

DEC 3 - 2012

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November 30, 2012

Via E-mail and First Class Mail

Timothy G. Dietrich, Esquire
Barley Snyder LLP
50 North Fifth Street
PO Box 942
Reading, PA 19603

Re: SCRA Proposal November 2012

Dear Tim:

This document is for settlement purposes only and cannot be used for any other purpose, pursuant to the Rules protecting settlement discussions. Further, nothing in this settlement proposal should be construed as an admission that the Master SCRA agreement is a legally binding agreement on any of the parties.

As you will recall, on October 25, 2012, MTMA and the Township advised the Borough/KMA that it intended to withdraw from SCRA. In keeping with the discussions on that date, MTMA and the Township offer the following items as an effort to conclude all obligations set forth in the SCRA Agreement, including the need for the formation of SCRA and the transfer of Area "A" Treatment Facility Ownership to SCRA:

1. Permits – Application fees for zoning permits for Borough Properties within the Township shall be waived unless there are out-of-pocket fees that accrue for zoning hearings. Administrative portion of land development fees shall be waived. However, all costs for professional fees, inspection fees or other out of pocket fees shall remain the responsibility of the Borough.
2. SCRA – The formation of SCRA shall not occur and no property shall be transferred to the entity.
3. Wellhead Protection Ordinance – The Township will adopt a wellhead protection ordinance that evidences protection for Borough Wells as demonstrated by the 2011 SSM Wellhead Protection Study.
4. Financing – The receipt of grants and financing shall remain in-tact without change or revision.

5. 20" Main – During the 5 year reservation period noted above, MTMA will pay the same maintenance fee for the use of the 20" main as established by the SCRA Agreement. After that period, the maintenance fee would expire.

6. Hydrants – All fire hydrant rental fees shall be suspended.

7. Area "A" Plant/ Regional Use – MTMA shall consider the Area A Treatment Facility as the KMB/Borough's back-up facility for any future technical issues. Based upon this consideration, the Township shall ensure that its Act 537 Plan includes the appropriate documentation to confirm this position and the Borough may do the same. In all instances, each party should review the language of said Official Plan contents to make sure that such contents do not over-pledge treatment availability, etc.

8. Service Areas – All service areas and associated utility language as established by the SCRA Agreement are deleted. Rather, all sewer service within the Township shall be governed by Pennsylvania Law. Intermunicipal service shall occur based upon Agreement and/or Public Utility Commission regulations.

9. Land Costs – Based upon the calculation that is set forth in the SCRA documents the Township offers the following monies for Borough Properties:

\$50,000 for the land where the plant is located (along with all appurtenant easements)

\$100,000 for the use of the 20" main. (This amount assumes the same agreement that transportation fees will not be charged for the use of the 20" main up to and including 150,000 gpd)

10. Capacity Reservation – MTMA will reserve 21,680 gpd in the Area A facility for a period of 5 years. Thereafter, the gallonage reservation shall expire unless utilized. Please note that there is a cost associated with said reservation that accrues daily for MTMA. Specifically, the cost for any other entity to reserve this amount would be \$47,587.60 per year based upon the MTMA's reservation resolution for a total of \$237,938. Based upon this reservation on KMA's/the Borough's behalf, this reservation fee would be forfeited by MTMA due to setting aside capacity on the Borough's behalf, since requests for said reservation are currently pending before MTMA. Please note that this may be subject to exchange of capacity provisions to be subsequently determined and only for emergency use, and as more fully defined in the close out agreement.

11. Borough Facilities – MTMA and KMA shall continue to utilize the Borough Plant/flow splitter and Area A plant for the co-mingling and treatment of sewage as presently occurs. In keeping with this technical provision, MTMA will ensure that it adopts the appropriate technical operating resolutions to ensure that the appropriate treatment standards are maintained for Township users. The parties can discuss the use of the flow splitter at any time when the Borough can demonstrate disruption to its treatment facilities. In keeping with this provision, the parties shall exchange technical flow data, sampling of waste information, etc. to

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ensure that the both plants are working in concert and that any allegation of technical and/or industrial treatment/flow improprieties can be pin-pointed and properly attributed to the correct party. A draft of the technical operating agreement as contemplated by the Intermunicipal Agreement is also attached for discussion to ensure compliance with these issues and plant parameters.

12. Meter Readings – MTMA shall be permitted to utilize the Borough's water meter readings at no charge in the limited Township areas that obtain public water in order to quantify sewer bills when the time comes for meter use for the Area "A" service area.

13. Bridge – MTMA may use bridge to access Area "A" Treatment Facility but MTMA / Township is no longer responsible for the bridge due to the use of it for the County Cell Tower and the Borough Park.

Finally, these general terms would necessarily be reduced to a written agreement which will include indemnification and severability provisions acceptable to the parties. Please let me know if these general terms are acceptable.

Sincerely,


Jill E. Nagy

JEN:eab
Enclosure

cc: Maxatawny Township Municipal Authority
Maxatawny Township
Justin Yaich
Gabrial Khalife, Kutztown Borough Manager
Sean E. Summers, Esquire – via e-mail only