

ORD 1401

Polution Reduction  
Plan

NPDES4  
Report

~~Report~~  
8/15/01

[BOROUGH][TOWNSHIP] OF \_\_\_\_\_  
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE No. 2018-<sup>9</sup> 1401

AN ORDINANCE AUTHORIZING THE [BOROUGH][TOWNSHIP] OF \_\_\_\_\_ TO ENTER INTO A POLLUTANT REDUCTION PLAN SUPPLEMENTAL AGREEMENT AMONG THE BOROUGH OF COLLINGDALE, THE BOROUGH OF DARBY, THE TOWNSHIP OF DARBY, THE BOROUGH OF EAST LANSDOWNE, THE BOROUGH OF GLENOLDEN, THE BOROUGH OF MORTON, THE BOROUGH OF NORWOOD, THE BOROUGH OF SHARON HILL AND UPPER DARBY TOWNSHIP PURSUANT TO WHICH SUCH MUNICIPALITIES AGREE TO UNDERTAKE THEIR OBLIGATIONS UNDER MS4 PERMITTING REGULATIONS RELATING TO POLLUTANT REDUCTION PLAN COLLABORATIVELY

WHEREAS, Pennsylvania Consolidated Statutes, Title 53, Sections 2301 through 2315, commonly known and referred to as Act 180, Intergovernmental Cooperation Law, is the law governing intergovernmental cooperation within the Commonwealth of Pennsylvania; and

WHEREAS, the [Borough][Township] and each of the other municipalities listed in the heading of this Ordinance have agreed to cooperate with each other with respect to fulfilling their obligations under MS4 permitting regulations applicable to each municipality's separate stormwater sewer system relating to the preparing, filing and implementation of a pollutant reduction plan; and

WHEREAS, the Intergovernmental Cooperation Law of the Commonwealth of Pennsylvania requires that intergovernmental cooperation agreements be approved by ordinance to be in force and effect; and

WHEREAS, the [Borough][Township] and each of the other municipalities listed in the heading of this Ordinance therefore desire to enter into a certain Eastern Delaware County Stormwater Collaborative Pollutant Reduction Plan Supplemental Agreement, a copy of which is appended hereto as Exhibit "A" and made a part hereof (the "PRP Agreement"), and to approve said agreement by the enactment of this ordinance; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE [BOROUGH][TOWNSHIP] COUNCIL [AND MAYOR] OF THE [BOROUGH][TOWNSHIP] OF \_\_\_\_\_:

**Section 1. Approval of Cooperative PRP Agreement:** The [Borough][Township] of \_\_\_\_\_ hereby approves that certain PRP Agreement, a copy of which is appended hereto as Exhibit "A," among , the [Borough][Township] and each of the other municipalities listed in the heading of this Ordinance, and the appropriate officers of the

[Borough][Township] are hereby authorized and directed to execute and deliver said PRP Agreement on behalf of the [Borough][Township].

**Section 2. Repealer:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

**Section 3. Severability:** If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances, directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

**Section 4. Effective Date:** This ordinance shall be effective immediately.

ENACTED and ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
, President of Council

[APPROVED this \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2018

\_\_\_\_\_  
, Mayor]

ATTEST: \_\_\_\_\_  
, Secretary

**EXHIBIT "A"**  
**PRP AGREEMENT**

## PRP Agreement

### EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE POLLUTANT REDUCTION PLAN SUPPLEMENTAL INTERGOVERNMENTAL AGREEMENT

This Pollutant Reduction Plan Supplemental Intergovernmental Agreement, dated [New Agreement Date,] 2017, is entered into by and among the following municipal governments in Delaware County, Pennsylvania: the Borough of Collingdale; the Borough of Darby; the Township of Darby; the Borough of East Lansdowne; the Borough of Glenolden; the Borough of Morton; the Borough of Norwood; the Borough of Sharon Hill; Upper Darby; and the Borough of Yeadon; (the "Municipalities," as further defined below) pursuant to the Intergovernmental Cooperation Act of Pennsylvania (53 Pa. C.S.A. Sections 2301 to 2315) and ordinances duly adopted by the Municipalities, each of which intends to be legally bound hereby.

#### BACKGROUND

The background of this Agreement is as follows:

1. The Municipalities are located within the watersheds of the Darby and Cobbs Creeks and have been designated as urbanized municipalities under the stormwater regulations of the U.S. Environmental Protection Agency (MS4 Municipalities), and as such they must apply for and obtain MS4 Permits from the Pennsylvania Department of Environmental Protection ("DEP").
2. The Municipalities have entered into an Amended and Restated Intergovernmental Agreement dated as of the date hereof (the "Amended and Restated Intergovernmental Agreement") pursuant to which the Municipalities and the Township of Haverford ("Haverford") have formed the Collaborative (as hereinafter defined) to work collaboratively to undertake their MS4 Permit requirements. While Haverford is a party to the Amended and Restated Intergovernmental Agreement and a member of the Collaborative, Haverford has elected not to be a party to this PRP Agreement.
3. The 2018 MS4 Permit requires, by September 16, 2017, submission of a Notice of Intent for the permit, which is to include necessary Pollutant Reduction Plans and documentation of public review.
4. The long-term implementation of such Pollutant Reduction Plans will create additional permit responsibilities on the part of the municipalities, which will necessitate additional collaborative activities in compliance with the Permit at a greater long-term cost.
5. The Pennsylvania DEP has created a policy to allow for municipalities to work on the Pollutant Reduction Plans in a collaborative fashion (Exhibit "A") and has approved the Collaborative to complete two individual Pollutant Reduction Plans, one for the Darby Creek, and one for the Cobbs Creek, and written confirmation of such DEP approval is attached as Exhibit "B."

6. The representatives of the member Municipalities of the Collaborative have met on these matters and have received an opinion from independent counsel recommending that a supplemental agreement for the purpose of implementing the Pollutant Reduction Plan requirements of the municipalities' MS4 Permits is in conformity with the Intergovernmental Cooperation Act, the applicable municipal codes, and the administrative codes of their general codes.
7. The form of this Agreement has been distributed to the governing bodies of the Municipalities, and such governing bodies have adopted ordinances authorizing execution of this Agreement by their respective officers.

## **ARTICLE I DEFINITIONS**

In addition to definitions contained in the Amended and Restated Intergovernmental Cooperative Agreement, the following definitions shall apply unless the context requires otherwise:

“Best Management Practice” shall mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollutant loading to surface waters of this Commonwealth.

“Collaborative” shall have the same meaning as “Eastern Delaware County Stormwater Collaborative,” as defined below.

“Eastern Delaware County Stormwater Collaborative,” (EDCSC) shall mean a limited purpose intermunicipal entity created under the Intergovernmental Cooperation Act pursuant to a certain Intergovernmental Agreement dated as of June 1, 2011, as amended and restated by the Amended and Restated Intergovernmental Agreement.

“Green Stormwater Infrastructure,” also referred to as “GSI” shall include a range of soil-water-plant systems that intercept stormwater, infiltration a portion of it into the ground, evaporate a portion into the air, and in some cases release a portion of it slowly back into the sewer system.

“Long-term Maintenance” shall mean the routine inspection, maintenance, repair, or replacement of a BMP to ensure proper function for the duration of time that the BMP is needed.

“Management Committee” shall mean the Management Committee of the Eastern Delaware County Stormwater Collaborative.

“Pollutant Reduction Plan” shall mean the required plan creation to reduce pollutant load to streams as found in DEP document 3800-PM-BCW0100k Rev 3/2017, as the same may be amended or revised from time to time in response to comments from or the requirements of DEP.

“Pollutant Reduction Plan Coordinator,” also referred to as the “PRP Coordinator,” shall mean the person responsible for implementation of the Pollutant Reduction Plan, including coordination with consultants responsible for design, construction, and long-term management and maintenance of best management practices. This may also be a function of the EDCSC Program Coordinator.

“PRP Coordinator” shall mean the person or entity appointed and servicing pursuant to Article III of this Agreement.

“PRP Implementation Fund” shall be the segregated bank account of the EDCSC for funds to be collected and expended for the purpose of Pollutant Reduction Plan implementation.

“PRP Project” shall mean any capital project intended for pollutant reduction purposes including but not limited to, a rain garden, retention basin, streambank stabilization project

“PRP Project and O&M Costs” shall have the meaning set forth in Section 4.3 hereof.

“Program Coordinator” shall mean the person or entity appointed and serving pursuant to Article VI of the Amended and Restated Intergovernmental Agreement.

## ARTICLE II COLLABORATIVE IMPLEMENTATION OF POLLUTANT REDUCTION PLAN REQUIREMENTS

**Section 2.1. Pollutant Reduction Plan Requirements.** The Municipalities agree that certain actions required in order to fulfill their obligations under the Pollutant Reduction Plan Requirements associated with MS4 Regulations will be undertaken by them collaboratively through the operation of the EDCSC. The functions which will be performed by the EDCSC with regard to the Pollutant Reduction Plan Requirements are identified in Exhibit “C” attached hereto. Such jointly administered functions may be changed from time to time by action of the Management Committee. In order to implement the Pollution Reduction Plan, the Municipalities shall consider and approve specific PRP Projects from time to time, as further described in Section 4.4 hereof. Such PRP Projects are anticipated to be located on real property owned by one or more of the Municipalities or by School Districts located in one or more of the Municipalities.

**Section 2.2. Separate Applications.** Without limiting the foregoing, each Municipality also agrees that it will file in proper form and at the appropriate time a separate application for MS4 Permits and will deliver to the Collaborative a copy of such application. Each Municipality shall set forth in its respective MS4 Permit application a pollutant reduction credit that has been calculated in accordance with Section 2.3 hereof.

**Section 2.3. Allocation of Pollutant Reduction Credits.** Pollutant reduction credits resulting from any and all PRP Projects undertaken pursuant to this Agreement shall be allocated among the Municipalities based on the ratio that each Municipality’s existing pollutant load bears to the aggregate pollutant load of all Municipalities that are parties to the PRP and located in such

watershed, as set forth on Exhibit "D" attached hereto and made a part hereof. The pollutant load percentages set forth on Exhibit "D" are broken out between the Cobbs Creek watershed and the Darby Creek watershed. The Collaborative has requested that DEP allow the two watersheds to be aggregated and, in the event DEP approves such request, a revised Exhibit "D" shall be prepared based on the ratio that each Municipality's existing pollutant load bears to the aggregate pollutant load of all Municipalities that are parties to the PRP located in the combined watershed areas. Such revised Exhibit "D" shall be subject to the approval of the Municipalities by resolution.

**Section 2.4. Indemnification.** Each Municipality will indemnify the Collaborative and the other Municipalities and defend them against claims asserted by third persons based upon the separate activities and obligations of such Municipality under the MS4 Regulations and this Agreement.

### ARTICLE III CONSULTANTS

**Section 3.1. Pollutant Reduction Plan Consultants.** The Management Committee of the Eastern Delaware County Stormwater Collaborative shall appoint the following consultants that will report to the EDSC Program Coordinator with respect to the Pollutant Reduction Plan. These consultants may be the same consultants as the Management Committee appoints under the Amended and Restated Intergovernmental Agreement for projects or work conducted under and pursuant to such Agreement:

- A. Pollutant Reduction Plan Coordinator ("PRP Coordinator");
- B. GSI Design Consultant/Engineer;
- C. GSI Construction Contractor;
- D. GSI Maintenance Contractor;

**Section 3.2. Qualifications of PRP Coordinator.** The PRP Coordinator shall be a person or entity experienced in the design, construction, and management and maintenance of stormwater best management practices/green stormwater infrastructure projects and related regulatory agencies, who shall be selected by the Management Committee, in consultation with the Program Coordinator, based upon the professional qualifications of such person or entity. The PRP Coordinator shall be a person or entity which is not an employee of or an appointed consultant of a Municipality.

**Section 3.3. Duties of PRP Coordinator.** The PRP Coordinator shall act as a consultant and not an employee. Subject to that status, and in cooperation with the Program Coordinator, the PRP Coordinator shall carry out the Management Committee's directives and policies for implementing the joint Pollutant Reduction Program of the EDCSC. The PRP Coordinator shall be responsible for assisting the Program Coordinator in timely preparing the preliminary annual budget and PRP work plan for review and approval by the Management Committee, and shall regularly communicate all matters of importance, financial or otherwise, to the Management Committee.



## ARTICLE IV FINANCES

**Section 4.1. Pollutant Reduction Program Fees:** The Municipalities will be responsible for payment of an equitable share of all elements of PRP Projects undertaken jointly in association with the Collaborative's Pollutant Reduction Program in a manner as described in Section 4.4.

**Section 4.2 Fund Accounting; Fiscal Year:** A separate fund entitled "PRP Implementation Fund" into which shall be deposited all municipal shares of PRP implementation costs, as well as all grant proceeds and other revenues related to implementation of the PRP will be maintained by the EDCSC. The books of the PRP Implementation Fund shall be based on fund accounting, and revenues and expenses shall be allocated to the respective PRP Projects for which the funds are created. The Fiscal Year for the PRP Program activities shall begin on January 1 and end on December 31.

**Section 4.3. Preparation and Approval of Budget:** On or before October 1 of each year, the PRP Coordinator, in consultation with the Program Coordinator, shall prepare and present a budget for PRP Projects, BMP maintenance, and other expenses (insurance, audits, etc.) associated with implementation of the PRP Program for the succeeding year, to the Management Committee. Each annual budget shall break out for such year: (i) aggregate administrative costs, including, without limitation, the costs for preparing, updating and coordinating the PRP and personnel costs related thereto and costs of auditing or reviewing the PRP Implementation Fund pursuant to Section 4.7 hereof (the "Administrative Costs"); and (ii) aggregate PRP Project and operation and maintenance costs (the "PRP Project and O&M Costs"). On or before November 15 of each year the Management Committee shall approve the proposed budget with such modifications as it desires and shall forward the approved budget promptly to the Municipalities for review. The budget will become effective and binding for all Municipalities on January 1 of the following year unless before such date one or more Municipalities have given notice of withdrawal from the Collaborative PRP Program pursuant to Section 5.2 hereof, in which case a revised budget will be prepared and approved in similar manner; and provided that no such review shall be required by the Municipalities so long as the budget includes revenues derived solely from grants or other revenues of the Collaborative without any contribution by the Municipalities.

**Section 4.4. Project Approval; Weighted Voting.** Prior to commencing the construction or installation of any PRP Project, the Management Committee shall submit any proposed PRP Project to a vote of the Municipalities located within the watershed in which such PRP Project is proposed to be constructed or installed. Notwithstanding anything contained in the Amended and Restated Intergovernmental Agreement to the contrary, each such PRP Project proposed by the Management Committee shall require the approval of Municipalities holding at least seventy-five percent (75%) of the pollutant loads of the applicable watershed as set forth on Exhibit "D" attached hereto.

**Section 4.5. Shares of Municipalities.** Expenses for the PRP Implementation shall be allocated among the Municipalities as follows:

- Administrative Costs will be divided equally among the Municipalities.
- PRP Project and O&M Costs will be prorated based on the ratio that each Municipality's existing pollutant load within a watershed bears to the aggregate pollutant load of all Municipalities that are parties to the PRP and located within such watershed, as set forth on Exhibit "D" attached hereto.

**Section 4.6. Payment of Contributions:** Subject to the provisions of Section 4.5 hereof, each Municipality agrees to pay the share of expenses allocated to it not later than May 30 of each year in which this Agreement remains in effect. Any allocation of expenses which is not paid by a Municipality prior to such May 30 will be subject to a payment of a 10-percent penalty if it remains unpaid for a period of more than thirty (30) days thereafter. In addition, after such May 30, the defaulting Municipality shall not be entitled to receive any services from the Collaborative until it has paid its allocation and penalty. The Collaborative or any Municipality authorized by it to act on behalf of the Collaborative may enforce the obligations of a defaulting Municipality pursuant to Section 9 of the Intergovernmental Cooperation Act.

**Section 4.7. Modification of PRP Budget:** If it becomes necessary to amend a budget during a Fiscal Year, such amendment may be approved by the Management Committee. Each budget modification requiring an additional payment by any Municipality shall be subject to approval by such Municipality and by all other Municipalities adversely affected by such modification.

**Section 4.8. Annual Review/Audit:** The books of the PRP Implementation Fund shall be reviewed or audited for each Fiscal Year by an independent certified public accountant at the expense of the Collaborative. Each annual review or audit shall be approved by the Management Committee and a copy of the reviewed or audited financial statements shall be sent to each Municipality. The Management Committee may cause interim financial statements to be prepared which will not be audited.

**Section 4.9. Funding of Operations and Maintenance of PRP Projects.** On or prior to completion of any PRP Project required in order to implement the Pollutant Reduction Plan pursuant to Section 2.1 above, the Collaborative will cause all current members of the Collaborative to execute a perpetual Maintenance Agreement, which shall be recorded against the real property on which a PRP Project has been constructed or installed. The Maintenance Agreement shall require that the Municipalities share in the future operation and maintenance costs of the PRP Project on an allocated basis as set forth in Section 4.5 above. The Maintenance Agreement shall be substantially in the form attached hereto as Exhibit "E."

**Section 4.10. Non-Appropriation of Funds.** Notwithstanding any provisions in the Agreement to the contrary, the parties agree that in the event any Municipality is not appropriated sufficient funds to fulfil its obligations under this Agreement in any fiscal year; and funds are not otherwise available to such Municipality to pay its obligations hereunder for such fiscal year, such Municipality shall have the right to decline to pay its obligations for any such fiscal year. Any such Municipality shall provide to the Collaborative a written notice of its election to decline to decline to fund its obligations due to non-appropriation of funds. Upon electing to decline to pay its obligations for any fiscal year, such Municipality shall no longer be entitled to claim any

Pollutant Reduction Credits accrued under and pursuant to this Agreement that are accrued from the funding contributions of the other Municipalities during such fiscal year, and the Pollutant Reduction Credits that would have been allocated to such non-paying Municipality therefor shall be allocated among the remaining Municipalities on a pro rata basis as to their respective existing pollutant loads bears to the aggregate pollutant load of all remaining Municipalities that do fulfill their funding obligations under this Agreement.

## **ARTICLE V ADDITIONS; WITHDRAWAL; AMENDMENTS**

**Section 5.1. Additional Municipalities:** Additional municipalities may not be added as parties to this Agreement during the five-year term of the Pollutant Reduction Plan and this Agreement. At the end of the term of this Agreement, any general-purpose municipal government within Delaware County may be added as a party to any successor Agreement upon application by the governing body of the entity applying to become a member, and approval of the application by a majority vote of the member Municipalities. The Management Committee may impose a joinder fee for any new municipality in such amount as the Management Committee may determine. The action of the applicant entity shall be by ordinance of its governing body. Any new municipality that is admitted as a party to any successor PRP Agreement pursuant to this Section 5.1 shall become a party to such successor Agreement by executing and delivering a counterpart of the Joinder to Agreement attached hereto as Exhibit "F."

**Section 5.2. Withdrawal:** Any Municipality may withdraw from membership in Collaborative's PRP Program at the end of the five (5) year MS4 permit cycle upon enactment of an ordinance by the governing body of such Municipality and fulfillment of the requirements of this Section. Notice of intent to withdraw and a copy of such ordinance shall be delivered to the Management Committee by the withdrawing Municipality before November 1 of the Fiscal Year at the end of which such withdrawal is intended to become effective. The withdrawal shall become effective at the end of such Fiscal Year upon payment by the Municipality of all contributions and other amounts owed by the Municipality to the Collaborative.

Municipalities that are party to this Supplemental Agreement that leave the Collaborative and/or the joint PRP Implementation Program are still responsible for long-term management and maintenance of BMPs constructed while a participating member, as set forth in the Maintenance Agreements described in Section 4.9 above. Municipalities will be responsible for an estimated ten (10) year cost of such maintenance adjusted for inflation. In addition, any municipality that withdraws from the PRP Program shall assume exclusive responsibility for the management and maintenance of any BMPs constructed within the boundaries of such withdrawing municipality during the term or any renewal term of this Supplemental Agreement. The withdrawing municipality's exclusive management and maintenance obligation shall commence on the date such withdrawal becomes effective.

**Section 5.3 Amendments.** This Agreement may be amended only by **resolutions** of the governing bodies of all the Municipalities and a writing executed by their respective authorized officers.

**ARTICLE VI  
MISCELLANEOUS**

**Section 6.1 Term of Agreement:** This Agreement shall extend for a term of five years from the date first set forth above. It may be extended for an additional period of five years upon approval of such extensions by **resolutions** of the governing bodies of all the Municipalities electing to be parties to such extended Agreement.

**Section 6.2 Interpretation:** This Agreement shall be governed and construed in accordance with the law of the Commonwealth of Pennsylvania.

**Section 6.3 Effectiveness:** This Agreement shall become effective upon approval by ordinances enacted by the Municipalities identified in the heading of this Agreement followed by execution of this Agreement as set forth below.

**Section 6.4 Execution:** This Agreement may be executed in separate counterparts, and shall become effective when all counterparts taken together have been appropriately executed.

**Section 6.5. Incorporation of Amended and Restated Intergovernmental Agreement.** To the extent that the Amended and Restated Intergovernmental Agreement contains terms that are not inconsistent with the terms of this Supplemental Agreement, those terms are hereby incorporated into this Agreement as though set forth here in full. To the extent that the terms of this Supplemental Agreement conflict with the terms of the Amended and Restated Intergovernmental Agreement, the terms of this Supplemental Agreement shall prevail and govern.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, THIS AGREEMENT has been executed by the duly authorized officers of each above named Municipality on behalf of their respective Municipalities as of the date first set forth above.

BOROUGH OF COLLINGDALE

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

BOROUGH OF DARBY

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

TOWNSHIP OF DARBY

SEAL:

\_\_\_\_\_  
By: Township Board of Commissioners

\_\_\_\_\_  
Attest: Township Secretary

BOROUGH OF EAST LANSDOWNE

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

BOROUGH OF GLENOLDEN

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

BOROUGH OF MORTON

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

BOROUGH OF SHARON HILL

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary

UPPER DARBY TOWNSHIP

SEAL:

\_\_\_\_\_  
By: Township Council President

\_\_\_\_\_  
Attest: Township Secretary

BOROUGH OF YEADON

SEAL:

\_\_\_\_\_  
By: Borough Council President

\_\_\_\_\_  
Attest: Borough Secretary



**EXHIBIT "A"**  
**DEP Policy on Collaboration and Pollutant Reduction Plans**

**General Guidelines for MS4 Collaborative Efforts**

September 2016

DEP encourages neighboring MS4 permittees to collaborate in the development and implementation of their Pollutant Reduction Plan / TMDL Plan, and the O&M of any structural BMPs installed as part of such plans. As long as BMPs are implemented in MS4 planning area(s) and address the pollutant(s) of concern, the pollutant reductions afforded by the BMPs may be shared between the collaborating MS4s.\*

It is not necessary for participating permittees to be joint permittees. It is however expected that there will be a written agreement among the collaborating permittees (whether they are joint permittees or not) to ensure implementability. DEP recommends all such agreements include the following topics:

Scope of the Agreement

- o Complete Pollutant Reduction Plan implementation (or individual BMP implementation)

Roles and Responsibilities

- o How projects will be selected
- o Selection of engineering and other contracted services
- o Long-term O&M
- o Adaptive management of the PRP (or the individual BMPs) over the permit period
- o Commitment to using the Plan (or to implementing the individual BMPs)

Allocations of cost and pollutant reduction

- o Methodology for sharing the cost
- o Methodology for distributing the pollutant reductions

Timeline for implementation

- o Schedule of milestones to complete and implement the plan (or the individual BMPs)

\* MS4s that use BMPs to treat stormwater flows which do not pass through the urban area and/or utilize non-urban stormwater BMPs (e.g. agricultural BMPs), and wish to receive credit in a PRP must first obtain an Individual Permit which addresses the concept. Pollutant reductions from non-urban BMPs (e.g. agricultural) can only be credited to urban stormwater responsibilities to the degree that their pollutant load reductions exceed the non-urban stormwater sector baseline.



**EXHIBIT "B"**

**DEP Confirmation for EDCSC to Complete a Darby Creek PRP and a Cobbs Creek PRP**

**Subject:** RE: MS4 Collaborative Efforts  
**From:** Dudley, Keith (kdudley@pa.gov)  
**To:** jamiea98@yahoo.com;  
**Cc:** jefields@pa.gov; prpatel@pa.gov; leemurph@pa.gov;  
**Date:** Monday, February 6, 2017 3:48 PM

Greetings Jamie,

Thank you for forwarding the map of the Eastern Delaware County Stormwater Collaborative (EDCSC) members and their relation to both the Darby Creek and Cobbs Creek watersheds. DEP has reviewed your proposal to have the EDCSC focus on two larger watersheds (Darby & Cobbs) and develop two representative PRP's, one for each watershed, as opposed to multiple small PRP's from each municipality. DEP supports this approach and you may consider this email as approval to proceed.

The two PRP's in addition to the EDCSC MS4 Agreement and any supporting documentation should be included as part of the NOI submissions by the current 8 members (plus any members that join/sign on before the September 16, 2017 deadline).

Please contact me if you have any questions.

Sincerely,

Keith Dudley, P.E. | Chief, Municipal Planning & Finance Section  
Department of Environmental Protection | Clean Water Program  
Southeast Regional Office  
2 East Main Street | Norristown, PA 19401  
Phone: 484.250.5190 | Fax: 484.250.5971  
[www.dep.pa.gov](http://www.dep.pa.gov)

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## EXHIBIT "C"

### EDCSC Duties regarding the Pollutant Reduction Plans

- Public Participation - for plan and updates and coordination of these activities
- Coordinate final site design for each BMP, oversee and confirm final pollutant reduction
- Construct, bid, and installation oversight
- Hire and maintain an operation and maintenance coordinator and maintain records
- Assist with Project selection guidelines
- Review PRP project list annually, ID and/or modify the list of projects as necessary
- Review and budget annually for PRP updates, project design, and implementation of Operation and Maintenance.

**EXHIBIT "D"**

**Percentage Allocation of Costs/Credits and Voting for PRP Project Approval  
among Municipalities**

<b>DARBY AND COBBS WATERSHED AGGREGATED</b>					
<b>Municipality</b>	<b>Existing Load</b>	<b>Credit for Street Sweeping</b>	<b>Final Load for % Share</b>	<b>% Share</b>	<b>Load Reduction Requirement per % Share</b>
<b>Collingdale Borough</b>	311,407.77	13,572.00	297,835.77	5.73%	30,570.02
<b>Darby Borough</b>	332,334.54	6,688.56	325,645.98	6.27%	33,424.47
<b>Darby Township</b>	597,384.50	4,740.00	592,644.50	11.41%	60,829.33
<b>East Lansdowne Borough</b>	42,261.59	0	42,261.59	.81%	4,337.75
<b>Glenolden Borough</b>	394,544.30	13,100.00	381,454.30	7.34%	39,152.66
<b>Morton Borough</b>	129,152.77	0	129,152.77	2.49%	13,256.31
<b>Sharon Hill Borough</b>	286,453.56	3,764.00	282,689.56	5.44%	29,015.40
<b>Upper Darby Township</b>	2,680,614.15	84,846.81	2,595,767.34	49.96%	266,430.88
<b>Yeadon Borough</b>	558,921.97	10,486.52	548,453.45	10.56%	56,291.69

**EXHIBIT "E"**  
**FORM OF MAINTENANCE AGREEMENT**

**Record and Return to:**  
**Robert W. Scott, Esquire**  
**205 North Monroe Street**  
**P.O. Box 468**  
**Media, PA 19063**

**EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE  
STORMWATER CONTROLS AND BEST MANAGEMENT PRACTICES  
OPERATIONS AND MAINTENANCE AGREEMENT**

**THIS AGREEMENT** is made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and among \_\_\_\_\_ [Borough][Township] (hereinafter the "Landowner"), the Eastern Delaware County Stormwater Collaborative (hereinafter "Collaborative") and each of the signatory municipalities that are members of Collaborative.

**WITNESSETH**

**WHEREAS**, the Landowner is the owner of certain real property identified as Folio No. \_\_\_\_\_, Tax Map No. \_\_\_\_\_, located in the [Borough][Township] of \_\_\_\_\_, known as \_\_\_\_\_ Avenue, \_\_\_\_\_, Pennsylvania \_\_\_\_\_, comprised of approximately \_\_\_\_\_ acres (the "Property"); and

**WHEREAS**, Landowner is a member of the Collaborative, and a party to a certain Pollutant Reduction Plan Supplemental Intergovernmental Agreement dated \_\_\_\_\_, 2017 (the "PRP Supplemental Agreement"), by and among Landowner and each of the signatory municipalities that are members of the Collaborative; and

**WHEREAS**, the Collaborative has caused the stormwater management BMP facility described in Exhibit "A" hereto (the "BMPs") to be constructed and installed on the Property for purposes of satisfying the obligation of each of the signatory municipalities to obtain an MS4 permit from the Pennsylvania Department of Environmental Protection; the BMP is located within the municipal boundaries of \_\_\_\_\_ [Township][Borough] (the "Host Municipality"); and

**WHEREAS**, the Property is more fully described in the legal description attached hereto as Exhibit "B;" and

**WHEREAS**, the Collaborative has approved the Post Construction Stormwater Operation and Maintenance Plan for the BMPs prepared by \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_, (the "Maintenance Plan") and incorporated herein by reference, which provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMPs), as required by the [Borough][Township] of \_\_\_\_\_ Stormwater Management Ordinance (the "Stormwater Ordinance"); and

**WHEREAS**, the Collaborative and the Landowner, its administrators, executors, assigns, heirs, and any other successors in interest, agree that the health, safety, and welfare of the residents of the Darby Creek watershed and the protection and maintenance of water quality require that the BMPs be maintained on the Property; and

**NOW, THEREFORE**, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intending to be legally bound, agree as follows:

1. The Collaborative shall cause the BMPs to be maintained in accordance with the specifications identified in the Maintenance Plan.
2. The Collaborative shall operate and maintain the BMPs as shown on the Plan and as required by the Stormwater Ordinance in good working order acceptable to the Collaborative and in accordance with the specific maintenance requirements noted below:
  - a) BMPs shall be inspected by the Collaborative, or responsible entity, on the following basis:
    - (1) At least annually.
    - (2) Following every large storm.
    - (3) Upon notification from the Collaborative.
  - b) The entity conducting the inspection shall be required to submit a written report to the Collaborative regarding the condition of the BMPs with recommendations and a schedule for necessary repairs, if needed.
3. The Landowner hereby grants permission to the Collaborative, its authorized agents, and employees to enter upon the Property, at reasonable times and upon presentation of proper identification, to inspect the BMPs whenever it deems necessary. Periodic inspections will be performed by the Collaborative in compliance with the [Borough][Township] of \_\_\_\_\_ Stormwater Management Ordinance. Whenever possible, the Collaborative shall notify the Landowner prior to entering the Property.
4. In the event that the Collaborative, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, each of the signatory municipalities shall reimburse the Collaborative for its proportionate share of all expenses (direct and indirect) incurred within thirty (30) days of receipt of an invoice from the Collaborative. The proportionate share of each municipality shall be as set forth in the PRP Supplemental Agreement.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMPs by the Collaborative; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on any party for damage alleged to result from or be caused by stormwater runoff.
7. In the event that the Host Municipality withdraws from the Collaborative or the Collaborative's PRP Program or in the event that the Collaborative dissolves, then the Host Municipality shall assume exclusive responsibility for the operation and maintenance of the BMPs and any other

obligations of the Collaborative hereunder. The Host Municipality's exclusive operation and maintenance obligation shall commence on the date such withdrawal becomes effective, and the obligations hereunder of the Collaborative and the municipality members of the Collaborative other than the Host Municipality shall terminate as of such effective date.

8. This Agreement shall be recorded at the Office of the Recorder of Deeds of the County of Delaware, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude and shall be binding on the Landowner, the Collaborative and the signatory municipalities, and their respective administrators, executors, assigns, heirs, and any other successors in interest, in perpetuity.

**WHEREFORE** the undersigned duly authorized officer have executed this Agreement as of the date set forth below.

[LANDOWNER MUNICIPALITY]

By: \_\_\_\_\_

EASTERN DELAWARE COUNTY  
STORMWATER COLLABORATIVE

By: \_\_\_\_\_

[MUNICIPALITY]

By: \_\_\_\_\_

[MUNICIPALITY]

By: \_\_\_\_\_

[MUNICIPALITY]

By: \_\_\_\_\_

[MUNICIPALITY]

By: \_\_\_\_\_

[MUNICIPALITY]

By: \_\_\_\_\_

STATE OF PENNSYLVANIA    )  
  ) ss.  
COUNTY OF DELAWARE     )

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 2014, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, a party to the foregoing Stormwater Agreement and that he as such officer, being authorized to do so, executed the same for the purposes therein contained by signing the name of \_\_\_\_\_ by himself as \_\_\_\_\_.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public



**EXHIBIT "A" TO MAINTENANCE AGREEMENT**  
**Project Area**

**[Intentionally Blank]**

**EXHIBIT "B" TO MAINTENANCE AGREEMENT**  
**Legal Description**

**[Intentionally Blank]**

**EXHIBIT "F"**

**ADDITIONAL MUNICIPALITY JOINDER AND SIGNATURE PAGE**

In accordance with the terms of the Pollutant Reduction Plan Supplemental Intergovernmental Agreement dated \_\_\_\_\_, 2017, as the same may be amended and/or restated from time to time (the "Agreement"), the undersigned municipality has agreed to join in and be bound by the terms and conditions of the Agreement and has, intending to be legally bound thereby, caused this Additional Municipality Joinder and Signature Page to the Agreement, to be executed by its duly authorized officers, under seal, the day and year set forth below.

NAME OF MUNICIPALITY:

Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Title:

Acknowledged and Accepted by:  
EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE

By: \_\_\_\_\_  
Name:  
Title:

Dated: