
EXHIBIT F39

AGREEMENT, DATED MAY 1, 1973, BY AND AMONG
UPPER DARBY TOWNSHIP, DARBY CREEK
JOINT AUTHORITY AND DELCORA

4/30/73

A G R E E M E N T

THIS AGREEMENT is made as of the first day of May, 1973 between UPPER DARBY a FIRST CLASS TOWNSHIP of the Commonwealth of Pennsylvania ("Municipality"), Darby Creek Joint Authority ("DCJA"), a Pennsylvania municipality authority, and Delaware County Regional Water Quality Control Authority ("DELCORA"), also a Pennsylvania municipality authority.

RECITALS

A. DCJA was organized by various Townships and Boroughs in Delaware County, and certain other municipalities have subsequently become members of it. Municipality is now a member.

B. Pursuant to various agreements between DCJA and its members, including especially an Agreement dated October 15, 1952 as previously amended and supplemented (the "Existing Members' Agreement"), DCJA has constructed and now operates for its members a system of interceptor sewers and pumping stations (collectively the "Existing Conveyance System") and a sewage treatment plant (the "Existing Plant").

C. By orders of the State Department of Environmental Resources dated May 5, 1972 various municipal authorities and industries in Delaware County, including DCJA, have been ordered to negotiate with DELCORA for the future treatment of sewage in regional facilities, specifically in the case of DCJA, Central Delaware County Authority and Muckinipates Authority (collectively, the "Eastern Authorities") at the Southwest Treatment Plant of the City of Philadelphia. Pursuant to said orders and

various engineering studies and regulatory approvals DELCORA has entered into separate but similar Service Agreements with each of the Eastern Authorities, including one dated as of April 1, 1973 between DELCORA and DCJA (the "Service Agreement") a copy of which has been delivered to Municipality.

D. DELCORA is also about to enter into an agreement with the City of Philadelphia (the "Philadelphia Agreement") for treatment by said City of sewage from the Eastern Delaware County Service Area of DELCORA (as defined in the Service Agreement), which includes the area served by the Eastern Authorities. Said Agreement will be approved by DCJA prior to its execution by DELCORA.

E. The Service Agreement between DELCORA and DCJA continues for a term of forty-nine years, with subsequent renewal rights, but the corporate existence of DCJA terminates prior thereto.

F. DELCORA intends to issue shortly its sewer revenue bonds to finance construction of the initial part of the new conveyance system required to transport sewage to the City of Philadelphia, and the term of said bond issue will exceed the present remaining life of DCJA. Although said bond issue will be indirectly secured in part by the County of Delaware, in order to obtain the best possible rate of interest on said bonds for the benefit of all parties being served by the facilities so financed, it has been determined to enter this Agreement and similar agreements with other members of DCJA and the members of the other Eastern Authorities.

G. It is not intended by this Agreement to alter the present ownership of the Existing Conveyance System or the Existing Plant (except for a small tract to be conveyed for a pumping station) or the operation of the Existing Conveyance System.

H. The abovementioned orders and the Service Agreement both require that operation of the Existing Plant be terminated as soon as sufficient capacity becomes available in the regional facilities pursuant to the Philadelphia Agreement.

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

1. Municipality hereby approves execution of the Service Agreement by DCJA, and recognizes DELCORA as the sole treatment agency for sewage emanating from that portion of Municipality's area served by the Existing Conveyance System.

2. DELCORA agrees to accept all sewage delivered to it from Municipality through the Existing Conveyance System and transport it to the City of Philadelphia for treatment, all pursuant to the Service Agreement and the Philadelphia Agreement.

3. Municipality agrees to pay to DCJA at least quarterly for prompt repayment to DELCORA, upon receipt of bills from DCJA, Municipality's proportionate share of the amounts payable by DCJA under the Service Agreement, said proportion to be based upon the same formula and procedures specified in Articles II and VII of the Existing Members' Agreement. For purposes of said Agreement, the aforementioned payments will be deemed to be payments toward the cost of operation of the

Existing Plant, but until termination of operation thereof will be in addition to the payments for said Plant, under the Existing Members' Agreement.

4. Pending the negotiation and execution of subsequent agreements concerning the Existing Conveyance System and related matters, Municipality hereby approves an extension of the terms of the Existing Members' Agreement, all other agreements between Municipality and DCJA relating to the Existing Conveyance System and the corporate existence of DCJA, to December 31, 2013, and will promptly enact an Ordinance authorizing an appropriate amendment of DCJA's Articles of Incorporation to carry out such extension of corporate existence. Upon the execution of such subsequent agreements in form satisfactory to Municipality, then the terms of existence of DCJA and of the Existing Members' Agreement may be terminated.

5. Amounts payable by Municipality hereunder will be payable solely from the current revenues of the Municipality derived from the imposition of sewer rents and charges and other revenues from operation of the existing sewage collection system of Municipality, as it may be enlarged from time to time. Municipality agrees to continue operating said system and impose and collect rents and charges for the use thereof which together with all other revenues from operation of said system will be sufficient to provide in each year 110% of the cost of operating said system, providing for any debt service and making the payments due under this Agreement and any other agreements relating to sewage service. To the extent that sewer revenues of Municipality are insufficient in any year to comply with the foregoing requirement,

Municipality will promptly increase its sewer rentals and charges by an amount sufficient to provide in the immediately following year for the deficiency and future compliance with such requirement.

6. Municipality hereby consents to the transfer by DCJA to DELCORA, for a nominal consideration, of land for a pumping station adjacent to the Existing Plant not exceeding two acres plus necessary easements.

7. Except as provided in the prior sections hereof, this Agreement shall not modify or affect any of the existing obligations between Municipality and DCJA, which will continue to own and operate all of its existing properties, except as specified above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the date set forth above.

[SEAL]

Attest:



[SEAL]

Attest:



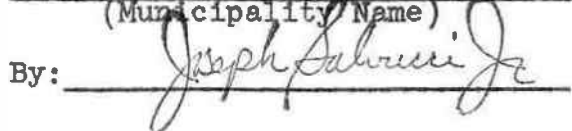
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Attest:



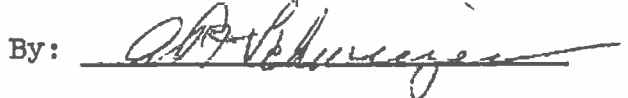
Township of Upper Darby
(Municipality Name)

By:



DARBY CREEK JOINT AUTHORITY

By:



DELAWARE COUNTY REGIONAL WATER
QUALITY CONTROL AUTHORITY

By:

