

ORDINANCE NO. 407

AN ORDINANCE OF THE BOROUGH OF MONROEVILLE, ALLEGHENY COUNTY, PENNSYLVANIA, AUTHORIZING AN AGREEMENT BY AND AMONG THE BOROUGH OF MONROEVILLE, THE TOWNSHIP OF WILKINS, THE BOROUGH OF CHURCHILL, THE BOROUGH OF TURTLE CREEK, AND THE ALLEGHENY COUNTY SANITARY AUTHORITY PROVIDING FOR THE CONSTRUCTION, MAINTENANCE AND REPAIR OF A JOINT INTERCEPTING SEWER IN THOMPSON RUN, AND AUTHORIZING PAYMENT THEREFOR.

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

SECTION 1: The President of Council and the Borough Secretary are hereby authorized, empowered and directed to enter into, execute, attest and deliver, for and in behalf of the Borough of Monroeville, an agreement with the Boroughs of Churchill, Turtle Creek, the Township of Wilkins, and the Allegheny County Sanitary Authority in substantially the following form:

Thompson Run Intercepting
Sewer and Appurtenances

A G R E E M E N T

THIS AGREEMENT, dated as of the first day of August 1963 and executed in six copies

by, between and among

BOROUGH OF MONROEVILLE,

TOWNSHIP OF WILKINS,

BOROUGH OF CHURCHILL,

BOROUGH OF TURTLE CREEK,

all located in the County of Allegheny, Pennsylvania and herein called "Monroeville", "Wilkins", "Churchill" and "Turtle Creek Borough", respectively, and referred to individually as "Municipality" and collectively as the "Municipalities",

and

ALLEGHENY COUNTY SANITARY AUTHORITY,

a municipal authority organized and existing under the Municipality Authorities Act of 1945 as amended, herein called the "Sanitary Authority",

WITNESSETH:

WHEREAS, The parties hereto entered into an agreement dated as of February 1, 1961 (herein called the "Design Agreement") under which the Sanitary Authority has prepared, at the expense of the Municipalities, detailed construction plans and specifications (herein called "plans") for an intercepting sewer and appurtenances in Thompson Run (herein called the "Thompson Run Sewer"); and

WHEREAS, Such plans have been approved by the State Sanitary Water Board, and construction can begin as soon as financing is assured; and

WHEREAS, The Municipalities have requested the Sanitary Authority to construct such sewer for them in accordance with such plans; and

WHEREAS, For the reason, among others, that the Municipalities should have constructed an intercepting sewer in Thompson Run prior to June 1, 1959 (when the Sanitary Authority's Sewage Treatment System went into operation), the Sanitary Authority is willing to comply with their request

- (a) provided that it will not in any way financially obligate itself or any of the 67 other Municipalities it serves to pay any part of the cost of the Thompson Run Sewer, and
- (b) only if and after it has received, or been adequately assured of receiving, the full estimated construction cost;

and

WHEREAS, The Thompson Run Sewer will connect into the Sanitary Authority's Turtle Creek intercepting sewer at the mouth of Thompson Run, and will be used as follows:

- (a) from Station 0 + 00 to Station 44 + 52--by all four Municipalities,
- (b) from Station 44 + 52 to Station 88 + 13--by Churchill, Wilkins and Monroeville,
- (c) from Station 88 + 13 to Station 151 + 36--by Wilkins and Monroeville, and
- (d) from Station 151 + 36 to Station 199 + 50--by Monroeville alone;

and

WHEREAS, A Federal grant in the amount of \$324,472 has been approved under the Accelerated Public Works Act in behalf of Turtle Creek Borough, Churchill and Wilkins for 50% of the estimated construction cost of the portion of the sewer that extends from Station 0 + 00 to Station 151 + 36, and a second Federal grant in the amount of \$35,141.10 is being applied for under the Water Pollution Control Act in behalf of Monroeville for 30% of the estimated construction cost of the portion of the sewer that extends from Station 151 + 36 to Station 199 + 50; and

WHEREAS, Certain corporations that will be served by the Thompson Run Sewer have promised to make contributions toward its construction cost; and

WHEREAS, The Municipalities have agreed that all grants-in-aid shall be applied in reduction of the gross cost of the entire sewer, and have agreed to pay the remaining cost in proportion to each Municipality's use of entire sewer, as more fully set forth hereinafter,

NOW, THEREFORE, The parties hereto, each intending to be legally bound, covenant and agree as follows:

Section 1. The Design Agreement--executed pursuant to Monroeville Ordinance No. 294, Wilkins Ordinance No. 288, Turtle Creek Borough Ordinance No. 845, Churchill Ordinance No. 262, and Sanitary Authority Resolution adopted August 10, 1961--is by reference incorporated in and made part of this agreement, including particularly the preamble of said Design Agreement which recites the purpose of and need for the Thompson Run Sewer. Reference is also made to the Sanitary Authority's report dated December 18, 1959, as modified by Wilkins' assumption of the share allocated to Penn Hills Township.

Section 2. The Municipalities hereby designate and appoint the Sanitary Authority as their agency to construct, maintain and repair the Thompson Run Sewer for them, and the Sanitary Authority hereby agrees to act as such agency under the terms of this agreement.

Section 3. The Municipalities agree that the Thompson Run Sewer is a joint project that will benefit all of them; that such benefit will be in proportion to each Municipality's use of the entire sewer; and that each Municipality's proportion of the total cost of the entire sewer, based upon such use, is as follows:

Monroeville	70.64%
Wilkins	23.91%
Churchill	2.05%
Turtle Creek Borough	<u>3.40%</u>
Total	100.00%

The Municipalities therefore agree:

- (a) that all grants-in-aid (from any source) received by the Sanitary Authority in behalf of any one or more of them for any portion of the Thompson Run Sewer shall benefit all of them in said proportions;
- (b) that any grant or contribution received by any of them from any source toward the cost of the sewer shall be turned over to the Sanitary Authority, which shall credit all the Municipalities for the amount thereof in the percentages above set forth; and

- (c) that each Municipality will bear and pay its aforesaid percentage of all remaining costs and expenses relating in any way to any and every portion of the sewer.

Section 4. The Municipalities agree to pay to the Sanitary Authority, and the Sanitary Authority agrees to accept as compensation in full for all its services performed under the Design Agreement and to be performed by it hereunder until the completion of construction of the Thompson Run Sewer, the sum of Sixty Thousand Dollars (\$60,000), as follows:

\$40,000.00 for engineering services

5,000.00 for legal services

15,000.00 for administrative and fiscal services

Total \$60,000.00

The Municipalities shall pay said sum of \$60,000 to the Sanitary Authority not later than ten (10) days after the execution of this agreement, in the proportions set forth above in Section 3, less sums previously paid by them under the Design Agreement, namely:

		<u>Gross Amount</u>		<u>Am't paid under Design Agreement</u>		<u>Net Amount to be paid</u>
Monroeville	70.64%	\$42,384.00	-	\$14,140.00	=	\$28,254.00
Wilkins	23.91%	14,346.00	-	7,627.50	=	6,718.50
Churchill	2.05%	1,230.00	-	724.50	=	487.50
Turtle Creek Borough	<u>3.40%</u>	<u>2,040.00</u>	-	<u>2,500.00*</u>	=	<u>0.00</u>
	100.00%	\$60,000.00		\$25,000.00		\$35,460.00

*This \$460.00 overpayment shall be deducted from the amount to be paid by Turtle Creek Borough under Section 5 below.

The parties agree that the Sanitary Authority shall not be required to account for or to return to the Municipalities any portion of the aforesaid \$60,000.00, and that the Municipalities shall not be required to add thereto.

Section 5. Upon receipt of said additional sum of \$35,460.00, the Sanitary Authority shall promptly advertise, and if necessary readvertise, for bids for the construction of the Thompson Run Sewer.

As soon as possible after opening the construction bids, the Sanitary Authority shall submit to the Municipalities a report and recommendation for the award of the construction contract to the lowest responsible bidder. Such report shall set forth the total cost of the project and the portion thereof to be advanced to the Sanitary Authority by the Municipalities. The total cost will include--in addition to the contract

price of the construction contract and other costs as estimated by the Sanitary Authority--10% more as a reserve for contract extras and unforeseeable expenditures. The amount to be advanced by the Municipalities shall be such total cost minus the aggregate of (a) the \$60,000.00 mentioned above in Section 4, (b) the estimated total amount of approved Federal grants-in-aid and (c) any amounts actually received by the Sanitary Authority as contributions from others toward the cost of the Thompson Run Sewer.

The Municipalities agree to advance the total net sum to the Authority, in the proportions set forth above in Section 3, within thirty (30) days after receipt of the Sanitary Authority's report and recommendation, so that the Sanitary Authority may award the construction contract within sixty (60) days after having opened the bids therefor.

The Municipalities understand the need for speedy payment of the sums provided for in Sections 3 and 4 hereof (in order to assure the receipt of the 50% APW Federal grant, which is conditioned upon the start of construction within 120 days after the receipt by the Sanitary Authority of the APW Grant Offer). If any Municipality fails to pay its share promptly, one or more of the other Municipalities shall have the right to advance such share and receive repayment thereof from the delinquent Municipality.

The Sanitary Authority shall not be obliged to proceed further unless and until the Municipalities have advanced all such moneys in time to assure the complete financing of the entire construction cost.

Section 6. Promptly after the timely receipt of such moneys from the Municipalities, the Sanitary Authority shall award the construction contract and supervise the construction work with due diligence until the completion of the Thompson Run Sewer.

The Sanitary Authority shall keep full records of all costs of constructing the Thompson Run Sewer (except those of the Sanitary Authority itself, for which the Municipalities have agreed to pay \$60,000.00, as provided above in Section 4). All moneys received by it for such purpose shall not be expended for any other work, project or purpose.

The Sanitary Authority shall not be obliged to expend any of its own funds to pay any construction costs. If the cost of construction exceeds the total amount received by the Sanitary Authority from the Municipalities and others, the additional cost shall be advanced to the Sanitary Authority by the Municipalities, in the proportions set forth above in Section 3. Similarly, any unexpended funds remaining in the hands of the Sanitary Authority after payment of all construction costs shall be refunded to them in the same proportions (except the unexpended portion, if any, of the aforementioned \$60,000.00).

Section 7. All real estate and easements required for the Thompson Run Sewer shall be acquired promptly by the Municipalities so that construction may proceed without delay. Each Municipality shall at its own cost and expense purchase or condemn such thereof as may be located within its corporate limits, but the total cost of all the required land and easements shall be borne by all the Municipalities in the proportions set forth above in Section 3; any overexpenditure by any Municipality shall be reimbursed to it by the others in order to accomplish the proper sharing of such total cost. The Sanitary Authority will assist the Municipalities by providing each Municipality with legal descriptions of the required land and easements within its corporate limits.

Section 8. Upon completion, the entire Thompson Run Sewer shall be owned jointly by all the Municipalities. Each Municipality shall have the percentage ownership interest listed above in Section 3, and each shall be responsible for the payment of its said share of the total cost of maintaining, repairing and renewing the sewer regardless of the location of the portion of the sewer that may require maintenance, repair or renewal. If any Municipality shall at any time expend more than its share of the cost thereof, by reason of the failure or refusal of any other Municipality to pay its own share promptly, such first Municipality shall be entitled to reimbursement of its overexpenditure from the delinquent Municipality or Municipalities.

Section 9. After the Thompson Run Sewer has been completed, it shall be maintained, repaired, renewed and reconstructed by the Sanitary Authority. If necessary, the Sanitary Authority shall prepare plans and specifications for major repairs or renewals, advertise for and award contracts therefor, and supervise the construction or repair work, in like manner as for the original construction of the Thompson Run Sewer.

It is expressly understood and agreed that the Sanitary Authority shall not be obliged to perform any of such services unless and until all moneys required to pay the cost thereof, as estimated by the Sanitary Authority and requested in writing by it, shall first have been received from the Municipalities. Monroeville, Wilkins, Churchill and Turtle Creek Borough hereby agree to advance such cost to the Sanitary Authority promptly, in the proportions set forth above in Section 3.

To enable the Municipalities' officials to provide therefor in their budgets, the Sanitary Authority shall prepare and submit to Monroeville, Wilkins, Churchill and Turtle Creek Borough annually, on or before the first day of October, an estimate of the cost of maintaining the Thompson Run Sewer during the ensuing calendar year, together with an estimate, if the need therefor can be foreseen, of the cost of repairs or renewals to be made during such year.

The Sanitary Authority shall keep records, separate and apart from its other books, records and accounts, of all costs and expenses having to do with operation, maintenance and repair of the Thompson Run Sewer, including the cost of its own personnel's salaries or wages for time spent thereon. All moneys advanced by the Municipalities for such purpose shall not be expended by the Sanitary Authority for any other work, project or purpose.

Section 10. The Municipalities covenant and agree that they shall be jointly responsible, in the proportions set forth in Section 3 hereof, for all damages that may result from the construction, operation and maintenance of the Thompson Run Sewer, including damages caused by the overflow of surface waters. The Sanitary Authority shall in no event be liable therefor, and the Municipalities jointly and severally covenant to indemnify the Sanitary Authority for, defend it against, and hold it harmless from all loss, cost, damage and expense. If any Municipality is required to pay damages in excess of its said proportions thereof, it shall be entitled to receive from the other Municipalities the portions thereof for which such other Municipalities are hereby made responsible.

Section 11. The Municipalities understand and agree that the Sanitary Authority shall in no event be obliged or forced to expend any of its own funds for or in connection with the Thompson Run Sewer, and they jointly and severally covenant to indemnify the Sanitary Authority for, defend it against, and hold it harmless from any and all loss, cost, damage and expense resulting from or arising out of its performance of any services relating to the Thompson Run Sewer.

Monroeville, Wilkins, Churchill and Turtle Creek Borough covenant and agree, with the Sanitary Authority and with each other, to advance to the Sanitary Authority promptly their respective shares of the cost of construction, maintaining, repairing, renewing and reconstructing the Thompson Run Sewer.

If, in order to avoid delay in the work, any Municipality advances to the Sanitary Authority part or all of the share owing by one of the other Municipalities, the Municipality advancing such money in behalf of the other shall have the right to recover the same plus interest from the defaulting Municipality.

Section 12. This agreement incorporates the final understanding and agreement of the parties regarding the Thompson Run Sewer. It shall supersede all prior agreements, including particularly the Design Agreement, to the extent of any inconsistency with the provisions hereof.

IN WITNESS WHEREOF this agreement has been executed and delivered by the Borough of Monroeville pursuant to its Ordinance No. _____ duly enacted and approved on the _____ day of August, 1963.

Attest:

BOROUGH OF MONROEVILLE

Borough Secretary

By _____
President of Council

Approved as to form:

Borough Solicitor

by the Township of Wilkins pursuant to its Ordinance No. _____ duly enacted and approved on the _____ day of August, 1963.

Attest:

TOWNSHIP OF WILKINS

Township Secretary

By _____
President of the Board
of Township Commissioners

Approved as to form:

Township Solicitor

(Signatures continued on next page)

by the Borough of Churchill pursuant to its Ordinance No. _____ duly enacted and approved on the _____ day of August, 1963.

Attest:

BOROUGH OF CHURCHILL

Borough Secretary By _____
President of Council

Approved as to form:

Borough Solicitor

by the Borough of Turtle Creek pursuant to its Ordinance No. _____ duly enacted and approved on the _____ day of August, 1963.

Attest:

BOROUGH OF TURTLE CREEK

Borough Secretary By _____
President of Council

Approved as to form:

Borough Solicitor

and by Allegheny County Sanitary Authority pursuant to Resolution duly adopted by its Board on the _____ day of August, 1963.

Attest:

ALLEGHENY COUNTY SANITARY AUTHORITY

Secretary By _____
Chairman

Approved as to form:

Chief Counsel

SECTION 2: The sum of \$28,254.00 is hereby appropriated for the purpose of paying the Borough's obligation contained in Section 4 of said agreement.

SECTION 3: The proper officers of the Borough of Monroeville are hereby directed to enter into an agreement with the Municipal Authority of the Borough of Monroeville in order to finance the construction of the said sewer facilities by the same authority.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

ORDAINED AND ENACTED INTO AN ORDINANCE THIS 14th DAY OF AUGUST, 1963.

BOROUGH OF MONROEVILLE

By S/A. O. Strathern
President of Council

Attest:

S/Gladys Diller

Examined and approved by me this 14 day of August, 1963.

S/John J. Duncan
Mayor