

**SOUTH MIDDLETON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 01-09

**AN ORDINANCE AUTHORIZING THE BOARD OF SUPERVISORS
OF SOUTH MIDDLETON TOWNSHIP TO ENTER AN
INTERMUNICIPAL PUBLIC WATER SUPPLY AGREEMENT WITH
DICKINSON TOWNSHIP UNDER THE AUTHORITY OF THE
INTERGOVERNMENTAL COOPERATION ACT**

BE IT ENACTED AND ORDAINED by the Board of Supervisors in and for the Township of South Middleton, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: SHORT TITLE

This Ordinance shall be known and may be cited as the Intermunicipal Water Supply Agreement with Dickinson Township.

SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY

The background of this Ordinance and the legislative intention of the Board of Supervisors ("Board") in enacting it are as follows:

- (A) South Middleton Township is a municipal township of the second class.
- (B) The General Assembly of the Commonwealth of Pennsylvania has provided for intergovernmental cooperation in the performance of governmental functions and powers by the Act of December 19, 1996, P.L. 1158, No. 177 § 2301, as amended.
- (C) The Intergovernmental Cooperation Act authorizes two or more local governments in the Commonwealth to jointly cooperate in the exercise or in the performance of their respective governmental functions, powers or responsibilities, so long as both municipalities adopt an ordinance so providing.
- (D) The Board has determined that it is in the best interest of South Middleton Township to enter into the aforementioned Agreement thereby permitting the extension of public water into Dickinson Township by the South Middleton Township Municipal Authority.

SECTION 3: INTERMUNICIPAL AGREEMENT

The covenants, terms and conditions of the Intermunicipal Agreement attached hereto as Exhibit "A" are hereby incorporated herein by reference.

SECTION 4: DURATION OF AGREEMENT

The duration of the Agreement is perpetual unless and until terminated by either party.

SECTION 5: PURPOSE AND OBJECTIVES OF THE AGREEMENT

The purpose of the Agreement is to provide an economical source of public water for distribution within the boundaries of Dickinson Township under the rate structure terms set forth in the Intermunicipal Agreement and in the quantity allocated under such Agreement.

SECTION 6: SEVERABILITY

If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance.

It is hereby declared as the intention of the Board of Supervisors of this Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

SECTION 7: REPEALER

Any other Ordinance or parts thereof inconsistent with this Ordinance be and are hereby expressly repealed.

SECTION 8: EFFECTIVE DATE

This Ordinance shall become effective as provided by law.

ENACTED AND ORDAINED this 30th day of August, 2001.

ATTEST:

SOUTH MIDDLETON TOWNSHIP
BOARD OF SUPERVISORS

/s/ Sandra A. Quickel
Secretary

/s/ James Baker, Chairman

/s/ R. Duff Manweiler

/s/ Phyllis W. Givler

/s/ Thomas E. Faley

/s/ Linda G. Adcock

INTERMUNICIPAL WATER SERVICE AGREEMENT

THIS AGREEMENT dated as of the 16th day of August, 2001, by and between:

SOUTH MIDDLETON TOWNSHIP MUNICIPAL AUTHORITY (hereinafter called "SMTMA") having a mailing address for all purposes and notices hereunder of P.O. Box 8, Boiling Springs, PA 17007, and

TOWNSHIP OF SOUTH MIDDLETON (hereinafter called "SMT") having a mailing address for all purposes and notices hereunder of 520 Park Drive, Boiling Springs, PA 17007, and

DICKINSON TOWNSHIP MUNICIPAL AUTHORITY (hereinafter called "DTMA") having a mailing address for all purposes and notices hereunder of 219 Mountain View Road, Mount Holly Springs, Pennsylvania 17065, and

DICKINSON TOWNSHIP (hereinafter called "DT") having a mailing address for all purposes and notices hereunder of 219 Mountain View Road, Mount Holly Springs, Pennsylvania 17065.

WITNESSETH:

WHEREAS, the Township of South Middleton and Dickinson are adjoining Municipalities in Cumberland County, Pennsylvania; and

WHEREAS, SMTMA owns and operates a potable water distribution system(hereinafter called "Water System") in South Middleton Township; and

WHEREAS, a need exists for a potable water supply in Dickinson Township with a point of connection to be located near the intersection of Allen Road and Alexander Spring Road as more fully shown on a certain map attached hereto marked "Exhibit A" and incorporated herein by reference thereto, said point herein called "Point of Connection"; and

WHEREAS, DTMA intends to develop a water distribution system in Dickinson Township from the Point of Connection, said system hereinafter to be known as the "Dickinson System"; and

WHEREAS, the parties have negotiated certain understandings which they intend to document by these presents;

NOW, THEREFORE, in consideration of the promises, covenants and agreements set forth herein and the mutuality thereof, and intending to be legally bound hereby, the parties mutually agree as follows:

1. The foregoing preamble and paragraphs are incorporated herein by reference hereto.

2. SMTMA covenants and agrees to provide not more than Twenty-five Thousand (25,000) gallons per day of potable water to DTMA at the Point of Connection on the terms and conditions set forth herein. The potability and water pressure shall meet at least the minimum standards required by state and federal law and regulations.

3. The Point of Connection shall include a valve to be under the sole control of SMTMA. The costs of purchase, installation, maintenance and replacement of the valve, meter, meter pit and related equipment shall be borne solely by DTMA. DTMA and SMTMA shall each have unimpaired right of access to the Point of Connection meter pit, valve and related equipment for the purpose of inspection, maintenance, repair, meter reading and meter calibration and related activities.

4. The terms and conditions under which SMTMA shall provide such supply of water are:

A. DTMA, at its sole cost and expense, shall install and maintain a water meter acceptable to SMTMA at the Point of Connection, which meter shall be accessible to SMTMA at all times, said installation shall include the installation and maintenance of a transmission pipe from the Point of Connection to the meter. Only one connection shall be made at Point of Connection.

B. The connection of the Water System shall be made in strict accordance with the specifications, rules and regulations of SMTMA and subject to the inspection of SMTMA.

C. The cost of connecting the Water System and SMTMA's inspection thereof shall be borne exclusively by DTMA.

D. DTMA and DT shall be solely responsible for constructing, installing and maintaining the Dickinson System.

E. DTMA and DT shall pay to SMTMA a tapping fee of Seventy-two thousand Seven hundred Five Dollars (\$72,705.00), prior to the delivery of water to the Dickinson System. The fee was determined according to the following formula:

$$\frac{25,000 \text{ Gallons Per Day}}{225 \text{ Gallons Per Day/EDU}} = 111 \text{ EDU's} \times \$655 \text{ per EDU Tapping Fee} = \$72,705.00$$

F. In the operation of the respective public water supply systems, the parties shall adopt such rules and regulations as are necessary to ensure that the use of each system shall not threaten, impair, or otherwise adversely impact

the other party's system or its use by consumers. In the event that the failure on one party to enforce such rules and regulations does threaten, impair or otherwise adversely impact the use or operation of the other party's system, the latter shall provide reasonable notice thereof, as determined by the exigencies of the circumstances, to the other party and it shall take prompt remedial action.

G. DTMA and DT agree to pay to SMTMA as the rent, charge or fee for water service the amounts computed as follows:

Beginning January 1, 2001 and every year thereafter, the charge per one thousand (1,000) gallons delivered shall be adjusted in accordance with the following formula:

$$\frac{A + B}{C} \div \frac{D + E}{F} \times \$1.44;$$

but regardless of and notwithstanding the results of the foregoing formula, in no case shall the charge per one thousand (1,000) gallons of water delivered be less than One Dollar and 44/hundredths (\$1.44).

For the purpose of the foregoing formula, the abbreviations therein shall have the following definitions.

A = The depreciation of SMTMA's water production and transmission facilities as for Well No. 3 as allowed for the year of the last year audited.

B = SMTMA's total expenses to produce water at Well No. 3 for the year last audited.

C = The total amount of water produced by SMTMA at Well No. 3 during the year last audited.

D = The average depreciation of SMTMA's water production and transmission facilities for Well No. 3 as allowed by audit for the years 1999 and 2000.

E = SMTMA's average total expenses per audit to produce water at Well No. 3 during 1999 and 2000.

F = The average total amount of water produced by SMTMA at Well No. 3 during 1999 and 2000.

5. SMTMA shall submit its invoice to DTMA not less frequently than quarterly, and DTMA shall make payment within thirty (30) days after receipt of notice.

If DTMA should not make payment in full of any quarterly charges required on or before the specified payment date, an interest charge equal to the prime lending rate as published in the *Wall Street Journal* plus one percent (1%) calculated from the day payment was due until the day payment is received by the payee shall be added to the unpaid amount; and if such default shall continue for a period of ninety (90) days or more, SMTMA's shall have the right to discontinue service hereunder, from time to time, until such default in payment shall be cured.

6. DTMA and DT shall not have the right to serve any extension customers or extend a water service beyond the boundaries of Dickinson Township without obtaining the prior written approval and consent of SMTMA and SMT, which approval and consent may be withheld at the sole discretion of SMTMA and/or SMT.

7. The term of this agreement shall be perpetual, except that the agreement may be terminated by any of the parties hereto with five (5) years' advance written notice provided to all of the other parties, said notice to be sent by certified mail, return receipt requested.

8. This agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

9. This agreement may be amended, modified and/or supplemented only by an instrument in writing executed by all of the parties hereto.

10. The parties contemplate that Dickinson may desire additional allocations of potable water in the future, and therefore, the parties shall have the right to enter into negotiations from time to time to provide for additional allocations of potable water to Dickinson in excess of the allocation set forth herein; however, neither party shall be obligated to agree to any increase in allocation.

11. SMTMA, at its sole expense, shall be required to make such upgrades to its system from time to time as are necessary to perform its obligations under this agreement. Nothing in this paragraph shall be construed to alter the billing formula set forth elsewhere in this agreement.

12. The parties hereto shall have the right to inspect the records of the other parties as may be necessary to verify compliance with this Agreement. Reasonable advance notice of the desire to inspect records shall be given to all parties.

13. SMTMA and DTMA shall each maintain sufficient liability insurance and product liability insurance and shall provide one another with proof of such insurance coverage upon request.

IN WITNESS WHEREOF, each of the parties hereto, intending to be legally bound, pursuant to proper authorization of and by its governing body, has caused this agreement to be executed by its duly authorized officers as of the day and year first written above.

ATTEST:

SOUTH MIDDLETON TOWNSHIP
MUNICIPAL AUTHORITY

/s/ Gerald M. Christopher
Secretary
(Official Seal)

By /s/ Thomas L. Whitcomb
Chairman

ATTEST:

TOWNSHIP OF SOUTH MIDDLETON

/s/ Sandra A. Quickel
Secretary
(Official Seal)

By /s/ James N. Baker
Chairman, Board of Township Supervisors

ATTEST:

DICKINSON TOWNSHIP
MUNICIPAL AUTHORITY

/s/ Bertha R. Miller
Secretary
(Official Seal)

By /s/ Gerald Eby
Chairman

ATTEST:

TOWNSHIP OF DICKINSON

/s/ Bertha R. Miller
Secretary

By /s/ Ronald C. Wolfe
Chairman, Board of Township Supervisors

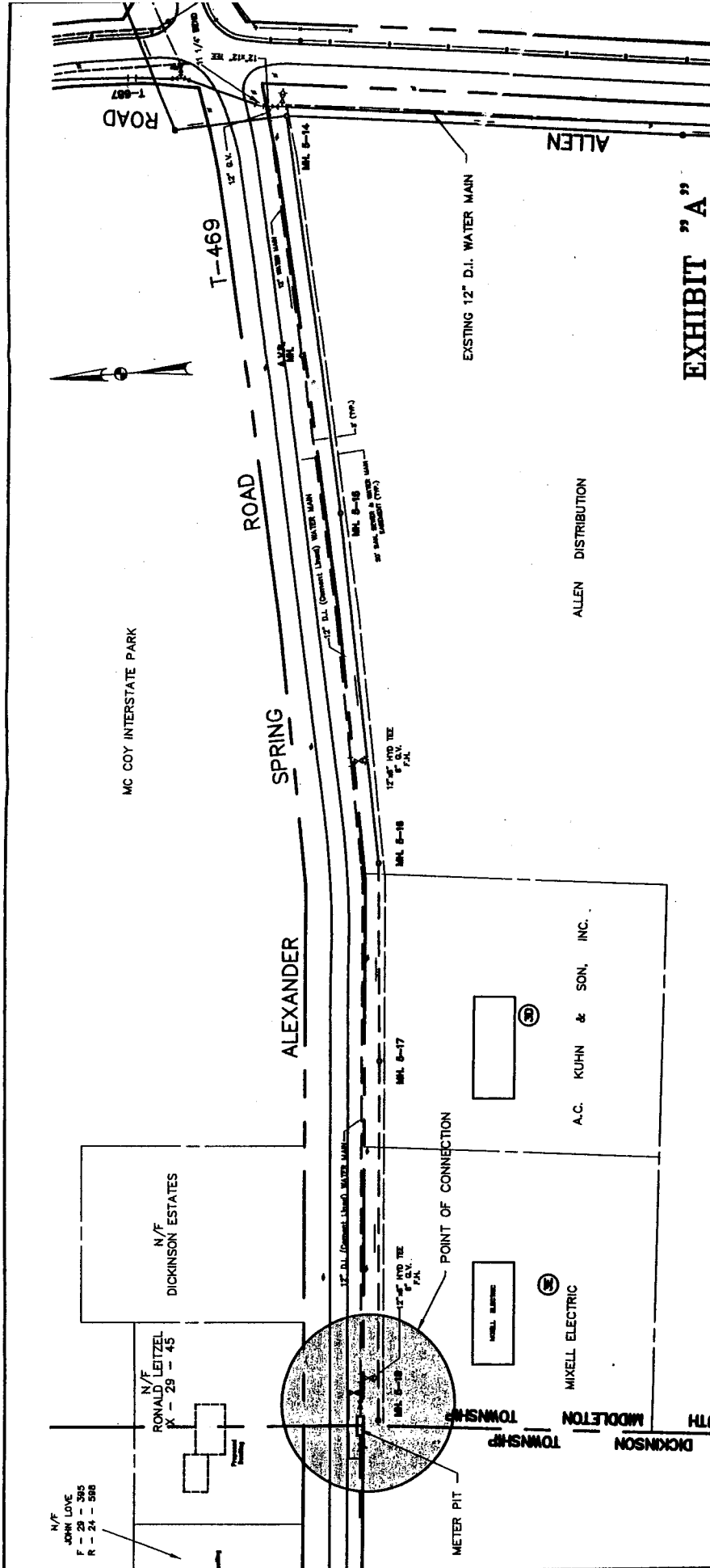


EXHIBIT "A"

SOUTH MIDDLETON TOWNSHIP MUNICIPAL AUTHORITY
 CUMBERLAND COUNTY, PENNSYLVANIA

EXTENSION INTO DICKINSON TOWNSHIP
 ALONG ALEXANDER SPRING ROAD

GLACE ASSOCIATES, INC.
 CONSULTING ENGINEERS
 CAMP HILL, PENNSYLVANIA

SCALE: 1"=100'