

COOPERATIVE AGREEMENT FOR THE PREPARATION OF THE CENTRE REGIONAL POLLUTANT REDUCTION PLAN

THIS AGREEMENT is made this 10th day of February, 2017, by and among the municipalities of College, Harris, Ferguson, and Patton Townships; the Borough of State College; and The Pennsylvania State University (PSU), executing this Cooperative Agreement (hereinafter referred to as "Agreement") for the purpose of contracting with a qualified consulting firm to prepare the Centre Regional Chesapeake Bay Pollutant Reduction Plan and Impaired Waters Plan (collectively, the "Participants").

Except with respect to PSU, this Agreement is authorized and required pursuant to applicable law, including, but not limited to, 53 Pa.C.S. §2303.

BACKGROUND

- A. Participants that hold a Pennsylvania Department of Environmental Protection ("DEP") MS4 Permit (regarding stormwater discharges) are required to prepare and implement a Chesapeake Bay Pollutant Reduction Plan and Impaired Waters Plan, hereinafter referred to as Pollutant Reduction Plans ("PRP"); and
- B. The Participants are interested in developing a Regional PRP as an alternative to each of the local government units and PSU developing their own Plan; 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 Regional PRP; and
- D. Participants desire to cooperate to effectuate the cost effective identification of developing a Regional PRP in order to identify BMP projects to accomplish annual reduction(s) of nitrogen,

phosphorous, and sediment discharges into surface waters within their respective urbanized areas within the 2010 State College Urbanized Areas; and

E. Participants desire to engage Newell Tereska Mackay Engineering, a qualified consulting firm, to develop a Regional PRP for the portion of the 2010 State College Urbanized Areas within each Participant's jurisdiction, as shown on mapping prepared by the US Census Bureau; and

F. As set forth in this Agreement, all Participants shall share in the cost of the contract with the qualified consulting firm; 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. The implementation of the Regional PRP, including BMP Project selection and the level of funding for each BMP Project, shall be established through one or more separate mutually agreed upon agreements; and

I. The purpose of this Agreement is to set forth the Participants' agreement as to how the Participants will fund the contract for the selected qualified consulting firm to create the Regional PRP. The Participants agree and acknowledge that nothing in this Agreement, nor the resultant actions here from, shall prohibit, prevent, or interfere with any Participant's ability 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 ordinances; and

J. All municipal Participants shall adopt an Ordinance approving this Agreement to effectuate their participation. The Pennsylvania State University shall sign this document to effectuate their participation.

INTENDING TO BE LEGALLY BOUND, THE PARTICIPANTS 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.** The Participants have a mutual interest in restoring the impaired waters within their respective urbanized areas within the 2010 State College Urbanized Areas and commit to working together in a cooperative manner to develop a Regional PRP that identifies cost-effective BMP Projects to reduce the annual amount of nitrogen, phosphorous and sediment entering impaired surface waters within their respective urbanized areas as efficiently as possible.

3. **Organization.**

a. All Participants agree that Ferguson Township shall manage the contract with the selected consultant.

4. **Financing.**

a. **Contributions by Participants**

Each Participant agrees to provide its share of the funding to Ferguson Township of the selected consulting firm's fees which fees shall be paid upon completion of the Regional PRP by the selected consultant.

b. **Contribution Formula.** The Participants have agreed that contributions towards the selected consulting firm's fees from each Participant jurisdiction have been and shall be calculated based upon the percentage of total urbanized area each Party has within the 2010 State College Urbanized Areas shown as follows:

MS4 Entity	Urbanized Area (ac)	% of Total Urbanized Area
College Township	3,551.7	21.04%

Ferguson Township	4,748.7	28.13%
Harris Township	1,343.3	7.95%
Patton Township	3,272.8	19.38%
Pennsylvania State University	1,696.6	10.05%
State College Borough	2,270.9	13.45%
Total Area	16,884.0	100%

5. **Effective Date.** This Agreement shall become effective *as to each Participant* upon execution and, where applicable, adoption of an Authorizing Ordinance. Notwithstanding the foregoing, in no event (including if one or more Participants does not execute this agreement and, where applicable, adopt an Authorizing Ordinance) will the amount of contributions due from each Participant exceed its share of the consultant's fees as outlined in Paragraph 4.b. above without the consent of such Participant.

6. **Applicable Law.** The Participants 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 Centre County Court of Common Pleas. The Participants hereby submit to the exclusive jurisdiction of that Court.

7. **Integration.** This Agreement contains the entire agreement between the Participants. There are no understandings or agreements, verbal or otherwise, in relation hereto, except those expressly and specifically set forth herein. The Participants 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.

8. **No Oral Modification.** This Agreement may not be modified except in writing executed by all Participants. This Agreement shall be amended only in writing, by duly authorized

representatives of all Participants, and such revision(s) must be approved by official action of each Participant jurisdiction, and as required by any applicable law of the Commonwealth.


9. **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.


10. **Negotiated Agreement.** This Agreement has been negotiated by the Participants and embodies terms that were arrived at through mutual negotiation and joint effort, and the Participants shall be considered to have contributed equally to the preparation of this Agreement. The Participants warrant and represent that the terms and conditions of this Agreement have been discussed and negotiated between them and are voluntarily and knowingly accepted for the purpose of making a full and final compromise between the Participants, as referenced herein. The Participants further acknowledge that they understand the facts and their respective legal rights and obligations pursuant to this Agreement.

IN WITNESS WHEREOF, the Participants hereto have caused this Intergovernmental Cooperative Agreement for the Implementation of the Centre Regional Pollutant Reduction Plan to be executed and effective on _____.

WITNESS/ATTEST

COLLEGE TOWNSHIP


Adam Brumbaugh, Manager/Secretary


D. Richard Francke, Chair of Council


Signature date: 1/19/2017

Participation authorized by Ordinance No O-16-13, passed at a meeting of the governing body on December 15, 2016.

WITNESS/ATTEST

FERGUSON TOWNSHIP


Mark A. Kunkle, Secretary


Steve Miller, Chairman

Signature date: 1/10/2017

Participation authorized by Ordinance No 1026, passed at a meeting of the governing body on December 12, 2016.

WITNESS/ATTEST

HARRIS TOWNSHIP


Amy K. Farkas, Manager


Bruce Lord, Chairman

Signature date: 1-30-17

Participation authorized by Ordinance No 326, passed at a meeting of the governing body on January 3, 2017.

WITNESS/ATTEST

PATTON TOWNSHIP



Douglas J. Erickson, Manager/Secretary



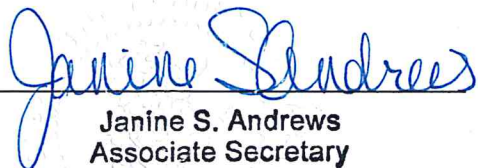
Eliot Abrams, Chairman

Signature date: 1/12/2017

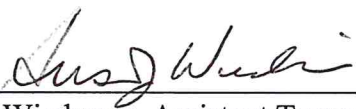
Participation authorized by Ordinance No 2017-579, passed at a meeting of the governing body on January 3, 2017.

WITNESS/ATTEST

THE PENNSYLVANIA STATE UNIVERSITY



Janine S. Andrews
Associate Secretary

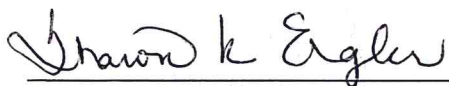


Susan J. Wiedemer, Assistant Treasurer

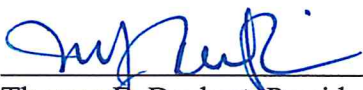
Signature date: 2/10/2017

WITNESS/ATTEST

STATE COLLEGE BOROUGH



~~Thomas J. Fountaine, Manager/Secretary~~
Sharon K. Ergler, Assistant Borough Secretary



~~Thomas E. Daubert, President~~
Thomas J. Fountaine, II, Borough Manager

Signature date: 2/7/17

Participation authorized by Ordinance No 2086, passed at a meeting of the governing body on December 19, 2016.