

LEASE OF SEWER PLANT CAPACITY

This Lease made this 28th day of September, 1987, between Owosso Township, a Michigan Municipal Corporation, having its principal office at 2998 West M-21, Owosso, Shiawassee County, Michigan, and Caledonia Township, a Michigan Municipal Corporation, having its principal office at 135 North State Road, Owosso, Shiawassee County, Michigan, herein referred to as "Lessor", and the City of Corunna, a Michigan Municipal Corporation, having its principal place of business at 402 North Shiawassee, Corunna, Shiawassee County, Michigan, herein referred to as "Lessee".

RECITALS

- A. Whereas, Owosso Township and Caledonia Township are owners of certain capacity for treatment of sanitary sewage in the Lavaille R. Jennings Mid-County Waste Water Treatment Plant. Said plant facilities being located on land owned by the City of Owosso and located in Owosso Township.
- B. Whereas, the City of Corunna desires to lease the certain plant capacity owned by Owosso Township and Caledonia Township and which is currently unused by both Townships.
- C. Whereas, Owosso Township, Caledonia Township, and the City of Corunna desire to enter into an agreement concerning the lease of unused plant capacity to the City of Corunna.
- D. Whereas, Lessor and Lessee have the power and authority under their respective municipal charters, and pursuant to the Mid-County Agreement dated August 17, 1977, to enter into a lease of capacity for treatment of sanitary sewage in the Lavaille R. Jennings Mid-County Waste Water Treatment Plant.

For the reasons set forth above and in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I

Plant Capacity - Lease

Lessor leases to Lessee up to four per cent (4%) of their total combined plant capacity of thirty seven and eight tenths per cent (37.8%) (two per cent (2%) from Owosso Township and two per cent (2%) from Caledonia Township) for sanitary sewage treatment in the Lavaille R. Jennings Mid-County Waste Water Treatment Plant, located in Owosso Township, on North M-52 and adjacent to the Shiawassee River.

In no event shall Lessee's use of Lessor's plant capacity exceed four per cent (4%) each year for two (2) consecutive years. If that should happen, then upon the request of either Lessor or Lessee, the parties hereto shall immediately enter into negotiations for lease of additional plant capacity.

For purposes of this Lease, it is agreed by Lessee that should Lessee exceed its purchased plant capacity of nine and two tenths per cent (9.2%), that it is Lessor's unused plant capacity that Lessee is utilizing.

LYNN D. BOWNE
ATTORNEY AT LAW
114 EAST MAIN
SUITE 215
OWOSSO, MI 48867

TELEPHONE
(517) 723-2900
(517) 723-6347

SECTION II

Term - Termination

This Lease shall become effective upon the execution of the signatures hereunder and shall not terminate until such time as the Township of Owosso or Caledonia, Lessors, shall require a part or all of the capacity so leased to Lessee, returned to said Lessor or Lessors. Notice by Lessor shall be given to Lessee twelve (12) months in advance of the requested return of plant capacity and Lessee shall return said plant capacity as soon as reasonably possible within the three (3) years after said notice is given to Lessee.

SECTION III

Rental

At the end of each year, Lessee's use of Lessor's capacity in the Lavaille R. Jennings Mid-County Waste Water Treatment Plant shall be evaluated as to annual use by Lessee.

Commencing with the calendar year beginning January 1, 1987, should Lessee have exceeded its purchased plant capacity of nine and two-tenths percent (9.2%), then Lessee shall pay to Lessor as rent for its unused plant capacity used by the Lessee, Two Thousand Five Hundred Dollars (\$2,500.00) per one percent (1%) used or fraction thereof, payable on or before April 1st of the calendar year occurring immediately after the calendar year that said excess plant capacity was used by Lessee. Payment to be made on or before April 1, 1988, if excess treatment plant capacity was used by Lessee in calendar year 1987, and due on or before April 1st of any year thereafter when excess capacity has been used by the Lessee.

By way of example and not of limitation, should Lessee use three and five tenths per cent (3.5%) over Lessee's purchased plant capacity in 1987, then Lessee shall pay to Lessor, Eight Thousand Seven Hundred Fifty Dollars (\$8,750.00) on or before April 1, 1988.

In the event that Lessee shall use more than four per cent (4%) of the leased plant capacity of Lessor, then Lessee shall pay rent for the capacity used that exceeds four per cent (4%), based upon Two Thousand Five Hundred Dollars (\$2,500.00) per one per cent (1%) or fraction thereof, which shall be due and payable on or before April 1 of the calendar year after Lessee used Lessor's plant capacity

In the event that any rental sum or any part thereof shall not be paid within fifteen (15) days of the due date as hereinbefore set forth, a penalty of one per cent (1%) per month or fraction thereof for each month that said rental sum or part thereof remains unpaid, computed on the unpaid amount thereof, shall be paid by Lessee at the time the payment is made.

SECTION IV

Lessor's Right of Recovery on Lessee's Default

If Lessee fails for thirty (30) days after written demand to pay any installment of rent or to pay any other sums hereafter provided, or if Lessee fails, through its own fault, to substantially keep and perform any other covenant in this Lease, and such default continues for one (1) month after written notice thereof from Lessor to Lessee, then Lessor may recover the plant capacity leased without prejudice to its right of action to recover rentals due or damages for breach of contract.

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SECTION V

Lessor's Retention of Title

At all times during the term of this Lease, Lessor shall retain the ownership and title to the plant capacity so leased.

SECTION VI

Lessee's Duties Generally

Lessee will perform all of the obligations imposed on Lessor by law or by the provisions of its grant from or contracts with various cities or townships in relation to the leased plant capacity. Lessee will not do or omit or allow to be done or omitted any act or thing that would be a ground for forfeiture of any of the contract rights and privileges derived from any city or other municipal or public authority for the construction, maintenance, and operation of the Lavaille R. Jennings Mid-County Waste Water Treatment Plant and other leased property. Lessee will indemnify Lessor against any claim, debt, or liability growing out of the misuse by Lessee of the leased plant capacity.

SECTION VII

Binding Effect of Lease; Assignment

The covenants herein contained shall inure to the benefit of and be obligatory on the parties respective successors. Lessee is absolutely prohibited from transferring or assigning this Lease.

SECTION VIII

Mid-County Agreement

This contract by and between Lessor and Lessee incorporates by reference the Mid-County Agreement dated August 17, 1977.

SECTION IX

Entire Agreement

This Lease sets forth all the covenants, promises, agreements, conditions, and understandings between Lessor and Lessee. No alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee unless reduced to writing and signed by each party.

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SECTION X

Captions and Section Numbers

The captions, article numbers, and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the day and year first above written.

CITY OF CORUNNA

By: *Keith Johnson*

Its: Mayor

Attest:

Linda Johnson
City Clerk

TOWNSHIP OF OWOSSO

By: *James A. Stewart*

Its: Supervisor

Attest:

Sandra L. Harvey
Township Clerk

TOWNSHIP OF CALEDONIA

By: *Richard E. Riegle*

Its: Supervisor

Attest:

Margie Rennie
Township Clerk

The foregoing Lease of Sewer Plant Capacity is hereby approved by the Mid-County Review Board.

Chairman

Member

Attest:

Larry M. Burke
Secretary

JANUARY 26, 1988

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