

**FIRST ADDENDUM TO
WATER SERVICE AGREEMENT**

THIS FIRST ADDENDUM TO WATER SERVICE AGREEMENT (the "Addendum"), dated the 7th day of April, 2022, by and between **LEHIGH COUNTY AUTHORITY** ("Authority"), a Pennsylvania Municipal Authority organized and existing under the Pennsylvania Municipality Authorities Act of 1945, as amended, located at 1053 Spruce Road, Wescosville, Pennsylvania and the **TOWNSHIP OF LOWHILL** ("Township"), a Second Class Township organized and existing under the laws of the Commonwealth of Pennsylvania with its principal office located at 2175 Seipstown Road, Fogelsville, Lehigh County, Pennsylvania.

WITNESSETH:

WHEREAS, the Authority and the Township (each a "Party", and together, the "Parties") entered into a Water Service Agreement dated April 9, 1990 (the "Water Service Agreement"), whereby the Township requested the Authority to provide water service to Section A of the Pointe West subdivision ("Pointe West") in the Township, and the Authority covenanted and agreed to furnish water service where feasible to Pointe West, subject to the terms and conditions of the Water Service Agreement; and

WHEREAS, a copy of the Water Services Agreement is attached hereto as Exhibit "A", and incorporated by reference; and

WHEREAS, the Township desires that the Authority extend its water service area beyond Pointe West to include portions of the State Route 100 and Kernsville Road corridors in the Township, as depicted on the map attached as Exhibit "B" hereto, and incorporated by reference (hereinafter the "Route 100-Kernsville Road Water Service Area"); and

WHEREAS, the Authority is willing to extend its water service to the Route 100-Kernsville Road Water Service Area, subject to the terms and conditions set forth in this Addendum; and

WHEREAS, the necessary infrastructure for delivery of water services to the Route 100-Kernsville Road Water Service Area does not currently exist, and will need to be constructed; and

WHEREAS, the Parties' expectation is that private developers will bear the cost of installation of the necessary water service infrastructure to allow for the delivery of service, which will be dedicated to the Authority; and

WHEREAS, the Parties' general intent is for the Authority to provide water service in the Route 100-Kernsville Road Water Service Area on the same basis that the Authority was

originally authorized, and agreed to, and now provides, potable water service to the Pointe West subdivision in Lowhill Township.

NOW, THEREFORE, the Authority and the Township for and in consideration of covenants, promises and agreements herein contained to be kept and observed, each intending to be legally bound hereby, covenants and agrees as follows:

1. The Township approves, and requests, the Authority provide potable water service to the Route 100-Kernsville Road Water Service Area. The Authority shall be the exclusive provider of water service to the Route 100-Kernsville Road Water Service Area, unless the Authority notifies the Township that the Authority cannot provide additional service due to capacity limitations.

2. The Authority covenants and agrees to furnish potable water service where feasible, in perpetuity, to the Route 100-Kernsville Road Water Service Area.

3. The Parties' rights and obligations in regards to the Authority's furnishment of water service to the Route 100-Kernsville Road Water Service Area shall be on the basis of the same terms and conditions contained in the original Water Service Agreement between the Parties in regards to the Pointe West subdivision, unless expressly altered by this Agreement.

4. The Authority's obligation to provide water service to the Route 100-Kernsville Road Water Service Area shall be contingent upon the Authority receiving all necessary permits from governmental authorities having jurisdiction over the provision of such service, and the installation, maintenance, repair, and replacement, of infrastructure needed to deliver such water service. The Township agrees to cooperate with the Authority in making an application for any necessary governmental approvals necessary for the provision of water service in the Route 100-Kernsville Road Water Service Area.

5. The Authority's obligation to provide water service to the Route 100-Kernsville Road Water Service Area is conditioned upon private developers paying the cost necessary to install the water service infrastructure determined by the Authority as necessary to service the Route 100-Kernsville Road Water Service Area, and making dedication of that infrastructure to the Authority. The Authority is not required to outlay monies for capital improvements to create the water service system in the Route 100-Kernsville Road Water Service Area, but may, at its own election, decide to do so. Any such capital expenditures shall be recoverable by the Authority through fees permitted by its rules and regulations.

6. Route 100 and Kernsville Road are both state roads. The installation of infrastructure, and delivery of water

service, shall be conditioned upon the Commonwealth of Pennsylvania granting highway occupancy permits and any other necessary approvals for use of the State roads.

7. Emergency failures of pressure or supply due to main supply line breaks, power failure, flood, fire and use of water to fight fire, earthquake, drought, or other catastrophes shall excuse the Authority from the provision of water service in the Route 100-Kernsville Road Water Service Area for such reasonable period of time as may be necessary to restore service.

8. The Authority's covenant and agreement to provide water service to the Route 100-Kernsville Road Water Service Area is based upon current development in the Route 100-Kernsville Road Water Service Area, and the proposed development of warehouses on tax map parcel numbers PIN 545702330003 (2766 PA Route 100), PIN 545714601391 (7503 Kernsville Road), and PIN 545725755429 (2951 Betz Court). The Authority reserves the right to decline, in its sole discretion, water service to future development in the Route 100-Kernsville Road Water Service Area, based on water supply capacity limitations.

9. The Authority shall not be required to provide any higher fire flows than are currently available in Applewood Pump Station Service Area (also known as the 846 Zone - the system Hydraulic Grade Line). The Township is aware and understands

that fire flows are function of the system's current infrastructure, and that higher fire flows are not possible under the current infrastructure.

10. Except to the extent inconsistent with this Addendum, the original Water Service Agreement continues in place, and is incorporated by reference as though set forth at large.

11. If any part of this Addendum shall be declared by a Court of competent jurisdiction to be invalid, such judgment shall not affect the validity of the Addendum as a whole or any part or provision thereof, other than the part so declared to be invalid.

12. This Addendum may be amended only in writing, signed by all the Parties to be bound.

13. All terms, conditions, provisions and understandings between the Parties concerning the provision of water services to the Route 100-Kernsville Road Water Service Area are contained in this Addendum. There are no other understandings, oral or otherwise, between the Parties with respect to water service to the Route 100-Kernsville Road Water Service Area, except those contained herein.

14. This Addendum is for the sole benefit of the Parties hereto and their permitted assigns, and nothing herein expressed or implied shall give or be construed to give to any

person or entity, other than the Parties hereto and such assigns, any legal or equitable rights hereunder.

15. The Parties acknowledge and agree that (a) each Party and its counsel have reviewed the terms and provisions of this Addendum and have contributed to its drafting, (b) the normal rule of construction, to the effect that any ambiguities are resolved against the drafting Party, shall not be employed in the interpretation of it, and (c) the terms and provisions of this Addendum shall be constructed fairly as to all Parties hereto and not in favor of or against any Party, regardless of which Party was generally responsible for preparation of this Addendum.

16. Waiver of any term or condition of this Addendum by a Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach or failure of the same term or condition, or a waiver of any other term or condition of this Addendum. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

IN WITNESS WHEREOF, Lehigh County Authority and the Township of Lowhill each has caused this Addendum 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:

LEHIGH COUNTY AUTHORITY

By: _____

ATTEST:

TOWNSHIP OF LOWHILL

RCO

By: [Signature]
