
EXHIBIT F44

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

3/13/74

SERVICE AGREEMENT

This Agreement is made 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, and DARBY CREEK JOINT AUTHORITY ("DCJA"), a municipality authority organized by certain municipalities in said County, and existing under said Act.

RECITALS:

A. DELCORA intends to construct, operate and maintain a system of pumping stations and force mains to convey sewage and industrial wastes ("Sewage" as hereinafter defined) from the Eastern Delaware County Service Area (as hereinafter defined), as shown on Exhibit A attached hereto, to the existing Southwest Water Pollution Control Plant (hereinafter called the "City Plant") of the City of Philadelphia (hereinafter called the "City"), for treatment, which plant is subsequently to be expanded by the City, and DELCORA has entered into an agreement with the City for such treatment (the "City Agreement").

B. The above mentioned system of pumping stations and force mains (herein called, collectively, the "Eastern Delaware County Conveyance System"), when completed will constitute a single interconnected system of Sewage conveyance for the Eastern Delaware County Service Area consisting of: (1) a force main extending from the existing treatment plant of Central Delaware County Authority ("CDCA") in Ridley Township (the "CDCA Plant") to the existing facilities of DCJA in Darby Township and a pumping station and related facilities (the "CDCA Pumping Station") adjacent to the CDCA Plant (said force main and Pumping Station being hereinafter collectively called the "Eastern Delaware County By-Pass"); (2) a force main extending from the existing DCJA treatment facilities in Darby Township to the City Plant (hereinafter called the "DC By-Pass") which will carry the Sewage from the entire Eastern Delaware County Service Area to such Plant; (3) a pumping station and related facilities (hereinafter called the "DC Pumping Station") on a tract of land in Darby Township presently owned by DCJA which DCJA proposes to sell and convey to DELCORA (the DC Pumping Station and the DC By-Pass being herein collectively referred to as the "DC By-Pass System"); (4) a pumping station and related facilities (hereinafter called the "Muckinipates Pumping Station") in the Borough of Norwood adjacent to the existing treatment plant (the "MA Plant") of Muckinipates Authority ("MA") including a short force main to deliver Sewage from the MA sewage collection system

through said pumping station to the Eastern Delaware County By-Pass, and (5) a pumping station and related facilities (hereinafter called the "Tinicum Pumping Station") in Tinicum Township.

C. DELCORA intends to construct the DC Pumping Station and DC By-Pass in the immediate future. The Eastern Delaware County By-Pass, the CDCA Pumping Station and the Muckinipates Pumping Station will be constructed at such time in the future as will ensure completion thereof within two years after completion of the DC By-Pass System or concurrently with completion of the expansion of the City Plant (on approximately January 1, 1977), whichever is earlier.

D. The Sewage to be conveyed by DELCORA hereunder will be received by DCJA from its member municipalities (the "DCJA Members"), and from the Radnor-Haverford-Marple Sewer Authority ("RHM") under an agreement between DCJA and RHM dated September 1, 1968 (the "RHM Agreement"). RHM receives Sewage from its member municipalities, Radnor Township, Haverford Township and Marple Township (the "RHM Members") as well as from portions of Newtown Township in Delaware County and Tredyffrin Township in Chester County. Other portions of the Sewage to be conveyed by DELCORA will be received from MA and its member municipalities (the "MA Members"), from CDCA and its member municipalities (the "CDCA Members"), and from Tinicum Township, beginning at various times as proposed by the Engineering Report as hereinafter defined.

E. The facilities which DELCORA proposes to construct and operate and the arrangements contemplated by this Agreement are in accordance with recommendations of an engineering feasibility report (the "Engineering Report") entitled "Delaware County Regional Sewerage Project", dated October 28, 1971 prepared by Albright & Friel, a division of Betz Environmental Engineers, Inc., consulting engineers to DELCORA, and are in conformity with orders of the Delaware River Basin Commission ("DRBC") dated February 23, 1972, docket No. D-72-8CP and of the Pennsylvania Department of Environmental Resources ("DER") dated May 5, 1972.

F. The facilities to be constructed and operated by DELCORA will be undertaken pursuant to various service agreements (the "Service Agreements") containing substantially similar terms and conditions, between DELCORA, on the one part, and DCJA, CDCA, MA, and Tinicum Township Authority, respectively, on the other parts, the first three thereof being executed substantially simultaneously.

G. DCJA proposes to have DELCORA manage, operate and maintain the existing DCJA Treatment Plant and interceptor system (as hereinafter defined), from January 1, 1974 until such time as said treatment plant is phased out as recommended by the Engineering Report, and, ultimately to convey to DELCORA an additional tract of land and the entire DCJA Interceptor System, with the approval of the DCJA Members, at such future date as DCJA may do so under existing agreements and Trust Indentures.

H. Believing it to be in the best interest of the public, particularly the DCJA Members and the RHM members, the parties hereto desire to enter into this agreement to accomplish the foregoing.

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

ARTICLE I

CONSTRUCTION OF DC BY-PASS SYSTEM, EASTERN DELAWARE COUNTY BY-PASS AND MUCKINIPATES PUMPING STATION AND RELATED MATTERS

1.01. Construction of Facilities; Design Capacities.

DELCORA will cause plans and specifications for the DC By-Pass System to be completed with all reasonable dispatch, and upon receipt of the approvals of all governmental agencies making capital grants, shall award construction contracts, and cause the DC By-Pass System to be constructed and completed with reasonable dispatch, all in accordance with said plans and specifications and sound engineering principles.

As soon as possible after construction of the DC By-Pass has been commenced, DELCORA will cause plans and specifications to be prepared and permits, approvals and grants to be obtained for the Eastern Delaware County By-Pass and the Muckinipates Pumping Station, and thereupon DELCORA shall award construction contracts

and cause said By-Pass and Pumping Station to be completed with reasonable dispatch in accordance with said plans and specifications and sound engineering principles. The Eastern Delaware County By-Pass and the Muckinipates Pumping Station shall be completed within two years after completion of the DC By-Pass System, or by January 1, 1977, whichever is earlier.

The DC By-Pass System, the Eastern Delaware County By-Pass and the Muckinipates Pumping Station shall all provide design capacity sufficient to meet the estimated requirements of the respective users thereof in the Eastern Delaware County Service Area, as set forth in the Engineering Report and revised when necessary in the future. Said capacity will be made available by DELCORA to all such users immediately or subsequently, as contemplated by the Engineering Report and the above recitals to this Agreement, on substantially equal terms for all users from time to time as provided in Section 9.03 hereof, the charges for all users being determined in the manner set forth in Article III hereof.

1.02. Review and Inspection. Throughout the term of this Agreement, DELCORA shall cause the Consulting Engineers to make available at reasonable times and places all information concerning the design, construction and operation of the Eastern Delaware County Conveyance System reasonably requested by DCJA which shall have the right at all reasonable times to inspect the construction and operation of said System and all records of DELCORA in respect

thereof.

1.03. City Agreement. DELCORA and the City have entered into the City Agreement for the treatment of sewage from the Eastern Delaware County Service Area at the City Plant, which will provide an initial reserve capacity therein of 16.5 MGD and a subsequent expanded reserve capacity of 50. MGD on or about January 1, 1977. The City Agreement has been submitted to, and approved by DCJA. By its execution of this agreement DCJA acknowledges said approval by it. DCJA hereby irrevocably appoints DELCORA as its agent, with full power to negotiate any supplements or amendments to the City Agreement which may subsequently become necessary, the proposed form of which will be promptly delivered to DCJA, for approval by it prior to execution by DELCORA, provided that if such approval is not given within 60 days after such delivery, then DELCORA will be released from its obligations under Section 2.02 hereof.

1.04. Amendment to RHM Agreement. DCJA will use its best efforts to negotiate with RHM all such changes to the RHM Agreement as may be required to insure to RHM the availability of transportation and treatment facilities through the arrangements contemplated hereby and by the City Agreement.

1.05. Joint Power Supply. In connection with construction of the DC, CDCA and Muckinipates Pumping Stations, DELCORA will construct and provide, at its sole expense, the primary public electric power facilities required for the operation of such Pump-

ing Stations, and if the Consulting Engineers of DELCORA and of the respective parties whose plants adjoin the respective pumping stations jointly determine it is advantageous to do so in a particular case, DELCORA will also construct separate metering facilities, switch gear and power lines to supply (until it is phased out) the existing plant of such party with primary public electric power, the cost of which facilities will not exceed the value of the land referred to in Section 1.06 below. Such equipment shall be so constructed, if possible, that all incoming electric power will be metered and charged to DELCORA by the utility but the respective proportions of the total power consumed by the respective existing plants and new pumping stations can be measured and determined. Each party hereto will pay its proportionate share of the total utility bill as so determined. It is the intent of the parties to effect maximum economy in power costs by means of savings provided by bulk purchasing of electric power, while providing a method to allocate the total cost equitably between DELCORA and the party operating each plant based upon use.

1.06. Conveyance of Land. In order that the DC Pumping Station may be located at a point mutually convenient to the parties, DCJA agrees to convey title, for a nominal consideration, to DELCORA of the tract of land described in Exhibit B attached hereto as a site for said pumping station. ✓

ARTICLE II

DELIVERY AND ACCEPTANCE OF SEWAGE

2.01. Point of Connection; Metering Station; Acceptance of Sewage. The Sewage covered by this Agreement will be delivered by DCJA to DELCORA at a point of connection adjacent to the Muckinipates Pumping Station approved by DELCORA's Consulting Engineers.

DELCORA will construct a metering station at or near said point of connection and operate and maintain the same at its expense (which will then become a part of the "Operating and Capital Costs" as defined in Section 3.02).

Following the completion of both the enlargement of the City Plant and construction of the DC By-Pass System, the Eastern Delaware County By-Pass and the Muckinipates Pumping Station, during the term of this Agreement all Sewage emanating from the DCJA Members and any direct customers of DCJA shall be delivered by DCJA at the abovementioned connection point (subject to the other provisions hereof) where it will be accepted by DELCORA for conveyance and treatment through the DC Pumping Station, the Eastern Delaware County By-Pass, the DC By-Pass System and the City Plant, subject to the terms of the City Agreement, or by other facilities provided by DELCORA pursuant to Section 2.02.

DCJA shall commence delivering its sewage to the Eastern Delaware County By-Pass as soon as practicable after such facilities

are sufficiently complete to provide service (as certified by DELCORA's Consulting Engineers).

2.02. Additional Capacity. DELCORA agrees to provide at all times during the term of this Agreement, after the date when DCJA commences delivering Sewage pursuant to Section 2.01 above, sufficient conveyance and treatment capacity for all Sewage emanating from the entire Eastern Delaware County Service Area. If, at any time in the opinion of DELCORA'S consulting engineers or as validly determined by any governmental agency having regulatory powers over waste water treatment, such capacity will become inadequate, at a time greater than five years and less than ten years thereafter, to convey the total flows of Sewage emanating from the entire Eastern Delaware County Service Area, DELCORA shall, at its sole expense, design, plan and construct or otherwise provide such additional conveyance and treatment facilities, through supplement to the City Agreement or otherwise, as in the opinion of its Consulting Engineers, or as required by said governmental agencies, are necessary to provide sufficient capacity. No capital contributions will be required from DCJA or the DCJA Members in connection with any of the abovementioned construction without an appropriate supplement hereto executed by each party to be charged, but no supplement or other agreement shall be required prior to any adjustment of rates to recover thereby the cost of such construction.

ARTICLE III

SERVICE CHARGES AND PAYMENTS

3.01. Proportion. DCJA agrees to pay to DELCORA, subject to the other provisions hereof, as a service charge, an amount in respect of each calendar year or portion thereof during which this Agreement is in effect which bears the same proportion to the total of the Operating and Capital Costs (as hereinafter defined) of the Eastern Delaware County Conveyance System as the metered Sewage discharged from DCJA's facilities into the Eastern Delaware County By-Pass during such year or portion thereof bears to the total amount of metered Sewage flowing through the Eastern Delaware County Conveyance System to the City Plant during such year or portion thereof (except as provided in the last sentence of Section 3.02 below).

3.02. "Operating and Capital Costs" shall mean the total of the following items, each such item being determined for the calendar year or portion thereof under consideration: (1) the pro rata share of DELCORA's Administration Expenses (as defined and determined in Section 3.03); (2) all the expenses and costs of effective and reasonable operation, maintenance, repair, renewal or replacement of the Eastern Delaware County Conveyance System, as defined in Section 3.04, and of making all ordinary improvements thereto the costs of which are not otherwise provided for; (3) all amounts which DELCORA is required to pay under the City

Agreement for treatment of Sewage flowing through the DC By-Pass; and (4) all amounts which DELCORA is required to pay from time to time to carry and amortize that portion of its temporary or bonded indebtedness allocable to the "Project Cost", as defined in Section 3.05, of constructing the Eastern Delaware County Conveyance System including required payments to reserve funds, provided that until the CDCA and MA systems are connected to the Eastern Delaware County Conveyance System, but for not longer than two years after the DCJA facilities are connected to said System, such amounts for debt service will be prorated between CDCA, MA and DCJA in accordance with the initial estimated flows from such parties as set forth in Exhibit C attached hereto.

3.03. Administration Expenses. For the purpose of Section 3.02 above, "Administration Expenses" means all the expenses and costs of effective and reasonable administration of the activities and programs of DELCORA for its Regional System for all of Delaware County, including, without limitation reasonable amounts for the following: (a) compensation of Board Members and Officers; (b) salaries and wages of administrative personnel engaged in the general administration and supervision of the Regional System together with the social security and unemployment taxes, health and accident insurance premiums, workmen's compensation insurance premiums and pension benefits applicable thereto; (c) fees of attorneys, consulting engineers, fiscal agents and certified public

accountants for services performed for the entire Regional System as distinguished from services relating to a specific area or project; (d) the cost of liability and similar types of insurance carried for the general protection of DELCORA and its officers, agents and employees; (e) the cost of fidelity bonds covering its officers, agents and employees; (f) the costs of acquiring, constructing, owning, operating and maintaining or leasing such offices or other facilities as DELCORA shall require from time to time for the general administration and conduct of its business and activities; and (g) the cost of all public utility services, equipment, materials and supplies as are required for the operation of the general administration and supervision of its business and activities.

The amount of the total annual Administration Expenses to be charged to the Eastern Delaware County Service Area under Section 3.02 above shall be the same proportion of the said total annual costs as the total annual flows conveyed from the Eastern Delaware County Service Area to the City Plant, bears to the total annual flows in all systems owned or operated by DELCORA as proposed by the Engineering report (measured at the City Plant and all other plants or facilities operated by DELCORA or receiving Sewage from DELCORA for treatment); provided that until at least one municipal system is connected to facilities of DELCORA outside the Eastern Delaware County Service Area, users in the Eastern Delaware

County Service Area shall together pay only five-ninths of the total of such expenses.

3.04. Costs of Operation. For the purposes of Section 3.02 above, expenses and costs of effective and reasonable operation, maintenance, repair, renewal or replacement shall include reasonable amounts for the following: (a) salaries and wages of supervisory and operating or maintenance personnel engaged in operating and maintaining the Eastern Delaware County Conveyance System together with the social security and unemployment taxes, workmen's compensation insurance premiums, health and accident insurance premiums and pension benefits, applicable thereto, prorating such items in accordance with employees' time spent on the Eastern Delaware County Conveyance System, where the same employees also work on other facilities of DELCORA; (b) power, chemicals, fuel, materials, supplies, equipment and tools used or employed for the operation and maintenance of the Eastern Delaware County Conveyance System; (c) costs of maintenance and repairs (including replacements) of said System, including costs of any work done under any contract; (d) the fees and expenses of attorneys, consulting engineers and certified public accountants for services performed in connection with the management, operation and maintenance of the Eastern Delaware County Conveyance System; (e) premiums for insurance on said Eastern Delaware County Conveyance System; (f) the

payments to the City for maintenance and repair of the DC By-Pass under the City Agreement; and (g) all other costs and expenses reasonably incurred and properly allocable, under sound accounting principles consistently applied, to the operation, maintenance, repair and replacement of the Eastern Delaware County Conveyance System, as it may be constituted from time to time.

3.05. "Project Cost", for purposes of Section 3.02 above, shall include the following items with respect to the Eastern Delaware County Conveyance System; (a) obligations incurred for labor and to contractors, builders and materialmen in connection with construction; (b) the reasonable administration expenses of DELCORA allocable to such project, and interest on DELCORA's bonds, both during the construction period; (c) the cost of acquiring by purchase and the amount of any award or final judgment in any proceedings to acquire by condemnation such lands, property rights, rights-of-way, franchises, easements and other interests as may be deemed necessary or convenient in connection with such project, and the amount of any damages incident to or consequent upon such acquisition or construction; (d) the cost of acquiring any property (real, personal or mixed, tangible or intangible), or any interests therein, necessary or desirable for carrying out such project; (e) the cost of contract bonds and insurance of all kinds which may be required or necessary during the course of any such construction and

which are not paid by the contractor or contractors or otherwise provided for; (f) the fees and expenses of engineers or other experts and the cost of surveys, estimates, plans and specifications and preliminary investigations, and for supervising construction as well as for the performance of all other duties of such engineers or other experts required by or consequent upon the proper performance of any such construction; (g) the fees and expenses of DELCORA's legal counsel for services in connection with the preparation of the Service Agreements and related work; (h) all costs of issuing DELCORA's bonds allocable to construction of the Eastern Delaware County Conveyance System including bond discount, fees of accountants, bond counsel, financial advisors and other experts, trustee's fees, printing and similar financing costs; (i) all costs which DELCORA may be required to pay under the terms of any contract or contracts for such construction; (j) any sums required to reimburse DELCORA, the County or others for advances made for any of the above items, or for any other costs, and for work done by any of them which are properly chargeable to construction of the Eastern Delaware County Conveyance System; (k) any amount which DELCORA may be required or elect to pay to the City as a capital contribution in respect of reserve capacity in the City Plant; and (l) any costs of the type referred to above incurred hereafter in connection with any future expansion of the

Eastern Delaware County Conveyance System pursuant to Section 2.02 above. There shall be deducted in determining such Project Cost all grants received from the Commonwealth of Pennsylvania or the United States of America, or agencies of either, which are allocable to construction of the Eastern Delaware County Conveyance System or expansion of the City Plant.

3.06. Estimates of Service Charges. On or before September 1 of each year, commencing in 1974, DELCORA will prepare and submit to DCJA a statement approved by the Board of DELCORA and its Consulting Engineers showing, in reasonable detail, for the next succeeding calendar year, (1) the estimated Operating and Capital Costs; (2) the estimated total amount and character of Sewage to be transported through the Eastern Delaware County Conveyance System, the estimated amount and character of Sewage emanating from the DCJA facilities to be discharged into the said System; (3) the estimated amounts to be paid DCJA during such year as its estimated share of said Operating and Capital costs; (4) the amount, if any, to be credited against the estimated Operating and Capital Costs for such year as the result of any overpayments or adjustments of payments for any preceding year as provided under Section 3.10 below; and (5) the amount, if any, to be credited against the estimated Operating and Capital Costs as the result of any governmental grants, subsidies or payments actually received by DELCORA under

the provisions of Article VII hereof; and (6) the amount of any prior bill not paid pursuant to Section 3.10, plus interest pursuant to Section 3.11.

3.07. Amended Estimates. In the event of an unusual contingency, an upward revision in the current estimates of Operating and Capital Costs may be made by DELCORA with the approval of DCJA, which approval shall not be unreasonably withheld; provided, however, that the estimate may be exceeded without such prior approval in an emergency directly affecting the operation of the Eastern Delaware County Conveyance System and certified by the DELCORA's Consulting Engineers to require immediate action. Each such party shall make payments in accordance with the revised estimate within sixty (60) days of receipt of notice thereof. In the event a party is not able legally to obtain funds with which to pay all of its share of the increase, any unpaid amount shall be paid by it in the following year together with interest at the rate of six per cent (6%) per annum until paid.

3.08. Payments on Estimates. DCJA agrees to pay its proportionate share of the estimated Operating and Capital Costs for such next succeeding calendar year in four equal installments to be paid on or before February 1, May 1, August 1 and November 1 of such year.

3.09. Audited Statements. DELCORA shall cause to be prepared and certified by a Certified Public Accountant on or be-

fore March 31 of each year commencing in 1974 a report setting forth in reasonable detail (a) the Operating and Capital Costs of the Eastern Delaware County Conveyance System for the preceding calendar year and (b) the share of such Costs and chargeable to DCJA, determined in accordance with the provisions of Sections 3.01 through 3.05 above. Such report shall contain statements setting forth the payments theretofore made by DCJA against its share of the Operating and Capital Costs, the amounts, if any, credited against said share as the result of said governmental grants and subsidies and the amount by which the final charge to DCJA exceeds or is less than the aggregate of the payments and credits theretofore made by or allowed to DCJA on account of such charge.

3.10. Payment of Final Charge; Credit for Overpayments.

If the final charge to DCJA for any calendar year as shown by such certified report differs from the aggregate of the payments and credits theretofore made by or allowed to it based upon the aforesaid estimates, then DCJA will pay to DELCORA the amount of any deficiency within thirty (30) days after the delivery of said certified report, and any excess of such payments and credits on account of estimates over the final charge shall be applied on account of the next succeeding quarterly installments of DCJA's estimated share of the Operating and Capital Costs in chronological order thereof.

3.11. Interest on Late Payments. If DCJA shall not make full payment of any such quarterly installments or additional charge on or before the specified payment date, there shall be added to the amount thereof interest at the rate of six percent (6%) per annum from the due date of such charge to the date on which DELCORA shall receive payment thereof.

ARTICLE IV

MEASUREMENT OF SEWAGE FLOWS

4.01. Installation of Meters. The quantity of Sewage emanating from the DCJA facilities and discharged into the Eastern Delaware County Conveyance System shall be based upon readings of the sewer meter installed pursuant to Section 2.01 above. The quantity of Sewage flowing through the Eastern Delaware County Conveyance System shall be based upon the readings of a sewer meter which will be installed by DELCORA at or near the point where the DC By-Pass discharges into the City Plant.

4.02. Meter Readings, Maintenance and Calibration. DELCORA will record meter readings each day of the Sewage flowing through the first aforesaid meter and the City will record meter readings on the meter at the City Plant, pursuant to the City Agreement. DELCORA will forward a report of all readings to DCJA not less often than quarterly. DELCORA will maintain, or cause to

be maintained, as part of the "Operating and Capital Costs" the aforesaid meters and cause them to be inspected and calibrated at least quarterly for accuracy by the manufacturer thereof or some other company or person qualified to make such inspections.

4.03. Access to Meters. DCJA shall have the right of access to the meters for the purpose of reading them and checking them in place for accuracy, at its expense.

4.04. Missing or Inaccurate Flow Records. In the case of missing or inaccurate flow records due to faulty meter operation or otherwise, an estimate of flows shall be made by DELCORA's Consulting Engineers, based on records of past flow as applied to the current conditions, for use in place of meter readings under Section 4.01.

ARTICLE V

SEWAGE QUALITY RESTRICTIONS

5.01. Uniform Standards. DELCORA will adopt from time to time uniform Sewage quality standards which will also comply with the requirements of the City and all regulatory authorities. DCJA will refrain from discharging or permitting the discharge of Sewage from the DCJA facilities into the Eastern Delaware County Conveyance System that would violate any of such standards.

5.02. Compelling Compliance by Users. DCJA will require

its Members and all other municipalities and authorities from which it accepts Sewage into its facilities to enact and keep in full force and effect at all times ordinances and resolutions prohibiting and providing penalties for the discharge into their respective systems and restrictions, which ordinances and resolutions will also prohibit connection of municipal storm water systems, roof or storm drains, cellar drains or any other sources of underground, surface or storm waters to Sewage collection systems. Such ordinances shall also prohibit and/or regulate the discharge into the respective collection systems by Industries (as hereinafter defined) in the municipalities of Industrial Waste as defined in the applicable resolution of DELCORA. No such municipality or authority shall be permitted by DCJA to make any discharge into its local collection system except in the manner and in accordance with the provisions of said resolution of DELCORA.

5.03. Permits for Industrial Connections. DCJA will submit to DELCORA a copy of each application for a connection by an Industry to the collection systems of any of its said Members or other municipalities or authorities and provide all information required by DELCORA respecting the proposed discharge in order for it to properly consider and act upon the application. Upon request of DELCORA, DCJA will take appropriate means to require any occupant of property discharging Industrial Waste through any connection to any

collection system served by DCJA to provide, at such occupant's own expense, suitable facilities to meter the amount of wastes discharged to the system and to enable samples of such discharge to be collected by DELCORA.

5.04. Sampling Facilities. When requested by DELCORA, DCJA shall install, maintain and operate, at its own expense, for such period of time as requested by DELCORA, Sewage sampling equipment or facilities at or near the point that the DCJA facilities discharge Sewage into the Eastern Delaware County By-Pass, and, upon request of DELCORA, DCJA will have Sewage samples collected and submitted to DELCORA and permit DELCORA to collect Sewage samples.

5.05. Reports of Samples. In the event that any report submitted to DELCORA, stating the results of an analysis of any sample, shall set forth that Sewage discharged from the DCJA facilities violates the quality standards and restrictions of DELCORA, DCJA shall have the right to submit the question to an independent registered professional sanitary engineer, acceptable to DELCORA, for determination, and whose determination of the question shall be final. The expense of such engineering determination shall be borne by DELCORA if the determination is favorable to DCJA, and by DCJA if such determination supports the finding of a violation of the abovementioned standards and restrictions.

5.06. Treatment of Harmful Wastes. If any analysis of samples pursuant to Section 5.04 or Section 5.05 above indicates

that the Sewage discharged by DCJA into the Eastern Delaware County By-Pass requires special treatment or would be harmful to such By-Pass or the City Plant and such analysis is confirmed, if questioned by DCJA as provided above, then upon request by DELCORA, DCJA will either (i) pay DELCORA the entire cost of such special treatment (if the City agrees to carry out such treatment), (ii) provide or require pretreatment of such Sewage in such manner as DELCORA shall specify or (iii) compel disconnection from the collection system of the property from which harmful Sewage is being discharged.

5.07. Reimbursement for Damages from Improper Discharge.

DCJA will pay the cost of any damage to the Eastern Delaware County Conveyance System or the City Plant resulting from discharge of improper Sewage from the DCJA facilities in violation of the above-mentioned quality standards and restrictions, and shall indemnify and hold harmless DELCORA with respect thereto.

ARTICLE VI

OPERATION AND MAINTENANCE OF FACILITIES

6.01. Eastern Delaware County Conveyance System. During the term hereof, DELCORA will continuously operate, maintain and repair the Eastern Delaware County Conveyance System (subject to Section 9.04) or cause it to be maintained and repaired so it will be at all times in efficient operating condition and in compliance

with the standards prescribed by all appropriate regulatory agencies for the purpose of this Agreement.

6.02. DCJA Facilities. Subject to the provisions of Article VIII, until the completion of expansion of the City Plant adequate to accommodate all Sewage emanating from the RHM and DCJA Members' areas, DCJA will continue to operate, maintain and repair the DCJA Plant, its interceptors and other facilities so that they will be at all times in efficient operating condition and in compliance with the standards prescribed by all appropriate regulatory agencies. Promptly upon completion of such expansion, DCJA will use its best efforts to obtain regulatory approvals to terminate operation of the DCJA Plant. Beginning well in advance of the estimated date for such termination, DCJA will use its best efforts to obtain the consent of its Members and RHM approving the conveyance to DELCORA of: (1) the tract of ground owned by DCJA as described on Exhibit D attached hereto, together with the existing buildings, structures, facilities and equipment thereon; (2) the title to all interceptor sewers owned by DCJA; (3) the title to the interceptor sewer owned by the DCJA Members but operated by DCJA under various agreements between DCJA and its Members dated February 15, 1940; (4) the title to two interceptors forming part of the system serving the DCJA service area owned jointly by the Townships of Springfield and Upper Darby; and (5) the RHM By-Pass

sewer owned by RHM; without consideration except for the agreement of DELCORA thereafter to accept full responsibility for operation, maintenance, repair and expansion of such facilities to serve the DCJA Members and the RHM Members, at appropriate charges based on the formulas set forth in this Agreement. Upon obtaining all requisite consents of its Members and regulatory agencies, and subject to the provisions of any presently existing agreements or indentures with its bondholders DCJA will promptly convey its facilities to DELCORA concurrently with termination of operation of the DCJA Plant, upon execution by DELCORA of its agreement accepting the abovementioned responsibilities. Upon completion of said conveyance, the facilities so conveyed will become, for purposes of this and all other Service Agreements, a part of the Eastern Delaware County Conveyance System and the costs of operating, maintaining, repairing, replacing and extending such facilities will be included within the Operating and Capital Costs, as defined in Section 3.02.

6.03. City Agreement. DELCORA will perform all of its obligations under the City Agreement as it may be in force from time to time and enforce the obligations of the City thereunder.

ARTICLE VII

GOVERNMENTAL GRANTS AND SUBSIDIES: PERMITS

7.01. Applications. DELCORA will make proper and timely

applications to the Commonwealth of Pennsylvania and to the United States of America and their appropriate agencies, for all available grants, subsidies or other payments and for all permits and approvals in respect of the construction, acquisition, operation and maintenance of the Eastern Delaware County Conveyance System.

7.02. DELCORA as Agent. Where permitted by law, DCJA hereby appoints DELCORA as its agent to apply, in its name or otherwise, to the Commonwealth of Pennsylvania and to the United States of America and their appropriate agencies and to receive the proportionate share of DCJA of all available grants, subsidies or other payments in respect of the construction, acquisition, operation or maintenance of the Eastern County Conveyance System.

7.03. Application of Grant Proceeds. DELCORA will apply all such grants, subsidies or other payments received by it in respect of construction or acquisition to the cost of construction or acquisition of the Eastern Delaware County Conveyance System, except for annual grants and subsidies which shall be applied as a reduction of Operating Costs.

7.04. Grants for Prior DCJA Expenses. DELCORA will also include in all grant applications, to the extent permitted by the granting agencies, as costs covered thereby, the costs previously incurred by DCJA for the addition to the DCJA Plant which DCJA would have constructed but for the actions culminating in execution of this Agreement. DCJA has given DELCORA an itemized list of these

costs. DELCORA will use its best efforts (not including institution of litigation) to obtain grants in connection with such costs of DCJA, and upon receipt of any capital grants in respect thereof will pay them over to DCJA, which will deposit them in the Bond Redemption and Improvement Fund under its Indenture. Any annual subsidies received by DELCORA in respect of said costs of DCJA shall be paid over to DCJA to assist in operating the DCJA Plant so long as it has bonds outstanding, and thereafter shall be retained by DELCORA to assist with its "Operating and Capital Costs".

7.05. Compliance with Conditions for Grants. Each party will take all such action, within its legal powers, as may be required to comply with applicable laws and regulations relating to Federal and State grants and subsidies, to the end that such grants and subsidies may be obtained for the Eastern Delaware County Conveyance System in the maximum amount, and each party will use its best efforts to obtain similar compliance from Members, users and others.

ARTICLE VIII

MANAGEMENT OF DCJA FACILITIES

8.01. Management of DCJA Facilities by DELCORA. DCJA has previously notified DELCORA that it wishes to have DELCORA

manage, operate and maintain the DCJA Plant beginning on January 1, 1974 as provided in Sections 2.01 and 6.02 above, and the interceptor sewers described in Section 6.02, at the cost of DCJA and as its agent, under a management agreement, the form of which is attached hereto as Exhibit E. Such operation by DELCORA will continue until the DCJA Plant is phased out or until DCJA requests the termination of such services, whichever first occurs.

8.02. [Omitted].

ARTICLE IX

MISCELLANEOUS

9.01. Insurance; Repairs and Reconstruction. DELCORA will insure, or cause to be insured, the Eastern Delaware County Conveyance System, or such parts thereof as are usually insured by the owners and/or operators of sewer systems in the Commonwealth of Pennsylvania to the full insurable value, in a responsible company or companies authorized and qualified to do business under the laws of the Commonwealth of Pennsylvania, against loss or damage by fire and such other risks (including public liability) and casualties and in such amounts as are usually carried on like properties in said Commonwealth. Such insurance policies shall be non-assessable. Immediately upon the occurrence of any loss or damage to any part

of said Conveyance System, whether or not covered by insurance, DELCORA will commence and promptly complete, or cause to be so commenced and promptly completed the repairing, replacement or plans and specifications prepared by its Consulting Engineers and shall collect and apply, or cause to be applied, the proceeds of such insurance to the cost of such repair, replacement or reconstruction.

9.02. Inspection. 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 representatives to examine and inspect their respective records and physical facilities relevant to the subject matter of this Agreement.

9.03. Similar Agreements. DELCORA agrees that it will not, at any time during the term of this Agreement, accept from others Sewage for transportation in the Eastern Delaware County Conveyance System under terms substantially more favorable to such others than those applicable hereunder.

9.04. Force Majeur. Notwithstanding any other provision of this Agreement, neither party hereto 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 City Plant, or other event beyond its reasonable control.

9.05. Indemnity. 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 agents or employees.

9.06 No Joint Ownership. No provision 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.

9.07. Severability. 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.

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

9.09. Effective Date and Term of Agreement. This Agreement shall become effective as of the date hereof and shall remain

in force and effect for a period of forty-nine (49) years from such date, and (subject to appropriate extensions of the period of existence of DELCORA and DCJA and of similar extensions of the other Service Agreements) may be renewed by either party for an additional period of fifty (50) years. If DCJA's existence has been terminated by the time for renewal then such rights may be exercised by a majority of all the present DCJA Members, if then permitted by applicable law.

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

9.11. Counterparts. 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.

9.12. Definitions. For purposes of this Agreement the following terms shall have the following meanings:

(a) "Eastern Delaware County Service Area", shall mean that portion of said County within the boundaries shown on Exhibit A attached hereto, which may be changed by DELCORA only with the approval of CDCA, DCJA, MA, DRBC and DER.

(b) "Industry", shall mean any manufacturing or other industrial plant or commercial establishment located in the Eastern Delaware County Service Area which discharges or proposes to discharge directly or indirectly into the Eastern Delaware County Conveyance System any substantial amount of Industrial Waste (as defined in DELCORA's applicable resolution) or discharges or proposes to discharge in excess of 50,000 gallons per day of other Sewage into said System.

(c) "Sewage", shall mean the normal domestic wastewater from households, business and commercial establishments and from industries, and shall also include water borne wastes from manufacturing, processing, refining, packaging, cleaning or assembling all types of raw materials and industrial, consumer and agricultural products or from any other industrial, utility or commercial operations, which fall within the definition of Industrial Wastes as set forth in DELCORA's applicable resolution, in force from time to time, provided said Waste has been adequately pretreated to comply with said resolution, but Sewage does not include storm runoff or other surface or subsurface drainage waters discharged in violation of the provisions of Section 5.02.

9.13. Successors and Assigns. This Agreement may not be voluntarily assigned by either party without the consent of the other, except that DELCORA's rights to receive payments hereunder may be assigned and pledged to an indenture trustee to secure its bonds. Subject to the foregoing this Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

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

DELAWARE COUNTY REGIONAL WATER
QUALITY CONTROL AUTHORITY

(CORPORATE SEAL)

By John J. O'Malley
Chairman

Attest: Robert K. Shimer
Asst. Secretary

DARBY CREEK JOINT AUTHORITY

(CORPORATE SEAL)

By A. B. Schweizer
Chairman

Attest: Anthony C. D'Annunzio
Secretary

The map displays the service areas of Delaware County. The Eastern Delaware County Service Area is shaded with a cross-hatch pattern and includes numerous small municipalities such as Upper, Lower, and various village areas. The Western Delaware County Service Area is outlined with a solid line and includes areas like Thornbury, Edgmont, and Middletown. Surrounding municipalities include Philadelphia to the east, Camden to the southeast, Gloucester to the south, and various towns in Pennsylvania to the west and north. The Western Regional WTP is located near the southern border of the service areas. A north arrow is in the top left corner.

**DELAWARE COUNTY
SERVICE AREAS**

Exhibit A

DELCORA
11/15/73

Exhibit A

DELCORA
11/15/73

BEGINNING at a point in the line dividing lands of Darby Creek Joint Authority on the South, from lands of Gulf Oil Corporation on the north; said point being at the distance of 635.0' measured S 83° 12'E along said dividing line from its point of intersection with the center-line of Calcon Hook Road; (33' wide) thence extending along said dividing line S 83° 12'E 285' more or less to a point, being the low water line Darby River; (shown in Deed Book No. 1126, Page No. 414) thence extending along various courses of the said low water line in a southerly direction 250' more or less to a point; thence leaving the low water line of the Darby River, and extending through lands of the Darby Creek Joint Authority of which this is a part N 83° 12'W 225' more or less to a point and N 6° 48'E 240.0' to the first mentioned point and place of Beginning.

CONTAINING in Area 1.43 acres of land more or less.

BEING PART OF THE SAME PREMISES which the Philadelphia Brick Company, a Pennsylvania Corporation, by indenture dated February 14, 1940 and recorded in the office for the Recording of Deeds in and for the County of Delaware, at Media, in Deed Book No. 1126, Page No. 414, granted and conveyed unto Darby Creek Joint Authority, in fee.

COMPILED SQUARE APPROX PS

INITIAL ESTIMATED FLOWS IN GALLONS PER DAY

Central Delaware County Authority	11,000,000
Darby Creek Joint Authority	23,000,000
Muckinipates Authority	<u>7,000,000</u>
Total	41,000,000

BEGINNING at a point a corner in the centerline of Calcon Hook Road (33' wide); said point also being the title line dividing lands of Darby Creek Joint Authority on the south from lands of Gulf Oil Corporation on the north; thence extending along said dividing line S 83° 12'E 635.0' to a point; thence extending through lands of Darby Creek Joint Authority of which this was a part S 6° 48'W 240.0' to a point; and N 83° 12'W 635.0' to a point in the aforesaid title line in the centerline of Calcon Hook Road; thence along the same centerline N6° 48'E 240.0' to the first mentioned point and place of Beginning.

CONTAINING in Area 3.498 acres of land more or less.

UNDER AND SUBJECT to all easements and Rights of Way of record.

BEING PART OF THE SAME PREMISES which the Philadelphia Brick Company, a Pennsylvania Corporation, by indenture dated February 14, 1940 and recorded in the office for the Recording of Deeds in and for the County of Delaware, at Media, in Deed Book No. 1126, Page No. 414, granted and conveyed unto Darby Creek Joint Authority, in fee.

REST OF 240' CORNER

SINCE FROM PS 500 TO 1000

Includes Final Dams

Secondary Filling, etc.

Garage, most of 1.4 acre, road, part of
primary recreation center

INITIAL ESTIMATED FLOWS IN GALLONS PER DAY

Central Delaware County Authority

11,000,000

26.8

Darby Creek Joint Authority

23,000,000

17.1
24.9

Muckinipates Authority

7,000,000

Total

41,000,000