

AGREEMENT

This Agreement ("AGREEMENT") is made and entered into this ____ day of _____, 1982, by and between Ash Avenue Sanitary Sewer Company ("SEWER COMPANY"), a Kentucky corporation and The Lehmann Co., Inc., a Kentucky corporation, ("DEVELOPER").

W I T N E S S E T H:

The SEWER COMPANY is the owner of a sewage treatment plant located on Ash Avenue and Hawley Gibson Road in Oldham County, Kentucky that is equipped to receive and process up to 300,000 gallons per day of residential sewage and wastewater ("PLANT"); and

The DEVELOPER is developing Section 4 (Plat Book 3, Page 178 in the Oldham County Clerk's Office) and Section 5 (Plat Book 3, Page 179 in the Office of the Clerk of Oldham County, Kentucky) of Village Green Subdivision, SECTION 4-5 OF SUBDIVISION, and,

The DEVELOPER desires to secure sewage and wastewater treatment services through the PLANT for the homes to be constructed in SECTIONS 4-5 OF SUBDIVISION; and

The SEWER COMPANY is willing to furnish such services to the extent and upon all of the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties are agreed, and intending to be bound do hereby agree as follows:

1. OBLIGATIONS OF THE SEWER COMPANY. Subject to the DEVELOPER'S compliance with all of its obligations hereunder, and subject also to the applicable provisions, if any, of a certain "Third Party Beneficiary Contract" between the SEWER COMPANY and the Commonwealth Land Title Insurance Company, dated June 20, 1980, and subject also to any applicable regulations of the Kentucky Public Service Commission, and subject also to any applicable regulations and orders of federal, state, county and other governmental agencies and instrumentalities having or asserting jurisdiction over the SEWER COMPANY and the PLANT and other facilities and operations of the SEWER COMPANY, the SEWER COMPANY shall use its best efforts to

operate and maintain the PLANT to receive and process up to 400 gallons per day of sewage and wastewater delivered into its collection system from each of not more than 38 residential housing units to be constructed within SECTIONS 4-5 OF SAID SUBDIVISION and shall use its best efforts to comply continuously with all laws, rules, regulations, orders and other commitments and obligations to which it and/or its facilities and operations are subject.

2. OBLIGATIONS OF THE DEVELOPER. The DEVELOPER shall perform and comply fully with each of the following obligations.

A. Construction of Subdivision Collection System

The DEVELOPER shall construct or cause to be constructed the sewers, property service connections, and any required lift stations and other collection facilities and equipment to serve SECTION 4-5 OF SUBDIVISION ("SUBDIVISION COLLECTION SYSTEM") and to connect the same with the SEWER COMPANY'S Ash Avenue Trunk Line at a point approved by the SEWER COMPANY, all in accordance with the engineering plans and specifications therefore approved by the Kentucky Department for Natural Resources and Environmental Protection, Bureau of Environmental Quality and the SEWER COMPANY, and any other governmental agencies and instrumentalities having or asserting jurisdiction thereover. The DEVELOPER shall provide, at its expense and without cost or expense to the SEWER COMPANY, all machinery, tools and apparatus, labor and materials of every kind and description necessary to complete the construction and connection of the SUBDIVISION COLLECTION SYSTEM to the satisfaction of the SEWER COMPANY. No storm water drains, roof downspouts, or ground water shall be introduced into the SUBDIVISION COLLECTION SYSTEM. All connections shall be made with water-tight joints in accordance with local and state plumbing code requirements. All construction shall comply with all other buildings, health or other codes and requirements applicable to the construction and with accepted engineering and construction practices. The DEVELOPER shall employ a registered civil engineer who shall furnish field engineering during construction of the SUBDIVISION COLLECTION SYSTEM and shall also furnish

"as built" plans of the SUBDIVISION COLLECTION SYSTEM for the SEWER COMPANY. Engineers and other representatives of the SEWER COMPANY and public agencies and instrumentalities shall have free and unrestricted access to the construction performed hereunder at all times, and the SEWER COMPANY shall be given reasonable opportunity to inspect and test construction before it is covered.

B. Maintenance and Repair of SUBDIVISION COLLECTION SYSTEM The DEVELOPER shall, at its own expense and without cost or expense to the SEWER COMPANY, maintain and repair the SUBDIVISION COLLECTION SYSTEM including all lift stations until the SEWER COMPANY shall have accepted the responsibility therefore from the DEVELOPER. Without limiting the generality of the foregoing, the DEVELOPER shall repair or replace sewers and property connections damaged, destroyed or condemned in any manner from any cause whatever and shall keep such sewers and connections free of soil and construction debris. The SEWER COMPANY agrees to accept responsibility for the maintenance and repair of the SUBDIVISION COLLECTION SYSTEM promptly upon the completion thereof, after DEVELOPER has demonstrated to the SEWER COMPANY that same has been constructed in accordance with appropriate plans therefore and that same is in good operating condition and free from all defects.

C. Conveyance of SUBDIVISION COLLECTION SYSTEM All right, title, ownership and interest in the SUBDIVISION COLLECTION SYSTEM including all lift stations and all easements therefore shall vest without further consideration in the SEWER COMPANY upon its formal acceptance thereof, and they shall thereafter be and remain wholly in and under the possession, control, jurisdiction, and supervision of the SEWER COMPANY. The DEVELOPER shall promptly prepare at its own expense and deliver to the SEWER COMPANY a conveyance of the SUBDIVISION COLLECTION SYSTEM and all lift stations and easements, in substantially the form of "Exhibit A" attached hereto; provided, however, that the SEWER COMPANY shall have no obligation to accept any responsibility pursuant to such conveyance or otherwise until all of said SECTION 4-5 OF SUBDIVISION has been connected to the SUBDIVISION COLLECTION SYSTEM,

unless and until the SUBDIVISION COLLECTION SYSTEM has been completed, tested by air pressure and/or other methods satisfactory to the SEWER COMPANY, and repaired and/or cleaned to the satisfaction of the SEWER COMPANY. In addition, the DEVELOPER shall prepare at its own expense and deliver to the SEWER COMPANY any and all other deeds and documents reasonably deemed necessary by the SEWER COMPANY to effectuate this provision.

D. Payment of SECTION 4-5 OF SUBDIVISION Tap-In Fees

The DEVELOPER shall pay or cause to be paid to the SEWER COMPANY a tap-in fee for each lot in said SECTION 4-5 OF SUBDIVISION as follows:

1. For each lot for which a tap-in fee is applied and paid for in 1982, the sum of \$1,330.00 per lot; and said amount is increased at the rate of \$100.00 per year per tap-in thereafter until all of said SECTION 4-5 OF SUBDIVISION has been tapped into the SUBDIVISION COLLECTION SYSTEM.

2. The tap-in fee shall be paid upon and at the time of the sale and conveyance by DEVELOPER of said lots or upon the connection of the private sewer connection to the SUBDIVISION COLLECTION SYSTEM, whichever occurs first.

3. The DEVELOPER may at any time pre-pay one or more tap-in fees at the rate applicable in the year of such pre-payment. The DEVELOPER shall thereafter designate the lots for which such pre-payment shall be applied; and, if the DEVELOPER is not otherwise in default hereunder, it shall not be charged an additional tap-in fee for such lots, notwithstanding that the tap-in fee scale shall have increased since the date of such pre-payment. Pre-paid tap-in fees are applicable solely to future connections and are not refundable by the SEWER COMPANY under any circumstances, other than its willful refusal, without reasonable excuse, to furnish the service contemplated by this AGREEMENT.

The tap-in fees herein provided for shall be payable as herein provided, notwithstanding that the SEWER COMPANY shall not have accepted responsibility for the SUBDIVISION COLLECTION SYSTEM conveyed as required in subparagraph (C) of this paragraph.

E. User Fees; Compliance with Rules and Regulations

The DEVELOPER agrees that the owner of each home connected to the PLANT (including the DEVELOPER where applicable) (1) shall pay, on or before the due date, all fees, eate, rentals, assessments, and charges for sewer service established, altered, or amended by the SEWER COMPANY from time to time applicable to sewer users in general or like users of a class, and (2) shall comply with and abide by such rules and regulations

for the use of sewers adopted by the SEWER COMPANY from time to time as are applicable to sewer users in general or like users of a class; and the SEWER COMPANY may terminate this AGREEMENT, and/or terminate sewer service, as to the DEVELOPER or any such user or class of users if the DEVELOPER or any such user or class of users fails or refuses, after reasonable notice, to pay such fees, rates, rentals, assessments and charges or to comply with and abide by such rules and regulations; provided, however, that the SEWER COMPANY shall continue, if practicable, to provide sewer service to all other users or classes of users.

F. Amendment of SECTION 4-5 OF SUBDIVISION Restrictions

The DEVELOPER shall prepare, submit to the SEWER COMPANY for approval or change, and thereafter file for record in the Office of the Clerk of the County Court of Oldham County an amendment to the recorded SECTION 4-5 OF SUBDIVISION restrictions for the SECTION 4-5 OF SUBDIVISION setting forth the substances of subparagraphs A, B, C, D and E of this paragraph 2 and subparagraphs E and F of paragraph 3.

3. MISCELLANEOUS PROVISIONS.

A. Termination of SEWER COMPANY'S Obligation to Accept Additional Tap-Ins

The SEWER COMPANY shall have no obligation to accept additional requests for tap-ins by the DEVELOPER after (1) December 31, 1985, or (2) in the case of any failure by the DEVELOPER to cure to the satisfaction of the SEWER COMPANY any non-compliance with its obligations under paragraph 2 of this AGREEMENT within 30 days after the SEWER COMPANY gives notice of such non-compliance, on the 31st day following such notice.

B. Remedies

Each party shall be entitled, in addition to all other rights it has at law or under this AGREEMENT, to injunctive and other equitable relief for any violation of this AGREEMENT. In the event the SEWER COMPANY is required to engage an attorney for the purpose of enforcing this AGREEMENT, the DEVELOPER shall be liable for the payment of SEWER COMPANY'S attorney fee, whether suit be brought or not.

C. Notices

All notices permitted or required under this AGREEMENT shall be in writing and delivered in person, or mailed by first class, certified or registered mail, return receipt requested,

1. if to the SEWER COMPANY, to

ASH AVENUE SANITARY SEWER COMPANY
P. O. Box 572
Pewee Valley, Kentucky 40056

ATTENTION: Mr. F. G. Osborne

2. if to the DEVELOPER, to

THE LEHMANN CO., INC.
P. O. Box 23362
Louisville, Kentucky 40223

ATTENTION: George Lehman

or to any other address that a party shall designate for itself by notice given in conformity herewith and shall be deemed to have been given on the date of delivery in person or, if mailed, on the date of mailing.

D. Entire AGREEMENT; Amendment

This AGREEMENT contains the entire AGREEMENT of the parties, and no representations, inducements, promises or agreements, oral or otherwise, not referred to herein shall be of any force or effect. Any amendment must be in writing and signed by the duly authorized officers of the parties.

E. Severability

Any provision of this AGREEMENT that is or shall become prohibited by law or court decree shall be ineffective, to the extent of such prohibition without in any way invalidating or affecting the remaining provisions of this AGREEMENT.

F. No Waiver

No delay, waiver, omission or forbearance on the part of the SEWER COMPANY to exercise any right or power arising out of any breach or default by the DEVELOPER of any of the terms, conditions or covenants hereof shall constitute a waiver by the SEWER COMPANY to enforce any such right or power as against the DEVELOPER or owner or as to any subsequent breach or default by the DEVELOPER or owner.

