

FORTY FORT BOROUGH (Municipality)
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 4 2017

**AN ORDINANCE APPROVING AN INTERGOVERNMENTAL COOPERATION
AGREEMENT WITH THE WYOMING VALLEY SANITARY AUTHORITY FOR THE
CREATION AND IMPLEMENTATION OF THE WYOMING VALLEY REGIONAL
STORMWATER MANAGEMENT PROGRAM**

WHEREAS, FORTY FORT BOROUGH (name of Municipality) is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with offices located at 1271 WYOMING AVE., FORTY FORT, PA (the "Municipality"); and

WHEREAS, Municipalities that hold a Pennsylvania Department of Environmental Protection ("DEP") MS4 Permit (regarding stormwater discharges) within the Chesapeake Bay watershed are required to prepare and implement a Chesapeake Bay Pollutant Reduction Plan ("CBPRP"); and

WHEREAS, the Wyoming Valley Sanitary Authority ("WVSA") is leading the Municipalities through the process of developing a Regional CBPRP and watershed-based pollutant reduction plans (the "Regional Plans"), as an alternative to each of the local government units developing their own plans; and

WHEREAS, certain Best Management Practices ("BMP") are designed to control stormwater and improve water quality, and are required to be implemented as part of a pollutant reduction plan; and

WHEREAS, Municipalities are required to comply with certain stormwater related Minimum Control Measures ("MCM") as mandated by law;

WHEREAS, Municipalities are required to comply with certain Pollution Control Measures ("PCM") as mandated by law; and

WHEREAS, BMPs or BMP Projects, MCM work, and PCM work require capital expenditures, in some cases, significant capital expenditures; and

WHEREAS, Participants desire to cooperate to effectuate the cost effective installation, operation, and maintenance of BMPs and MCM work in order to accomplish annual reduction(s) of nitrogen, phosphorous and sediment discharges into surface waters in Luzerne County; and

WHEREAS, Municipalities desire that WVSA will initially serve as the regional "MS4 Permit Administrator" and will engage in stormwater management including facilitating the development and implementation of the Regional Plans, along with the creation, operation, and maintenance of BMPs on behalf of the Participants as more specifically set forth herein; and

WHEREAS, as set forth in the Intergovernmental Cooperation Agreement (the "Agreement") executed by and between the Municipalities and WVSA and incorporated herein by reference as if set forth at length, all Municipalities who are participants to the Agreement shall share in the cost to develop and implement the Regional Plans through one-time financial contributions as set forth in this Agreement; and

WHEREAS, WVSA shall, on behalf of the Municipalities, develop new stormwater and water quality Best Management Practices Projects, including stormwater infrastructure construction and improvements, (individually referred to as a "BMP Project" or collectively "BMP Projects") identified in the Regional Plans and will fund the cost of doing so, along with related MS4 Permit administration costs, through imposition of reasonable and uniform rates on ratepayers located within the Municipalities; and

WHEREAS, the Municipalities desire that WVSA shall, on their behalf, carry out certain appropriate MCMs at a regional level as specified in the Agreement; and

WHEREAS, Municipalities that hold an MS4 Permit may be able to report the pollutant reductions achieved by construction of the BMP Projects that WVSA undertakes on behalf of the Municipalities. Such pollutant reductions may be reported in each Municipality's MS4 Annual Status Report to DEP in accordance with the approved Regional Plans.; and

WHEREAS, the content of the Regional Plans, including BMP Project selection and the level of funding for each BMP Project and associated regional stormwater management program efforts, shall be determined as set forth herein; and

WHEREAS, over the course of the 2018 MS4 Permit term, the Parties shall determine whether WVSA will become an MS4 Co-Permittee and take on additional regional stormwater management program functions; and

WHEREAS, the purpose of this Ordinance is to approve the Agreement which provides, inter alia, that the Municipalities will cooperate to create and revise the Regional Plans, manage BMP Projects through WVSA service territory, interact with the regulatory agencies regarding MS4 permit requirements, how the Regional Plans will be implemented, and the obligations of each Municipality and WVSA; and

WHEREAS, the Participants agree and acknowledge that nothing in the Agreement, nor the resultant actions herefrom, 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.

NOW, THEREFORE, be it enacted and ordained, this 5TH day of JUNE, 2017, by the governing body of FORTY FORT BOROUGH (name of Municipality), Luzerne County, Pennsylvania, in lawful session duly assembled:

1. The attached "Intergovernmental Cooperation Agreement for the Creation and Implementation of the Wyoming Valley Regional Stormwater Management Program" (the

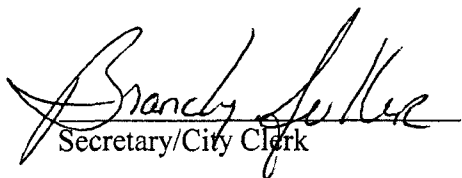
"Agreement"), the provisions of which are incorporated herein as if fully set forth at length, is hereby approved by the governing body of Forty Fort (name of Municipality) and the proper municipal officials are hereby authorized to execute such Agreement to give it full force and legal effect.

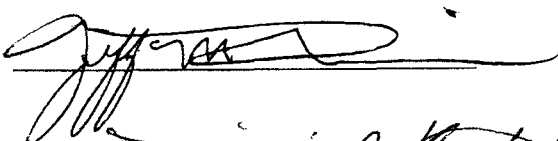
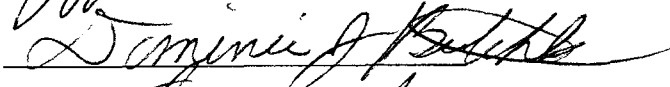

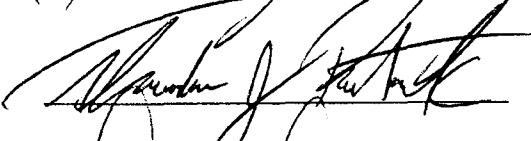
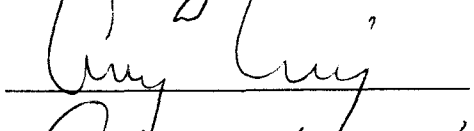
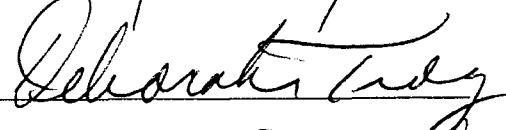
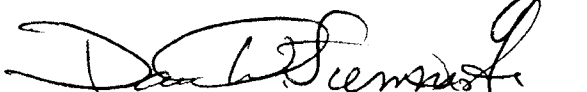
2. Any amendment, modification, or termination of the Agreement shall not require passage of another ordinance, but shall be authorized and confirmed by the adoption of a resolution by the governing body of Forty Fort (name of Municipality) and all parties to the Intergovernmental Cooperation Agreement.

ENACTED AND ORDAINED this 5th day of June, 2017.

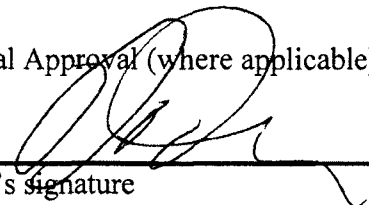
ATTEST:

Governing Body Signatures:


Secretary/City Clerk

Mayoral Approval (where applicable)



Mayor's signature