
EXHIBIT F90

INTERMUNICIPAL AGREEMENT, DATED NOVEMBER 2,
2017, BY AND AMONG MIDDLETOWN TOWNSHIP,
DELAWARE COUNTY, SEWER AUTHORITY, AND DELCORA

INTERMUNICIPAL AGREEMENT

This Agreement is made as of the 2d day of Nov., 2017 (the "Effective Date") by and between Middletown Township, Delaware County, Sewer Authority ("MTSA") and the Delaware County Regional Water Quality Control Authority ("DELCORA").

WHEREAS, MTSA is a municipal authority formed to oversee collection, conveyance and treatment of wastewater for Middletown Township and maintains a collection and conveyance system in Middletown Township (the "MTSA System");

WHEREAS, DELCORA owns and operates a wastewater collection system and treatment facility servicing various areas of and authorities in Delaware County;

WHEREAS, DELCORA owns the Rose Valley Wastewater Treatment Plant (the "Plant"), which receives wastewater from various areas including, but not limited to, 127 EDUs from Nether Providence Township and 317 EDUs from Rose Valley Borough for a total of 444 EDUs;

WHEREAS, DELCORA wishes to decommission the Plant, and convey the wastewater through a portion of the MTSA System, including the Chester Creek Interceptor ("CCI") which has an expected completion date for the section which will convey flow from the Plant, of April, 2018, to DELCORA's Chester Ridley Pump Station (the "CRPS") and ultimately to DELCORA'S Western Regional Treatment Plant (the "WRTP") in the City of Chester for treatment; and

WHEREAS, MTSA is willing to convey wastewater from the Plant to the CRPS;

NOW, THEREFORE, in recognition of the above recitals, in exchange for the mutual consideration set forth herein, the legal sufficiency of which each party hereby acknowledges, and intending to be legally bound, the parties hereby agree as follows:

1. Relationship. Upon completion of the construction of a new pump station and force main (the pump station and force main are collectively called the "RVPS"), DELCORA shall begin to convey wastewater from the Plant via the RVPS to the MTSA Knowlton Road Force Main. MTSA will then convey the flow through the Knowlton Road Force Main to the Dutton Mill Interceptor and then to the CCI and then to DELCORA's CRPS with ultimate treatment at the WRTP. DELCORA shall own and shall be solely responsible for the design, permitting, construction, operation and maintenance of the RVPS and for all associated costs (excluding the cost of review by MTSA's engineer). The design of the RVPS has already been submitted to DEP. DELCORA, at its sole cost and expense, shall obtain any and all permits, rights of way and easements needed for the construction of the RVPS.

2. Capital Contribution. DELCORA shall pay MTSA a capital contribution of \$950,000 (the "Capital Contribution") upon execution of this Agreement, based on an estimated flow of 100,000 gallons per day ("gpd") average annual flow (the "Estimated Flow"¹). If the actual daily flows, averaged for a given calendar year, exceed the Estimated Flow for that year, DELCORA shall pay a supplemental Capital Contribution within thirty (30) days after being invoiced by MTSA. During the two (2) years after the Effective Date, the supplemental Capital Contribution shall be calculated by multiplying the Capital Contribution by a ratio, the numerator of which is the number of gallons by which the average gpd for the year exceeded the Estimated Flow, and the denominator of which is the Estimated Flow; any supplemental Capital Contribution that is due for flows that occur more than two (2) years after the Effective Date shall be calculated by multiplying MTSA's then-current tapping fee, exclusive of the component of MTSA's tapping fee that constitutes DELCORA's tapping fee, for every 262.5 gpd of actual flow over the Estimated Flow.

3. Knowlton Road Pump Station. MTSA must upgrade the capacity of the Knowlton Road Pump Station ("KRPS") to handle the increased flow in the existing KRPS force main. Additionally, the Dutton Mill Interceptor has been upgraded to accommodate the additional flow. MTSA shall make all such improvements at no cost to DELCORA. If an upgrade of the capacity of the MTSA infrastructure is required after the time of activation of the RVPS due to increased flow from the RVPS that exceeds the original Estimated Flow, all costs of such upgrade shall be borne solely by DELCORA.

4. Metered flows.

a. The flows from the RVPS will be metered at the RVPS. The meter will be installed, owned, operated and maintained by DELCORA, which shall provide MTSA with access to all of the data from the meter including, but not limited to, calibration and maintenance records for the meter. MTSA, its authorized agents and employees, upon five (5) days written notice, may enter upon the RVPS for the purpose of inspecting the meter. In the event that the inspection reveals any defects or deficiencies, DELCORA shall promptly proceed with the necessary corrections and/or repairs.

¹If DELCORA pays a supplemental Capital Contribution pursuant to Paragraph 2 or additional tapping fees pursuant to Paragraph 6, thereafter, the gpd of the Estimated Flow shall be increased by the overage for which DELCORA paid. (For example, if the Estimated Flow is 100,000 gallons per day and if DELCORA's actual daily flows, averaged for a given calendar year, are for that year 110,000 gallons per day and DELCORA shall pay a supplemental Capital Contribution pursuant to paragraph 2, the Estimated Flow for purposes of paragraph 2 thereafter shall be amended to be 110,000 gallons per day.)

b. In the case of missing or inaccurate flow records due to faulty meter operation or otherwise, an estimate of flows shall be made by the parties based on records of past flows or similar flows as applied to the current conditions, for use in place of the missing or inaccurate meter readings.

c. In the event DELCORA fails to maintain the Flow Meter in accordance with the provisions of paragraph 4(a), MTSA or its representatives may enter upon the RVPS and take whatever action is deemed necessary to maintain the Flow Meter, and DELCORA shall immediately reimburse MTSA for the costs and expenses incurred by MTSA including, but not limited to, personnel and administrative costs. It is expressly understood and agreed that MTSA is under no obligation to maintain or repair the Flow Meter, and in no event shall this Agreement be construed to impose any such obligation on MTSA.

5. Conveyance charge.

a. DELCORA shall pay an annual conveyance fee (the "Conveyance Fee") based on the metered flows, which shall be payable on the date that DELCORA first conveys flows to MTSA (the "Conveyance Date") and thereafter on each anniversary of the Conveyance Date. Subject to the provisions of paragraph 5(b) hereof, the Conveyance Fee shall be \$23,750 per year for flows up to 100,000 gpd (averaged over the year). In the event that the average gpd for a given calendar year exceeds 100,000 gpd, the Conveyance Fee for such calendar year shall increase by a pro-rated amount consisting of the Conveyance Fee multiplied by a ratio, the numerator of which is the number of gallons by which the average gpd exceed 100,000, and the denominator of which is 100,000. If the actual daily flows, averaged for a given calendar year, exceed 100,000 gpd, DELCORA shall pay the increase in the Conveyance Fee within thirty (30) days after being invoiced by MTSA. For any calendar year in which in which DELCORA's metered flows do not exceed 100,000 gpd (averaged over the year), DELCORA's Conveyance Fee shall be \$23,750 for such year.

b. The Conveyance Fee shall increase or decrease annually on the anniversary of the Conveyance Date and will be calculated by applying the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD, CMSA – All Items during the life of this Agreement. For the purposes of this provision, the CPI-U as of the Conveyance Date will be used as the basis and the most recent available CPI-U at each anniversary of the Conveyance Date will be used to determine the percent change. By way of example, on the first anniversary of the Conveyance Date, the Conveyance Fee will increase or decrease by the percent change from the CPI-U as of the Conveyance Date to the most recent available CPI-U. For purposes of determining the treatment costs component of Services Charges pursuant to paragraph 10.a of the Agreement dated March 15, 2010 by and between MTSA and DELCORA, as amended, the total flows from the RVPS will be

deducted from MTSA's metered flows at the CRPS so that MTSA does not pay a treatment charge for the sewage from the RVPS.

6. Tapping Fees. None of DELCORA's existing customers serviced by the Plant at the time the RVPS is connected to the Knowlton Road Force Main shall be subject to a tapping fee, except that if one of DELCORA's existing commercial customers subsequently increases the size of its facility, thereby resulting in additional flows, DELCORA shall collect MTSA's then-current tapping fee (exclusive of the component of the tapping fee that represents the tapping fee charged to MTSA by DELCORA) for such increased flows. Following the execution of this Agreement, DELCORA shall collect MTSA's then-current tapping fee (exclusive of the component of the tapping fee that represents the tapping fee charged to MTSA by DELCORA) for any new customers of DELCORA or of any authority that may hereafter be serviced by the RVPS prior to connecting to the sewer system if their sewage will flow into the RVPS and be conveyed by MTSA. All MTSA tapping fees collected by DELCORA shall be paid to MTSA within ten (10) days, less an administrative charge of five (5%) percent per EDU.

7. Permitting. DELCORA shall have the sole responsibility for authoring a Rose Valley and Nether Providence joint Act 537 Plan Revision. MTSA will provide all data required to complete this Plan. MTSA will accept consultation from DELCORA on the timing of implementation of all Plans.

8. MTSA Connections. A portion of the RVPS force main will be installed in the Middletown Township Public Right-of-way. Specifically, the main will be installed in front of the homes at 158, 166 and 172 Knowlton Road. DELCORA agrees to install 3 low pressure laterals for these homes connecting to the RVPS. MTSA will own and operate the three low pressure laterals. MTSA agrees to reimburse DELCORA for its actual cost per lateral for the cost of installation.

9. Indemnity. To the extent permitted by the Political Subdivision Claims Act, or successor statute, each party agrees to indemnify, defend and save harmless the other against all costs, claims, losses, damages or legal actions of any nature on account of injury to persons or property occurring in the performance of this Agreement due to the negligence of the indemnifying party, its agents, employees, contractors or subcontractors.

MTSA will indemnify, defend and hold DELCORA harmless, including from reasonable counsel fees and litigation costs, from and against any suit, liability, action or cause of action in any way related to the operation of the MTSA System, prior to the time that DELCORA's flows are diverted to the KRPS. DELCORA shall cooperate with MTSA in the defense of any such suit, liability or action and, may, if it so chooses, participate in the defense at its own cost and expense.

DELCORA will indemnify, defend and hold MTSA harmless, including from reasonable counsel fees and litigation costs, from and against any suit, liability, action or cause of action in any way related the Plant, or the collection of any fees in any way related

to the Plant, prior to the time that its flows are diverted to the KRPS, or any claim related to DELCORA's facilities or the conveyance of wastewater there through. MTSA shall cooperate with DELCORA in the defense of any such suit, liability or action and, may, if it so chooses, participate in the defense at its own cost and expense.

10. Timing. Flows from the Plant will be diverted to MTSA as soon as practical after the construction of the RVPS but no sooner than the completion of the portion of the CCI from the CRPS to Dutton Mill Road. Subject to the terms of paragraph 15, if the aforesaid portion of the CCI is not complete by February 1, 2018 and, as a result, the flows from the Plant cannot be diverted by that date, MTSA shall pay a fine of \$300 per day.

11. Maximum Discharge Rate. It is understood that the discharge rate of the RVPS affects the performance and output of the KRPS. DELCORA agrees to limit the output of the RVPS to a maximum flow of 335 gpm.

12. Shut Down of the RVPS. DELCORA shall provide the contact information necessary for a one hour response time to shut down the RVPS if necessary in the event that the portion of the MTSA System through which the RVPS flow is conveyed is experiencing an SSO or the potential of an SSO or a force main break. MTSA shall be responsible for costs associated with the shutdown of the Rose Valley Pump Station.

13. Quality of wastewater. The wastewater from DELCORA's customers that flows to the RVPS shall be required to comply with MTSA's rules, regulations and ordinances. DELCORA will provide MTSA with assistance in determining the source of any wastewater discharge from the RVPS into the KRPS that violates any rule, standard or regulation set forth in any current resolution duly adopted by MTSA and applicable to such flow. Upon notice from and at the direction of MTSA, DELCORA will assist MTSA in terminating such flow. All damages caused to MTSA and/or MTSA's property as the result of such flow shall be recoverable from the person or entity which is the source of the improper discharge. DELCORA shall indemnify and hold harmless MTSA with respect to any damages or losses suffered by MTSA due to an improper discharge or improper wastewater conveyed to MTSA by the RVPS from a DELCORA customer.

14. Inspection. Each party shall provide the other from time to time all information relevant to the proper administration of its 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 the other's representatives to examine and inspect its records relevant to the subject matter of this Agreement.

15. Contingencies. The parties' obligations under this Agreement are contingent upon DEP approval of any necessary amendments to either party's, or such party's member municipalities' or incorporating municipality's Act 537 plan, and DEP issuance of permits required to construct the RVPS and the upgrade to the KRPS. The

parties' obligations under this Agreement will also be contingent upon DELCORA acquiring such easements as may be necessary or convenient to the construction of any new infrastructure necessary for the connection from the RVPS into the KRPS.

16. Insurance. The parties shall provide liability insurance that names the other as an additional insured to secure the indemnity provisions of the agreement. The insurance policies shall contain a waiver of subrogation. Each shall provide a certificate of insurance in a form acceptable to the other's counsel prior to the conveyance of any wastewater hereunder. The certificate of insurance shall include a provision mandating the delivery of 30 days written notice to the certificate holder prior to the cancellation or termination of the policy.

The following types and amounts of insurance shall be maintained during the term of this Agreement:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Worker's Compensation	Statutory
General Liability (bodily injury and property)	\$2,000,000 aggregate/ \$1,000,000 per occurrence
Excess General Liability	\$2,000,000 aggregate
Automobile Liability	\$1,000,000
Excess Automobile Liability	\$2,000,000 aggregate
Business Income	Actual loss

17. Pass Throughs. DELCORA shall not allow any customers from a geographic area not serviced by the Plant to pass through the Plant for the purpose of conveying flow to DELCORA, unless such customers have entered into intermunicipal agreements with MTSA and DELCORA for conveyance and treatment. DELCORA shall bear the responsibility for obtaining such agreements.

18. 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 otherwise expressly set forth herein.

19. Future Development. DELCORA acknowledges that capacity at the KRPS is provided to MTSA customers on a first come, first served basis, and that MTSA does not reserve capacity for any customer absent the payment of tapping fees. MTSA acknowledges that capacity will be provided for the Existing Flows as well as all potential customers identified in Middletown Township, Rose Valley and Nether Providence joint Act 537 Plan Revision as referenced in paragraph 7 above. Request for capacity shall be accomplished through the planning module process or through Act 537 revisions.

20. 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, unless such illegal or invalid provision contains an unsatisfied precondition to performance.

21. 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.

22. Counterparts. This Agreement may be executed in 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.

23. Successors and Assigns. Except as otherwise provided herein, this Agreement may not be voluntarily assigned by either party without the consent of the other that is not to be unreasonably withheld. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

24. Term. The term of this Agreement shall be for 25 years starting from the Effective Date of this Agreement. Thereafter, this Agreement shall automatically renew for additional five (5) year terms, unless or until either party terminates this Agreement by giving the other party written notice at least one (1) year in advance of the next automatic renewal date. The notice required by this paragraph shall be given by certified mail, return receipt requested, as follows:

To MTSA:
P.O. Box 9
Lima, PA 19037-0009

To DELCORA:
100 E. 5th Street
Chester, PA 19013

25. Force Majeure. Notwithstanding any other provision of this Agreement, neither party hereto shall be responsible in damages or fines to the other for any failure to comply with this Agreement resulting from an act of God, riot, sabotage, public calamity, flood, strike, breakdown of conveyance or treatment facilities, or other event beyond reasonable control.

26. Time. Time is of the essence in the performance by the parties of their obligations under this Agreement.

27. Headings. The section headings contained in this Agreement are for

reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

28. Notice. With the exception of the notice contemplated by paragraph 23 hereof, any notice required under this Agreement may be given by facsimile, overnight mail (whether by the United States Postal Service or by nationally-recognized overnight service) or by first class mail, postage prepaid, as follows:

To MTSA:
27 N. Pennell Road
Media, PA 19063
Fax: 610-566-0879

To DELCORA:
100 E. 5th Street
Chester, PA 19013
Fax: (610) 876-2728

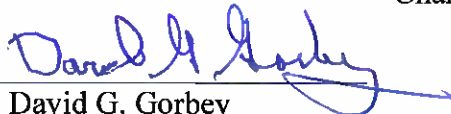
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the date below their respective signatures.

DELAWARE COUNTY REGIONAL
WATER QUALITY CONTROL AUTHORITY

[Seal]



Stanley R. Kester
Chairman

Attest:

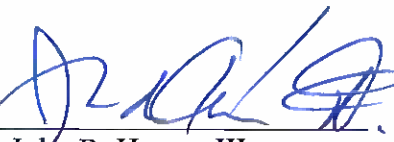

David G. Gorbey
Secretary

MIDDLETOWN TOWNSHIP, DELAWARE
COUNTY, SEWER AUTHORITY

[Seal]


Timothy F. Sullivan, Esquire
Chairman

Attest:


John R. Hanna, III
Assistant Secretary/Treasurer