° 42' 33"W
L13	413.41	N58° 27' 27"W
L14	765.34	S44° 12' 40"W
L15	460.77	S79° 31' 20"W
L16	779.31	S42° 25' 06"W
L17	321.08	S80° 37' 01"W
L18	403.82	S49° 50' 04"W
L19	259.09	S07° 45' 06"E
L20	608.50	S77° 08' 11"E
L21	518.11	N81° 15' 35"E

## Sewer Service Area Expansion

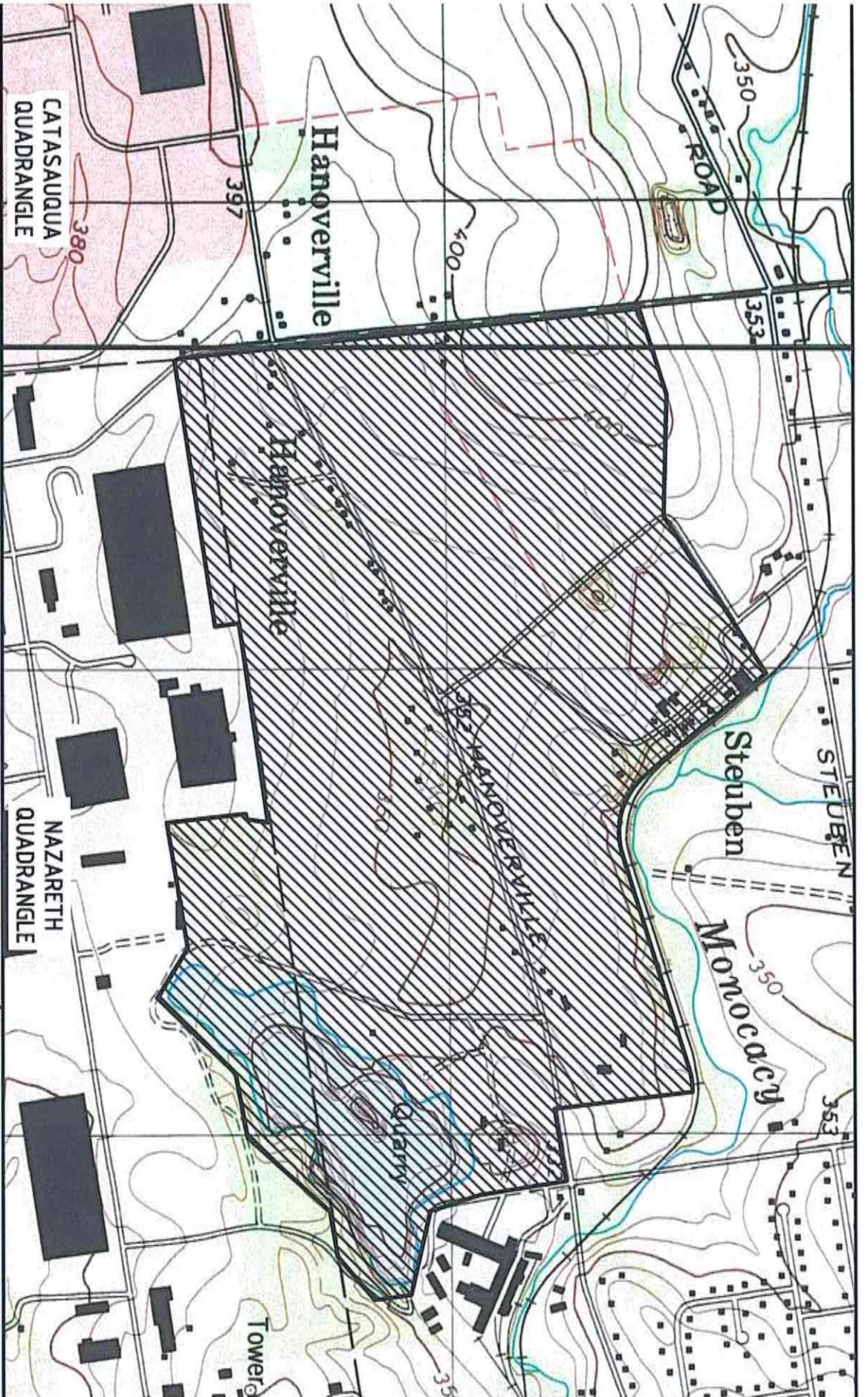
## BOUNDARY MAP

PROJECT: HANDOVERVILLE ROAD  
LOCATION: LOWER NAZARETH TOWNSHIP,  
NORTHAMPTON COUNTY,  
PENNSYLVANIA

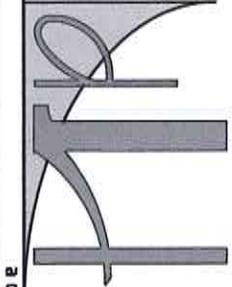
DRAWN BY: M. HARTMAN  
DATE: FEBRUARY 18, 2014  
SCALE: 1"=1,000'  
PLAN NO.: ---



2815 PENN AVENUE  
WEST LAWN, PA  
610-927-4242  
Enterprises  
a civil engineering design & management firm



2815 PENN AVENUE  
 WEST LAWN, PA  
 610-927-4242



Enterprises  
 a civil engineering design & management firm

### Sewer Service Area Expansion

PROJECT: HANOVERVILLE ROAD  
 LOCATION: LOWER NAZARETH TOWNSHIP,  
 NORTHAMPTON COUNTY,  
 PENNSYLVANIA

DRAWN BY: M. HARTMAN  
 DATE: AUGUST 1, 2013  
 SCALE: 1"=1,000'  
 PLAN NO: ---