

**MANAGEMENT AGREEMENT
(STORMWATER SYSTEM)**

THIS MANAGEMENT AGREEMENT (“Agreement”), dated as of the _____ day of _____, 2020, by and between the **CAMP HILL BOROUGH MUNICIPAL AUTHORITY**, a municipal authority of the Commonwealth of Pennsylvania (the “Authority”), and the Borough of Camp Hill, Cumberland County, Pennsylvania, a municipal corporation of the Commonwealth of Pennsylvania (the “Borough”),

WITNESSETH:

WHEREAS, the Borough, pursuant to authority vested in it by law, owns the stormwater drainage systems, which together with all appurtenant facilities and properties which the Borough has acquired or hereafter shall acquire in connection therewith, including all property, real, personal and mixed, rights, powers, licenses, easements, rights of way, privileges and any and all other property or interests in property of whatsoever nature, used or useful in connection with such facilities, and together with all additions, extensions, alterations and improvements thereto which may be made or may be acquired, from time to time, by the Borough, herein referred to as the “Stormwater System”; and

WHEREAS, the Borough leased the Stormwater System to the Authority pursuant to a lease agreement dated _____, 2020 (“Lease”); and

WHEREAS, the Borough and the Authority desire to memorialize and otherwise set forth terms, conditions and provisions which shall govern the administration, management, and operation of the Stormwater System and the performance of other functions with respect to the Stormwater System; and

WHEREAS, employees of the Borough shall have the day-to-day responsibility of operating the Stormwater System; and

WHEREAS, the Borough shall remain the permittee with respect to any permits related to the Stormwater System.

NOW, THEREFORE, the Authority and the Borough, each intending to be legally bound, covenant and agree as follows:

1. The Borough duly authorizes the Authority to undertake and to perform certain functions with respect to the Stormwater System on behalf of the Borough only as described herein, including determining what shall be required for the proper operation and maintenance of the Stormwater System (including upgrades, replacements, and repairs), establishing user rates, creating and issuing invoices and bills, collecting payment, and maintaining records related to these functions.

2. The Authority and the Borough shall properly allocate their costs and expenditures related to their functions performed pursuant to this agreement including, but not limited to, wages and benefits, leases, insurances, audit expenses, communications, information technology, supplies, legal costs, dues, memberships, and other applicable expenses. Reimbursement for such costs and expenditures shall be paid from user rates collected by the Authority upon receipt.

3. The Borough's employees shall perform all other functions not specifically delegated to the Authority herein and related to the management and operation of the Stormwater System. The Authority shall not be responsible for any functions not specifically set forth herein or as otherwise specified in a writing executed by the Authority and the Borough.

4. The Authority accepts the Borough's authorization to undertake and to perform the assigned functions as herein provided with respect to the Stormwater System on behalf of the Borough.

5. Costs incurred by the Authority or the Borough in association with the calculation of a stormwater user rate and formation of the Authority shall be reimbursed to the entity that incurred the expense, whether the Authority or the Borough, from stormwater user rates in the first fiscal year following enactment of such rate.

6. Subject to provisions of this Agreement, the Authority shall perform only the following services in connection with the Stormwater System:

a. The receipt and collection of receipts, revenues, and money due and payable to the Authority from time-to-time in connection with the Stormwater System, and the keeping of proper and appropriate records in connection therewith; and

b. The calculating, preparing, and rendering of all bills or statements for services rendered in connection with the Stormwater System, such bills or statements shall be in accordance with Pennsylvania Law(s), laws of the Borough, and the appropriate resolution(s) of the Authority; and

c. The keeping of proper accounts and records relating to the performance of its functions with respect to the Stormwater System identified herein;

d. The deposit of all receipts, revenues, and money collected by the Authority, in any manner or from any source, from or in connection with the use and operation of the Stormwater System, which receipts, revenues and money shall be deposited into an account owned by the Authority;

e. The payment for any necessary audits of the Authority;

f. The payment of all Authority expenses, including the Lease Payments;

- g. In the Authority's discretion, the preparation and presentation of community education and outreach programs relating to the impact of stormwater, the Stormwater System, and the stormwater fee;
- h. The preparation and filing of reports and forms relating to the operation and maintenance of the Stormwater System which may be required by any governmental body having jurisdiction; and
- i. The general supervision and control of operation and maintenance of the Stormwater System, including the determination of what shall be required for the proper operation and maintenance, including upgrades, replacements, and repairs of the Stormwater System.

7. The parties shall perform their respective obligations and duties under this Agreement in a competent and business-like manner and shall exercise due care, diligence, and control in connection with costs, fees, and expenses related to such performance so that the customers served by the Stormwater System will receive the benefits accruing from proper and efficient administration, operation, and maintenance of the Stormwater System.

8. Upon request, the Borough shall make available to the Authority copies of any and all records that it keeps in relation to this Agreement including, but not limited to, records (*e.g.*, timesheets, audits, financial statements, or similar documentation) supporting bills or statements for services rendered to the Authority in connection with the Stormwater System. The Borough and the Authority shall cooperate fully in any request for records made by one to the other related to the operation of the Stormwater System.

9. The Parties shall act in good faith and shall cooperate in all reasonable respects so that the Parties may perform the obligations and duties assumed and undertaken under and by

virtue of this Agreement in a proper and satisfactory manner. This provision includes the duty of the Authority to cooperate in any funding requests and projects deemed necessary by the Borough, related to the maintenance, repair (including emergency repairs), upgrade, and/or expansion of the Stormwater System. Final authority for the operation of the Stormwater System, however, shall remain with the Authority subject to any express provisions of the Lease or other agreement between the parties related to the Stormwater System.

10. The Authority shall provide to the Borough an annual budget for expenses related to the Stormwater System no later than October 1 of each year (“Annual Budget”). The Annual Budget shall include information regarding reasonable estimated costs for administration, maintenance, operation, and capital improvements of the Stormwater System necessary for the Authority to establish rates sufficient to fully fund all anticipated expenses related to the Stormwater System. The Annual Budget documents shall include line items for each function related to the Stormwater System including, but not limited to, street sweeping, inlet and basin maintenance, public education and participation, illicit discharge detection and elimination, inspection, record-keeping, and other related functions. The Annual Budget shall be mutually agreed upon by the Authority and Borough. In the event the parties fail to agree upon the Annual Budget, the prior year’s Annual Budget and related rates shall apply until such time as the parties mutually agree upon a new Annual Budget. Notwithstanding the foregoing, emergency repairs or replacements will become part of the Annual Budget and the expenses thereof paid for by the Authority.

11. This Agreement shall be for an initial term beginning upon its effective date as provided herein and ending at such time as the Lease Agreement between the Borough and the Authority becomes ineffective, whether by expiration of the term of the Lease Agreement, by

violation of any provision of the Lease Agreement, by election of the Parties pursuant to the terms of the Lease Agreement, or by any other means. The Parties may otherwise agree to terminate, alter, or amend this Agreement by an executed written agreement signed by representatives of the Authority and the Borough. As provided for in the Lease, any termination of this Agreement shall, correspondingly, render the Lease null and void.

12. The Authority shall keep on file with the Borough, at all times, complete and current copies of all resolutions, including amendments, supplements and/or revisions, adopted by the Authority and in any manner pertaining to the Stormwater System.

13. The Authority shall reimburse the Borough for all expenses related to the Stormwater System incurred by the Borough pursuant to this Agreement and included in the Annual Budget. In order to maintain operations within budget constraints, the Borough shall not incur, nor will the Authority reimburse, expenses in excess of line items within the Annual Budget except as expressly authorized by the Authority. Notwithstanding the foregoing, emergency repairs or replacements will become part of the Annual Budget and the expenses thereof paid for by the Authority.

14. The Borough shall submit to the Authority monthly invoices for expenses incurred related to the Stormwater System along with supporting documentation as required by the Authority. The Borough shall invoice the Authority for all time Borough employees perform services under and pursuant to this Agreement at a rate equal to the fully loaded labor rate, as indicated on the attached Schedule A, ("Labor Rate"), paid by the Borough to said employees. Schedule A may be amended as necessary to accurately reflect the current Labor Rate of Borough employees performing services pursuant to this Agreement. The Authority shall issue payment for such invoices within thirty (30) days of receipt.

15. The Borough shall act in good faith and shall cooperate in all reasonable respects with the Authority so that the Authority may perform the obligations and duties assumed and undertaken under and by virtue of this Agreement in a proper and satisfactory manner.

16. The Borough and Authority shall, no less than once per year, meet and confer regarding the terms of this Agreement including, but not limited to, the duration of this Agreement, the rates charged or fees assessed hereunder, and any other issue related to the Stormwater System. At said meeting or as otherwise agreed upon, the parties shall have the ability to revisit and revise the terms of this Agreement, upon mutual agreement, subject to Paragraph 19 hereof. The Authority and the Borough may, from time to time, without the necessity of a written amendment hereto, agree to modify their respective duties and obligations provided herein, or to allocate additional duties or responsibilities to one party or the other related to the Stormwater System.

17. Upon termination of this Agreement, the Borough and the Authority, promptly, but in no event more than ninety (90) days after the annual audited financials are completed by the Authority, shall make final settlement with respect to this Agreement and each shall do whatever properly and reasonably shall be necessary to effectuate and insure an orderly transition in the change of the method of administration, operation, and maintenance of the Stormwater System.

18. If any provision hereof shall be held to be invalid, such invalidity shall not affect any other provision hereof, and the remaining provisions hereof shall be construed and shall be enforced as if such invalid provision had not been contained herein.

19. The Borough and the Authority, from time to time, by mutual agreement, in writing, may amend and/or supplement this Agreement, so that this Agreement fully and

completely carries out the intent and purposes of the Borough and the Authority with respect to the Stormwater System.

20. This Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original; and such counterparts shall constitute but one and the same instrument.

21. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. Any action related to any dispute arising out of this Agreement shall be brought in the Court of Common Pleas of Cumberland County.

IN WITNESS WHEREOF, the Borough of Camp Hill, Cumberland County, Pennsylvania, has caused this Agreement to be executed in its name and on its behalf, by its President, and its official seal to be affixed hereunto and attested by its Secretary or Assistant Secretary, and the Camp Hill Borough Municipal Authority has caused this Agreement to be executed in its name and on its behalf, by its Chairman, and its official seal to be affixed hereunto and attested by its Secretary or Assistant Secretary, all as of the day and year first above written.

ATTEST:

_____, Secretary

(SEAL)

BOROUGH OF CAMP HILL

By: _____
_____, Borough President

ATTEST:

_____, Secretary

(SEAL)

**CAMP HILL BOROUGH
MUNICIPAL AUTHORITY**

By: _____
_____, Chairman

SCHEDULE A

| Grade | Pay Rate | Cost Rate |
|-------|----------|-----------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
| 7 | | |