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EXHIBIT F139

AGREEMENT OF SALE AND SERVICE,  
DATED JULY 22, 1975, BY AND AMONG  
BOROUGH OF UPLAND AND DELCORA

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AGREEMENT OF SALE AND SERVICE

THIS AGREEMENT, dated as of the *22<sup>nd</sup>* day of *July*, 1975, between the BOROUGH OF UPLAND (the "Seller") a Borough in the Commonwealth of Pennsylvania, and DELAWARE COUNTY REGIONAL WATER QUALITY CONTROL AUTHORITY (The "Buyer"), an authority created by the County of Delaware, Pennsylvania.

W I T N E S S E T H:

WHEREAS, Seller is the owner of facilities used for the collecting and transporting of sewage in the Borough of Upland where it serves private users directly, as shown on a service map delivered by Seller prior to the date hereof (the "Service Area"); and

WHEREAS, there is presently in existence an Agreement between Seller and the City of Chester which Agreement was assigned to Buyer by the City of Chester for the acceptance of the sewage from the Service Area and for the treatment of said sewage by the Buyer; and

WHEREAS, Buyer is now constructing a new sewage treatment plant (the New Plant); and

WHEREAS, Buyer has acquired the sewerage system of the City of Chester; and

WHEREAS, Seller is desirous to sell and Buyer desires to purchase all of Seller's property constituting its sewer system and related property in the aforesaid Service Area, all as hereinafter described; and

WHEREAS, the Seller desires to have Buyer assume responsibility for providing sewage collection, conveyance and treatment service (Buyer is already providing conveyance and treatment

service) in the Service Area and Buyer is willing to assume such responsibility, subject to the provisions hereof.

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

1. Property to be Acquired. Subject to the terms and conditions hereinafter set forth Seller will sell, assign, transfer and deliver to Buyer, and Buyer will purchase from Seller, at the time of the closing hereinafter provided, all of the property, real, personal and mixed, with the exception of all mobile and small equipment and tools, constituting Seller's system for the collection and transportation of sewage, including without limitation, all of the following types of property which together are herein sometimes called the "Sewer Properties":

(a) All sewer mains, interceptors, force mains, collection systems, valves, pumps, machinery, equipment, siphons, regulators and tide gates, customer lists and accounts, franchises, licenses, sewage permits, contract rights and related assets, all rights in connection with Federal, State or other grant, loan or similar applications for assistance with sewer projects to the extent permitted by law, and all documents and papers used or held for use by Seller in the operation of the Sewer Properties, but not including cash, bank accounts, or securities, and all mobile and small equipment and tools (all being herein referred to together as the "Personal Property"). Books, records, maps, surveys, drawings, engineering and financial studies and reports, plans, of Seller, that Seller is now using and may need in the future, shall be available for Buyer's inspection, and Buyer may make such copies as it requires, at its expense. The Sewer Properties are herein referred to as the "Collection System";

(b) All collectors and interceptors used as combined sewers, for sanitary, wastes and storm drainage, subject to the provisions for Section 13.3 below, but excluding all mains which are used exclusively for storm drainage; and

(c) All contracts and related rights (excluding accounts receivable, accounts payable, unbilled revenues, all claims which the Seller may have against the Borough of Parkside and/or the Borough of Brookhaven, and all claims which the Borough of Parkside and/or the Borough of Brookhaven may have against the Seller) arising under any outstanding municipal agreements including but not limited to the Agreement between the Seller and the Borough of Brookhaven and the Seller and the Borough of Parkside (the Municipal Agreements).

2. Purchase Price. As the purchase price for the Sewer Properties, Buyer shall pay to Seller the sum of One Dollar (\$1.00) for the Collection System.

3. Representations and Warranties of Seller. The Seller represents and warrants as follows:

3.1 Seller is now the legal and beneficial owner of the Sewer Properties, with good and marketable title thereto, free and clear of all liens, encumbrances charges and defects in title, and in the case of the Real Property, if there is any to be conveyed, such as will be insured by a reputable title insurance company at regular rates, except for those easements and restrictions in the line of title and minor encumbrances and defects which Seller represents will not individually or in the aggregate materially and adversely affect the use and operation of, or the right to use and operate, the Real Property. The Deed conveying the Real Property and the Bill of Sale and Assignment conveying the Personal Property, which have been or will be examined and approved

by the Parties, will properly describe or identify all the important Sewer Properties.

3.2. The Sewer Properties are in good and operable condition and are adequate in all respects for the providing of all sewage services in the Service Area as now being provided by Seller, except for the defects heretofore disclosed by Seller, and except those known by Buyer from its inspection of said properties, made prior to the date of this Agreement.

3.3. Seller has all requisite, valid and assignable licenses, non-exclusive franchises, easements, consents, permits and regulatory approvals (including, without limitation, sewerage permits Numbers \_\_\_\_\_ from the Pennsylvania Department of Environmental Resources), all requisite certificates of public convenience and rate approvals from the Public Utility Commission, all requisite permits for stream encroachments from the Pennsylvania Department of Forests and Waters and all requisite highway crossing permits from the Pennsylvania Department of Highways), to engage in the business of collecting and transporting sewage in the Service Area, as such business is now conducted. Seller is not in violation of any of the provisions of any of the foregoing permits or any statutes under which such permits were granted, as now in force, except those of which Buyer is aware. Seller agrees to join in executing any requisite applications to transfer the aforementioned sewage permits to Buyer and will cooperate in effectuating such transfer as well as the transfer of all other permits from Seller to the Buyer.

3.4. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary municipal action, and this Agreement constitutes a valid and

binding obligation of Seller in accordance with its terms, and the execution and performance of this Agreement by Seller will not violate any provisions of law and will not result in the breach of any term or provision of, or constitute a default or result in the acceleration of any obligation under, any loan agreement, indenture, financing agreement, lease, franchise, license, or any other agreement or instrument of any kind to which Seller is a party.

3.5. There is now pending no litigation, proceeding or controversy or complaint (formal or informal) to which Seller is a party or of which it has knowledge before any Court, public utility commission, or other authority with respect to (a) the Sewer Properties, (b) Seller's right to operate any of them or the manner of such operation, (c) its duty to serve elsewhere, or (d) contesting Seller's right to enter this Agreement, with the exception of Orders issued by the Department of Environmental Resources to Seller, of which Buyer is presently aware.

3.6. There are no contracts, indentures, refunding agreements or agreements in aid of construction, service or main extension deposits with respect to Seller or the Sewer Properties, except as listed in Exhibit A attached hereto or as heretofore disclosed in writing to Buyer. Neither Seller nor any of its property is subject to any commitments, obligations with respect to future employee compensation, licenses, reservations, exceptions, rights-of-way, judgments or Court Orders which (a) relate to and adversely affect the Sewer Properties, Seller's sewer service, or Seller's right to enter and perform this Agreement, or (b) extend beyond the Closing Date, except as heretofore disclosed in writing to Buyer.

3.7. Seller has no outstanding bonds or lease obligations relating to the Sewer Properties.

3.8. The Sewer Properties have not been, since May 31, 1975, materially and adversely affected permanently as a result of any casualty, drought, flood, strike or other labor dispute, governmental order, litigation or administrative proceeding, riot, activities of armed forces, war or acts of God or the public enemy.

3.9. Since May 31, 1975: (a) Seller has not initiated any additions to the Sewer Properties, except for such minor additions as have been necessary to provide reasonably adequate service in the regular and ordinary course of business; or (b) entered any other contract or commitment except as disclosed in writing to Buyer.

3.10. Seller is not, with respect to the Sewer Properties, in default under any provision of law, regulation, zoning or other ordinance, articles of incorporation, by-laws, franchise, permit (including, without limitation, those referred to in Section 3.3 above), indenture, contract or other document which is applicable to or binding upon it, with the exception of Orders issued by the Department of Environmental Resources to Seller, of which Buyer is presently aware.

3.11. The Sewer Properties are insured against all risks usually insured against by persons operating similar properties, under valid and enforceable general liability insurance policies issued by insurers or recognized responsibility in reasonable sufficient amounts, Seller will continue to maintain such insurance coverage up to and including the Closing Date, endorsing the policies to include Buyer's interest hereunder.

4. Conduct Pending Closing.

4.1. Pending the Closing Seller will:

(a) Operate the Sewer Properties only in the ordinary course and in accordance with all applicable local, state and federal laws and regulations:

(b) Not enter into by or on behalf of Seller any contract or commitment relating to the Sewer Properties, except (i) normal and usual commitments for the purchase of materials and supplies, (ii) commitments related to the items referred to in Section 3.9 (a) above, or (iii) any which may receive the prior written approval of Buyer;

(c) Not mortgage, pledge or subject to lien or other encumbrance or dispose of any of the Sewer Properties; and

(d) Give to Buyer and its authorized representatives full access during normal business hours throughout the period prior to Closing to the Sewer Properties, and all related books, contracts, commitments and records of Seller, and will furnish Buyer during said period copies of all outstanding agreements, licenses and permits, summaries of insurance policies, descriptions of real estate, if any is to be conveyed to Buyer, a copy of Seller's Sewer Rental Billing, for the year 1975, and such other information concerning the Sewer Properties and matters related thereto as Buyer may request. Seller will also inform Buyer promptly upon its learning of any event of fact which would adversely affect any representation or warranty herein.

4.2 Pending the Closing will use its best efforts to conclude mutually satisfactory amendments to the Municipal Agreements, so that the provisions thereof will be the same as those of new agreements entered by Buyer with other dischargers, for the same class of service (such service may, but need not, include operation of collection systems as determined by Buyer and the customers.)



5. Conditions to Buyer's Obligation. The obligation of Buyer to complete the purchase hereunder is subject to fulfillment of the following conditions on or before the Closing Date (in addition to those expressed elsewhere herein).

5.1. Seller's permits shall have been transferred to Buyer where such transfer is required by applicable laws or regulations.

5.2. Buyer shall have received a satisfactory opinion of Seller's solicitor, dated the Closing Date with respect to the matters referred to in Sections 3.1, 3.3, 3.4, 3.5, and 3.10 as of the Closing Date, and to the effect that he has no knowledge of any fact which would cause the representations and warranties in this Agreement not to be true or the conditions of Closing herein not to have been performed as of the Closing Date. In giving his opinion with respect to the title to Real Property, if any is to be conveyed to Buyer, such solicitor may rely upon the policy of title insurance issued to Buyer.

5.3. Buyer shall have received from its Solicitors an opinion satisfactory to the Buyer with respect to all legal matters in connection with the transactions under the Agreement.

5.4. Seller shall have delivered to Buyer such deeds, easements, or assignments of easements, assignments, bills of sale, documents, instruments, information certifications and further assurances as solicitor for Buyer may reasonably require as necessary or desirable for transferring, assigning and conveying hereunder to Buyer good and marketable title to the Sewer Properties, and otherwise effecting performance of this Agreement by Seller, and all shall be satisfactory in form and substance to Buyer and its solicitors. The Deed for the Real Property, if any

is to be conveyed to Buyer, shall be a special Warranty Deed of conveyance, with the requisite Pennsylvania Transfer Tax Stamps and any local real estate transfer tax stamps attached thereto and cancelled if any such stamps are required under the laws of the Commonwealth of Pennsylvania. The payment for any such transfer tax and stamps, if any, shall be made by Buyer.

5.5 Buyer shall have received from Seller, in form satisfactory to Buyer and its solicitor:

(a) A certified copy of the Ordinance duly enacted by Seller authorizing the transactions herein provided for; and

(b) A certificate to be delivered on the Closing Date, signed by the proper officers of Seller to the effect that (1) the representation of Seller in this Agreement are true, and (2) Seller has performed all conditions and Agreements contained herein.

5.6. Prior to the Closing Date, Seller shall have delivered to Buyer, copies of records as previously maintained by Seller, at Seller's expense, of all users or customers connected to the Sewer System, including data forming the basis for Sewer Rental Billing by the Seller, during the year 1975.

6. Conditions to Seller's Obligations. The obligation of Seller to complete the sale hereunder shall be subject to fulfillment of the following conditions on or before the Closing Date (in addition to those stated elsewhere herein):

6.1. Buyer shall have paid to Seller for its solicitor, the amount of \_\_\_\_\_ representing the agreed upon fee for services of such solicitor for services of such solicitor up to and including the date of Closing.

6.2 Buyer shall have paid to Seller the amount of *none* representing the other fees and expenses incurred by Seller

including engineering fees with regard to the transfer of said sewer system.

6.3. Buyer shall have given reasonable assurances of its ability and intention to proceed immediately after the Closing with the providing of sewage collection, conveyance and treatment service within the Service Area.

7. Closing. The Closing hereunder shall take place at the office of Buyer or of its indenture trustee, on such date as may be specified by Buyer on 45 days' written notice on or before December 31, 1975. The Closing Date shall be no later than December 31, 1975. Upon the performance of all conditions and covenants set forth herein and delivery to Buyer of all documents and instruments required hereby, Buyer shall deliver to Seller at the Closing: (a) cash or check(s) in the amount due under Section 2 above; and (b) a certified copy of all Ordinances and/or Resolutions adopted by the Board of Buyer authorizing the transaction provided for herein.

(c) cash or check(s) for all other amounts due to Seller or its representative.

8. Risk of Loss. Seller assumes all normal maintenance of the Sewer Properties up to the Closing. In the event any of the Properties are destroyed or damaged prior to Closing, the part or parts so destroyed or damaged shall be replaced or repaired by Buyer at its sole cost and expense and/or with insurance proceeds from insurance policies in the name of Seller covering any such situation. Up to the Closing, Buyer shall bear all capital improvements and/or capital replacements. If any destruction or damage to the Sewer Properties up to the Closing shall, in the opinion of Buyer, be so extensive as materially and adversely to affect the feasibility of operation thereof by Buyer, then

Buyer shall not be obligated to consummate the purchase and sale contemplated herein, and Buyer shall not have any obligations whatever to Seller by reason hereof.

Except in the case of emergency, before undertaking any major improvements, replacements or additions to the collection system sewers in the service area as defined herein, buyer will notify seller of its intention to undertake such improvements, replacements or additions to the collection sewer system in said service area. Such notice shall state briefly:

(1) the improvements, replacements or additions which Delcora believes are necessary in order to provide adequate waste-water collection service in the service area;

(2) the total estimated cost of each such project including construction cost, engineering, legal, financing and administrative costs;

(3) the reason why said improvements, replacements or additions are deemed necessary;

(4) the method by which Delcora plans to finance said improvements, replacements or additions; and

(5) the amount which Delcora estimates the annual service charges to users must be increased in order to cover the cost of financing said improvements, replacements or additions.

Such notice shall be given by seller at least ninety (90) days prior to the date on which buyer intends to award contracts for the construction of such improvements, replacements or additions.

#### 9. Indemnifications

9.1. Buyer shall assume, indemnify and hold harmless Seller against any and all claims or liabilities arising from the ownership and operation of the Sewer Properties and attributable

to the period after 11:59 P.M. on the Closing Date.

9.2. For a period of three (3) years after the Closing, Seller shall indemnify and hold harmless Buyer against any and all claims, suits, damages, loss, expenses or liabilities whenever presented or determined arising from the ownership or operation of the Sewer Properties by Seller whether under contracts, permits or franchises assigned to Buyer or otherwise, and attributable to the period prior to 11:59 P.M. on the Closing Date.

10. Accounts Receivable. Seller shall retain all of its rights, title and interest to all accounts receivable for the year 1975 and all prior years. Buyer shall bill all customers of the sewage system as of January 1, 1976 and shall be entitled to all revenues therefrom.

11. Survival of Agreements, Representations and Warranties. All agreements, representations and warranties contained in this Agreement will survive completion of the Closing hereunder.

12. Additional Assurances and Payments. Subsequent to the Closing, Seller will execute and deliver such additional documents as Buyer may reasonably request to perfect Buyer's title to the Sewer Properties or carry out the intention of this Agreement. Without limiting the foregoing, Seller will pay over to Buyer any amount representing the State subsidy for sewage treatment plants allocable to the period after the Closing and received by Seller after the Closing.

13. Service by Buyer Following Closing Date.

13.1. Following completion of the Closing, Buyer shall have the exclusive right and duty to provide collection, transportation, treatment and disposal of sanitary sewer and industrial wastes (but not storm or surface drainage, except in existing

combined sewers subject to Section 13.3 hereof) in the Service Area, to the fullest extent permitted by law within Seller's Borough limit and shall have the same right and duty outside the Service Area to the extent provided by the municipal Agreements as they may be amended.

13.2 As soon as possible following the Closing, Buyer will use its best efforts to construct and complete the New Plant, and thereafter to operate it as a regional facility for the Service Area and such other areas as Buyer may determine to serve. Buyer may serve by contract with municipalities or may serve the public directly as agreed to by the municipal authorities in each case. Buyer will also operate and maintain the Collection System and make such improvements and extensions thereto as it may deem desirable and financially feasible to construct and operate.

13.3. Existing sewers in the Service Area used for the combined transportation of sanitary wastes and surface drainage shall initially be operated and maintained by Buyer as part of the Collection System. When required by regulatory authorities, or when for other reasons it is determined by Buyer, to replace combined sewers by separate sanitary and storm sewers, Buyer shall cause its consulting engineers to prepare a feasibility study estimating in the case of each sewer the relative cost of building a new storm sewer, including in both alternatives the cost of repairing the existing sewer to transport material not carried in the new sewer. Such studies shall be transmitted to Seller. If the total costs, as determined by said studies, of building a new sanitary sewer is less than the cost of building a new storm sewer, then the new sewer will be built and operated by and at the expense of Buyer (which will convey the old sewer to the Seller for a nominal consideration of One Dollar (\$1.00), and

Buyer will be entitled to increase its charges to recover the associated costs. If, however, the cost of building a new storm sewer is the lesser of the two, then upon request by Buyer, Seller will promptly construct such sewer and thereafter operate and maintain it, excluding storm and surface drainage thereafter from the old sewer, all at Seller's expense, and Buyer will continue to operate the old sewer. In each case the party having the duty to construct the new sewer will make at its expense requisite repairs to the old sewer.

13.4. In carrying out its responsibilities under this Section 13, Buyer will impose rates involving three elements. First, will be a charge for treatment at the existing Treatment Plant and later at the New Plant, which will be uniform for all users of particular classes in the region served thereby, to recover in the most equitable manner, all costs involved in such treatment. "Costs" when used in this Section, shall mean all applicable costs of construction and acquisition and other capital items, all applicable operating items, a prorated portion of general administrative costs and of appropriate amounts to establish reasonable reserves of money and of capacity in facilities for future need of the Service Area. Second, a charge will be imposed on users in the Service Area to recover all costs of conveyance of sewage from such areas to the New Plant. Third, a charge will be imposed within the Service Area, to recover the costs of collection and conveyance of sewage originating in such Area, including, without limitation, those referred to in Section 13.1 above, which will be uniform for all users of particular classes. Customers in the Service Area will bear none of the costs of collection of sewage outside such Area. Buyer's good-faith determinations as to elements of cost, classification of

customers, size of reasonable reserves and similar matters in carrying out the foregoing principles shall be conclusive, and charges shall be subject to change from time to time as may be necessitated by increasing costs, the need for expansions, replacements and improvements, provisions of bond indentures, State and Federal grant agreements, regulatory requirements and similar developments. Notwithstanding any provision herein to the contrary, users in the Service Area shall not be required to pay, either directly or indirectly through the use of accumulated reserves, for any costs of future expansion of the New Plant or the expansion, extension or construction of any other facility, except to the extent such expansion, extension or construction is needed to serve the Service Area, unless otherwise required by law. It is clearly understood that Seller will not be charged for any future construction or repairs to the sewerage and collection system of any other municipality.

13.5. The provisions of this Section 13 shall continue in force for a term ending November 17, 2022, and thereafter for a term as long as the existence of the Buyer unless terminated by either party on one year's notice prior to the end of the then current term.

13.6. If, at any time in the future, during the term of this Section 13 or at the end thereof, Buyer ceases to operate the system being purchased by it hereunder, then the fixed assets and the Real Property, other than the Treatment Plant and those facilities in the Collection System described in Section 2(d) shall revert to the Seller's ownership rather than to the County of Delaware or any other agency.

14. Miscellaneous.



14.1. Termination. Both parties hereto will use their best efforts to cause the conditions performable by them to be performed, but if they have not been either performed or waived prior to the last date for Closing hereunder, this Agreement will automatically terminate and neither party shall have any obligation or liability by virtue of the execution hereof.

14.2. Notices. Any notice to be given either party hereunder shall be given in writing and shall be sufficient if sent by certified mail or by telegram, confirmed by certified mail, if to Buyer, addressed to Delaware County Regional Water Quality Control Authority, 100 East Fifth Street, Chester, Pennsylvania, and if to Seller, addressed to the Borough Secretary.

14.3. Contents of Agreement, Governing Law, etc. This Agreement sets forth the entire understanding of the parties, shall be governed by the laws of the Commonwealth of Pennsylvania, shall not be assigned by either party hereto, and all amendments to it shall be in writing and signed by both parties hereto.

14.4. Rights of Parties. This Agreement shall not be construed to create any right in favor of anyone except the parties hereto.

14.5. Intent of Parties. It is the intent of the parties that DELCORA will acquire, own, maintain, and operate the property of the Seller, and supply sewage treatment and collection service in accordance with the provisions of this Agreement, even though the New Plant is not built at this time.

15. Termination of Existing Agreement. Upon completion of the closing as specified hereunder and performance of all conditions relevant thereto, the existing contract dated July 7, 1964. between Seller and the City of Chester, which Contract was assigned by the City of Chester, to Buyer, shall become terminated, null and void except to the extent of any balance due Buyer by Seller under the terms of said Agreement. Any balance shall be paid by Seller to Buyer in accordance with the existing Agreement.

16. Additional Condition to Buyer's Obligation. Buyer shall have received at the Closing, a certificate by Catania Engineers to the effect that, after an inspection of the sewer properties, they are then in reasonable good operating condition and repair as to the adequacy and non-violation of the permits referred to in Section 3.3 above.

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

BOROUGH OF UPLAND

BY: [Signature]  
President, Borough Council

ATTEST: [Signature]  
Secretary

Approved by:

[Signature]  
Mayor

DELAWARE COUNTY REGIONAL WATER  
QUALITY CONTROL AUTHORITY

BY: [Signature]  
Chairman

ATTEST: [Signature]  
Secretary