

ANNVILLE TOWNSHIP  
LEBANON COUNTY, PENNSYLVANIA  
ORDINANCE NUMBER 663

AN ORDINANCE AUTHORIZING EXECUTION OF AN AMENDMENT TO AN INTERMUNICIPAL AGREEMENT PREVIOUSLY ENTERED INTO BY AND BETWEEN ANNVILLE TOWNSHIP, CITY OF LEBANON, NORTH CORNWALL TOWNSHIP, NORTH LEBANON TOWNSHIP, SOUTH LEBANON TOWNSHIP, (MUNICIPALITIES), AND CLEONA BOROUGH AUTHORITY, (AUTHORITY) WITHIN LEBANON COUNTY, PENNSYLVANIA WHICH AGREEMENT PROVIDED FOR AN INTERGOVERNMENTAL COOPERATION AGREEMENT FOR THE IMPLEMENTATION OF LEBANON AREA REGIONAL POLLUTANT REDUCTION PLAN.

**WHEREAS**, the Intergovernmental Cooperation Act, 53 Pa.C.S. §2301 et. seq. permits municipalities to enter into agreements to cooperate in the performance of their respective functions, powers or responsibilities; and

**WHEREAS**, the municipalities/authority previously entered into an Intergovernmental Agreement of Cooperation (the "Agreement"), relating to Intergovernmental Cooperation Agreement for the implementation of the Lebanon Area Regional Pollutant Reduction Plan; and

**WHEREAS**, the municipalities/authority desire to enter into an amendment to the Intergovernmental Agreement of Cooperation, relating to the previously executed Intergovernmental Cooperation Agreement for the implementation of the Lebanon Area Regional Pollutant Reduction Plan; and

**WHEREAS**, the Intergovernmental Cooperation Act provides that any joint cooperation agreement shall be deemed enforced as to any municipality/authority when the same has been adopted by Ordinance/Resolution by all cooperating municipalities; and

**WHEREAS**, the municipalities/authority desire to enact such an Ordinance approving the Amended Intermunicipal Agreement.

**BE IT ORDAINED AND ENACTED**, by the Annville Township Board of Commissioners, Lebanon County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same as follows:

SECTION ONE: The caption of and recitals to this Ordinance as set forth above are incorporated herein by reference as if fully set forth.

SECTION TWO: ADOPTION OF AMENDED INTERMUNICIPAL AGREEMENT. The Amended Intermunicipal Agreement between the various municipalities/authority is attached hereto and made a part hereof and marked Exhibit "A" is hereby adopted.

SECTION THREE: AUTHORIZATION TO EXECUTE.

A. The appropriate Township officials and representatives of this Municipality are hereby authorized to execute the Amended Intermunicipal Agreement in the form attached hereto as Exhibit "A" or with such non-substantive changes as may be approved by the Solicitor. Any actions already taken by this Municipality in accordance with the terms of the Amended Intermunicipal Agreement and this Ordinance are hereby ratified.

B. The appropriate officers and representatives of this Municipality are hereby authorized to take such other action as may be necessary to carry out the purposes of this Ordinance in connection with the implementation of the Amended Intermunicipal Agreement.

SECTION FOUR: FINDINGS REQUIRED BY INTERGOVERNMENTAL COOPERATION ACT. As required by the Intergovernmental Cooperation Act requirements, the following determinations have been made:

A. The conditions of the Amended Agreement shall be substantially as those set forth within the herein referenced Amended Intermunicipal Agreement;

B. The Amended Intermunicipal Agreement shall be effective upon execution by all of the entities identified with a commencement date as set forth in the Amended Agreement and shall be perpetual;

C. The purposes and objectives of the Amended Municipal Agreement are to provide for the implementation of the Lebanon Area Regional Pollutant Reduction Plan between the municipalities/authority identified herein;

D. No new entity is proposed to be formed;

E. No real property is proposed to be acquired in the Amended Intermunicipal Agreement;

F. The Amended Intermunicipal Agreement does not anticipate the hiring of employees or the need for employee insurance or other employee benefits.

SECTION FIVE: RATIFICATION. All other Intergovernmental Agreements between this municipality and the other parties presently existing are hereby ratified and confirmed to the extent such Agreements are not inconsistent with the Agreement authorized herein;

SECTION SIX. SEVERABILITY. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of this Municipality that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof had not been included therein.

SECTION SEVEN: EFFECTIVE DATE. This Ordinance shall be effective upon adoption.

ORDAINED AND ENACTED this 3<sup>RD</sup> day of April, 2018.

ATTEST:

ANNVILLE TOWNSHIP  
BOARD OF COMMISSIONERS

  
Township Secretary

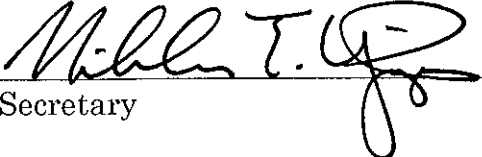
  
\_\_\_\_\_  
Chairman (SEAL)

  
\_\_\_\_\_  
Vice-Chairman (SEAL)

  
\_\_\_\_\_  
Member (SEAL)



I DO HEREBY CERTIFY that the above Ordinance is a true and correct copy of Annville Township Ordinance Number 663 adopted on April 3, 2018.

  
Secretary

# EXHIBIT "A"

## AMENDMENT AGREEMENT TO THE INTERGOVERNMENTAL COOPERATION AGREEMENT FOR THE IMPLEMENTATION OF THE LEBANON AREA REGIONAL POLLUTION REDUCTION PLAN

THIS AMENDMENT AGREEMENT is made for the convenience of the Parties this 1st day of January, 2018, by and among all of the municipalities and stormwater authority which previously executed an Intergovernmental Cooperation Agreement for the implementation of the Lebanon Area Regional Pollution Reduction Plan (Agreement) (collectively, the "Participants" or the "Lebanon County Stormwater Consortium" or the "Consortium") each participant shall individually be referred to as a "Party" and shall collectively be referred to as the "Parties".

This Amended Intergovernmental Cooperation Amendment Agreement (the "Amended Agreement") is authorized and required pursuant to applicable law, including, but not limited to, 53 Pa.C.S. §2303.

### BACKGROUND

- A. The Participants hereto previously entered into an Intergovernmental Cooperation Agreement for the implementation of the Lebanon Area Regional Pollution Reduction Plan; and
- B. The Participants have a mutual interest in amending the aforesaid Agreement; and
- C. All Participants shall adopt an Ordinance, or, in the case of Cleona Borough Authority, a Resolution approving this Amendment Agreement to effectuate their participation.

INTENDING TO BE LEGALLY BOUND, THE PARTIES AGREE TO  
AMEND THE AGREEMENT AS FOLLOWS:

SECTION ONE. Page 4, paragraph 3.c. is amended by adding a new third sentence as follows:

“The Offices shall be held by the Participants as represented at the Governing Body meetings by their designated primary or alternate representative.”

SECTION TWO: Page 10, paragraph 4.b.xii. is amended by adding the following language after the first sentence:

“In the event of a tie vote, the Governing Body will break for private conversation before conducting a second roll-call vote with each voting member providing justification for his or her vote. If the vote is still tied, the motion will be tabled until the next Governing Body meeting, providing the members the opportunity to discuss the matter with their respective elected officials in the meantime. At the next Governing Body meeting, the motion will be brought to a vote and if tied, a coin toss will decide the outcome.”

SECTION THREE: On Page 10, paragraph 4.c.i. is amended to add the following language after the second sentence:

“In the event of a tie vote, the Governing Body will break for private conversation before conducting a second roll-call vote with each voting member providing justification for his or her vote. If the vote is still tied, the motion will be tabled until the next Governing Body meeting, providing the members the opportunity to discuss the matter with their respective elected officials in the meantime. At the next Governing Body meeting, the motion will be brought to a vote and if tied, a coin toss will decide the outcome.”

SECTION FOUR: Page 13, paragraph 6.h. is amended to add a second sentence as follows:

“In the event of a tie vote, the Governing Body will break for private conversation before conducting a second roll-call vote with each voting member providing justification for his or her vote. If the vote is still tied, the motion will be tabled until the next Governing Body meeting, providing the members the opportunity to discuss the matter with their respective elected officials in the meantime. At the next Governing Body

meeting, the motion will be brought to a vote and if tied, a coin toss will decide the outcome.”

SECTION FIVE: Page 13, paragraph 7.c. is amended to read as follows:

“Compliance Issues: If any compliance or enforcement action (including the pursuit of a civil penalty, issuance of a Notice of Violation (“NOV”), Order, or any other compliance notice or action) issued against the Consortium or any individual Participant but only as it relates to implementation of BMP(s) as recommended in this RPR is initiated by either the Commonwealth or the Federal Government in any way related to the Regional Plan, the Annual Action Plan or implementation actions and activities undertaken pursuant to this Agreement, the Governing Body shall meet to discuss the compliance issue, and determine what the Consortium’s response action(s) to the compliance issue shall be. Where the Administrator or the Governing Body become aware of a potential compliance issue or question, the Administrator shall send written notice to all Participants within three (3) business days, which notice shall include any and all correspondence (including hard, electronic, or telephone call notes/summary) from or with a regulatory entity (including, but not limited to, the Lebanon County Conservation District, DEP, the United States Environmental Protection Agency, and United States Fish and Wildlife Service). The Governing Body shall convene a special meeting in accordance with applicable law, and within ten (10) calendar days of issuance of the notice referenced herein, NOV’s or any other compliance notices issued to Participant(s) for all other MS4 Permit matters not related to this PRP shall be the sole responsibility of the Participant(s)”.

SECTION SIX: Page 14, paragraph 8.a.ii. is amended to read as follows:

“(ii) Initial Contribution. Each participant shall provide an initial funding contribution to the Consortium to cover expenses incurred by the Consortium for the preparation of the Regional PRP and for administration of the Consortium beginning January 1, 2017 and ending August 31, 2017, the amounts of which are due from each Participant be provided and set forth in a cost sharing schedule to be determined by the parties at a later date.

SECTION SEVEN: Page 15, paragraph 8.a.iii. is amended to read as follows:

“(iii) Contribution Formula. The parties have agreed that the annual contribution from each Participant jurisdiction have been and

shall be calculated as follows, based on an estimated total cost of \$5,000,000.00;”

SECTION EIGHT: Page 16, paragraph 8.a iii the first paragraph is amended to read as follows:

“Although the above formula may change as the estimated total cost is revised, the percentage split outlined in the Cost Sharing Scheduled (Attachment B) shall not be changed or revised through the Term (as defined below) of this Agreement except as desired to accommodate additional participants. The percentages outlined in the Cost Sharing Schedule shall be applied to the estimated total cost in conjunction with any schedule of graduated payments adopted by the Governing Body to determine the amount of each Participant’s Annual Contribution”.

SECTION NINE: Page 16, paragraph 8.a.iv.a. is amended to read as follows:

“Initial Contribution. An Initial Contribution shall be made by Participants to cover expenses incurred by the Consortium for the preparation of the Regional PRP and for administration of the Consortium beginning January 1, 2017 and ending August 31, 2017. Participants shall be invoiced by the Administrator no later than 30 days after the execution of this Agreement, and the Participant’s respective contribution shall be due on or before 30 days after receipt of the invoice.”

SECTION TEN: Except as amended herein, the previous Intergovernmental Cooperation Agreement for the implementation of the Lebanon Area Regional Pollution Reduction Plan shall remain in full force and effect.

SECTION ELEVEN: Paragraph 17 and 18 as to Counterparts and Execution of this Amended Agreement shall be as set forth in the Agreement.

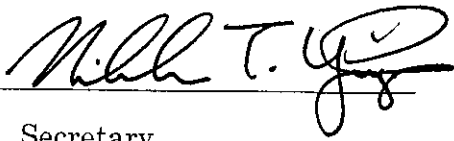
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to the Intergovernmental Cooperation Agreement for the implementation of the

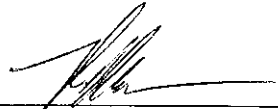


Lebanon Area Regional Pollution Reduction Plan to be executed the day and year written above.

ATTEST:

ANNVILLE TOWNSHIP BOARD OF COMMISSIONERS

BY:   
Secretary

BY:   
President

Nicholas T. Kingst, Secretary  
Print Name and Title

Rex Moore, President  
Print Name and Title

Signature Date: April 3, 2018

Participation authorized by Ordinance Number 663, passed at a meeting of the governing body on April 3, 2018.

ATTEST:

CITY OF LEBANON

BY: \_\_\_\_\_  
(Assistant) Secretary

BY: \_\_\_\_\_  
(Vice) Chairman

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Signature Date: \_\_\_\_\_, 2018

Participation authorized by Ordinance Number \_\_\_\_\_, passed at a meeting of the governing body on \_\_\_\_\_, 2018.

ATTEST:

CLEONA BOROUGH AUTHORITY

BY: \_\_\_\_\_  
(Assistant) Secretary

BY: \_\_\_\_\_  
(Vice) Chairman

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Signature Date: \_\_\_\_\_, 2018

Participation authorized by Resolution Number \_\_\_\_\_, passed at a meeting of the governing body on \_\_\_\_\_, 2018.

ATTEST:

NORTH CORNWALL TOWNSHIP

BY: \_\_\_\_\_  
(Assistant) Secretary

BY: \_\_\_\_\_  
(Vice) Chairman

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Signature Date: \_\_\_\_\_, 2018

Participation authorized by Ordinance Number \_\_\_\_\_, passed at a meeting of the governing body on \_\_\_\_\_, 2018.

ATTEST:

NORTH LEBANON TOWNSHIP

BY: \_\_\_\_\_  
(Assistant) Secretary

BY: \_\_\_\_\_  
(Vice) Chairman

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Signature Date: \_\_\_\_\_, 2018

Participation authorized by Ordinance Number \_\_\_\_\_, passed at a meeting of the governing body on \_\_\_\_\_, 2018.

ATTEST:

SOUTH LEBANON TOWNSHIP

BY: \_\_\_\_\_  
(Assistant) Secretary

BY: \_\_\_\_\_  
(Vice) Chairman

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

Signature Date: \_\_\_\_\_, 2018

Participation authorized by Ordinance Number \_\_\_\_\_, passed at a meeting of the governing body on \_\_\_\_\_, 2018.