

**FOURTH AMENDMENT TO MUNICIPAL WATER AND WASTEWATER  
UTILITY SYSTEM CONCESSION AND LEASE AGREEMENT**

This **FOURTH AMENDMENT TO MUNICIPAL WATER AND WASTEWATER UTILITY SYSTEM CONCESSION AND LEASE AGREEMENT** (this "Fourth Amendment"), made as of the 24nd day of December, 2014, by and between the **Middletown Borough Authority**, a body corporate and politic (the "Authority"), duly organized under the Pennsylvania Municipality Authorities Act, Act of June 19, 2001, P.L. 287, 53 Pa.C.S. §5601 *et seq.* (the "Municipal Authorities Act"), and incorporated by appropriate legal action of the Borough, and **Middletown Water Joint Venture LLC**, a Delaware Limited Liability Company (the "Concessionaire"). This Fourth Amendment is subject to a joinder, for certain purposes, by the **Borough of Middletown, Dauphin County Pennsylvania** (the "Borough"), a duly organized and validly existing political subdivision of the Commonwealth of Pennsylvania under the Borough Code, Act of Apr. 18, 2014, P.L. 432, 8 Pa.C.S. §101 *et seq.* (the "Borough Code"), as more fully described in Article 20 of the Agreement (as defined below).

**W I T N E S S E T H:**

**WHEREAS:**

- (a) The Authority and the Concessionaire have entered into that certain Municipal Water and Wastewater Utility System Concession and Lease Agreement effective September 30, 2014, as amended by the First Amendment thereto, dated as of September 30, 2014, the Second Amendment thereto, dated as of October 31, 2014, and the Third Amendment thereto, dated as of December 18, 2014 (the "Agreement"); and
- (b) The Authority and the Concessionaire, with the consent and joinder of the Borough, wish to further amend the Agreement as hereinafter set forth.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

- 1. All capitalized terms used in this Fourth Amendment and not otherwise defined shall have the respective meanings set forth in the Agreement.
- 2. Schedule 1A and Schedule 1B as attached to the Agreement are hereby deleted, corrected, and replaced in full by the Schedule 1A and Schedule 1B attached hereto (collectively, the "Real Estate Schedules"). The terms of the Agreement are amended, corrected, and replaced to reflect the ownership interests set forth on the Real Estate Schedules.
- 3. Section 3.2 of the Agreement is amended by adding a new subsection (c) thereto as follows:

“(c) The Authority shall file a corrective action plan (“CAP”), acceptable to the Pennsylvania Department of Environmental Protection (“PA DEP”), in response to the notice from PA DEP dated September 5, 2014, and pertaining to PA DEP’s review of the Authority’s 2013 Annual Wasteload Management Report. The Authority, at its sole cost and expense, shall install all monitoring equipment as may be required under the CAP. The Concessionaire, at its sole cost and expense, shall perform the 12 months of monitoring required under the CAP, in connection with its maintenance and monitoring activities under the Concession Agreement. If and to the extent that PA DEP requires any work to complete the CAP beyond the maintenance and monitoring activities that are to be performed by the Concessionaire, such work shall be treated as an Excluded Liability under Section 3.2(c)(ii), and any such work shall be performed by the Authority, at its sole expense and as an additional item of Uncompleted Work hereunder. The Parties acknowledge that the Uncompleted Work, when completed (at the sole expense of the Borough), should be sufficient, when combined with the maintenance and monitoring activities of the Concessionaire, as undertaken (at the sole expense of the Concessionaire) pursuant to the First-Year Capex Plan and the Five-Year Capex Plan, to address the existing sanitary sewer overflow condition previously identified by PA DEP so that any hookup moratorium imposed by PA DEP related thereto will be lifted.”

4. To the extent that Schedule 1-A and Schedule 1-B set forth in this Fourth Amendment would be deemed or might be interpreted to constitute a breach of any representation, warranty, covenant, or obligation of the Authority or the Borough set forth in Section 9.1(d) of the Agreement, then the Concessionaire’s execution hereof shall be an absolute, unconditional waiver of such rights with respect to such breach of Section 9.1(d) of which the Concessionaire has actual knowledge (after reasonable inquiry) or set forth on title reports received by the Concessionaire, in each case without further recourse or consideration except for the terms and provisions of this Fourth Amendment.

5. Section 2.5(k)(v) of the Agreement is amended by (A) deleting the period at the end of subsection (ii) thereof, and (B) immediately following subsection (ii) thereof, adding the following:

”; provided that the Concessionaire agrees to pay to the Authority at the Closing for the account of System Employees an amount in respect of the actual and documented amount payable by the Authority for leave, vacation, sick, personal, holiday, and compensatory time paid time off, in each case accrued and unused as of the Closing Date, and not to exceed \$150,000.”

6. Section 3.3(d) of the Agreement is amended and restated as follows:

“(d) *Operations Committee.* The Concessionaire and the Authority (or its successor) shall establish an Operations Committee for purposes of promoting communication, discussing issues related to the System as they arise, receiving and

reviewing reports, and conferring generally in the best interests of the System. The Operations Committee shall be comprised of two representatives selected by each of the Operator, the Concessionaire, and the Authority (or its successor) and shall meet monthly unless otherwise agreed by the Parties.”

7. The third sentence of Section 2.6 of the Agreement is hereby deleted in its entirety; the proviso in the second sentence of Section 2.8(b) of the Agreement is hereby deleted in its entirety; the reference to “60 Days” in Section 2.8(b) is hereby changed to “120 Days”; Section 10 of the Memorandum of Lease set forth as Exhibit 10 of the Agreement is hereby deleted in its entirety and the word “Reserved” is substituted therefor; and Exhibit B of the Memorandum of Lease is hereby deleted in its entirety.

8. Section 10.2 of the Agreement is amended by adding the following sentence at the end thereof: “Notwithstanding anything to the contrary herein, the Concessionaire shall pay any and all usual and customary and documented legal or engineering advisory fees incurred by the Authority in the Authority’s performance of its obligations under this Section 10.2 and Article 18 in connection with any financing by the Concessionaire, in each case from and after the Closing.”

9. The parties agree to enter into a License Agreement in substantial form and substance as attached hereto as Exhibit A.

10 In all other respects, the Agreement shall remain unchanged.

*[Signatures to be provided on following page.]*

**IN WITNESS WHEREOF**, each of the parties hereto and to the Agreement has executed this Fourth Amendment as of the day and year first above written.

*[Signatures appear on the following page.]*

**IN WITNESS WHEREOF**, each of the parties hereto and to the Agreement has executed this Fourth Amendment as of the day and year first above written.

**Middletown Water Joint Venture LLC**

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

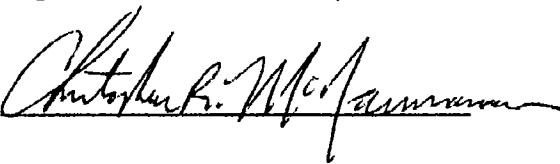
**IN WITNESS WHEREOF**, each of the parties hereto and to the Agreement has executed this Fourth Amendment as of the day and year first above written.

**Middletown Borough Authority**

By:   
\_\_\_\_\_  
John L. Patten, Chairman

**IN WITNESS WHEREOF**, each of the parties hereto and to the Agreement has executed this Fourth Amendment as of the day and year first above written.


**Borough of Middletown, Pennsylvania**

By: 

Schedule 1A and Schedule 1B

[See attached]



 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Exhibit A</b>	<b>Commitment Number</b>

File No

**Schedule I-A**

**Tax Parcel No. 40-005-002:**

ALL that certain tract of land being situated in the Borough of Middletown, Dauphin County, Pennsylvania, said land being shown on "Preliminary/Final Land Development Plan and Lot Consolidation Plan – WWTP Improvements", prepared by CET Engineering Services, said plan being recorded in the Dauphin County Recorder Of Deeds Office in Instrument # 20090039959, said tract of land being more particularly bounded and described as follows:


Beginning at a rebar at the southwest corner of the intersection of Grant Street (50 foot wide street) and Mud Pike (40 foot wide street), said rebar being the southeast corner of land now or formerly of Susquehanna Area Regional Airport Authority, thence along the southern line of Mud Pike the following four courses and distances.

- 1) South 52 degrees 53 minutes 59 seconds East a distance of 120.60 feet to a rebar,
- 2) South 55 degrees 58 minutes 38 seconds East a distance of 172.08 feet to a rebar;
- 3) South 59 degrees 45 minutes 51 seconds East a distance of 127.49 feet to a rebar;
- 4) South 67 degrees 07 minutes 57 seconds East a distance of 2.58 feet to a point,

thence crossing Mud Pike, North 22 degrees 52 minutes 03 seconds East a distance of 40 00 feet to a point on the northern line of Mud Pike, thence along the northern line of Mud Pike, North 59 degrees 45 minutes 51 seconds West a distance of 102 97 feet to a point at the intersection of the northern line of Mud Pike and the eastern line of Lincoln Street (50 foot wide street), thence along the eastern line of Lincoln Street, North 30 degrees 03 minutes 59 seconds East a distance of 312 50 feet to a point, said point being a corner of land of The Housing Authority of the County of Dauphin, thence along land of The Housing Authority of the County of Dauphin, South 59 degrees 53 minutes 37 seconds East a distance of 58.13 feet to a point; thence continuing along land of The Housing Authority of the County of Dauphin and crossing Lawrence Street (60 foot wide street), South 65 degrees 40 minutes 48 seconds East 298.86 feet to a point on the eastern line of Lawrence Street; thence along the eastern line of Lawrence Street, North 21 degrees 38 minutes 38 seconds East a distance of 131 18 feet to a point at the intersection of the eastern line of Lawrence Street and the southern line of Russell Avenue (20 foot wide street); thence along the southern line of Russell Avenue, South 68 degrees 35 minutes 07 seconds East a distance of 207 57 feet to a point at the intersection of the southern line of Russell Avenue and the western line of Fisher Avenue (20 foot wide street); thence along the western line of Fisher Avenue, South 22 degrees 19 minutes 07 seconds West a distance of 120.00 feet to a point, thence crossing a portion of Fisher Avenue, South 67 degrees 40 minutes 53 seconds East a distance of 10.00 feet to a point in the center of Fisher Avenue, thence along the center of Fisher Avenue and along the center of a vacated portion of Fisher Avenue, South 22 degrees 19 minutes 07 seconds West a distance of 12 93 feet to a point; thence crossing a vacated portion of Fisher Avenue and along the center of an unnamed alley, South 67 degrees 40 minutes 53 seconds East a distance of 220.00 feet to a point on the western line of South Wood Street (60 foot wide street); thence along the western line of South Wood Street, South 22 degrees 19 minutes 07 seconds West a distance of 63 50 feet to a point, said point being a corner of land of Metropolitan Edison Company, thence along land of Metropolitan Edison Company the following two courses and distances.

- 1) North 67 degrees 40 minutes 53 seconds West a distance of 206 00 feet to a point,
- 2) South 22 degrees 19 minutes 07 seconds West a distance of 251 00 feet to a point on the northern line of Lumber Alley;

thence along the northern line of Lumber Alley, continuing along lands of Metropolitan Edison Company, South 67 degrees 40 minutes 53 seconds East a distance of 206 00 feet to a point on the western line of South Wood Street, thence along the western line of South Wood Street, South 22 degrees 19 minutes 07 seconds West a distance of 15 05 feet to a point; thence along land of Douglas J. and Deborah P. Hardy and land of Christine M

 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Exhibit A (Cont.)</b>	<b>Commitment Number</b>

File No.

Smith, respectively, North 68 degrees 21 minutes 07 seconds West a distance of 120.30 feet to a rebar; thence continuing along land of Christine M. Smith South 21 degrees 38 minutes 51 seconds West a distance of 109.74 feet to a rebar, a corner of land of Anthony and Renee Cortes, thence along land of Anthony and Renee Cortes, and land of Albert A. and Meredith S. Yurkiewicz, respectively, North 58 degrees 45 minutes 09 seconds West a distance of 90.72 feet to a point; thence continuing along land of Albert A. and Meredith S. Yurkiewicz, South 21 degrees 38 minutes 51 seconds West a distance of 7.89 feet to a point on the eastern line of Fisher Avenue; thence crossing a portion of Fisher Avenue, North 63 degrees 43 minutes 28 seconds West a distance of 11.50 feet to a point on the center of Fisher Avenue; thence along the center of Fisher Avenue, South 22 degrees 19 minutes 07 seconds West a distance of 9.41 feet to a point; thence in Mud Pike Extended, North 61 degrees 11 minutes 13 seconds West a distance of 53.03 feet to a spike, a corner of land of Thomas F. and Sylvia M. Devoe, thence, continuing in Mud Pike Extended and along land of Thomas F. and Sylvia M. Devoe, land of George D. Jr. and Jennie L. Plott, and land of Douglas H. Owens, respectively, North 66 degrees 11 minutes 13 seconds West a distance of 281.00 feet to a pin; thence continuing in Mud Pike Extended and continuing along land of Douglas H. Owens, and along land of Susquehanna Area Regional Airport Authority, respectively, North 68 degrees 00 minutes 59 seconds West a distance of 186.30 feet to a monument, thence continuing along land of Susquehanna Area Regional Airport Authority the following three courses and distances:

- 1) North 61 degrees 08 minutes 59 seconds West a distance of 135.90 feet to a monument;
- 2) North 56 degrees 38 minutes 59 seconds West a distance of 178.40 feet to a point.
- 3) North 52 degrees 53 minutes 59 seconds West a distance of 114.48 feet to a rebar, a corner of land now or formerly of Penn Central Transportation Company;

thence along land of now or formerly of Penn Central Transportation Company, North 31 degrees 18 minutes 08 seconds East a distance of 89.41 feet to a rebar, the point of beginning

Containing an area of 7.912 acres

BEING the same premises conveyed by Middletown Borough Authority to Middletown Borough Authority by Deed of Consolidation dated December 16, 2014, and recorded December 19, 2014, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, as Instrument No. 201400306

**Schedule I-B**

**Tax Parcel No. 41-020-031:**

ALL that certain **LEASEHOLD PROPERTY** situate in the Borough of Middletown, Dauphin County, Pennsylvania, and bounded and described as follows:

BEGINNING at a stake on the towpath of the Union Canal; thence by same North seventy-two (72) degrees East twenty-eight (28) perches, thence North eighty-eight and one-half (88½) degrees East eight (8) perches, thence South eighty (80) degrees East forty and fourth tenths (40.4) perches to a post; thence by land now or late of Raymond and Kendig, South six (6) degrees West fifteen and seven-tenths (15.7) perches to the abutment of the Pennsylvania Canal and the dam now or late of Landis & Company; thence down Swatara Creek, the several courses thereof, sixty-four and seven-tenths (64.7) perches to a post, thence by Portsmouth continuing North sixty-one (61) degrees West ten (10) perches to the place of BEGINNING.

CONTAINING six (6) acres and sixty (60) perches neat measure.

BEING the same premises leased by The Principal and Trustees of the Emaus Orphan House to Borough of Middletown by [Lease Agreement] dated December \_\_, 2014, and recorded December \_\_, 2014, in the Office of the Recorder of



*First American Title™*

**Commitment for Title Insurance**

ISSUED BY

**First American Title Insurance Company**

**Exhibit A (Cont.)**

**Commitment Number**

File No

Deeds of the County of Dauphin, Pennsylvania, as Instrument No. 2014\_\_\_\_\_ for a term of \_\_\_\_\_ ( ) years

**Tax Parcel No. 42-001-002:**

ALL that certain tract or parcel of land located in the Borough of Middletown, Dauphin county, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the southern right-of-way line of the Pennsylvania Turnpike, said point of beginning being referenced as follows: From a point in the center line of North Union Street at the dividing line between lands of the Pennsylvania Turnpike Commission, thence South 79 degrees 56 minutes East a distance of 351 94 feet to the point of beginning, thence from said point of beginning on the southerly line of the Pennsylvania Turnpike South 79 degrees 56 minutes East a distance of 200 feet to a point at line of Parcel No. 2 on the plan hereinafter mentioned; thence along the same South 16 degrees 26 minutes 30 seconds East a distance of 150 feet to a point at line of lands of Lutheran Social Services-Central Penn Region, thence along the same North 79 degrees 56 minutes West a distance of 200 feet to a point, thence North 16 degrees 26 minutes 30 seconds West a distance of 150 feet to a point in the southerly line of the Pennsylvania Turnpike, the point and place of BEGINNING.

BEING known and designated as Parcel No 3 on a certain sub-division plan recorded in the Dauphin county records at Plan Book "N", Vol.2, page 67.

BEING the same premises conveyed by The Principal and Trustees of the Emaus Orphan House to Middletown Borough Authority by Deed in Fee Simple Determinable with Right of Reverter dated October 28, 1977, and recorded November 28, 1977, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Deed Book G, Volume 64, at page 968

**Tax Parcel No. 42-001-004:**

ALL that certain tract or parcel of land located in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly bounded and described as follows, to wit:


BEGINNING at a point on the southerly right of way line of the Pennsylvania Turnpike Commission and the westerly line of Lot No 18, Oak Hills Addition #2 as set forth at Plan Book "R", Page 24 of the Dauphin County records; thence from said point of beginning South sixteen (16) degrees twenty-six (26) minutes thirty (30) seconds East along the westerly line of Lot No 18 aforesaid a distance of one hundred forty (140) feet to a point; thence South seventy-three (73) degrees thirty-three (33) minutes thirty (30) seconds West a distance of one hundred twenty (120) feet to a stake; thence North sixteen (16) degrees twenty-six (26) minutes thirty (30) seconds West a distance of one hundred ninety-nine and eighty-five hundredths (199 85) feet to a point on the southerly line of right-of-way line of the Pennsylvania Turnpike Commission, thence South seventy-nine (79) degrees fifty-six (56) minutes East along the same a distance of one hundred thirty four and ten hundredths (134.10) feet to a point, the place of BEGINNING.

This description is based upon a survey of Robert G. Sherrick, dated November 17, 1967, a copy of which is attached hereto and made part hereof

BEING the same premises conveyed by The Principal and Trustees of the Emaus Orphan House to Middletown Borough Authority by Deed in Fee Simple Determinable with Right of Reverter dated June 5, 1968, and recorded June 20, 1968, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Deed Book U, Volume 53, at page 556.

**Tax Parcel No. 42-011-001:**

ALL that certain tract or parcel of land located in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly bounded and described a follows, to wit:

 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	<small>ISSUED BY</small> <b>First American Title Insurance Company</b>
<b>Exhibit A (Cont.)</b>	<b>Commitment Number</b>

File No.

BEGINNING at a point on the eastern side of North Union Street at a concrete marker designated the former north union borough line and lands of The Principal and Trustees of the Emaus Orphan House; thence along said line South eighty-two (82) degrees sixteen (16) minutes East one hundred seventy-seven and ninety-six hundredths (177.96) feet to a point on the line of Lot No. 5, Block A, in the Plan of Lots hereinafter mentioned; thence southwardly along said line twenty-five (25) feet to a point; thence westwardly one hundred sixty (160) feet to a point on the eastern side of Union Street; and thence northwardly along the eastern side of said North Union Street one hundred two and nine one hundredths (102.09) feet to a point, the place of BEGINNING.

BEING the northern one-half of Lot No. 1, Block A, and all of the unnumbered triangular tract adjoining the same on the Plan of Oak Hills Addition No. 1 recorded in the Office of the Recorder of Deeds in and for Dauphin County in Wall Map 1.

BEING the same premises conveyed by the Principal and Trustees of the Emaus Orphan House to Middletown Borough Authority by deed dated August 31, 1962, and recorded November 13, 1962, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Deed Book E, Volume 48, at page 562

**Tax Parcel No. 42-018-044:**

ALL that certain **LEASEHOLD ESTATE** in that tract or parcel of land situate in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at the northeast corner of Race and High Street; thence northwardly along the eastern line of Race Street one hundred twenty (120) feet to a point in lands now or late of the Principal and Trustees of the Emaus Orphans' House; thence eastwardly along same one hundred (100) feet to a point; thence southwardly along the same one hundred twenty (120) feet to a point on the North side of High Street; thence westwardly along the same one hundred (100) feet to the northeast corner of Race and High Street, place of BEGINNING.

BEING the same premises leased by The Principal and Trustees of the Emaus Orphan House to Borough of Middletown by [Lease Agreement] dated December \_\_, 2014, and recorded December \_\_, 2014, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, as Instrument No 2014\_\_\_\_\_ for a term of \_\_\_\_\_ ( ) years


**Tax Parcel No. 42-030-015:**

ALL that certain tract or parcel of land located in the Borough of Middletown, County of Dauphin, Pennsylvania, known as Lot No 583 on the Plan of Frey Manor Addition, said plan being recorded in the Dauphin County Recorder of Deeds Office at Plan Book "R", Page 87, more specifically bounded and described as follows, to wit:

BEGINNING at a point at the intersection of the southerly line of Maple Road and westerly line of Hoffer Street, thence southwardly along the western line of Hoffer Street 100 feet to the northerly line of Lot No. 582 on said Plan, thence westwardly along said Lot No 582 a distance of 150 feet to the easterly line of Lot No. 571 of said Plan; thence northwardly along said last mentioned lot a distance of 100 feet to the southerly line of Maple Road; thence eastwardly along said Maple Road 150 feet to a point, the place of BEGINNING.

BEING Lot No 583 of said Plan and referenced as Tract No 2 in a deed dated July 25, 1974, from Michael J. Costik and Jean E. Costik, husband and wife, to Gerald D. Yingst and Mary M. Yingst, husband and wife, recorded on August 16, 1974, in Dauphin County Deed Book C, Volume 61, Page 422.

BEING the same premises acquired by Declaration of Taking in the matter of Condemnation of 620 Maple Road, Middletown, Dauphin County, Pennsylvania, by the Middletown Borough Authority for Water Supply Purposes, filed in the Court of Common Pleas of the County of Dauphin, Pennsylvania, to Docket No. 4192 S 1989, notice of which, dated November 8, 1989, was recorded on November 8, 1989, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Record Book 1347, at page 647

 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Exhibit A (Cont.)</b>	<b>Commitment Number</b>

File No \_\_\_\_\_

**Tax Parcel No. 42-042-011:**

ALL that certain tract or parcel of land located in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point at a concrete marker situate on the easterly line of North Union Street at the dividing line between the Borough of Middletown and the Township of Lower Swarata, thence North 33 degrees 43 minutes East a distance of 515.14 feet to a point on the southerly line of a right-of-way previously granted to Sun Pipeline Company, that's along the same South 53 degrees 45 minutes East a distance of 177.86 feet to a point; thence South 34 degrees 18 minutes West a distance of 150 feet to a point, thence North 53 degrees 45 minutes West a distance of 96.25 feet to a point; thence South 33 degrees 43 minutes West a distance of 349.50 feet to a point on the northerly line of a right-of-way previously granted to Laurel Pipeline Company; thence along the same South 89 degrees 3 minutes West a distance of 50.50 feet to a point; thence North 79 degrees 0 minutes West a distance of 23.40 feet to a point in the bed of North Union Street, thence in and through North Union Street North 0 degrees 26 minutes East a distance of 30.76 feet to a point; thence North 33 degrees 43 minutes East a distance of 30.07 feet to a concrete marker, the point and place of beginning

BEING the same premises conveyed by The Principal and Trustees of the Emaus Orphan House to Middletown Borough Authority by Deed in Fee Simple Determinable with Right of Reverter dated April 1, 1981, and recorded May 4, 1981, in the Office of the Recorder of Deeds of het County of Dauphin, Pennsylvania, in Record Book 209, at page 326

TOGETHER WITH rights under the Right-of-Way Agreement between Melvin E. Judy and Verna G. Judy, his wife, and Middletown Borough Authority dated September 28, 1988, and recorded October 19, 1988, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Record Book 1188, at page 126


**Tax Parcel No. 42-043-043:**

ALL that certain tract or parcel of land situate in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly described as follows:

BEGINNING at a point on the south side of Woodland Avenue, said point being the following three (3) courses and distances from the intersection of Vine Street (L. R. 22016) and Woodland Avenue; North seventy-six degrees thirty-one minutes zero seconds West (N 76° 31' 00" W), a distance of seventy-five and eighty-two hundredths feet (75.82'), thence westwardly along the southern right-of-way line of Woodland Avenue along a curve to the left, having a radius of two hundred fifty feet (250'), an arc distance of forty-three and thirty-three hundredths feet (43.33'); thence North eighty-eight degrees nine minutes zero seconds West (N 88° 09' 00" W), a distance of five hundred sixty-four and forty-nine hundredths feet (564.49'); thence North eighty-eight degrees nine minutes zero seconds West (N 88° 09' 00" W), a distance of two hundred feet (200'), more or less; thence North zero degrees thirty-one minutes zero seconds East (N 00° 31' 00" E), a distance of one hundred sixty feet (160'), more or less; thence South eighty-eight degrees nine minutes zero seconds East (S 88° 09' 00" E), a distance of two hundred feet (200'), more or less, thence South zero degrees thirty-one minutes zero seconds West (S 00° 31' 00" W), a distance of one hundred sixty feet (160'), more or less to a point, the place of BEGINNING.

BEING Tract No. 2 on the Preliminary/Final Subdivision Plan for George Frey Trust recorded in the Office of the Recorder of Deeds for Dauphin County in Plan Book "D", Volume 5, Page 35

BY Petition filed with the Court of Common Pleas of Dauphin County, Orphans' Court Division to No. 420 Year of 1937, the Grantor was authorized by Order of the Honorable Warren G. Morgan dated September 25, 1995, to convey to the Grantee herein fee simple title in and to the above described real estate

 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Exhibit A (Cont.)</b>	<b>Commitment Number</b>

File No

BEING the same premises conveyed by The Principal and Trustees of the Emaus Orphan House to The Middletown Borough Authority by deed dated December 28, 1995, and recorded February 2, 1996, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, in Record Book 2554, at page 298.

**Tax Parcel No. 41-022-006:**

ALL that tract, piece or parcel of land, situate, lying and being in Middletown, County of Dauphin, Commonwealth of Pennsylvania and bounded and described as follows.

BEGINNING at the northeast corner thereof (being the northeast corner of a pumping station building), which point of beginning is located at the termination point of the following courses and distances:

- 1) Beginning at a concrete monument marked #1, said monument being located at the intersection of the South right-of-way line of Route 230 and the East property line of lands formerly of Earl J. and Mary Jane Gallagher, South eighty-three (83) degrees zero (0) minutes zero (0) seconds East, three hundred sixty-one and twenty-four hundredths (361.24) feet along the South right-of-way line of Route 230 to the remains of a fence post,
- 2) South twenty-one (21) degrees fifteen (15) minutes zero (0) seconds East, two hundred forty-seven and ninety-nine hundredths (247.99) feet along the West property line of lands formerly of Earl E and Helen D Espenshade to a point;
- 3) North seventy-one (71) degrees twenty-two (22) minutes forty-eight (48) seconds East, sixty-three and sixty-three hundredths (63.63) feet along the South property line of the aforesaid lands to a concrete monument marked #13;
- 4) South seventy-one (71) degrees twenty-two (22) minutes forty-eight (48) seconds West, sixty-three and sixty-three hundredths (63.63) feet along the South property line of lands formerly of Earl E and Helen D Espenshade to a point;
- 5) South sixty-eight (68) degrees forty-five (45) minutes zero (0) seconds West, thirty-five (35) feet across the lands of Pineford to a point;
- 6) South nineteen (19) degrees forty-two (42) minutes forty (40) seconds East, four hundred eighteen and eighty-seven hundredths (418.87) feet to a point marking the said BEGINNING point;


Thence extending southwardly twenty-one and ninety-five one-hundredths (21.95) feet along the outside of the East wall of the pumping station building to a point, thence extending westwardly twenty-five and ninety-five one-hundredths (25.95) feet along the outside of the South wall of the pumping station building to a point; thence extending northwardly twenty-one and ninety-five one-hundredths (21.95) feet along the outside of the West wall of the pumping station building to a point; thence extending eastwardly twenty-six (26) feet along the outside of the North wall of the pumping station building to a point, the place of BEGINNING

AREA containing five hundred seventy and seventy hundredths (570.70) square feet.

BEING the same premises conveyed by the Borough of Middletown to the Borough of Middletown by Deed of Confirmation dated December 23, 2014, and recorded December 24, 2014, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, as Instrument No. 2014\_\_\_\_\_.

**Tax Parcel No. 42-030-049:**

ALL that certain **UNEXPIRED LEASEHOLD OR TERMS OF YEARS** in and to that certain tract or parcel of land located in the Borough of Middletown, Dauphin County, Pennsylvania, more particularly bounded and described as follows, to wit:

 <b>First American Title™</b>	<b>Commitment for Title Insurance</b>
	ISSUED BY <b>First American Title Insurance Company</b>
<b>Exhibit A (Cont.)</b>	<b>Commitment Number</b>

File No

BEGINNING at the southeast corner of Laurel Avenue and Hoffer Street; thence in and eastwardly direction along the southern line of Laurel Avenue, a distance of two hundred ninety and forty-hundredths (290.40) feet to the southwest corner of Laurel Avenue and Few Avenue; thence along the western line of Few Avenue, a distance of one hundred forty-seven and eight-four hundredths (147.84) feet to the corner of Lot 10, Block "D" on the Plan of Frey Manor Addition No. 1; thence North sixty-six (66) degrees thirteen (13) minutes West a distance of one hundred twenty-four and fourteen-hundredths (124.14) feet to the eastern line of Lot No. 4, Block "D", Frey Manor Addition #1; thence in a southwardly direction along the western line of Lot No. 10, a distance of one and thirteen hundredths (1 13) feet, more or less, to the northern line of Lot 3, Block "D", Frey Manor Addition #1; thence in a westwardly direction along the northern line of Lot 3, one hundred fifty (150) feet to the eastern line of Hoffer Street; thence along the eastern line of Hoffer Street North fourteen (14) degrees twenty-six (26) minutes east one hundred thirty (130) feet to the place of BEGINNING.

BEING Lots 4,5,11 and 12, Block "D", Frey Manor Addition #1.

BEING the same premises leased by The Principal and Trustees of the Emaus Orphan House to Borough of Middletown by [Lease Agreement] dated December \_\_, 2014, and recorded December \_\_, 2014, in the Office of the Recorder of Deeds of the County of Dauphin, Pennsylvania, as Instrument No. 2014\_\_\_\_\_ for a term of \_\_\_\_\_ ( ) years

## LICENSE AGREEMENT

This LICENSE AGREEMENT (this "Agreement") is made and entered into as of the 30th day of December 2014, by and among the Borough of Middletown, Dauphin County Pennsylvania (the "Borough"), a duly organized and validly existing political subdivision of the Commonwealth of Pennsylvania under the Borough Code, Act of Apr. 18, 2014, P.L. 432, 8 Pa.C.S. §101 et seq., the Middletown Borough Authority, a body corporate and politic (the "Authority"), duly organized under the Pennsylvania Municipality Authorities Act, Act of June 19, 2001, P.L. 287, 53 Pa.C.S. §5601 et seq. (the "Municipal Authorities Act") and incorporated by appropriate legal action of the Borough, and Middletown Water Joint Venture LLC, a Delaware limited liability company (the "Concessionaire").

### Recitals

WHEREAS, the Authority currently owns and operates a water plant and distribution system, as well as a wastewater utility system (collectively, the "System," as such term is defined in the Concession Agreement (as such term is defined below)); and

WHEREAS, the Concessionaire and the Authority are parties to that certain Municipal Water and Wastewater Utility System Concession and Lease Agreement dated as of September 30, 2014, as amended, which is subject to joinder by the Borough (the "Concession Agreement") as set forth therein, pursuant to which the Authority agreed, among other things, to (a) demise and lease the System to the Concessionaire for the term of the Concession Agreement and (b) grant to the Concessionaire a right during the term of the Concession Agreement to operate the System and to provide Utility Services; and

WHEREAS, the leasehold interest granted by the Authority to the Concessionaire under the Concession Agreement notwithstanding, the Authority (and the Borough as the successor to the Authority as described in Section 4 below) desires to retain and continue to use certain lands and buildings included within the System, and the Concessionaire is willing to allow the continued use of those lands and buildings by the Authority (or Borough, as applicable); and

WHEREAS, there are certain other lands and buildings owned by the Authority or the Borough the use of which is necessary for the operation of the System by the Concessionaire, and the Authority and Borough are willing to allow the use of those lands and buildings by the Concessionaire; and

WHEREAS, each of the Concessionaire, the Authority and the Borough are willing to grant a license as specified, and on the respective terms and conditions, contained herein.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants, representations, warranties and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties covenant and agree as follows:

1. Term. Except as may otherwise be provided herein, each of the licenses or privileges granted hereunder shall be for a term of fifty (50) years; provided, however, that each license or privilege shall be co-terminous with the Concession Agreement, and each shall terminate if the Concession Agreement is terminated prior to the expiration of the 50-year term thereof.



2. Non-revocable. Each of the licenses or privileges granted hereunder shall be irrevocable, unless and until (a) there has been a default under the Concession Agreement that remains uncured following the giving of notice and the expiration of all applicable cure periods; (b) the non-defaulting party under the Concession Agreement has elected to exercise its right to terminate the Concession Agreement as a result of such default; and (c) the Concession Agreement is thereby terminated.

3. Subordinate Interest. Each of the licenses or privileges herein granted shall be subject and subordinate to the lease granted under the Concession Agreement and any and all easements, rights, privileges, licenses or grants heretofore given by a party hereto, or otherwise created, which now exist and which affect said land.

4. Assignment. Each of the licenses or privileges herein granted are personal to the grantee and are not assignable except in connection with a permitted assignment of the Concession Agreement; provided, however, that any right granted to, or obligation of, the Authority shall be deemed assigned to or assumed by the Borough, as the case may be, upon the dissolution of the Authority, without further instrument, or may otherwise be assigned to or assumed by the Borough; and provided, further, that any right granted to, or obligation of, Concessionaire may be assigned to or assumed by United Water Environmental Services Inc. (the "Operator"), as the case may be. With the exception of the foregoing, this Agreement does not create any right or benefit for any individual or entity that is not a party hereto.

5. Insurance. Each of the Concessionaire and the Authority, and the Borough following the dissolution of the Authority, shall provide and maintain at such party's own expense, or cause to be maintained, during the Term, the insurance coverages and requirements specified below, insuring the interests licensed hereunder.

a. Commercial General Liability. Each party shall provide or cause to be provided Commercial General Liability Insurance or equivalent with primary limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate, for bodily injury, personal injury and property damage liability. Coverage shall include the following: all premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, terrorism (to the extent commercially available) and contractual liability (with no limitation endorsement). Each counterparty is to be included as an additional insured on a primary, non-contributory basis for any liability arising under or in connection with this Agreement.

b. Builder's Risk. Whenever a party undertakes any construction, maintenance or repairs to a licensed area, including improvements and betterments pursuant to this Agreement, the party undertaking the construction shall provide or cause to be provided, Builder's Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be incorporated. Coverage shall include, but not be limited to, the following: right to partial occupancy, boiler and machinery, business income, valuable papers and other consequential loss, when applicable with aggregate sublimits for catastrophic perils of earthquake, flood and named wind, which are the best available on commercially reasonable terms. Each counterparty shall be loss payees as is commercially customary and, any Leasehold Mortgagee as well, as may be required.

- c. Property. Each party shall obtain or cause to be obtained Commercial Property Insurance at full replacement cost, covering all loss, damage or destruction to the licensed area, including improvements and betterments made by such party, which insurance may be provided on a blanket basis with reported building values. Each party shall be responsible for all loss or damage to personal property (including materials, fixtures/contents, equipment, tools and supplies) caused by such party unless caused by the counterparty or its Representatives.
- d. Umbrella/Excess Liability. In addition to the coverages outlined in subsection (a) through (c) above, each party shall provide or cause to be provided Excess Insurance covering those items with limits of not less than \$5,000,000. Each counterparty is to be included as an additional insured on a primary, non-contributory basis. Total limits may be provided through a combination of primary and umbrella or excess liability policies.

6. Indemnification.

a. Indemnification by the Concessionaire. The Concessionaire shall indemnify and hold harmless the Authority, the Borough and each of their respective Representatives from and against any Losses actually suffered or incurred by the Authority, the Borough or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the Concessionaire, the Operator or each of their respective Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement; and (ii) any property damage or personal injury occurring within an area licensed to Concessionaire hereunder that is caused by the intentional or negligent acts or omissions of Concessionaire; provided, however, that, except with respect to Claims resulting from Third Party Claims, Claims are made in writing within a period of three years following the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations.

b. Indemnification by the Authority. The Authority shall indemnify and hold harmless the Concessionaire and each of its Representatives from and against any Losses actually suffered or incurred by the Concessionaire or any such Representative, based upon, arising out of, occasioned by or attributable to (i) any failure by the Authority or its Representatives to comply with, observe or perform any of the covenants, obligations, agreements, terms or conditions in this Agreement, and (ii) any property damage or personal injury occurring within an area licensed to the Authority hereunder that is caused by the intentional or negligent acts or omissions of the Authority; provided, however, that, (A) except with respect to Claims resulting from Third Party Claims, Claims are made in writing within a period of three years of the expiration of the Term or earlier termination of this Agreement or within such shorter period as may be prescribed by the applicable statute of limitations and (B) nothing in this Section 6(b) shall be construed as a waiver by the Authority or the Borough of any governmental immunity and related limitations on liability as to damages on account of any injury to a person or property pursuant to the Pennsylvania Political Subdivisions Tort Claims Act, and there shall be no requirement to indemnify the Concessionaire for any such personal injury or property damages (including Third Party Claims as to such damages) except to the extent provided under

Pennsylvania Political Subdivisions Tort Claims Act.

7. License to Remove Fiber Optic Cable. The Concessionaire hereby grants the Authority a temporary non-exclusive license to enter the area delineated upon **Exhibit A** attached hereto (the "Fiber Optic Removal Area"), to remove or caused to be removed the existing above-ground fiber optic cable (the "Fiber-Optic Cable") which is located Fiber Optic Removal Area.

- a. The Authority shall provide written notice to the Concessionaire no less than seven (7) days prior to the date upon which the Authority desire to exercise the rights granted under this Section 7.
- b. The right granted under this Section 7 shall include the right to bring any equipment or vehicles onto the Fiber Optic Removal Area necessary to remove the Fiber-Optic Cable and the right to enter into any building part of the System for the purpose of removing the interior portion of the Fiber-Optic Cable at the point of demarcation.
- c. The Authority shall use commercially reasonable efforts to minimize interference with the Concessionaire's operations of the System and shall endeavor to complete the removal of the Fiber-Optic Cable in a good and workmanlike manner within three (3) business days after commencement thereof.
- d. The Authority shall restore any areas disturbed by the removal of the Fiber-Optic Cable.
- e. The Authority shall bear all costs in connection with the removal of the Fiber-Optic Cable.
- f. The license granted under this Section 7 and the right to remove the Fiber Optic Cable notwithstanding, these rights shall not extend to removal of the fiber optic cable or any other cable that runs between the buildings contained within the Wastewater Treatment Plant and are utilized by the SCADA system and local area network for the laboratory.

8. License to Use the Salt & Cinder Storage Area. The Concessionaire hereby grants to the Authority an exclusive license to use the area delineated on **Exhibit B** attached hereto (the "Salt & Cinder Storage Area") solely for the storage of the Borough's salt/cinder supply and related equipment.

- a. This license shall include the right to construct, reconstruct, maintain, repair, replace and remove within the Salt & Cinder Storage Area, a storage facility, at the Authority's sole cost and expense, the size of which shall be sufficient to store the Borough's salt/cinder supply and any equipment used by the Borough in conjunction therewith, as determined by the Borough in its reasonable discretion. The Authority shall provide the Concessionaire with written notice not less than seven (7) days prior to the start of any construction, and the Authority shall diligently work to complete any such construction promptly and in a good and workmanlike manner.
- b. Prior to undertaking any construction, the Authority shall install perimeter fencing

and access gates and/or upgrade existing fencing and access gates, as applicable, to separate the Salt & Cinder Storage Area from the remainder of the Wastewater Treatment Plant.

- c. The Authority shall access the Salt & Cinder Storage Area via State Street; provided, however, that access for delivery trucks shall be allowed during the Concessionaire's normal business hours through the main gate to the Wastewater Treatment Plant, and the Authority and the Borough shall have the right to utilize the interior access ways, driveways, and roadways within the Wastewater Treatment Plant to make deliveries to the Salt & Cinder Storage Area.
  - d. The Authority shall be responsible, at its sole cost and expense, for all maintenance, repair and replacement of and to the Salt & Cinder Storage Area. The Authority shall also be responsible for snow and ice removal from the Salt & Cinder Storage Area
9. License to Use the Mud Pike Pole Building. The Concessionaire hereby grants to the Authority an exclusive license to use the area delineated on **Exhibit C** attached hereto (the "Mud Pike Pole Building Area"), including without limitation the existing improvements located thereon (the "Mud Pike Pole Building").
- a. This license shall include the right to construct, reconstruct, maintain, repair, replace and remove the Mud Pike Pole Building, at the Authority's sole cost and expense, as determined by the Borough in its reasonable discretion. The Authority shall provide the Concessionaire with written notice not less than seven (7) days prior to the start of any construction, and the Authority shall diligently work to complete any such construction promptly and in a good and workmanlike manner.
  - b. This license and the Mud Pike Pole Building Area shall include the right to use the paved areas within the Mud Pike Pole Building Area for the purpose of storage, parking and access to the Mud Pike Pole Building from both Mud Pike and State Street.
  - c. The Authority, at its sole cost and expense, shall be responsible for all maintenance, repair and replacement of and to the Mud Pike Pole Building and Area. The Authority shall also be responsible for snow and ice removal from the Mud Pike Pole Building Area.
10. License to Use Colston Park. The Concessionaire hereby grants to the Authority a non-exclusive license to use the area delineated on **Exhibit D** attached hereto ("Colston Park") as a public playground and basketball court.
- a. The Authority, at its sole cost and expense, shall have the right to construct, reconstruct, maintain, repair, replace and remove any improvements the Authority desires to construct within Colston Park. The Authority shall provide the Concessionaire with written notice not less than seven (7) days prior to the start of any construction, and the Authority shall diligently work to complete any such construction promptly and in a good and workmanlike manner.

- b. The Authority, at its sole cost and expense, shall be responsible for all maintenance, repair and replacement of and to Colston Park and all improvements and equipment located thereon. The Authority, at its sole cost and expense shall maintain the fence between the Wastewater Treatment Plant and Colston Park. The Authority shall also be responsible for snow and ice removal from Colston Park.
- c. The Borough shall be responsible for policing Colston Park and shall undertake reasonable efforts to prevent a nuisance from being committed in Colston Park.
- d. Access to Colston Park shall be directly from South Wood Street.

11. License to Use the Police Impound Lot. The Concessionaire hereby grants to the Authority an exclusive license to use the area delineated on **Exhibit E** attached hereto (the "Police Impound Lot"), solely as is currently used by the Borough as a police impound lot and related facilities.

- a. The Authority, at its sole cost and expense, shall have the right to construct, reconstruct, maintain, repair, replace and remove any improvements the Authority desires to construct within the Police Impound Lot. The Authority shall provide the Concessionaire with written notice not less than seven (7) days prior to the start of any construction, and the Authority shall diligently work to complete any such construction promptly and in a good and workmanlike manner.
- b. The Authority, at its sole cost and expense, shall be responsible for all maintenance, repair and replacement of and to the Police Impound Lot and all improvements and equipment located thereon. The Authority, at its sole cost and expense shall maintain the fence between the Wastewater Treatment Plant and the Police Impound Lot. The Authority shall also be responsible for snow and ice removal from the Police Impound Lot.
- c. Access to the Police Impound Lot shall be directly from Russell Avenue.

12. License to Use Old Water Treatment Plant. The Concessionaire hereby grants to the Authority an exclusive license to use Lot 41-020-031, other than Wells #1 and 2, the portions of the old Water Treatment Plant containing electrical components and control panels for Wells 1 and 2, and access and egress to the foregoing, as delineated on **Exhibit F** (the "Old WTP Area").

- a. The Authority, at its sole cost and expense, shall construct (i) a demising wall to separate the Old WTP Area from the balance of the old Water Treatment Plant, and (ii) separate, exclusive exterior access to the Old WTP Area, promptly, but in no event more than three (3) months, following the Closing Date in accordance with plans and specifications reasonably acceptable to Concessionaire. The Authority shall provide the Concessionaire with written notice not less than seven (7) days prior to the start of such construction, the Authority shall perform such construction in such a manner as to not interfere with the operation of Wells 1 and 2, and the Authority shall diligently work to complete any such construction promptly and in a good and workmanlike manner.
- b. Following completion of the demising wall and exterior access, the

Concessionaire shall, at its sole cost and expense, be responsible for the maintenance of the Old WTP Area, and the Concessionaire shall have the right to maintain, repair, replace and remove any improvements therein.

- c. Notwithstanding anything in this Section 12, Section 4, or the Concession Agreement to the contrary, the Authority, its assigns, invitees, and sublicenses, shall have full and unfettered use, without consent of Concessionaire or any leasehold mortgagee, of the areas on tax parcel 41-020-031 other than the Old WTP Area, which use includes, without limitation, the right to permit use by the public, sublicense all or any portion to third parties, and construct, reconstruct, maintain, repair, replace and remove any improvements the Authority desires to construct on tax parcel 41-020-031. The Authority, at its sole cost and expense, shall be responsible for all maintenance, repair and replacement of and to all portions of the old Water Treatment Plant outside of the Old WTP Area.

13. License to Use Recreational Fields. The Concessionaire hereby grants to the Authority an exclusive license to use a portion of tax parcel 42-030-049, subject to the Concessionaire's reservation of the portion delineated on **Exhibit G** (the "Well No. 6 Treatment Building"). Notwithstanding anything in this Section 13, Section 4, or the Concession Agreement to the contrary, the Authority, its assigns, invitees, and sublicenses, shall have full and unfettered use, without consent of Concessionaire or any leasehold mortgagee, of the areas on tax parcel 41-030-049 other than the Well No. 6 Treatment Building, which use includes, without limitation, the right to permit use by the public, sublicense all or any portion to third parties, and construct, reconstruct, maintain, repair, replace and remove any improvements the Authority desires to construct on tax parcel 41-030-049 and the right to relocate access thereto provided the Authority shall maintain access at all times to Well No. 6 Treatment Building. The Authority, at its sole cost and expense, shall be responsible for all maintenance, repair and replacement of and to all portions of tax parcel 41-030-049 outside of Well No. 6 Treatment Building. The Authority, at its sole cost and expense shall maintain the existing fencing located on tax parcel 41-030-049.

14. License to Use the Roof of Borough Hall. The Borough hereby grants to the Concessionaire a non-exclusive license to use the roof of the existing Borough Hall for the placement of a data collector as long as the existing Borough Hall is in existence and used as Borough Hall.

- a. Access to the data collector on the roof of Borough Hall shall be allowed only during the Borough's normal business hours and shall be via the interior stairwells of Borough Hall and access ladders to the roof.
- b. The Concessionaire, at its sole cost and expense, shall maintain the data collector, and Concessionaire shall have the right to maintain, repair, replace and remove the data collector, as determined by Concessionaire in its reasonable discretion.

15. Construction. Any party desiring to perform construction or maintenance activities on a licensed area shall be responsible for maintaining a safe work site with respect to any work it performs and shall comply with any safety procedures of its counterparty of which it has been informed. Following any construction or maintenance activity, a party shall restore, to its former condition, the licensed area and repair any damage caused by the

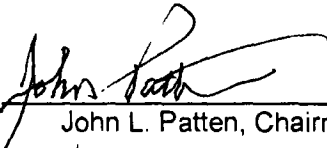
licensee, its subcontractors, agents or third parties, lying either within or outside of the limits of the license herein granted.

16. Compliance with Laws. The grantee of each license contained herein assumes no responsibility or liability in connection with any law, ordinance, rule or regulation of any public or governmental body which may limit, affect, regulate or prohibit the use of the subject lands by the grantee for the purpose aforesaid, and each grantee shall, at their sole cost and expense, comply with any and all rules, regulations, ordinances or laws affecting the use of the lands by the grantee.
17. Ingress and Egress. Each of the licenses granted hereunder shall afford the right of ingress to and egress from the respective license areas without restriction, except as may be set forth herein.
18. No Charge. There shall be no charge for the use of the license areas created and granted herein.
19. No Liens. If, because of any act or omission of a grantee of any license hereunder, a mechanics lien, construction lien or other lien, charge or order for the payment of money shall be filed against the licensed area, the party upon whose behalf the work was performed shall, at its sole cost and expense, cause the same to be discharged of record, by bond or otherwise, within thirty (30) days after receiving notice of the filing of same; provided that, for avoidance of doubt, this Section 19 shall not require discharge of the Leasehold Mortgage.
20. Further Assurances. The parties shall execute such further documents and do any and all such further things as may be necessary to implement and carry out the intent of this Agreement.
21. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one and the same agreement. A signature transmitted by facsimile or other electronic means shall be sufficient and binding for all purposes.
22. Effectiveness. This Amendment shall become effective on and only on its execution and delivery by each party hereto.

[The signatures of the parties appear on the following page.]

IN WITNESS WHEREOF, the parties have entered into this License Agreement the day and year set forth first above.

Middletown Borough Authority

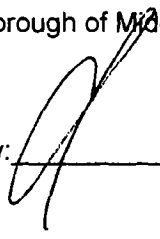
By:   
\_\_\_\_\_  
John L. Patten, Chairman



Middletown Water Joint Venture LLC

By: BE  
Brandon Freiman  
Vice President

Borough of Middletown, Pennsylvania

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

**Exhibits**

- Exhibit A - The Fiber Optic Removal Area
- Exhibit B - The Salt & Cinder Storage Area
- Exhibit C - The Mud Pike Pole Building Area
- Exhibit D - Colston Park
- Exhibit E - The Police Impound Lot
- Exhibit F - The Old Water Treatment Plant Area
- Exhibit G - Well No. 6 Treatment Building