
EXHIBIT F41

MANAGEMENT AGREEMENT, DATED DECEMBER 1, 1973,
BY AND AMONG DELCORA AND
AND DARBY CREEK JOINT AUTHORITY

MANAGEMENT
AGREEMENT

BETWEEN

DELAWARE COUNTY REGIONAL
WATER QUALITY CONTROL AUTHORITY

AND

DARBY CREEK JOINT AUTHORITY

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT is entered into as of the First Day of December 1973, between DELAWARE COUNTY REGIONAL WATER QUALITY CONTROL AUTHORITY ("DELCORA"), a Municipality Authority organized by the County of Delaware (the "County") under the provisions of the Municipality Authorities Act of 1945 of Pennsylvania, as supplemented and amended (the "Act"), and DARBY CREEK JOINT AUTHORITY ("DCJA"), a Municipality Authority organized under such Act by certain municipalities in said County.

RECITALS:

A. DCJA owns, operates and maintains a Wastewater Treatment plant (the "DCJA Treatment Plant" as hereinafter defined) serving the Boroughs of Aldan, Clifton Heights, Collingdale, Colwyn, Darby, Folcroft, Lansdowne, Sharon Hill and Yeadon and the Townships of Darby, Springfield and Upper Darby (the "Member Municipalities") under various agreements (the "DCJA Service Agreements" as hereinafter defined) and the Radnor-Haverford-Marple Sewer Authority (the "R-H-M Authority") under an agreement dated July 1, 1968. DCJA's interest in the revenues from the DCJA Treatment Plant has been assigned to the Philadelphia National Bank, as Trustee (the "Trustee") under the Darby Creek Joint Authority Trust Indenture dated October 1, 1952 (the "1952 Trust Indenture").

B. DELCORA intends to construct, operate and maintain a system of pump stations and force mains (the "Eastern Delaware County Conveyance System" as hereinafter defined) to convey sewage and industrial wastes from the

Eastern Delaware County service area (as hereinafter defined), including the DCJA service area, to the City of Philadelphia's Southwest Water Pollution Control Plant (the "City Plant") for treatment therein.

C. DELCORA and DCJA have entered into a Service Agreement dated as of December 12, 1973 (the "DELCORA - DCJA SERVICE AGREEMENT") providing, inter alia, that until the completion of expansion of the City Plant adequate to accommodate all sewage emanating from the R-H-M Authority and DCJA Member areas, DCJA will continue to operate, maintain and repair its existing Treatment Plant, so that it will be at all times in efficient operating condition and in compliance with the standards prescribed by all appropriate regulatory agencies. Such agreement provides further that, upon completion of such expansion, DCJA will use its best efforts to obtain regulatory approvals to terminate operation of the DCJA Treatment Plant. It is the contemplation of the parties by said agreement that ultimately, when adequate treatment capacity is available at the City Plant and the long term obligations of DCJA have been paid in full, the DCJA Treatment Plant will cease operation and thereafter all sewage and industrial waste emanating from the DCJA Members and the R-H-M Authority service areas will be conveyed by DELCORA through the Eastern Delaware County Bypass System for treatment at the City Plant.

D. Article VIII of the DELCORA - DCJA Service Agreement provides that DCJA shall have the option to have DELCORA manage, operate and maintain the DCJA Treatment Plant until the DCJA Treatment Plant is phased out or until DCJA requests the termination of such services, whichever first occurs.

E. DCJA has determined that it would be advisable and in the best interests of its Member Municipalities and the R-H-M Authority to have the DCJA Treatment Plant managed by DELCORA, and DELCORA is willing to perform such services upon the terms hereinafter set forth.

F. Entry of this Agreement has been duly authorized by a resolution duly enacted by DCJA and by a resolution duly adopted by DELCORA.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

I. Services of Manager

1.01 DCJA hereby appoints DELCORA as General Manager of the DCJA Treatment Plant, and DELCORA accepts such employment, upon the provisions hereof.

1.02 Subject to the general supervision and control of DCJA, in the exercise of its public duties under the law, DELCORA will perform the following services with respect to the DCJA Treatment Plant:

- (a) supervision of all phases of operation, maintenance and repair;
- (b) designating from time to time the types and classes of personnel required for the proper operation, maintenance and repair of the facilities, establishing job specifications designating the duties and qualifications for each position and fixing and establishing rates of compensation;
- (c) employing, from time to time, competent, qualified persons to fill the positions specified by DELCORA and approved by DCJA for operation, maintenance and repair of the Treatment Plant;

- (d) purchasing of all requisite materials, supplies and services necessary for the proper operation, maintenance and repair of the DCJA Treatment Plant except for insurance insuring the DCJA Treatment Plant against loss from fire, extended coverage, physical damage and for liability, which shall remain the responsibility of DCJA;
- (e) entering into contracts for work and services required for maintenance and repairs to the DCJA Treatment Plant;
- (f) retaining of professional advisors, including consulting engineers, counsel and auditors;
- (g) keeping of all records and accounts and furnishing monthly to DCJA operating statements showing in reasonable detail all revenues and expenses;
- (h) preparation and submission to DCJA for its consideration and approval of a budget for the operation, maintenance and repair of the DCJA Treatment Plant to be filed with the DCJA promptly after the execution of this agreement, and preparation and submission of similar budgets on an annual basis during each renewal term hereof, provided that supplemental budgets may be filed from time to time for the remainder of any current year;
- (i) preparation and transmission, in the name of DCJA, of all bills for sewer rents and service charges and the collection of delinquent accounts on behalf and in the name of DCJA. All amounts

collected, less reasonable amounts for the cost of collection, shall be deposited in the accounts of DCJA under the 1952 Trust Indenture and the DCJA Service Agreements.

- (j) perform such other services in connection with the DCJA Treatment Plant as DCJA may from time to time reasonably request, subject to the provisions hereof.

II. Agreements of DCJA

2.01 DCJA agrees to accept the recommendations of DELCORA from time to time on the following matters in connection with the DCJA Treatment Plant and DCJA Interceptor Sewer System, unless by a majority vote of its Board DCJA shall adopt a resolution determining not to accept such recommendations and setting forth the reasons for such action;

- (a) the general operation, maintenance and repair of the DCJA Treatment Plant including but not limited to DELCORA's recommendations of the types, classification, duties and compensation of personnel and the purchasing of materials, supplies and services required for such operation, maintenance and repair;
- (b) making of replacements and ordinary improvements to the DCJA Treatment Plant to the extent that they can be made without additional financing;
- (c) the awarding of contracts by DELCORA for work or services required for maintenance, repairs, replacements or ordinary improvements to the DCJA Treatment Plant.

2.02 DCJA agrees that it will not make any extensions of or improvements to the DCJA Treatment Plant without the approval of DELCORA, which approval shall not be unreasonably withheld.

2.03 Since DELCORA is acting solely as agent for DCJA, all costs incurred by DELCORA in performing its obligations hereunder ultimately will be the sole liability of DCJA. DCJA agrees to indemnify and hold harmless DELCORA in connection with such costs and also in connection with all damages, loss or liability incurred by DELCORA in connection with its duties hereunder, except those resulting from DELCORA's willful misconduct or gross negligence.

2.04 DCJA will continue to operate, maintain and repair its system of interceptors at its own expense, pending the execution of subsequent agreement.

III. Fiscal Arrangements

3.01 The proposed annual Budget required pursuant to Section 1.02 (h) above shall be submitted by DELCORA to DCJA in sufficient detail and with suitable supporting data by July 1, of each year. DCJA shall have until September 1, of each year to approve the budget as submitted or to reject the budget as submitted. If the budget is rejected, DCJA shall state in sufficient detail the items deemed unacceptable and the reasons therefore. The parties shall then endeavor to resolve any disputed items and complete a Budget acceptable to both parties by October 1, of each year. In any event, if a budget has not been approved by DCJA by October 1, of any year, this Agreement shall automatically terminate without notice by either party at the expiration

of the current term thereof. Supplemental Budgets submitted by DELCORA shall be approved or rejected by DCJA in the same manner within thirty (30) days of receipt thereof by DCJA. The failure of DCJA to approve a Supplemental Budget shall relieve DELCORA from any liability for its failure to perform any service or do any thing for which an additional expenditure was recommended in the proposed Supplemental Budget.

3.02 There is hereby created the "DCJA Operating Fund" which shall be held in the name of DELCORA by a bank satisfactory to both parties hereto. Funds deposited in said account shall be withdrawn by DELCORA from time to time in payment of the obligations of DELCORA incurred in the performance of its duties under this Agreement solely upon the signatures of such of its officers as DELCORA shall by resolution duly authorize and direct.

3.03 From the DCJA Operating Fund, DELCORA shall pay all direct costs of operating, maintaining and repairing the DCJA Treatment Plant and of performing its obligations under this Agreement. DELCORA shall also reimburse itself periodically from the DCJA Operating Fund for the proportionate share of its General Administrative Expenses (as hereinafter defined) attributable to performing its obligations under this Agreement. At the time of each such reimbursement, DELCORA will send DCJA a statement showing the computation of such reimbursement.

3.04 Periodically DCJA shall reimburse DELCORA for the expenses of operating, maintaining and repairing the Treatment Plant. Such payment shall be made by DCJA to DELCORA monthly upon receipt by DCJA of a statement from

DELCORA showing the amounts expended by DELCORA during the preceding month of operation, maintenance and repair of the Treatment Plant and reimbursement of its proportionate share of administrative expenses.

3.05 No payments shall be made from the DCJA Operating Fund for any purpose other than as specified herein, or for particular categories of expenses in excess of the amounts provided therefore in the current budget on file with DCJA and approved by DCJA pursuant to Section 1.02 (h) and Section 3.01 above. No expenditure will be made in excess of \$1,500.00 except with the prior approval of DCJA.

IV. Use of DCJA Facilities and Equipment

4.01 DELCORA shall have the unrestricted right, liberty and privilege to use and employ all plant, property and equipment owned or leased by DCJA including, but not limited to office equipment, plant equipment, laboratory equipment, vehicles, tools, parts and supplies in and for the operation, maintenance and repair of the DCJA Treatment Plant. Current leases for office and other equipment held by DCJA shall be assigned to DELCORA for the balance of their current terms. Upon such assignment, DELCORA shall assume the obligation for any payments remaining under said leases.

V. Employment of DCJA Personnel Etc.

5.01 As of January 1, 1974, all management, administrative, supervisory, technical, operation and maintenance personnel employed by DCJA in connection with the Treatment Plant will become employees of DELCORA and cease to be employees of DCJA. DELCORA agrees to employ such persons, to the extent necessary in its sole discretion, in the management and administration of its general business and activities, in the operation and maintenance

of the DCJA Treatment Plant or in the operation and maintenance of other facilities owned and operated by DELCORA or which it manages for others under a Management Agreement with the owners thereof. The assignment or reassignment of any person to a particular position or facility and the matter of compensation and other benefits shall be determined by DELCORA at its discretion, subject only to the provision of Sections 5.02 and 5.03 hereof.

5.02 DCJA will use its best efforts to terminate the agreement between DCJA and Teamsters Local #513 dated November 1, 1972, (the "Union Agreement") and any amendment or extension thereof in the manner provided under the terms thereof on or before December 31, 1974. If, however, DCJA is unable to terminate said Union Agreement by said date, DELCORA shall accept and assume all of DCJA's responsibilities under said Union Agreement as of January 1, 1974, and thereafter shall become the Employer as defined in said Agreement. After January 1, 1974, DCJA will not bargain for or agree to any amendment, change, alteration or modification of the terms and conditions of said Union Agreement in effect on that date except with the express written consent of DELCORA.

5.03 On January 1, 1974, DCJA will assign to DELCORA which hereby agrees to accept, all right, title, interest in and responsibilities under the Darby Creek Joint Authority Employees Retirement Plan as adopted July 19, 1964, and last amended May 12, 1971, (the "Pension Plan") and the Trust Agreement between DCJA and Girard Trust Bank as Trustee, dated March 1, 1964,

(the "Pension Trust Agreement") including all policies of insurance and other funds held by the Trustee. All employees in the Pension Plan, and all plant employees of DCJA on December 31, 1973, who are eligible to become participants on March 1, 1974, under the terms of the Pension Plan shall continue as participants and be eligible for all benefits under and subject to the terms and conditions of the Pension Plan until it is terminated, supplemented or amended as hereinafter provided. DELCORA agrees not to terminate said Pension Plan or Pension Trust Agreement unless or until:

- (1) DELCORA has adopted and established a new Pension Plan for its employees, including those covered hereby, providing benefits at least equal to those provided by the DCJA Pension Plan;
- (2) the DCJA Pension Plan has been amended by DELCORA to cover all of its employees, including those covered hereby under the DCJA Pension Plan; or
- (3) all the DCJA Plant employees who are participants on December 31, 1973, or are eligible to become participants on March 1, 1974, have retired and received their benefits as provided under the Pension Plan or their employment by DELCORA is terminated and they have received all benefits payable upon termination under the terms of the Pension Plan. The amount which DELCORA shall be required to contribute each year during the time it manages the DCJA facilities as provided herein toward Pension Benefits for all participants who are assigned by DELCORA to the operation and main-

tenance of the DCJA Plant and Interceptor Sewer System shall be included in the DCJA operating costs as provided under this Management Agreement. The amount contributed by DELCORA each said year toward Pension Benefits for participants assigned by DELCORA to management, administration or general supervision of its business and activities shall be considered administrative expenses as defined by the DELCORA - DCJA Service Agreement. The amount contributed by DELCORA each said year toward Pension Benefits for participants assigned partly to operation and maintenance of DCJA Treatment Plant as well as other plants managed by DELCORA shall be prorated in an equitable manner among all such facilities in accordance with the proportion of the work performed by such employees at various facilities.

VI. Miscellaneous

6.01 Each party shall provide each other from time to time all information relevant to the proper administration of their responsibilities under this Agreement, or in respect to the interpretation hereof, as and in such form and detail as may be reasonably requested and each shall at all reasonable times and from time to time permit their respective representatives to examine and inspect their respective records and physical facilities relevant to the subject matter of this Agreement.

6.02 DELCORA shall not be liable for any act or omission in connection with the DCJA Treatment Plant or the performance of its duties hereunder, except for willful misconduct or gross negligence.

6.03 Notwithstanding any other provisions of this Agreement (except as provided in 6.02 above), neither party shall be responsible in damages to the other for any failure to comply with this Agreement resulting from an Act of God or riot, sabotage, public calamity, flood, strike, breakdown of the DCJA Treatment Plant, or other event beyond its reasonable control.

6.04 Each party agrees to indemnify and save harmless the other party against all costs, losses or damage on account of any injury to persons or property occurring in the performance of this Agreement due to the negligence of such party or its agent or employees.

6.05 No provisions of this Agreement shall be construed to create any type of joint ownership of any property, any partnership or joint venture, or create any other rights or liabilities except as expressly set forth herein.

6.06 Should any provision hereof for any reason be held illegal or invalid, no other provision of this Agreement shall be affected; and this Agreement shall then be construed and enforced as if such illegal or invalid provision had not been contained herein.

6.07 The headings in this Agreement are solely for convenience and shall have no effect in the legal interpretation of any provision hereof.

6.08 The failure of a party hereto to insist upon strict performance of this Agreement or any of the terms or conditions hereof shall not be construed as a waiver of any of its rights hereunder.

6.09 This Agreement may be executed in any number of counterparts, each of which shall be regarded for all purposes as an original, but such counterparts shall together constitute but one and the same instrument.

VII. Term of Agreement

7.01 The initial term of this Agreement shall commence on January 1, 1974, and continue until December 31, 1974, and it shall be automatically renewed from year to year thereafter unless it is terminated by notice from either party at least ninety (90) days prior to the expiration prior to the then-current term.

7.02 Notwithstanding the foregoing, this Agreement shall terminate upon thirty (30) days prior written notice by DELCORA following any event of default as defined in the above mentioned Trust Indenture.

7.03 Upon termination hereof, all monies in the DCJA Operating Fund shall be promptly paid to DELCORA and DCJA will promptly pay all amounts due to DELCORA hereunder, and all other property, facilities and equipment relating to the DCJA Treatment Plant owned by DCJA shall be delivered to DCJA.

VIII. Definitions

8.01 For the purposes of this Agreement the following terms shall have the following meanings:

(a) "DC Bypass System" shall mean the Pumping Station and force main as defined in the Agreement between DELCORA and DCJA dated as of

(b) "DCJA Service Agreements" Shall mean:

(1) The Agreements between DCJA and its Member Municipalities dated February 15, 1940;

- (2) The Agreement between DCJA and the Borough of Clifton Heights and the Townships of Springfield and Upper Darby dated November 24, 1947;
 - (3) The Agreement between DCJA and its Member Municipalities dated 1951;
 - (4) The Agreement between DCJA and its Member Municipalities dated October 15, 1952, and
 - (5) The Agreement between DCJA and the Borough of Clifton Heights and the Townships of Springfield and Upper Darby dated July 1, 1966.
- (c) "DCJA Service Area" shall mean the area served by DCJA as defined and specified in the DCJA Service Agreements.
 - (d) "Eastern Delaware County Conveyance System" shall mean the System of pumping stations and force mains as defined in the Agreement between DELCORA and DCJA dated as of
 - (e) "Eastern Delaware County Service Area" shall mean the area as defined in the DELCORA - DCJA SERVICE AGREEMENT.
 - (f) "R-H-M Service Area" shall mean the area served by the R-H-M Authority as defined in the Agreement between DCJA and the R-H-M Authority dated as of September 1, 1968.
 - (g) "DCJA Treatment Plant" shall mean collectively:
 - (1) The pumping station constructed by DCJA under the Agreement with its Member Municipalities dated February 15, 1940 and

(2) The Sewage Treatment Plant constructed by DCJA under the

Agreement with its Member Municipalities dated October 15, 1952.

- (h) "General Administrative Expenses" shall mean the cost to DELCORA in hourly wages or proportions of salaries paid to its administrative, supervisory, technical and clerical personnel for time actually devoted by such personnel in connection with the performance by DELCORA of its obligations under this Agreement plus fifty percent to cover fringe benefits and general overhead and plus specifically accountable expenses such as postage, long distance telephone calls, printing, services contracted, etc. Hourly rates for salaried personnel shall be determined by dividing the annual salary by 2080 hours.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officer and their respective seals to be hereunto affixed.

DELAWARE COUNTY REGIONAL WATER QUALITY CONTROL AUTHORITY

By: Joseph F. Saloner
Chairman

ATTEST:

George F. Blessing
Secretary

DARBY CREEK JOINT AUTHORITY

By: Robert Schweitzer
Chairman

ATTEST:

Anthony C. D'Amico
Secretary