

BOROUGH OF MONROEVILLE
ORDINANCE NO. 236

AN ORDINANCE AUTHORIZING THE PROPER OFFICIALS OF THE BOROUGH OF MONROEVILLE TO ENDORSE A NOTE, WITHOUT RECOURSE, TO PITTSBURGH NATIONAL BANK UPON RECEIPT OF SEVENTY-FIVE THOUSAND (\$75,000.00) DOLLARS AS PAYMENT BY MAY COMPANY, IN LIEU OF A FOOT FRONT ASSESSMENT, BENEFIT ASSESSMENT OR TAP-IN FEE, FOR THE INSTALLATION OF A SEWER LINE; AND AUTHORIZING THE PROPER OFFICIALS OF THE BOROUGH OF MONROEVILLE TO EXECUTE AN AGREEMENT WITH MAY COMPANY.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Monroeville, Allegheny County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same.

SECTION 1. The proper officials of the Borough of Monroeville are hereby authorized to endorse a note, without recourse, to Pittsburgh National Bank upon receipt of the sum of Seventy-five Thousand (\$75,000.00) Dollars.

SECTION 2. The proper officials of the Borough of Monroeville are hereby authorized to execute an Agreement, with May Company, in substantially the following form:

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 1960, by and between the BOROUGH OF MONROEVILLE, a municipal corporation existing under the laws of the Commonwealth of Pennsylvania, situate in Allegheny County, Pennsylvania, party of the first part, hereinafter referred to as "Borough", and THE MAY DEPARTMENT STORES COMPANY, a New York corporation, having a place of business in the City of Pittsburgh, doing business under the name of Kaufmann's, Allegheny County, Pennsylvania, party of the second part, hereinafter referred to as "May".

WITNESSETH THAT:

WHEREAS, Borough must provide sanitary sewer facilities in the Borough of Monroeville, Allegheny County, Pennsylvania; and

WHEREAS, Borough has caused the Borough to be divided into sanitary sewer districts, one of which is the Pitcairn Water Shed,

known as and sometimes hereinafter referred to as Sanitary Sewer District Area "E"; and

WHEREAS, Borough has caused the Borough Engineer to lay out sanitary sewer trunk lines in said Sanitary Sewer District Area "E" in accordance with and as is shown in the Location Map prepared by the Borough Engineer, a copy of which is attached hereto, made part hereof and marked Exhibit "A"; and

WHEREAS, May is the owner of a tract of land situated in said Pitcairn Water Shed or Sanitary Sewer District Area "E", said tract being more particularly described in Exhibit B attached hereto and hereafter called the "Property"; and

WHEREAS, May is desirous of securing sanitary sewer service for the Property to provide sanitary sewerage for all structures now being built or hereafter to be built thereon; and

WHEREAS, plans and specifications for the construction of the sanitary sewer trunk lines which will serve, among others, the Property, have been prepared by the Borough Engineer and have been approved by the Borough and the Department of Health of the Commonwealth of Pennsylvania; and

WHEREAS, May is willing to assume a certain obligation to the Borough on account of the construction of said sanitary sewer trunk lines to the Property; and

WHEREAS, the Borough has awarded and let a contract known and identified as "North Pitcairn Sanitary Sewer Contract No. 5 S", for the construction of said sanitary sewer facilities in accordance with the above referred to plans and specifications at prices satisfactory to the Borough and has obtained performance bonds and labor and

materialmen's payment bonds from each contractor with whom it has entered into a contract for said work,

NOW, THEREFORE, in consideration of the mutual covenants hereinabove and hereinafter set forth and for other valuable and sufficient consideration, the parties hereto agree as follows:

1. Borough agrees that it will construct and install a sanitary sewer trunk line to the Property, completing the physical connection of the said sanitary sewer trunk line with the now existing sewer trunk line of May at the southwest corner of the Property, as is shown in Exhibit "A", pursuant to the contract known as "North Pitcairn Sanitary Sewer Contract No. 5 S" entered into for the performance of said work in accordance with plans and specifications prepared by the Borough Engineer.

2. Borough agrees that it shall be solely and exclusively responsible for the engineering and supervision of the work in the installation and construction of said sanitary sewer line. Further, the Borough agrees that it shall be solely and exclusively liable to pay the contractors for the construction and installation of said line.

3. Borough represents that it has passed an ordinance (Ordinance No. 216) providing for the collection of a sewer demand charge from such commercial property owners in Sanitary Sewer District Area "E" as elect in writing to accept the benefits of said ordinance, such sewer demand charge to be based on the special cost to the Borough of providing sanitary sewer facilities to a particular property. Borough further represents and agrees that the sewer demand charges to be paid by May under the terms of the aforesaid ordinance shall

\$9,595.28 per annum for a ten year period, to be paid as hereafter provided in paragraph 4.

4. May agrees to elect to accept the benefits of such ordinance and to pay a sewer demand charge of \$9,595.28 on the anniversary of the date of execution of this agreement in each of the years 1961 to 1970, inclusive. May's obligation to make such payments shall be evidenced by an installment promissory note issued by May to the order of the Borough providing for ten equal annual payments of \$9,595.28 each, each installment to be due and payable on the anniversary of the date of issuance of said note in each of the years 1961 to 1970, inclusive, without interest.

5. Borough agrees that Borough shall not make any assessment for benefits or on a front foot basis or tap-in charges or on any other basis against May for the cost of providing sanitary sewer lines for the Property, and the Borough hereby expressly forever releases May from any assessment or claim for benefits or tap-in fees on account of the construction of the sewer herein contemplated or any other sewer hereafter constructed through or abutting on the Property in the Borough of Monroeville (unless such additional sewer is necessitated by additional demands for sewer service for the Property beyond the capacity of the sewer trunk line being constructed under North Pitcairn Sanitary Sewer Contract No. 5 S, as reasonably determined by the Borough Engineer), or the connection to any sewer line of the Borough of a sewer lateral from any building now or at any time hereafter constructed on the Property. Borough further agrees to provide sanitary sewer service to the Property throughout

the term of this agreement at the same rates for such service as are charged like users for like service.

6. Borough and May agree that May shall be released absolutely from any further liability for payment of sewer demand charges as aforesaid after it has completed payment of ten equal annual installments of \$9,595.28 each on the due date thereof.

7. This agreement shall inure to the benefit of, and be binding on, the respective successors and assigns of the parties, provided, however, that May shall be discharged of any obligation hereunder if May is merged or consolidated into or with another corporation acquiring the Property and such surviving corporation specifically assumes May's liability and furnishes to the Borough for the then unpaid balance of the sewer demand charges over the remaining balance of the term.

WITNESS the due execution hereof the day and year first above written.

ATTEST:

THE BOROUGH OF MONROEVILLE

Secretary

By _____
President of Council
By _____
Burgess

THE MAY DEPARTMENT STORES COMPANY

By _____
President

ATTEST:

Secretary

ALL THAT CERTAIN TRACT OF LAND situated in the Borough of Monroeville (formerly Township of Patton), Allegheny County and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center line of the New William Penn Highway distant Westwardly from the Easterly line of the larger tract formerly owned by Gravity Fill Service Station, Inc., two thousand fifty-four and fifty-two hundredths (2054.52) feet, said beginning point also being the center line of a fifty (50) foot street known as Fox Road; thence along the center line of said Fox Road South 3° 49' 30" East, a distance of eight hundred ninety-one and eighty-one hundredths (891.81) feet to a point on the northerly line of the Fox Plan of Lots; thence by the line of the Fox Plan et al., North 88° 29' West, two hundred ninety-three and twenty-eight hundredths (293.28) feet to an iron pin; thence North 88° 25' West, four hundred eighty-nine and seven hundredths (489.07) feet; thence North 3° 49' 30" West, nine hundred sixteen and twenty-three hundredths (916.23) feet to the center line of the William Penn Highway aforesaid; thence along the center line of said Highway, by a line curving to the right having a radius of seventeen thousand one hundred eighty-eight and seventy-six hundredths (17188.76) feet, a distance of six hundred eighty and ninety-seven hundredths (680.97) feet to a point of tangency; thence still by the center line of said Highway, South 85° 41' East, one hundred four and three hundredths (104.03) feet to the place of beginning, and containing sixteen and two hundred seventeen thousandths (16.217) acres, including the roads, or a net area of fifteen (15) acres, be the same more or less, but subject to all legal highways.

SECTION 3. Any Ordinance or part of an Ordinance conflicting with the terms of this ordinance be and the same is hereby repealed.

ORDAINED AND ENACTED into law in Council this 18th day of October, 1960.

ATTEST:

Secretary

President of Council

EXAMINED AND APPROVED by me this

day of

Burgess