

MONAGHAN TOWNSHIP
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 96

AN ORDINANCE OF MONAGHAN TOWNSHIP, YORK COUNTY, PENNSYLVANIA,
AUTHORIZING AN AMENDED AND RESTATED INTERGOVERNMENTAL
COOPERATION AGREEMENT FOR THE IMPLEMENTATION OF THE YORK
COUNTY REGIONAL CHESAPEAKE BAY POLLUTANT REDUCTION PLAN

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained on the Board of Supervisors of Monaghan Township, York County, Pennsylvania (the "Municipality"), as follows:

SECTION 1: Intergovernmental Cooperation. The cooperation with other nearby municipalities to implement an Amended and Restated Regional Chesapeake Bay Pollutant Reduction Plan and to share in the costs of administering it is hereby authorized.

SECTION 2: Agreement. The Amended and Restated Intergovernmental Cooperation Agreement for the Implementation of the York County Regional Chesapeake Bay Pollutant Reduction Plan (the "Agreement") is attached hereto as Exhibit "A" and incorporated herein by reference. Provisions of the Agreement include the following:

- a. Background
- b. Guiding Principles
- c. Organization
- d. Meetings
- e. Authority of Management Committee
- f. Implementation of Agreement
- g. Financing
- h. Effective Date
- i. Term
- j. Termination and Wind-Up
- k. Applicable Law
- l. Integration
- m. No Oral Modification
- n. Severability
- o. Representation by Counsel
- p. Counterparts
- q. Execution by Facsimile or Electronic Scanning
- r. Fees and Costs

- s. Signatures
- t. Prior Participants
- u. Cost Sharing Exhibit
- v. Participant Listing

The Municipality is hereby authorized to enter into the Agreement. Further, the Municipality may modify the Agreement by subsequent resolution or ordinance.

SECTION 3: Adoption of Ordinance. This Ordinance is adopted pursuant to the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301 *et seq.*, and the authority granted herein shall continue from year to year while the Municipality cooperates pursuant to the Agreement.

SECTION 4: Staff and Officials. The staff and officials of the Municipality are directed and empowered to take all actions necessary or convenient to implement this Ordinance and the Agreement.

SECTION 5: Inconsistency. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 6: Effective Date. The Ordinance shall become effective five (5) days after date of enactment as provided by law.

ENACTED AND ORDAINED by the Board of Supervisors of Monaghan Township this 11th day of September, 2017.

ATTEST:

MONAGHAN TOWNSHIP


Secretary

By: 
Chris A. Hoover, Chairman

**AMENDED AND RESTATED INTERGOVERNMENTAL
COOPERATION AGREEMENT
FOR THE IMPLEMENTATION OF THE
YORK COUNTY REGIONAL CHESAPEAKE BAY
POLLUTANT REDUCTION PLAN**

THIS AGREEMENT is made this 11th day of Sept., 2017, by and among the York County Planning Commission ("YCPC") and the municipalities executing this Amended and Restated Intergovernmental Cooperation Agreement for the Implementation of the York County Regional Chesapeake Bay Pollutant Reduction Plan ("Agreement")(collectively, the "Participants" or the "York County Stormwater Consortium" or the "Consortium")(the YCPC and each Participant shall individually be referred to as a "Party" and shall collectively be referred to as the "Parties"). The list of Participants is included as Attachment "B" hereto, and shall be updated by Addendum as necessary.

This Intergovernmental Cooperation Agreement (the "Agreement") is authorized and required pursuant to applicable law, including, but not limited to, 53 Pa.C.S. §2303.

BACKGROUND

A. Municipalities that are designated to hold a Pennsylvania Department of Environmental Protection ("DEP") MS4 Permit (regarding stormwater discharges) are required to prepare and implement pollutant reduction plans (each a "PRP" or collectively the "PRPs") including a Chesapeake Bay Pollutant Reduction Plan (the "CBPRP") (except those Municipalities that have received an advanced waiver and if they later receive a full waiver); and

B. YCPC has led a group of interested municipalities through the process of developing a Regional CBPRP (the "Regional Plan"), as an alternative to each of the local government units developing their own PRPs; and

C. Certain Best Management Practices ("BMPs") are designed to control stormwater and improve water quality, and are required to be implemented as part of a PRP; and

D. BMPs or BMP projects require capital expenditures, in some cases, significant capital expenditures; and

E. Participants desire to cooperate to effectuate the cost effective installation of BMPs in order to accomplish annual reduction(s) of nitrogen, phosphorous and sediment discharges into the Waters of the Commonwealth, as that term is defined in the Pennsylvania Clean Streams Law, 35 P.S. §691.1, in York County; and

F. As set forth in this Agreement, all Participants shall share in the cost to implement stormwater and water quality Best Management Practices Projects (individually referred to as a "BMP Project" or collectively "BMP Projects") that are selected by the Participants in accordance with the terms of this Agreement; and

G. The amount of annual financial contribution expected of each Participant is calculated based upon an agreed-upon formula set forth herein; and

H. Participants that hold a MS4 Permit shall be able to be credited for the pollutant reductions achieved by construction of the BMP Projects in the Regional Plan. Such pollutant reductions shall be reported to DEP in the MS4 Status Report (the "Annual Report"); and

I. The content of the Regional Plan, including BMP Project selection and the level of funding for each BMP Project, shall be determined by the Participants as set forth herein; and

J. The Regional Plan approved by DEP, including any subsequent revisions/amendments thereto, is incorporated by reference herein; and

K. The purpose of this Agreement is to set forth the Parties' agreement as to how the Parties will cooperate to implement and revise the Regional Plan, how the Parties will interact with the regulatory agencies regarding MS4 permit requirements, and how the Consortium will be governed, the process to withdraw, and the obligations of each Participant and the YCPC; and

L. The Parties agree and acknowledge that nothing in this Agreement, nor the resultant actions here from, shall limit, prevent, or interfere with any Participant's responsibility

to comply with applicable Pennsylvania law and regulation, Federal law and regulation, applicable regulatory agency rules and policies, permit requirements, DEP directives, or United States Environmental Protection Agency directives, and local ordinance; and

M. Many of the Participants were a party to the prior Agreement, entitled Intergovernmental Cooperation Agreement for the Implementation of the York County Regional Chesapeake Bay Pollutant Reduction Plan dated September 21, 2014 (the “Original Agreement”) which is being amended and restated by this document.

N. All Participants shall adopt an Ordinance and take all necessary action to approve this Agreement and to effectuate their participation.

INTENDING TO BE LEGALLY BOUND, THE PARTIES AGREE AS FOLLOWS:

1. **Background.** All of the Background paragraphs hereto are incorporated herein by reference as if fully set forth at length.

2. **Guiding Principles.**

a. The Parties have a mutual interest in protecting the Waters of the Commonwealth, and restoring the impaired waters of the County. The Parties commit to cooperate to implement a Regional Plan that identifies and funds cost effective BMP Projects to meet the required reductions of nitrogen, phosphorous and sediment entering the Waters of the Commonwealth in York County, Pennsylvania as efficiently as possible.

b. The Parties agree that priority will be given to BMP Projects located on or upstream of an impaired stream in the Planning Area identified in the Regional Plan. Only the Regional Committee, as defined herein, may revise the Regional Plan to modify the BMP Summary List, funding plan or other plan components. Any changes to the Regional Plan shall assure that MS4 Permit PRP requirements, including, but not limited to sediment reduction and BMP project funding continue to be satisfied.

3. Organization.

a. **Participant Representation.** Each Participant shall designate a primary voting representative and an alternate to serve as the contact person(s) on all matters related to the Regional Plan. The name of and contact information for the representative and alternate shall be provided to the YCPC in writing, as well as any subsequent changes.

b. **Regional Committee.** The Regional Committee shall consist of the representatives designated by the Participants pursuant to Paragraph 3(a) above. The alternate shall be entitled to fully participate in all Committee meetings, but may vote only when the designated representative is unavailable.

c. **Management Committee.**

(i) Members. The Management Committee shall consist of seven (7) voting representatives (primary voting representatives only) from the Regional Committee and the designated representative of the YCPC to serve as Administrator for the Consortium (the "Administrator"). No less than five (5) members of the Management Committee shall be representatives of Participants that have MS4 Permits. The Administrator shall be a participating but non-voting member of the Management Committee.

(ii) Election of Management Committee Members. The members of the Management Committee shall be elected at the Annual Meeting where a Quorum (as defined below) is present. The Administrator shall solicit for volunteers interested in serving on the Management Committee from all primary voting representatives at least forty-five (45) days prior to the Annual Meeting. The Administrator shall issue a slate of eligible (i.e. voting primary representative from Participant jurisdiction) and willing volunteer Management Committee candidates to all designated Participant representatives no less than fifteen (15)

days prior to the Annual Meeting. Each Participant present at the Annual Meeting shall be entitled to one (1) vote for each vacancy on the Management Committee. Those nominated to serve on the Management Committee and receiving the highest number of votes shall be elected to the Management Committee. Voting cards, or another means acceptable to a majority of the Participants present at the Annual Meeting, shall be utilized and continue until all ties are broken.

(iii) Management Committee Term. The Management Committee members shall serve a term of one (1) year, to begin on January 1 after election at the Annual Meeting, and which term shall expire on the following December 31 of that same calendar year. There is no limit to the number of terms that members may serve.

(iv) Management Committee Vacancy. Where a Management Committee member vacates his or her position prior to the end of the term, the Management Committee is authorized to unilaterally appoint an eligible Participant representative to fill the vacancy for the remainder of the term (i.e., December 31 of that year).

d. **Officers** - Members of the Management Committee shall elect officers, to include a Chair, Vice-Chair, Secretary and Treasurer. Those Officers shall perform the duties necessary to implement this Agreement and as generally envisioned by *Robert's Rules of Order*, latest edition. Generally, the Officers shall be responsible as follows:

(i) Chairperson – shall run the Management and Regional Committee meetings with the Administrator;

(ii) Vice-Chairperson – shall fill in for Chairperson, when requested, and serves at the discretion of the Chairperson;

(iii) Secretary – shall ensure that meeting minutes of the Management and Regional Committees are accurate and retained as a record; and

(iv) Treasurer – shall ensure that Consortium funds are disbursed in a timely fashion for legitimate expenses related to implementation and administration of the Regional Plan, and as approved by the Management and/or the Regional Committees.

The Officers shall serve a term of one (1) year, to begin on January 1, and which term shall expire on the following December 31 of that same calendar year. There is no limit to the number of terms that a representative may serve as an Officer on the Management Committee.

e. **Administration.** Staff of the YCPC will administer the activities of the Regional Committee and Management Committee at the direction of the Management and Regional Committees. The following are tasks that shall be undertaken and the responsibility of the YCPC, for which reimbursement shall be provided from the Consortium funds:

(i) Preparation and circulation to all Participants of minutes from all Regional Committee, Management Committee, and Subcommittee meetings.

(ii) Arrange, plan, and coordinate all Regional Committee, Management Committee, and Subcommittee meetings and/or conference calls.

(iii) Ensure that all applicable notice requirements are satisfied and advertisements are drafted and published as required by applicable laws, including, but not limited to, the Pennsylvania Sunshine Act.

(iv) Oversee, and administer BMP Projects funded by the Consortium to ensure funds are being spent as approved, on approved projects or project elements.

(v) Pay appropriate invoices submitted for BMP Projects approved for funding by the Regional Committee, following approval of the invoice by the Management Committee.

(vi) Draft any revisions to the Regional Plan for circulation and review by the Regional and Management Committees. Administer any such revisions.

(vii) Prepare all draft Regional Plan documents, revisions, updates, and any content requirements, as determined and directed by the Management Committee for approval thereafter by the Regional Committee for submission to DEP.

(viii) Prepare the MS4 CBPRP Annual Report related to and/or for the York County Regional CBPRP that is required in draft for review and approval by the Regional Committee. Finalize and aid in the submission of the MS4 CBPRP Annual Report as directed by the Regional and Management Committees prior to the designated due date, as determined by DEP.

(ix) Calculate the Annual Contribution for each new Participant (in accordance with the Contribution Formula in Section 7.a.(ii) and as reflected in Attachment "A" (and any subsequent addenda to this Attachment) and issue an annual invoice to every Participant no later than January 31 for the current calendar year of the Term.

(x) Collect all Annual Contributions from Participants and deposit all Annual Contribution funds into the Consortium Account, as described herein.

(xi) Manage and administer Consortium funds paid and deposited in the Consortium Account.

(xii) Retain all records, as that term is defined by the Pennsylvania Right-to-Know Law, for the time period required by applicable law or funding

source but not less than six (6) years. Such records related to the Regional Plan and the activities undertaken pursuant to this Agreement shall be available for review and copying by any Participant at the YCPC offices, upon submission of written request no less than five (5) business days prior to the desired date of review. Such written notice by a Participant is not required to comply with the then current Pennsylvania Right- to- Know Law.

(xiii) Prepare or cause to be prepared an annual:

- (1) Financial Report of the Consortium funds and all expenditures;
- (2) Progress Report related to all approved BMP Projects.

(xiv) Notify all Participants in writing of each Participant that has not paid the assigned annual financial contribution no later than September 30 of each calendar year.

(xv) Assist in identifying grant funding that can be used to fund implementation of the Regional Plan and/or the actions and activities (excluding Administration) undertaken pursuant to this Agreement.

(xvi) Solicit project status reports, Final Reports for each completed Project, and suggested revisions to the BMP Summary List from all Regional Committee members and Participant jurisdictions at least 90 days prior to the Annual Report deadline.

(xvii) Provide summaries of interactions with DEP or other regulatory agencies regarding the implementation of this Agreement.

(xviii) Undertake other actions that may be necessary or convenient to implement the provisions of this Agreement.

4. Meetings.

a. Annual Meeting - There shall be an annual meeting of the Regional Committee (the "Annual Meeting"). The Annual Meeting shall occur following advance written notice to the Municipal representative and alternate of no less than thirty (30) days. Such Annual Meeting notice shall be provided by the Administrator to all Participants in accordance with this Agreement, and such notice may be provided by regular mail, facsimile or email using the contact information provided by each Participant. The Annual Notice will specify the time, place and agenda for the Annual Meeting.

b. The following business shall be conducted at the Annual Meeting:

(i) Vote on BMP Projects to fund for the following calendar year, provided the Regional Committee shall not de-fund a multi-year project where construction has begun. If a funding matter arises during the course of the year, it can be considered by the Regional Committee at a Regular Meeting.

(ii) Presentation of the Annual Financial Report provided by YCPC.

(iii) Presentation of the Status of Funded Projects Report provided by YCPC.

(iv) Participant Update shall be presented by the Management Committee or the Administrator.

(v) Review and approval of proposed budget prepared by the Administrator and Management Committee for the following calendar year.

(vi) Presentation of annual update by Subcommittees.

(vii) Establish dates for the quarterly Regular Regional Committee Meetings (referenced in Section 5.b. below), one of which shall serve as the

Annual Meeting, for the following calendar year (currently during the months of February, May, August and November).

(viii) Elect the members to the Management Committee, which election shall occur as set forth in Section 3.c. above.

(ix) Authorize that an audit be conducted in the upcoming year upon close out of the current year.

(x) Other business, as determined by the Management Committee, the Administrator, and/or the Participants.

c. Except as otherwise provided herein, all voting shall be completed by voting cards or another means acceptable to a majority of the Participants at the Annual Meetings and decisions shall be based on a simple majority vote of Regional Committee Participants in attendance.

Each Participant in attendance shall be entitled to one (1) vote on all matters addressed at the Annual Meeting and for which a vote is taken.

d. Regular Regional Committee Meetings –

(i) The Regional Committee shall meet quarterly to conduct business related to the Regional Plan and Annual Report (the “Regular Meetings”), unless such meeting is cancelled or the date or location is moved by the Management Committee (by simple majority vote of four (4) Management Committee members, which vote can be cast via electronic communication). Business at the Regular Meetings shall be approved by a simple majority vote of those in attendance at the meeting.

(ii) In addition to Regular Meetings, as set forth in (i) above, the Management Committee, or a majority of the members of the Regional Committee, may call for a Regional Committee meeting for any purpose arising

from or related to this Agreement. Such meetings shall occur following advance written notice of no less than fifteen (15) calendar days, which notice shall be provided to all Participants by the Administrator.

e. Quorum. A quorum (50% of all Participants as represented by a voting representative) is necessary for the Regional Committee to take official action.

f. Participant Request. The Parties and the Administrator recognize that some Participants may request technical support and/or regulatory representation under certain circumstances and will consider those requests.

g. YCPC Staff. YCPC staff shall be authorized to attend and participate in all meetings referenced herein.

5. Authority of Management Committee. Except as otherwise provided herein, the implementation of the Regional Plan pursuant to this Agreement shall be managed and governed by the Management Committee. In addition to the duties and authority referenced elsewhere in this Agreement, the Participants hereby delegate such functions, powers and responsibilities set forth below to the Management Committee:

a. Authorize payment of submitted invoices. All procurement rules applicable to the participating Municipality shall be applicable to the BMP Projects undertaken pursuant to this Agreement. The Chairperson or Vice-Chairperson shall sign documents on behalf of the Management Committee. The Secretary or Treasurer shall attest those signatures.

b. Ensure funded BMP Projects are constructed as approved, payments for the work are within the approved scope of each Project, and that payments are issued timely to the Participants.

c. Review the Regional Plan as might be necessary or appropriate.

- d. Review and vote on new Participant requests, including specified amount(s) for each new Participant, as prescribed by YCPC and/or Administrator.
- e. Administer this Agreement, as necessary, throughout Agreement term.
- f. Convene and appoint persons to serve on any Subcommittee deemed necessary by the Management Committee to fulfill the obligations, actions and activities required in this Agreement.

The Management Committee shall comply with laws applicable to the Participants, including, but not limited to, the Sunshine Act, the Right-to-Know Law and the Public Official and Employees Ethics Act, and any and all other applicable laws. All actions of the Management Committee shall be approved by a majority of its seven (7) voting members. Regional Committee members shall be entitled to attend meetings of the Management Committee, which shall occur no less than four (4) times per year or more frequently as needed, following advance written notice to all members of the Management Committee and Regional Committee by regular mail, facsimile or email.

6. **Implementation of Agreement.**

a. **Participants' Obligations.**

(i) The Participant jurisdiction in which any local level BMP Project on the BMP Summary List is located shall be responsible for the implementation of the BMP Project (including, but not limited to, design, permitting, construction, operation, monitoring, and long-term maintenance and monitoring). If a BMP Project is designated as regional on the BMP Summary List, a Participant or qualified third party (the "Project Sponsor") shall be designated by the Management Committee as responsible for its implementation. Participants may contractually transfer such obligations for design, construction, operation and long-term maintenance, and monitoring to qualified third parties, but the

Participant jurisdiction where the BMP Project is located shall remain responsible to ensure that the contracted third parties are performing the required tasks satisfactorily. The Participants' obligations and accepted liability to the other Parties to this Agreement shall remain with the Participant. Such long-term future obligations of operation, maintenance and monitoring of BMP Projects funded by the Consortium set forth in this provision shall survive opt out (Section 7.a.(ix)) and/or termination.

(ii) The Participant or Project Sponsor shall compile and timely submit any and all invoices related to funded BMP Projects to the YCPC, which will forward them to the Management Committee for review and approval for payment.

(iii) The Participant or Project Sponsor shall maintain the BMP Project documentation and submit copies of all records relative to the BMP Project, including the approved Stormwater Management BMP Operations and Maintenance Plan, annually, unless requested more frequently by the Administrator, to the Administrator, who will then update the Management Committee and all Participants on the status of the BMP Project. The Participant or Project Sponsor shall retain BMP Project documentation that qualify as "public records" under the then current Right-to-Know Law, for the time period required by applicable law or funding source but not less than six (6) years. Such records related to the Regional Plan shall be available for public review and copying at Participant or Project Sponsor office, upon submission of written request no less than five (5) business days prior to the desired date of review. The Participant or Project Sponsor shall also provide to YCPC the Final Report for completed Projects.

(iv) If a BMP Project, sponsored by a Project Sponsor, is to be implemented, such Project shall be subject to terms and conditions approved by the Management Committee and Administrator. The Management Committee and Administrator will seek to develop a form of agreement to be used in such instances. Where a Participant does not have a Regional Plan BMP Project in its jurisdiction, that Participant shall not have any obligations as to that BMP Project pursuant to this Agreement and pursuant to its MS4 permit.

b. Enforcement Actions. The Regional Committee shall meet to consider any final compliance or enforcement action (including the pursuit of a civil penalty, Order, or any other compliance notice or action) if taken by either the Commonwealth or the Federal Government in any way related to the Regional Plan, or implementation actions and activities undertaken pursuant to this Agreement and the relevant Participant permit requirements. The Regional Committee shall consider, among other things, whether any one (1) or more Parties are responsible for the alleged violation(s), and determine what the Consortium's response action(s) shall be. Where the Administrator, YCPC, or the Management Committee become aware of a potential compliance issue or question, the Administrator shall send written notice to all Participants within three (3) business days, which notice shall include any and all correspondence (including hard, electronic, or telephone call notes/summary) from or with a regulatory entity (including, but not limited to, the York County Conservation District, DEP, the United States Environmental Protection Agency, and United States Fish and Wildlife Service). The Management Committee shall convene a special meeting of the Regional Committee in accordance with applicable law, and within ten (10) calendar days of issuance of the notice referenced herein. Under this provision and after an enforcement action becomes final, the Regional Committee may

unilaterally terminate the Agreement as to any Participant, during a meeting where a Quorum is present and upon approval by a majority vote. Where this occurs, the terminated Participant(s)' contribution(s) to date shall be retained by the Parties in the Consortium Account and is thereby forfeited by the terminated Participant(s).

7. **Financing.**

a. **Contributions by Participants**

(i). Annual Contribution. Unless a Participant opts out pursuant to Section 7.a.(ix), below, each Participant shall provide annual funding to the Consortium pursuant to this Agreement in the amounts set forth in the Cost Sharing Summary ("Annual Contribution"), which is attached hereto as Attachment "A" and incorporated by reference herein. So long as a Participant does not opt out, Annual Contributions shall be made by each Participant jurisdiction on an annual basis, as set forth herein, through the Term (as defined below) of this Agreement.

(ii) Contribution Formula. The Parties have agreed that Annual Contributions from each Participant jurisdiction that holds an MS4 Permit shall be calculated as follows:

A. = Lineal Miles of Impaired Streams in Participant Jurisdiction x \$13,261.2350 per mile*

B. = 2010 Population per U.S. Census in Participant Jurisdiction x \$12.103711 per person*

C. = Acres of Impervious Coverage in Participant Jurisdiction x \$ 221.61367 per acre*

* round result to a whole number; no decimals

Total Contribution Over Five Years = A + B + C

Annual Contribution = (A + B + C) / 5¹

¹ Lineal Miles of Impaired Stream in Participant Jurisdiction = 20% of contribution
[\$2,547,057 / total miles of Impaired streams (192.0678) = cost/ mile]

Population in Participant Jurisdiction = 30% of contribution
[\$3,820,585 / total population (315,654) = cost/ person]

The Parties have also agreed that each Participant Jurisdiction that receives a full MS4 Permit Waiver or is a non-MS4 shall pay an equal share of the administrative cost. The Annual Contribution for each shall be \$1,591.00.

The formula for each Participant's Annual Contribution shall not be changed or revised through the Term (as defined below) of this Agreement, except as specifically set forth herein. However, the Annual Contribution may be adjusted using the formula, if there is a default by a Participant under the Agreement that would affect funding at large, if there is a reasonably anticipated funding or nutrient reduction gap, provided that such additional funding is believed by the Management Committee to be necessary to avoid a violation under the CBPRP, or if BMP projects in the Regional Plan are accomplished ahead of schedule and the Consortium is on track to meet the MS4 Permit pollutant reduction requirements.

(iii) Invoicing and Payment. Participants shall be invoiced by YCPC no later than January 31 of each calendar year, and the Participants' respective contributions shall be due either: (a) in full on or before April 30 of each year, or (b) half by April 30 and the remaining half by August 31 of each year.

(iv) Non-Appropriation. Failure to budget and timely pay the contribution invoice issued by YCPC shall result in:

(a) retention of Annual Contribution funds paid to date by the violating Participant jurisdiction by YCPC and the Consortium;

(b) unilateral termination of this Agreement as to the violating Participant jurisdiction, following final notice and

Impervious Coverage (by acre) in Participant Jurisdiction = 50% of contribution
\$6,367,642 / total impervious cover (28,733) = cost/acre]

(Cost/ mile x miles of impaired streams in PJ) + (Cost/ person x population in PJ) + (Cost/acre x acres of impervious cover in PJ) = Participant Jurisdiction Total Contribution over five (5) years

reasonable opportunity to cure of no less than five (5) business days, which shall be provided in writing by YCPC to the violating Participant jurisdiction;

(c) submission of notice of termination as to the violating Participant jurisdiction to the PA DEP; and

(d) if any BMP Project located in the violating Participant jurisdiction was approved for funding by the Consortium and Regional Committee, those funds may be reallocated to other BMP Projects by the Regional Committee at the next Annual Meeting.

(v) Subsequent Participants (i.e. “opt in”). A local government jurisdiction may opt in, subject to approval of the Regional Committee, provided that it shall:

(a) contribute an Annual Contribution as calculated by the Administrator and approved by the Management Committee, which amount shall be the total of: application of the Contribution Formula to the jurisdiction for the full five-year term, divided by the number of years left on the Term of this Agreement. (For example, if a municipality would have owed \$500 over the Term of the Agreement (\$100/yr) based upon application of the Contribution Formula, and it opts in for the last 2 years of the Term, the municipality shall owe \$250/year as its Annual Contribution in years 4 and 5 of the Term.) The Participants reserve the right to charge a “Plan Revision Fee” to Participants that opt in, equal to and based upon administrative costs and expenses arising from the requested action;

(b) make its Annual Contribution payment in accordance with this Agreement within thirty (30) calendar days of being approved to participate by the Management Committee, unless participation begins at start of a calendar year, then invoicing and payment shall be in accordance with Section 7.a.(iii); and

(c) such Annual Contribution of such subsequent and additional Participant(s) shall not reduce the other Participants' Annual Contribution.

(vi) Consortium Account. A separate Regional CBPRP bank account (the "Consortium Account") shall be established by the YCPC for the deposit of the Participants' Annual Contributions and the funds therein shall be used solely for the Annual Audit, reimbursement for eligible YCPC administrative costs and expenses, as set forth herein, and the implementation of BMP Projects identified in the Regional Plan. Administration of these funds to pay for proper expenses under this Agreement shall be the responsibility of the Administrator and YCPC, with oversight and at the direction of the Management Committee. Such use of funds shall be for aspects of BMP Project implementation, as approved by the Regional Committee at the Annual Meeting. YCPC will be compensated for its administrative role in an amount not to exceed \$35,000 in any one calendar year. YCPC shall also be entitled to reimbursement for direct expenses arising from or related to its administration under this Agreement including, but not limited to, advertising, supplies, solicitor fees, fiscal software changes, and bank fees. YCPC may, if it believes that compensation for its Administrative role is inadequate, seek approval for a reasonable increase, which must be approved by the Regional Committee.

(vii) Segregated Funds. All Parties agree that the Annual Contribution funds in the Consortium Account shall be kept separate and apart from any and all other funds that may be acquired or utilized by YCPC and/or the Consortium, including, but not limited to, grant, loan, or donated funds. Grant, loan or donated funds shall be placed in separate Consortium accounts (each an "Additional Account"). It is the obligation of YCPC and the Administrator to maintain these funds and Additional Accounts separately, and to account for and report use of these funds to the Regional Committee.

(viii) YCPC Reimbursement. The YCPC shall be reimbursed for invoiced costs and expenses reasonably related to those duties and obligations set forth in Section 3.e., and upon approval of invoices for payment by the Management Committee. The YCPC shall not be reimbursed for attorney or legal fees, unless incurred (1) with pre-authorization of such engagement and expense by the Management Committee (such pre-authorization may consist of formal action at a meeting or electronic approval by a majority of Management Committee members to be followed by ratification at a meeting); (2) on behalf of the Consortium's implementation of the Plan and this Agreement; and (3) at the direction of the Management Committee. YCPC shall not seek nor obtain reimbursement for actions, activities or costs that are otherwise paid for by grant, loan or other sources of money.

(ix) Opt Out. During the Term of this Agreement, where a Participant, that does not have an MS4 permit or has a MS4 permit waiver, is not satisfied with the Regional Plan or the implementation of this Agreement, a Participant may opt out of the Regional Plan and unilaterally terminate its participation in this

Agreement in year 3 of the Agreement Term (i.e., 2020). Such opt out action shall only be effective where accomplished as follows:

(a) Submit written notice of intent to opt out and terminate to the Administrator and the Management Committee no less than sixty (60) days prior to the Annual Meeting for termination to begin January 1, 2021.

(b) Such written notice of opt out shall terminate this Agreement as to the opting out Participant on January 1, 2021.

(c) All Annual Contributions made to date by the Participant shall be automatically forfeited and shall become the property of the remaining Parties hereto.

(d) The Participant choosing to opt out at this stage shall pay a "Plan Revision Charge" of \$500 to the Consortium Account.

b. Grants.

(i). Any grants or donations received by the YCPC or the Consortium Participants to implement stormwater BMP Projects included in the Regional Plan shall not reduce the Participants' Annual Contributions, except as provided for in Section 7.a.(ii).

(ii). Each Participant agrees that it may apply for grants as directed by its governing body and undertake any and all actions necessary to obtain them.

(iii). Upon receipt of such a grant, the Participant shall administer the grant. Assistance with grant administration may be sought from the Management Committee or YCPC.

c. Donations.

1. To the extent that donations to the Consortium can be obtained from any source, they shall be deposited into an Additional Account.

2. Such donations to the Consortium shall be utilized to fund BMP Projects identified in the Regional Plan.

d. Payment Procedures for Funded BMP Projects.

Each BMP Project that the Regional Committee agrees to fund shall be assigned a Project Number and a Request for Payment form shall be prepared by YCPC. Invoices will be processed in accordance with the Standard Operating Procedure established for Processing Payments for Funded Regional CBPRP BMP Projects. This Procedure, including any subsequent revisions thereto, is incorporated by reference herein. A similar procedure will be utilized for processing YCPC administration invoices. Where the Participants are funding a portion (partial funding) of a BMP Project, Consortium funds shall be the last funds used or paid out by YCPC.

8. Effective Date.

a. The Effective Date of this Agreement shall be September 16, 2017. It is recognized that all Participants shall have executed this Agreement and passed an ordinance authorizing the Agreement pursuant to 53 Pa. C.S. § 2303 (an "Authorizing Ordinance") before that date. It is the intent of the Parties that their cooperative efforts, including the conduct of meetings authorized or required by this Agreement, shall commence as of September 16, 2017, regardless of when each Participant executes the Agreement or passes an Authorizing Ordinance.

b. This Agreement shall become effective *as to each Party* upon execution and, where applicable, adoption of an Authorizing Ordinance.

c. For any Participant that received an advanced waiver and is seeking a full waiver, upon notification from DEP of issuance of an MS4 Permit or full waiver, that Participant may withdraw at the end of the calendar year of the Term, and upon no less

than sixty (60) days advance written notice to the Administrator prior to the end of the calendar year. The annual Participant contribution shall be \$1,591 until time of withdrawal. However, if an MS4 Permit is issued by DEP and the municipality remains a Participant, it shall be obligated to pay the Annual Contribution if Full Waiver Not Received as set forth in the last column of Attachment "A", (if the Annual Contribution in the second column of Attachment "A" has already been paid, then that amount shall be applied to the Annual Contribution if Full Waiver Not Received and the Participant shall pay the balance) by the end of the current calendar year.

9. **Term.**

a. The term of this Agreement shall begin on the Effective Date and end on December 31, 2023 (the "Term"). All Participants approving this Agreement may participate for such time period, unless the Participant opts out or is terminated prior to the end of this Agreement Term as provided for herein.

b. This Agreement may be extended by those Participant jurisdictions desiring to participate for an additional term or terms, by resolution.

10. **Termination and Wind-Up.** In the event of termination of the Consortium established by this Agreement, either at the conclusion of the initial Term, or at the end of any additional extended term agreed to by the Parties, any funds remaining in the Consortium Account shall be returned to those Participants who are part of the Consortium at the time of termination. For Participants who hold an MS4 Permit, any remaining BMP Project contributions shall be returned based upon their percentage (rounded to three decimal digits) of the total Participant BMP contributions as reflected at the time of termination. For Participants who have an MS4 Permit Waiver or are non-MS4s, any remaining administration contributions shall be returned based upon their percentage of the total Participant administration contributions as reflected at the time of

termination. Such funds shall be disbursed to the Participants remaining on the date of Termination no more than thirty (30) days after the date of Termination.

11. **Applicable Law.** The Parties agree and affirm that Pennsylvania law applies to this Agreement and all matters covered by and addressed by this Agreement. It is acknowledged and agreed that the sole and exclusive jurisdiction and venue for any dispute relating to any matter covered by this Agreement, and/or regarding any dispute over the enforcement or interpretation of this Agreement, shall rest with the York County Court of Common Pleas. The Parties hereby submit to the exclusive jurisdiction of that Court.

12. **Integration.** This Agreement contains the entire agreement between the Parties. There are no understandings or agreements, verbal or otherwise, in relation hereto, except those expressly and specifically set forth herein. The Parties have not relied upon any statement, projection, disclosure, report, information or any other representation or warranty except for those as may be specifically and expressly set forth in this Agreement.

13. **No Oral Modification.** This Agreement may not be modified except in writing executed by all Parties. This Agreement shall be amended only in writing, by duly authorized representatives of all Parties, and such revision(s) must be approved by official action of each Participant jurisdiction, and as required by any applicable law of the Commonwealth.

14. **Severability.** No determination by any court, governmental body, arbitration, or other judicial body, that any provision of this Agreement or any amendment that may be created hereto, is invalid or unenforceable in any instance shall affect the validity or enforceability of any other provision of the Agreement or applicable amendment. Each provision shall be valid and enforceable to the fullest extent permitted by applicable law, and shall be construed where and whenever possible as being consistent with applicable law.

15. **Representation by Counsel.** This Agreement has been negotiated by the Parties through their respective legal counsel and embodies terms that were arrived at through mutual

negotiation and joint effort, and the Parties shall be considered to have contributed equally to the preparation of this Agreement. The Parties warrant and represent that the terms and conditions of this Agreement have been discussed and negotiated between them, and their respective counsel, and are voluntarily and knowingly accepted for the purpose of making a full and final compromise between the Parties, as referenced herein. The Parties further acknowledge that they understand the facts and their respective legal rights and obligations pursuant to this Agreement.

16. **Counterparts.** This Agreement may be executed in counterparts, each of which will be an original, and all of which taken together shall constitute one and the same instrument.

17. **Execution by Facsimile or Electronic Scanning.** Delivery of an executed counterpart of this Agreement by facsimile, or by electronically scanning and e-mailing an executed counterpart signature page, while not specifically required, will be acknowledged by the Parties as being equally as effective as delivery of a manually executed counterpart of this Agreement. The use of a signature page received by facsimile, or through an electronic scan and e-mail, shall not affect the validity, enforceability, or binding effect of this Agreement.

18. **Fees and costs.** The Parties agree to bear their own fees and costs in connection with or incurred related to the matters between them, and relating to this Agreement.

19. **Signatures.** The Parties hereto, and the undersigned individuals and/or representatives, represent and warrant that they have the authority to enter into this Agreement and be legally bound hereby.

20. **Prior Participants.** Participants in the prior Intergovernmental Cooperation Agreement for the Implementation of the York County Regional Chesapeake Bay Pollution Reduction Plan that are not a party to this Agreement shall be relieved of any obligations thereunder by the signatures of the Parties hereto.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the Parties hereto have caused this Intergovernmental Cooperation Agreement for the Implementation of the York County Chesapeake Bay Pollutant Reduction Plan to be executed and effective on September 16, 2017.

WITNESS/ATTEST:

MUNICIPALITY



By: 

LINDA ALTLAND

Print name and title

CHRIS A. HOOVER, CHAIRMAN

Print name and title

Signature date: 9-11-17

Participation authorized by Ordinance No 2017- 96, passed at a meeting of the governing body on 9-11, 2017.

ATTACHMENT "A"

COST SHARING SCHEDULE

Municipality Participating in Regional CBPRP	Five (5) Year Contribution	Annual Contribution	Five (5) Year Contribution if Full Waiver Not Received	Annual Contribution if Full Waiver Not Received
Carroll Township	\$352,534	\$70,507		
Chanceford Township	\$7,955	\$1,591	\$263,971	\$52,794
Conewago Township	\$7,955	\$1,591	\$393,125	\$78,625
Dallastown Borough	\$94,009	\$18,802		
Dillsburg Borough	\$69,505	\$13,901		
Dover Borough	\$7,955	\$1,591	\$50,353	\$10,071
Dover Township	\$1,012,712	\$202,542		
East Manchester Township	\$425,201	\$85,040		
Fairview Township	\$972,505	\$194,501		
Felton Borough	\$7,955	\$1,591	\$21,708	\$4,342
Franklintown Borough	\$7,955	\$1,591	\$12,124	\$2,425
Goldsboro Borough	\$7,955	\$1,591	\$25,162	\$5,032
Hallam Borough	\$7,955	\$1,591	\$58,060	\$11,612
Hanover Borough	\$512,451	\$102,490		
Heidelberg Township	\$7,955	\$1,591	\$353,843	\$70,769
Hellam Township	\$7,955	\$1,591	\$290,410	\$58,082
Jackson Township	\$582,369	\$116,474		
Jacobus Borough	\$7,955	\$1,591	\$46,217	\$9,243
Lewisberry Borough	\$7,955	\$1,591	\$14,740	\$2,948
Loganville Borough	\$7,955	\$1,591	\$36,784	\$7,357
Lower Windsor Township	\$7,955	\$1,591	\$288,612	\$57,722
Manchester Borough	\$72,534	\$14,507		
Manchester Township	\$849,083	\$169,817		
Monaghan Township	\$140,586	\$28,117		
Mount Wolf Borough	\$35,808	\$7,162		
New Salem Borough	\$7,955	\$1,591	\$20,418	\$4,084
Newberry Township	\$542,555	\$108,511		
North York Borough	\$59,139	\$11,828		
Penn Township	\$679,527	\$135,905		
Red Lion Borough	\$161,686	\$32,337		
Spring Garden Township	\$514,101	\$102,820		
Spring Grove Borough *	\$7,955	\$1,591	\$68,589	\$13,718

Municipality Participating in Regional CBPRP	Five (5) Year Contribution	Annual Contribution	Five (5) Year Contribution if Full Waiver Not Received	Annual Contribution if Full Waiver Not Received
Springettsbury Township	\$1,120,690	\$224,138		
Springfield Township	\$358,000	\$71,600		
West Manchester Township	\$888,661	\$177,732		
West Manheim Township	\$262,725	\$55,545		
West York Borough	\$104,066	\$20,813		
Windsor Borough	\$44,033	\$8,807		
Windsor Township	\$591,874	\$118,375		
Wrightsville Borough	\$7,955	\$1,591	\$60,537	\$12,107
Yoe Borough	\$21,482	\$4,296		
York City	\$1,058,578	\$211,716		
York Haven Borough	\$7,955	\$1,591	\$18,111	\$3,622
York Township	\$1,089,927	\$217,985		
Yorkana Borough	\$7,955	\$1,591	\$6,489	\$1,298
Glen Rock Borough	\$7,955	\$1,591		
North Hopewell Township	\$7,955	\$1,591		
Railroad Borough	\$7,955	\$1,591		
TOTALS	\$12,844,030	2,568,804		

Waiver Requested
Non-MS4

*Spring Grove Borough elected to submit its own Chesapeake Bay Pollutant Reduction Plan. Accordingly, Spring Grove Borough does not need to participate in the Consortium to meet its permit requirements. However, Spring Grove Borough desires to enter into this Intergovernmental Cooperation Agreement under the same parameters as the Waiver and Non-MS4 municipalities, including the payment of related five year and annual Contributions. If Spring Grove Borough should need to participate in the Consortium to meet its permit requirements during the term hereof, it would be required to pay the appropriate portion of the Contribution in the third column.

ATTACHMENT B

Carroll Township	(MS4 Permit)
Chanceford Township	(MS4 Permit) Waiver requested
Conewago Township	(MS4 Permit) Waiver requested
Dallastown Borough	(MS4 Permit)
Dillsburg Borough	(MS4 Permit)
Dover Borough	(MS4 Permit) Waiver requested
Dover Township	(MS4 Permit)
East Manchester Township	(MS4 Permit)
Fairview Township	(MS4 Permit)
Felton Borough	(MS4 Permit) Waiver requested
Franklintown Borough	(MS4 Permit) Waiver requested
Glen Rock Borough	(Non-MS4)
Goldsboro Borough	(MS4 Permit) Waiver requested
Hallam Borough	(MS4 Permit) Waiver requested
Hanover Borough	(MS4 Permit)
Heidelberg Township	(MS4 Permit) Waiver requested
Hellam Township	(MS4 Permit) Waiver requested
Jackson Township	(MS4 Permit)
Jacobus Borough	(MS4 Permit) Waiver requested
Lewisberry Borough	(MS4 Permit) Waiver requested
Loganville Borough	(MS4 Permit) Waiver requested
Lower Windsor Township	(MS4 Permit) Waiver requested
Manchester Borough	(MS4 Permit)
Manchester Township	(MS4 Permit)
Monaghan Township	(MS4 Permit)
Mount Wolf Borough	(MS4 Permit)
New Salem Borough	(MS4 Permit) Waiver requested
Newberry Township	(MS4 Permit)
North Hopewell Township	(Non-MS4)
North York Borough	(MS4 Permit)
Penn Township	(MS4 Permit)
Railroad Borough	(Non-MS4)
Red Lion Borough	(MS4 Permit)
Spring Garden Township	(MS4 Permit)
Spring Grove Borough	(MS4 Permit) *
Springettsbury Township	(MS4 Permit)
Springfield Township	(MS4 Permit)

West Manchester Township	(MS4 Permit)
West Manheim Township	(MS4 Permit)
West York Borough	(MS4 Permit)
Windsor Borough	(MS4 Permit)
Windsor Township	(MS4 Permit)
Wrightsville Borough	(MS4 Permit) Waiver requested
Yoe Borough	(MS4 Permit)
York City	(MS4 Permit)
York County	(MS4 Permit) Waiver requested
York Haven Borough	(MS4 Permit) Waiver requested
York Township	(MS4 Permit)
Yorkana Borough	(MS4 Permit) Waiver requested

