

RESOLUTION NO. 52 - 2020

Moved by: \_\_\_\_\_

A Resolution authorizing the City of Harrisburg to negotiate and enter into a reimbursement agreement with Capital Region Water to fund the installation and construction of ADA compliant curb ramps, curb extensions, and other streetscape improvements as part of Capital Region Water's South Allison Hill Green Stormwater Infrastructure Project.

**WHEREAS**, Capital Region Water ("CRW") is undertaking a project known as the South Allison Hill Green Stormwater Infrastructure Project ("the Project"); and

**WHEREAS**, the City has determined that it is in the best interest of the residents of the City to help CRW carry out the project and ensure its success; and

**WHEREAS**, in order to further that goal, the City has allocated one hundred and fifty thousand dollars (\$150,000.00) to fund the Project; and

**WHEREAS**, in order to most effectively support the Project the City desires to enter into a reimbursement agreement with CRW to allow reimbursement of eligible expenses in support of the Project; and

**WHEREAS**, the form of the proposed reimbursement agreement is attached hereto as Exhibit "A."

**NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE COUNCIL OF THE CITY OF HARRISBURG**, that the City of Harrisburg is hereby authorized to negotiate and enter into a reimbursement agreement with Capital Region Water to fund the installation and construction of ADA compliant curb ramps, curb extensions, and other streetscape improvements as part of Capital Region Water's South Allison Hill Green Stormwater Infrastructure Project.

**BE IT FURTHER RESOLVED** that the Mayor, City Controller, and other appropriate City officials are authorized and directed to take all steps necessary to further effectuate the purpose of this Resolution.

I second this resolution \_\_\_\_\_

**Passed by City Council** \_\_\_\_\_

YEAS	NAYS
MR. ALLATT	
MS. BOWERS	
MS. DANIELS	
MS. GREEN	
MR. MADSEN	
MR. MAJORS	
MS. WILLIAMS	

\_\_\_\_\_  
President of City Council

**Attest** \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Approved

Yeas \_\_\_\_\_  
Nays \_\_\_\_\_

# **EXHIBIT A**

**REIMBURSEMENT AGREEMENT  
SOUTH ALLISON HILL GSI PROJECT**

**THIS REIMBURSEMENT AGREEMENT** is made by and between the **CITY OF HARRISBURG**, Dauphin County, Pennsylvania, a third class city and municipal corporation of the Commonwealth of Pennsylvania (the “**CITY**”), and **CAPITAL REGION WATER**, a local municipal authority of the Commonwealth of Pennsylvania, organized and existing under the Pennsylvania Municipality Authorities Act, as amended, established as a body corporate and politic to serve as a special-purpose unit of local government (“**CRW**”) (**CRW** and the **CITY** may collectively be referred to hereinafter as the “**PARTIES**,” or individually as a “**PARTY**”).

**WITNESSETH:**

**WHEREAS**, the **CITY** is a municipal corporation organized pursuant to the laws of the Commonwealth of Pennsylvania and operating pursuant to the Optional Third Class City Charter Law, 53 P.S. § 41101, *et seq.*, with its principal office located at the Rev. Dr. Martin L. King, Jr., City Government Center, 10 North Second Street, Harrisburg, Pennsylvania 17101-1677; and

**WHEREAS**, **CRW** is a body corporate and politic operating as a local municipal authority of the Commonwealth of Pennsylvania, organized and existing under the Pennsylvania Municipality Authorities Act, as amended, established as a body corporate and politic, with its principal offices located at 212 Locust Street, Suite 500, Harrisburg, Pennsylvania 17101-7107; and

**WHEREAS**, by Agreement dated \_\_\_\_\_, 2020, and the related Project Manual for the South Allison Hill Business District GSI Project dated November 2019 (the “**PROJECT MANUAL**”), **CRW** has awarded a contract to Shiloh Paving & Excavating, Inc., for the construction of the South Allison Hill Business District GSI Project (the “**PROJECT**”); and

**WHEREAS**, the **PROJECT** includes, among other things, installing right-of-way green stormwater infrastructure (GSI), installing Americans with Disabilities Act (ADA) compliant curb ramps

and curb extensions for pedestrian safety improvements; and installation of precast concrete ornamental planters and site furnishings for streetscape improvements as specified in the **PROJECT MANUAL**; and

**WHEREAS**, the **PROJECT** work is geographically located on or close to Derry Street between 14th Street and 15th Street in the City of Harrisburg; and

**WHEREAS**, the **CITY** has agreed to reimburse **CRW** for costs **CRW** has or will incur with respect to the **PROJECT** for the installation of ADA compliant curb ramps including, but not limited to, excavation and disposal of concrete/subgrade for ADA compliant curb ramp construction, concrete curb and concrete pavement associated the ADA compliant curb ramp construction, and construction of the ADA compliant curb ramps in accordance with the **PROJECT MANUAL** (the "**IMPROVEMENTS**"); and

**WHEREAS**, the **PARTIES** to this **REIMBURSEMENT AGREEMENT** have secured the requisite public approvals and commitments for various discrete sources of public funding for the **PROJECT** and the **IMPROVEMENTS**; and

**WHEREAS**, the **CITY** and **CRW** have determined that the most efficient manner of undertaking the construction phase of the **PROJECT** will be by **CRW** overseeing the requisite public bidding and construction of the **PROJECT**, including the **IMPROVEMENTS**, as described in the **PROJECT MANUAL**; and

**WHEREAS**, the **PARTIES** hereto have determined that this **REIMBURSEMENT AGREEMENT** is necessary to provide **CRW** with an efficient method to obtain reimbursement from the **CITY** so as not to delay construction on the **PROJECT**.

**NOW, THEREFORE**, the **PARTIES** to this **REIMBURSEMENT AGREEMENT**, intending to be legally bound, agree as follows, warranting to the other that each has the authority to do so:

1. **CRW** has and shall proceed to construct the —**IMPROVEMENTS** as part of the **PROJECT** in accordance with this **REIMBURSEMENT AGREEMENT** and the **PROJECT MANUAL**.

2. To provide for the timely use of funding on the **PROJECT** and specifically so as not to delay the bidding or construction phase(s) thereof, the **CITY** hereby agrees to reimburse **CRW** for all costs

and expenses incurred by **CRW** to pay any Contractor or Subcontractor who performs work of constructing and installing the **IMPROVEMENTS** in accordance with the **PROJECT MANUAL** and the resulting construction contract(s) and related bid documents executed with the successful bidder(s) on the **PROJECT**.

3. For costs for which **CRW** seeks reimbursement from the **CITY**, **CRW** shall submit to the **CITY** reimbursement requests on an ongoing basis as the **PROJECT** proceeds. Each reimbursement request must include the total amount requested and a cost breakdown based upon the cost items as specified in the **PROJECT MANUAL** and related contract documents for construction and installation of the **IMPROVEMENTS**.

4. To the extent practicable, **CRW** and the **CITY** shall utilize forms and procedures required for the issuance of funds by the **CITY**, which the **CITY** will timely process in accordance with a draw schedule for the **PROJECT** or within thirty (30) days of submission of the reimbursement request by **CRW** if no such draw schedule exists.

5. For funds in the possession and control of the **CITY**, the **CITY** shall promptly process each draw request as specified above to assure that payments are issued in accordance with the **CITY**'s bi-weekly check run, unless otherwise agreed by the **PARTIES** in writing.

6. For funds to be drawn directly from a source not in the possession and control of the **CITY**, including any grant award made to the **CITY**, the **CITY** hereby authorizes and agrees that **CRW** shall be deemed to be its Authorized Designee and exclusive agent for the purpose of drawing down funds under the terms of any **CITY** grant agreement(s) that serves as a funding source and has been expressly awarded to fund the **PROJECT** or the **IMPROVEMENTS**.

- a. In the event a funding source specified in this Section does not authorize or otherwise require additional processes of **CRW** to draw down funds awarded to the **CITY** for the **PROJECT** or **IMPROVEMENTS**, the **CITY** shall intervene with the funding source to expedite the release of funds directly to **CRW** or, alternatively, to the **CITY** for prompt transmittal to **CRW**.

7. In no event shall the **CITY** or **CRW** be required to commit taxpayer or ratepayer funds for the **PROJECT** in addition to any funds allocated by the governing body of the **PARTIES**.

8. The **CITY** and **CRW** acknowledge that the entities are now and shall remain additional insured and/or additional named insureds on any respective commercial general liability policy and/or excess insurance policy and that each shall remain so named during the course the **PROJECT**.

9. The Parties to this **REIMBURSEMENT AGREEMENT** shall not assign, transfer, mortgage, or otherwise encumber any interest in this Agreement without the prior written consent of the other.

10. The **PARTIES** hereto shall maintain appropriate and necessary documentation detailing the cost of the construction and related services in accordance with accounting and financial reporting standards issued by Governmental Accounting Standards Board ("GASB") and such documentation shall be available for review by any of the **PARTIES** hereto at all reasonable times upon request.

11. Nothing contained in this **REIMBURSEMENT AGREEMENT** is intended to, nor shall be construed in any manner to, create or establish the relationship of employer/employee or contractor/independent contractor between the **PARTIES** hereto.

12. The term of this **REIMBURSEMENT AGREEMENT** shall commence upon the latter of execution by all **PARTIES**.

13. This **REIMBURSEMENT AGREEMENT** may be canceled for the impossibility of performance by either of the **PARTIES** upon thirty (30) days written notice.

14. All notices, requests, demands, directions and other communications issued pursuant to the provisions of this **REIMBURSEMENT AGREEMENT** shall be in writing unless otherwise expressly permitted hereunder, and the same shall be sent to the **PARTIES** as noted below via first class mail, any overnight courier express or by electronic transmission followed by first class mail. All such notices shall be addressed to the persons designated to receive same at the address given below or at such other address as may hereafter be designated by notice in writing:

**CITY:**

Wayne Martin, City Engineer  
City of Harrisburg  
123 Walnut Street, Suite 212  
Harrisburg, PA 17101-1681  
wsmartin@harrisburgpa.gov

**WITH A COPY TO:**

Mayor Eric Papenfuse  
The Rev. Dr. Martin Luther King, Jr.  
City Government Center  
10 North Second Street, Suite 202  
Harrisburg, PA 17101-1681  
epapenfuse@harrisburgpa.gov

AND

Neil A. Grover, Esquire  
Office of City Solicitor  
The Rev. Dr. Martin Luther King, Jr.  
City Government Center  
10 North Second Street, Suite 402  
Harrisburg, PA 17101-1681  
ngrover@harrisburgpa.gov

**CRW:**

Claire Maulhardt, City Beautiful H2O Program Manager  
212 Locust Street, Suite 500  
Harrisburg, PA 17101  
claire.maulhardt@capitalregionwater.com

**WITH A COPY TO:**

Dave Stewart, P.E., BCEE, Director of Engineering  
212 Locust Street, Suite 500  
Harrisburg, PA 17101  
david.stewart@capitalregionwater.com

AND

Scott T. Wyland  
E. Lee Stinnett II  
Salzmann Hughes, P.C.  
112 Market St., 8<sup>th</sup> Floor  
Harrisburg, PA 17101

**GENERAL CONDITIONS**

15. The rights and obligations of the **PARTIES** shall be governed by, enforced under and interpreted in accordance with the substantive law of the Commonwealth of Pennsylvania, and all obligations of the **PARTIES** created herein shall be performed in Dauphin County, Pennsylvania. The **PARTIES** agree that the Court of Common Pleas of Dauphin County is the most convenient forum for the adjudication of any dispute concerning this Agreement, and therefore any cause of action raised in relation to this Agreement shall be heard in the Court of Common Pleas of Dauphin County.

16. This Agreement may be amended at any time provided that such amendments make specific reference to this **REIMBURSEMENT AGREEMENT**, are executed in writing, and are signed by a duly authorized representative of the **CITY** and **CRW**.

17. No waiver by either **PARTY** of any default hereunder by the other **PARTY** shall operate as a waiver of any other default or of the same default on a future occasion. No delay, course of dealing or omission on the part of either **PARTY** hereto in exercising any right or remedy shall operate as a waiver thereof, and no single or partial exercise by either **PARTY** of any right or remedy shall preclude any other or future exercise thereof or the exercise of another right or remedy.

18. This writing contains the entire agreement between the **PARTIES** with respect to the subject matter hereof and supersedes any and all prior and/or contemporaneous oral or written discussions, representations, understandings, promises or agreements which are not expressly included herein. The terms, covenants and conditions of this Agreement shall extend to and shall be legally binding upon the **PARTIES** hereto, their respective heirs, personal representatives, executors, administrators, successors and assigns.

19. This Agreement may be executed in any number of duplicate originals or counterparts. Each of such duplicate originals or counterparts shall be deemed to be an original, and all taken together shall constitute one and the same instrument.

20. The headings in this Agreement are provided for convenience of reference only and shall not be included in any interpretation or construction of the substantive provisions hereof.



21. If any term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be declared invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement or the application of such term(s) or provision(s) to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

DRAFT

IN WITNESS WHEREOF, the parties hereto, being duly authorized, have executed this Agreement as of the date first written above and, intending to be legally bound hereby, have hereunto set their hands and seals.

**THE CITY OF HARRISBURG**

By: \_\_\_\_\_  
Eric Papenfuse, Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Charlie DeBrunner, Controller

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Wayne Martin, City Engineer,  
Department of Engineering

Date: \_\_\_\_\_

**Approved for Form and Legality:**

By: \_\_\_\_\_  
Law Bureau

Date: \_\_\_\_\_

**CAPITAL REGION WATER**

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

Date: \_\_\_\_\_

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

Date: \_\_\_\_\_

**Approved for Form and Legality:**

By: \_\_\_\_\_  
General Counsel

Date: \_\_\_\_\_

**INTER**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# MEMO

**OFFICE**

To: HARRISBURG CITY COUNCIL  
From: Kirk Petroski, City Clerk  
LEGISLATIVE APPROVAL FORM

Date:

LEGISLATIVE APPROVAL FORM/CERTIFICATE OF ACCEPTANCE

BILL NO. -2020      RESOLUTION NO. -2020

THE ABOVE LISTED ITEM WAS WRITTEN AND PREPARED FOR FINAL INTRODUCTION AT THE HARRISBURG CITY SOLICITOR'S OFFICE ON:

  
\_\_\_\_\_  
Deputy City Solicitor


6-19-20  
\_\_\_\_\_  
Date

Requested by Department/Bureau: Engineering

Department/Bureau Contact Person: W. Martin

For Action on or before:

The attached was received in the Office of the City Clerk for introduction on

\_\_\_\_\_  
  
\_\_\_\_\_  
Received by:

Date: \_\_\_\_\_