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A regular meeting of Upper Darby Township Council was held on Wednesday evening, June 20<sup>th</sup>, 2018 at 7:00 p.m. in the Council Meeting Room #202 of the Municipal Building, 100 Garrett Road, Upper Darby, Pennsylvania.

The meeting was called to order by Council President Donald P. Bonnett with the Pledge of Allegiance to the flag of the United States of America.

### **Roll Call**

Donald P. Bonnett, Thomas P. Wagner, Jacob A. Bierling Jr., Sekela Coles, Robert Gwin, Barbarann Keffer, Marc Manfre, Lisa Faraglia, Sheikh Siddique, Patrick Spellman, Laura Wentz

### **Present at the Meeting**

Thomas N. Micozzie, Mayor  
Thomas J. Judge Jr., CAO  
Kelly Sullivan, Esq., Solicitor  
Scott C. Gottel, Esq., Solicitor  
Richard G. Nolan, Chief Municipal Clerk

### **Approval of the Minutes**

Mr. Bonnett: A motion would be in order for the approval of the minutes for the Regular Meeting on May 16<sup>th</sup>, 2018.

Mr. Wagner: So moved.

Ms. Coles: Second.

Mr. Bonnett: It has been moved and seconded. All those in favor signify by saying aye. Opposed say no. The ayes have it.

Ms. Wentz: I have a point of order. We're not in compliance with the Sunshine Act.

Mr. Bonnett: In?

Ms. Wentz: In reference to Minutes. We don't take Minutes of the first Wednesday of the month at Committee Meetings and that's part of the public hearing, public meeting. All public meetings need to have Minutes.

Mr. Bonnett: We are obligated to have one public meeting but that's not a point on this Agenda so we're not going to discuss that tonight but I'll be glad to talk with you after the meeting. OK?

Ms. Wentz: OK.

### **Public Forum**

Mr. Bonnett: This is the time set aside for the public to speak. When you hear your name come forward to the podium and state your name and address for the record. Tonight we have a very large number of speakers that have signed in to speak. Section 311 of the Home Rule Charter allows up to a ½ hour for us to entertain comments from the public at a public meeting. In that respect, the arithmetic says about 1 ½ minutes per person. Now, it's not going to be quite that rigid but we ask those of you who wish to address Council to be as succinct and brief as possible; specifically, because we do have the pleasure tonight, the Mayor and Township Council, to honor 4 police officers and firemen for their bravery in responding to a house fire in the 1100 block of Alexander Avenue and we have quite a number of people who are here to witness that this evening and we do not want to keep them any longer than necessary. So, please be considerate of the time frame. When your name is called, I'll ask the Secretary of Council, Councilman Bierling

Interruption

Ms. Keffer: Point of order!

Mr. Bierling: Councilman Bierling to give notice at the 2-minute mark. Yes?

Ms. Keffer: Would it be possible to change the Agenda and allow the award to be presented first and then have the Public Forum.

Mr. Bonnett: No. We're going to move on with the Agenda the way it is.

Ms. Keffer: OK.

Mr. Bonnett: So with that, Mr. Secretary, please call the first speaker.

Bonnie Hallam, 4719 Woodland Avenue  
Fair Districts

Jennifer Hallam, 4719 Woodland Avenue  
Fair Districts

Jeanne Mann, 706 Foss Avenue  
Fair Districts

Robert Choate, 240 Coverly Road  
Animal control

Fay Gilliard, 236 Guilford Road  
Nuisance house

Nicole Jenkins, 628 Beverly Blvd.  
Fair Districts

Terry Bradley, 1213 Morgan Avenue  
Dead tree

Ed Bradley, 1213 Morgan Avenue  
Dead tree

Tim Tuinstra, 610 Foss Avenue  
Fair Districts

Elizabeth Hamilton, 121 S. Lynn Blvd.  
Fair Districts

Reginald Johnson, 810 Garrett Road  
Fair Districts

Faith Zerbe, Upland Way  
Stormwater/Drexeline

Olivia Taylor, 204 Kent Road

Richard Blye, 274 Kent Road  
Proclamation

Steve Lockard, 427 Spruce Avenue  
Trails

Janice Haman, 727 Stanbridge Road  
Fair Districts

Richard Ley, 162 Glencoe Road

Leah Dawes, 134 Blanchard Road  
Fair Districts

Karl Ayanian, 400 Long Lane  
L&I

Their comments are filed on tape.

Mr. Bierling: That concludes the speakers for this evening.

Mr. Bonnett: Thank you. Again, our sincere apologies to the Police and Fire representatives and your family members for putting up with the hour and fifteen minutes of public speaking. I had no anticipation that it would run quite that long. I knew it would be long, but not quite that long so we're going to move on. At this time, I am going to turn the meeting over to our Mayor, the Honorable Thomas N. Micozzie.

### **Mayor Micozzie**

*Mayor Micozzie presented the below Police Officers and Fire Fighters with commendations for their efforts with the large fire on the 1100 block of Alexander Avenue.*

*Sergeant Sean Kenny  
Officer William Sides  
Officer Joseph DiFrancesco  
Officer Anthony Bateman  
Firefighter Robert Fowler  
Firefighter Kyle Johnson*

Audience applause

Mr. Bonnett: Thank you Mayor. Members of Council, ladies and gentlemen, one announcement that this Council met in executive session on May 22<sup>nd</sup>, 2018 for the purpose of discussing a personnel matter. I announced this at our Committee Meeting but again I want to announce this for public record and statement in our written meeting Minutes in this particular meeting. OK. At this time, we will move on to the Committee Reports now beginning with the Finance and Appropriations Committee, Councilman Wagner please.

### **Committee Reports**

#### **Finance and Appropriations Committee**

Thomas P. Wagner, Chairman

Mr. Wagner: Thank you, Mr. Bonnett. Will the Solicitor please give us a brief on one of two tax Resolutions that we have this evening starting with Resolution No. 22-18?

**Resolution No. 22-18, the tax appeal of Kakoli Rahman, 313 Sanford Road,  
Upper Darby Township, PA 19082. Tax Folio No: 16-04-01719-00**

Solicitor: Thank you, Councilman Wagner. Resolution No. 22-18 is the tax assessment appeal of Kakoli Rahman, 313 Sanford Road, Upper Darby Township, PA 19082. Tax Folio No: 16-04-01719-00. The current assessment in this matter is \$36,660.00. The recommended Resolution is for a reduction in 2018 to \$27,495.00. This Resolution has been approved by the Upper Darby School District and is also being recommended by the Solicitor's office this evening.

Mr. Wagner: Thank you Sir. With that, I move for the adoption of Resolution No. 22-18.

Mr. Bierling. Second.

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye. Opposed say no. The ayes have it.

**Resolution No. 23-18, the tax appeal of Delldog, Inc., 7808 Westview Avenue,  
Upper Darby Township, PA. Tax Folio No: 16-07-00854-00**

Mr. Wagner: And similarly Mr. Solicitor, will you give us a brief on Resolution No. 23-18?

Solicitor: Yes. Resolution No. 23-18 is the tax appeal of Delldog Inc., 7808 Westview Avenue, Upper Darby Township, PA 19082. Tax Folio No: 16-07-00854-00. The current assessment in this matter is \$42,770.00. The recommended Resolution is for a reduction in 2018 to \$33,605.00. Again, this has also been approved by the Upper Darby School District and is also being recommended by the Solicitor's office.

Mr. Wagner: Thank you. With that, I move for the adoption of Resolution No. 23-18.

Mr. Spellman. Second.

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye. Opposed say no. The ayes have it.

Mr. Wagner: That completes the report of the Finance and Appropriations Committee.

Mr. Bonnett: Thank you Tom. Public Safety Committee, Councilman Bierling please.

**Public Safety Committee**  
Jacob A. Bierling Jr., Chairman

**Resolution No. 24-18, a Resolution to remove parking meter numbers  
430, 431, 432, 433, 434, 435 & 436 that are situated on the 700 block of**



**Garrett Road and to remove parking meter numbers 406 & 411 on the 800 block of Garrett Road**

Mr. Bierling: Thank you, Mr. Bonnett: Will the Solicitor please give us a brief on Resolution No. 24-18?

Solicitor: Yes. Resolution No. 24-18 is a Resolution to remove parking meter numbers 430, 431, 432, 433, 434, 435 & 436 that are situated on the 700 block of Garrett Road and to remove parking meter numbers 406 & 411 on the 800 block of Garrett Road

Mr. Bierling: I believe the at the Committee Meeting when that came up that that was at the request of PENNDOT to remove them?

Mr. Judge: That is correct.

Mr. Bierling: OK. I move for the adoption of Resolution 24-18.

Mr. Spellman: Second.

Mr. Bonnett: Bob?

Mr. Gwin: I have been one of the people responsible for this as it is part of the Garrett Road project and the business leaders that are associated with that area would lose 1/3 of their parking spaces with the loss of these 2 meter spots and they have requested that we not remove the meters and that we keep the meters in the same position that they had been in.

Mr. Bonnett: I think as Councilman Bierling had suggested, and I'm going to ask for the support from Mr. Judge that this is a recommendation of PENNDOT and Mr. Judge, will you fill us in on this please?

Ms. Coles: Wait a second, I thought in order to have a turning lane, because it also comes into my District, and my understanding is because we want that turning lane for the Garrett Road project to make that a lane where you can make a right onto Walnut Street, that you can't have people parking there because they could be an accident.

Mr. Gwin: This is not onto Walnut, it's on....

Ms. Coles: It goes up into Walnut Street into my District.

Mr. Judge: Can I explain? I think I understand where Councilman Gwin is coming from; 430, 431, 432, 433 & 434 are in the 700 block of Garrett Road and they're putting a turning lane in there so you can turn from Garrett onto Walnut and also from Walnut onto Garrett and that's why you're taking out 435 and 436 which are in front of the A&E parking lot. So, that's why those meters are being removed. On 406 & 411, which I think are they real issue where Councilman Gwin has. I don't think he has an issue with the ones in front of A&E. Is that a fair statement?

Mr. Gwin: That's correct.

Mr. Judge: He has an issue with 406 and 411.

Ms. Coles: OK, the ones in his district.

Mr. Judge: PENNDOT has recommended because of the re-striping of the Garrett Road. The Delaware County Planning Department and the DVRC came in and we did a study on this to re-design the street on Garrett Road because it was confusing on moving traffic. They have recommended that we move certain of these parking meters to allow right hand turns. Now, coming out of Avon, which I think is at 406, they have told us that if we don't do this, then we'll make Avon a "no turn on red." That's what PENNDOT has told us. If we agree not to take 406 then they will make Avon "no turn on red" onto Garrett. The Committee as a whole recommended that we have that and we keep that and 411 they're talking because when they come out of Wembly and make a right turn or a left turn, they need that because they're parking too close to the street.

#### LOST AUDIO DUE TO CHANGING TAPE

Mr. Judge: .....the authority that looks at things and says "here's what you need to look at and what we recommend." My fear is if we don't follow their recommendation and something would happen that is caused by that parking spot that we have not removed, are we as a Township at risk because PENNDOT has recommended that we remove that meter. That is where the Administration is coming from in that we go forward with that.

Ms. Coles: I have a question. Out of these 9 meters, 7 of them are in my district and 2 are in Councilman Bob Gwin's district. Is there a way that this can be separated because we need to remove the ones that are in my district because people are making that turn on Walnut St. and if somebody is there parked that's an accident and since the district Councilperson for those 2 has further concerns or issues.....

Mr. Judge: Councilwoman, if you think this vote will go down, then table it. You can't remove them tonight. I'll go to the Solicitor and say.....

Ms. Wentz: We can make a motion to separate the specific meters from the other.

Mr. Bonnett: No you can't. You can move to amend a Resolution however, what if we take this approach? What if we consider adopting it as it stands and then immediately take a look at putting back the 2 meters or talking with PENNDOT looking at you're saying a right hand turn Tom?

Mr. Judge: A right hand turn on Avon. Look, Council votes on this. If Council votes this down, Council can go talk to PENNDOT but I am telling you what the Administration is recommended and what we did at the last Committee meeting and I have to be honest, we went from the last Committee meeting to 2 days ago with no objection. Two days ago, I was told that....

Ms. Coles: I was only aware of the ones in my district which I don't have an issue with.

Mr. Judge: I'm not....if you want me to be specific, Councilman Gwin didn't come to me until 2 days ago to tell me that he had a problem with 406 and 411. So, that's OK.

Mr. Bonnett: So, you're ok with everything through 436, correct?

Ms. Coles. The ones in the 7<sup>th</sup> district, yes.

Mr. Bonnett: So, back to my point. What if we were to adopt this Resolution tonight as it is presented and worded and then you talk with PENNDOT about, the Township is what I'm saying, talk to PENNDOT about doing the right hand turn....

Mr. Judge: Don, I talked to PENNDOT. So, what you're telling me is that Council is not taking the Administration's recommendation. I'm OK with that.

Mr. Bonnett: That's not what I said. I said "adopt it as it stands" tonight and then explore it.

Mr. Judge: I guess you're saying that I've never explored it before looking them up.

Mr. Bonnett: No!

Mr. Judge: Well, I don't know what you're saying then, Don.

Mr. Bonnett: You're saying to me, what I'm hearing, that PENNDOT has an alternative that they would recommend, correct? A right hand turn? No?

Mr. Judge: No. A right hand turn from Avon onto Garrett Road.

Mr. Bonnett: That would keep the meter, right?

Mr. Judge: That would keep the meter.

Mr. Bonnett: That's my point.

Mr. Gwin: That would be acceptable.

Mr. Judge: That's acceptable to who?

Mr. Gwin: Me.

Mr. Judge: OK. And you are? You are one person, right?

Mr. Gwin: I am one person. I represent the whole district.

Mr. Judge: All right.

Mr. Bonnett: Well, I'm suggesting that Council adopt it as it is tonight. That's my suggestion. And then, you explore the idea, based on PENNDOT'S alternative recommendation to do it another way and you can put 1 or 2 meters back in Bob's district.

Mr. Judge: You are Council and you are voting on it. I'm OK with whatever Council decides.

Ms. Coles: Councilman Gwin, how do you feel about it? There are 9 meters. Seven are in my district and two are in your district. What are your thoughts?

Mr. Judge: Two are in his district.

Mr. Gwin: Two are in my district. In this particular block, on either end of the block, they want to remove. Understand there is a setback before the meters start of a full car length that they already have and at the other end there is just a limited amount going on Avon Road but Avon Road is one-way out.

Ms. Coles: I mean, so what are your thoughts about how to proceed? Which are you most comfortable with in terms of proceeding to move forward in terms of, are you in favor of us passing the Resolution and then going back and putting one of the two meters back and getting PENNDOT to allow for Avon to have "no turn on red?" What are your thoughts about us moving forward?

Mr. Gwin: My preference would be to allow the meters to stay where they're at and do the.....

Ms. Wentz: So, making a motion to amend the Resolution to remove the...

Ms. Coles: Well, my preference that I've made very clear is for the seven meters to be removed. That's why I was giving you the courtesy of asking.

Mr. Gwin: I have no problem with that.

Mr. Manfre: A second tract Bonner guy and that's a stretch. I'll tell you what, as a Temple grad, I'm confused. A real stretch....

Mr. Judge: So, there's going to be an amendment to this Resolution to vote on the seven in the 7<sup>th</sup> District and vote on the two in the 5<sup>th</sup> District separately.

Mr. Bonnett: And, if we were to do that, we are contrary to PENNDOT's recommendation at that point.

Ms. Wentz: I make a motion to separate the meters 406 and 411 from the 800 block of Garrett Road to remove them from this Resolution.

Mr. Bonnett: Is there a second to that?

Mr. Gwin: Second.

Mr. Bonnett: Moved and seconded and I am going to repeat this, to remove meters 406 and 411 from the Resolution and adopt the Resolution including 430, 431, 432, 433, 434, 435 and 436. Councilman Bierling, I think we should take a roll call vote on this.

Solicitor: You're going to take a vote first on the motion to amend it?

Mr. Bonnett: To amend it, that's right. This is a motion to amend it.

Mayor Micozzie: It's not my meeting. Are we going against PENNDOT'S recommendation?

Mr. Bonnett: If we do this, yes.

Ms. Coles: For two of nine meters.

Mayor Micozzie: I understand that. Do the seven first.

Mr. Bonnett: We have a motion to amend this Resolution. That's all we're voting on with a roll call vote. When you are called, if you who are in favor say "aye" and those of you who are opposed say "no." Will you please call the roll?

<u>In favor of amending Res 24-18</u>	<u>Opposed to amending Res 24-18</u>	<u>Excused</u>	<u>Abstained</u>
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<p>Coles Gwin Keffer</p> <p>Siddique Wentz</p>	<p>Bonnett Wagner Bierling</p> <p>Manfre Faraglia Spellman</p>	<p>5</p>	<p>6</p>	<p>0</p>	<p>0</p>
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Mr. Bonnett: That gives us 6 in favor and 5 opposed. In other words, the motion to amend the Resolution fails. Point of order, now we're back to considering the Resolution as it is currently worded. I ask again that we take a roll call vote. Again, a motion has been made and seconded to adopt Resolution No. ....

Ms. Coles: Well, I seconded the motion to adopt it because I do want these meters removed from my district. I think that is self-evident.

Mr. Bonnett: It's been moved and seconded to adopt Resolution No. 24-18. All those in favor signify by saying aye. Opposed say no. Please call the roll.

<u>In favor of Res 24-18</u>	<u>Opposed to Res 24-18</u>	<u>Excused</u>	<u>Abstained</u>
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<p>Bonnett Wagner Bierling Coles</p>	<p>Gwin</p>
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Manfre  
Faraglia  
Spellman

Keffer

Siddique  
Wentz

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7

4

0

0

Mr. Bierling: That's seven in favor and 4 against.

Mr. Bonnett: Therefore, the vote indicates that Resolution No. 24-18 is adopted as stated.

Mr. Bierling: I would like to ask the Solicitor for a brief on Resolution No. 25-18.

**Resolution No. 25-18, a Resolution to change parking meter numbers  
347 & 356 located on 69<sup>th</sup> Street to handicap parking meters**

Solicitor: Resolution No. 25-18 is a Resolution to change parking meter numbers 347 & 356 located on 69<sup>th</sup> Street to handicap parking meters.

Mr. Bierling: I move for the adoption of Resolution No. 25-18.

Mr. Gwin: Second.

Mr. Bonnett: It's been moved and seconded to adopt Resolution No. 25-18. All those in favor signify by saying aye. Opposed say no. The ayes have it.

Mr. Bierling: That completes the report of the Public Safety Committee.

Mr. Wagner: I have a comment before we complete the Public Safety Committee. Is that all right?

Mr. Bierling: Yes.

Mr. Wagner: Thank you very much. Just briefly, at our last Committee meeting, Councilwoman Coles circulated a document, I guess it was a letter, maybe it was more of a memorandum, I'm not sure which on the subject of gun policy and she was proposing or asking that Council members sign it. She and I have communicated about it and I agree with the content of that document in principle but I don't agree with signing it at all and told her so because I am convinced that that document would be used for purposes quite other than those intended by its author for whom I have great regard and respect as I do for all members of Council. So, I am not either able or willing to sign it but nonetheless I totally

agree with the principle it states. My concern is that the real issue for us as a Township on public safety including guns and going beyond guns is our schools.

Mr. Bonnett: Can I ask you to stay to the Agenda?

Mr. Wagner: Yes, sure. I'm just not satisfied that our schools are sufficiently secured and that's what we need to be concerning ourselves with.

Mr. Bonnett: Thank you.

Mr. Bierling: That concludes our report.

Mr. Bonnett: Thank you Jack. Planning, Zoning & Building Code Committee, Councilman Bierling please.

**Planning, Zoning & Building Code Committee**

Jacob A. Bierling Jr., Chairman

**Resolution No. 26-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the application of Saint Dorothy School to further develop 7.015 acres with a Pre-K facility with an accessory parking lot and playground near the southeast corner of Township Line Road and Burmont Road and being subject to certain conditions of approval**

Mr. Bierling: Thank you Mr. Bonnett. At this time, I would ask the Solicitor for a brief on Resolution No. 26-18.

Solicitor: Certainly. Resolution No. 26-18 is a Resolution of Upper Darby Township, Delaware County, Pennsylvania approving the application of Saint Dorothy School to further develop 7.015 acres with a Pre-K facility with an accessory parking lot and playground near the southeast corner of Township Line Road and Burmont Road and being subject to certain conditions of approval.

Mr. Bierling: At this time I move for the adoption of Resolution No. 26-18.

Mr. Wagner: Second.

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye. Opposed? The ayes have it.

**Public Hearing for Ordinance No. 3046, an Ordinance of Upper Darby Township, Delaware County, Pennsylvania amending Ordinance No. 2937 to adjust certain fees charged by the Department**



**of Licenses and Inspections and repealing all Ordinances, Resolutions  
and parts of Ordinances or Resolutions inconsistent herewith**

Mr. Bierling: At this time, I would like to ask the Solicitor for a brief on Ordinance No. 3046.

Solicitor: Yes. Ordinance No. 3046 is an Ordinance of Upper Darby Township, Delaware County, Pennsylvania amending Ordinance No. 2937 to adjust certain fees charged by the Department of Licenses and Inspections and repealing all Ordinances, Resolutions and parts of Ordinances or Resolutions inconsistent herewith.

Mr. Bierling: Thank you. At this time, I ask that the Chair hold a Public Hearing.

Mr. Bonnett: At this time we will convene a Public Hearing on Ordinance No. 3046. Anyone wishing to address Council about this Ordinance, please come forward to the podium and state your name and address for the record.

Ms. Jenkins: Nicole Jenkins, 628 Beverly Blvd. I would like to know what the certain fees are.

Solicitor: There are re-sale/re-finance certificate fees for the sale of the property. This would amend that residential property 1 & 2 families which was previously \$25 to \$100 if all violations of record are corrected at the time of the certification. For residential properties 1 and 2 families, it is a conditional certificate of occupancy that they obtain with violations corrected within twelve months. The fee will be \$200 for commercial property or residential apartments, three units and up. It will be \$250 for properties with less than 20,000 square feet of gross floor area, \$500 for properties with 20,000 square feet of gross floor area or greater. And then, there are adjustments made to the sub-division, reverse sub-division and land development application fees. They are increasing from \$150 for residential sub-division single family dwelling to \$300 and to \$400 for multi-dwelling or condominiums. Non-residential subdivision plans will be increased to \$400, \$75 per lot; non-residential land use development plans increase from \$200 to \$400. And then, there is Public/Site Improvements proposed residential sub-division plan for single family dwelling \$400 for all plans plus \$75 per lot or unit; Multi-family dwelling or condominium \$400 per plan plus \$50 per unit. Non-residential subdivision plan \$400 per plan plus \$100 per lot. Non-residential land use development plan \$400 per plan plus additional fees computed as follows; \$75 per acre or portion thereof; \$75 per 1,000 square feet of gross floor area or portion thereof. And I believe, Councilman Bierling, that when Mr. Gentile presented this at the Committee meeting, he explained the increase in the certificate of occupancy fees because of the change in the state law that requires a conditional certificate of occupancy and it now requires more inspections from the L&I department.

Mr. Bierling: Exactly right. I think that carries over into the one-year period.....

Ms. Jenkins: OK. I guess I'm just wondering why that kind of information doesn't come included with the information when people are supposed to be thinking about these things.

Mr. Bierling: It was presented to the Committee at the Committee meeting to everybody who was present.

Ms. Jenkins: No, I mean....

Mr. Bierling: I understand what you're saying.

Ms. Wentz: Why isn't that on the Agenda that way?

Ms. Jenkins: For me and for the rest of us. That's what I was wondering. It's a Public Hearing and we're just supposed to be listening.

Mr. Wagner: You really wanted all of that information on the Agenda?

Ms. Wentz: Well no but they don't get all that information so it's hard for them to make comments.

Multiple people speaking at once.

Mr. Bonnett: Can we have one person at a time please?

Mr. Bierling: We had Jeff Gentile here at the last Committee meeting, he was explaining that these fees haven't been raised in a couple of years. What recently happened was the State changed the law. Before we had a little bit of power because we had a U&O. So, somebody comes in to buy a house and they didn't make repairs so the U&O wasn't issued so they couldn't go to settlement. So, the state changed that and said that you can't hold that like that. You have to let it go so what they can do is say to the buyer/purchaser coming into the house "I'm going to give you \$400 to repair the concrete out front." And then you should repair the concrete, I think it's one year that we have to wait. Now, we do have the -----to be able to check that and if it's not done then we send them out again. So, there is an additional expense that the Township is required to put out because of the change in the state law that says that you can't hold that U&O to hold their feet to the fire to get the repairs done. It mainly has to deal with the re-sales but I don't think they've been raised in how long?

Mr. Judge: At least eleven years.

Mr. Bonnett: Ma'am, do you object to any part of that?

Ms. Jenkins: As I read it, I just like the information like to adjust certain fees. OK, so what are the certain fees? That's all.

Mayor Micozzie: May I? These fees can only be assessed. These aren't to make money for the budget.

Mr. Judge: I think we're missing the point of what the lady is trying to say. What she is saying is she doesn't know what the fees are. That's her problem. We brought them up at a Committee meeting. Council had the Ordinance presented to them at the last Committee meeting. The proposed Ordinance was advertised in the paper. The Ordinance was available if anybody had requested us to give it to them. So, the question is, does Council want to put every Ordinance on the Agenda with every specific item in it or should the public, if they have an interest in this, contact one of the Council people to get more clarification because the Council people are the people who are voting upon it.

Ms. Keffer: I'd like to make a comment and I've suggested this before and I believe Councilwoman Wentz has too. After we pass a motion to introduce an Ordinance, I think it would be fine to put it on the website and then people could access it if they want. They could come to a meeting prepared. The Agendas don't go out until 24 hours before this meeting.

Mr. Judge: This is something everybody has to understand; up until noon on Tuesday before, the Agenda can be changed so the final Agenda does not go out until noon on Tuesday. I think that's really important for everybody to understand.

Ms. Keffer: I think that's fine but if we've already introduced an Ordinance and we've voted to put it on the Agenda for the following month, it can go on the website and people can look at it and be informed before they come to the meeting if they wanted to make a comment or not. That's all I wanted to say.

Ms. Wentz: I agree.

Ms. Jenkins: Thank you.

Mr. Bonnett: OK. Does anyone else wish to address Council on Ordinance No. 3046. Seeing no one, that concludes the Public Hearing for Ordinance No. 3046 and I turn this back over to Councilman Bierling.

Mr. Bierling: Thank you. I'd like to move for the approval of Ordinance No. 3046.

Mr. Wagner: Second.

Mr. Bonnett: Moved and seconded. This requires a roll call vote. Those of you who are in favor say "aye" and those of you who are opposed say "no." Will you please call the roll?

In favor of Ord 3046                      Opposed to Ord 3046                      Excused                      Abstained

Bonnett  
 Wagner  
 Bierling  
 Coles  
 Gwin  
 Keffer  
 Manfre  
 Faraglia  
 Spellman  
 Siddique  
 Wentz

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Mr. Bierling: It's unanimous.

Mr. Bonnett: Thank you Jack. Therefore, Ordinance No. 3046 is approved.

Mr. Bierling: That concludes our report.

Mr. Bonnett: Thank you Jack. Municipal Services, Licensing & Public Works Committee, Councilman Spellman please.

**Municipal Services, Licensing & Public Works Committee**  
 Patrick J. Spellman, Chairman

**Resolution No. 27-18, to apply to the County Council for an allocation of the County Liquid Fuels Tax Funds in the amount of \$33,509.00.**

Mr. Spellman: I'd like to ask the Solicitor for a brief on Resolution No. 27-18.

Solicitor: Yes. Resolution No. 27-18 is a Resolution that will allow Upper Darby to apply to the County Council for an allocation of the County Liquid Fuels Tax Funds in the amount of \$33,509.00.

Mr. Spellman: Thank you. I make a motion to adopt Resolution No. 27-18.

Mr. Gwin: Second.

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye. Opposed? The ayes have it. Councilman Bierling has abstained. Resolution No. 27-18 is approved.

**Public Hearing for Ordinance No. 3047, an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into an Eastern Delaware County Stormwater Collaborative amended and restated intergovernmental agreement among the borough of Collingdale, the borough of Darby, the Township of Darby, the borough of East Lansdowne, the Township of Haverford, 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 collaboratively through the operation of the Eastern Delaware County Stormwater Collaborative**

Mr. Spellman: Thank you, Mr. President. Will the Solicitor to give us a brief on Ordinance No. 3047?

Solicitor: Certainly. Ordinance No. 3047 is an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into an Eastern Delaware County Stormwater Collaborative amended and restated intergovernmental agreement among the borough of Collingdale, the borough of Darby, the Township of Darby, the borough of East Lansdowne, the Township of Haverford, 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 collaboratively through the operation of the Eastern Delaware County Stormwater Collaborative.

Mr. Bierling: Thank you. Mr. Chairman, I'd like to open this up to a Public Hearing.

Mr. Bonnett: At this time we will convene a Public Hearing on Ordinance No. 3047. Anyone wishing to address Council about this Ordinance, please come forward to the podium and state your name and address for the record.

Ms. Zerbe: I won't be repetitive but it's Faith Zerbe, 379 Upland Way, Drexel Hill. Thanks for this and I think what I wanted to echo is that I've said that this seems like it's a collective collaboration which is really important for flooding. I've not been able to read it because again, I didn't know it was going to be on the Agenda unfortunately. I see there is a 69-page draft report here so I would just echo what other Councilwomen have said about possibly putting this type of document on the website so that we could take a look at it and be a little bit more informed to help and to be part of that process. So, I did express my concerns earlier about volume reduction and all of those things. So again, not knowing and not reading the 69-page report, if it deals with those things that we talked about earlier in the way of floodplain protection, good buffer Ordinances, rain barrels, innovative green infiltration trenches and all that type of thing with re-development, it's a wonderful thing and I hope it does. But again, I really don't have the information to be more informed that that. So, thank you.

Mr. Bonnett: Thank you for your comments. Does anyone else wish to address Council on Ordinance No. 3047?

Mr. Harrison: Gerald Harrison, 29 S. Kirklyn Avenue, Upper Darby. I just want to echo and echo the idea for these details on the website. When does the decision get made? I see it being put forth but when do we know if that reasonable suggestion is going to happen? I know you can't put all those details on the Agenda but what a perfect idea to put it on the website. I just didn't hear any kind of conclusion. So, I'd like to have it done. Thank you.

Mr. Judge: Mr. Bonnett, may I ask a question?

Mr. Bonnett: Certainly.

Mr. Judge: I've heard 2 people come to the table, and look, I have no objections to whatever Council decides to do. But, 2 people come to the table and say that they looked at the Agenda tonight and they didn't know an item was going to be discussed but it's a good idea to put it on the website so they can look at it. If they would look at the website which puts the Agenda up and they really had an interest in a specific point, they could have contacted anyone in the Administration or anyone on Council. But, to come here tonight and say "I didn't know if something was going to be discussed on the Agenda until I got here and saw the Agenda tonight." And now, "why don't you put it on the website?" I'm just baffled. I don't disagree that some things on the website but it just blows my mind that....

Mr. Bonnett: Thank you Tom. Councilman Bierling?

Mr. Bierling: Mr. Judge, I think we've been down this road before in the past and I think it comes up that who puts our stuff on our website? I believe it's you? We don't have a webmaster that does our site, do we?

Mr. Judge: That's not the point, Mr. Bierling. The point is if you come tonight and you have the Agenda and you don't know what's on the Agenda until you get here tonight, how would putting an Ordinance on the website have helped you tonight other than reading it when you're right here?

Ms. Keffer: I'd like to make a comment. If you're advertising the Ordinance in a newspaper, then you can put it on the website. It's really not that hard.

Mr. Judge: No, you didn't answer my question, Councilwoman. And, I get what you're saying and these are in the Council's office and also in the library. So, anybody can go look at them. It's not that they have to come here. But, you haven't answered my question; how could you come here tonight and say "I just looked at the Agenda and didn't know that this was on the Agenda but yet I think you ought to put it on the website."

Ms. Keffer: I'm just talking about.....

Mr. Judge: No, you didn't answer my question that I just asked.

Ms. Keffer: I'm not going to answer your question. I was making a point about the Ordinances after we vote to introduce them being put on the website.

Mr. Bonnett: I think the point is made and made well. It's something that could be considered. But, let's get back to the topic.

Mr. Harrison: Quick clarification. I only asked for pertinent details, just something like the fees and charges.

Mr. Judge: But, who makes the decision on what the pertinent details are?

Mr. Harrison: Well, it's discretionary.

Mr. Spellman: Gerald, it's a 69-page document. That's what we're looking at on this one here.

Ms. Wentz: All the more reason to have it on the website so they can read it on their own time.

Mr. Spellman: This is re-doing a permit that we were involved with for 5 years.

Mr. Bonnett: We're getting off topic. We're talking about an issue of accommodating how to publish something. Let's get back to the point of the Ordinance itself.

Mr. Harrison: I just thought it would be easier if they saw the details; by someone's discretion I thought it might be helpful to put them on the website.

Mr. Bonnett: The point is made. Anyone else wish to address Council on Ordinance No. 3047. Seeing no one, that concludes the Public Hearing for Ordinance No. 3047 and I turn this back over to Councilman Spellman.

Mr. Spellman: Thank you. I'd like to move for the approval of Ordinance No. 3047.

Mr. Bierling: Second.

Mr. Bonnett: Moved and seconded. This requires a roll call vote. Those of you who are in favor say "aye" and those of you who are opposed say "no." Will you please call the roll?

In favor of Ord 3047                      Opposed to Ord 3047                      Excused                      Abstained

Bonnett

Wagner  
 Bierling  
 Coles  
 Gwin  
 Keffer  
 Manfre  
 Faraglia  
 Spellman  
 Siddique  
 Wentz

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Mr. Spellman: It's unanimous.

Mr. Bonnett: Thank you Pat. Therefore, Ordinance No. 3047 is adopted.

Mr. Spellman: Thank you, Mr. President. Will the Solicitor to give us a brief on Ordinance No. 3048?

**Public Hearing for Ordinance No. 3048, an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into the 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, Upper Darby Township and the Borough of Yeadon pursuant to which such municipalities agree to undertake their obligations under MS4 permitting regulations relating to Pollutant Reduction Plan collaboratively**

Solicitor: Yes. Ordinance No. 3048 is an Ordinance authorizing Upper Darby Township, Delaware County, Pennsylvania to enter into the 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, Upper Darby Township and the Borough of Yeadon pursuant to which such municipalities agree to undertake their obligations under MS4 permitting regulations relating to Pollutant Reduction Plan collaboratively.

Mr. Bierling: Thank you. Mr. Chairman, I'd like to open this up to a Public Hearing.

Mr. Bonnett: At this time we will convene a Public Hearing on Ordinance No. 3048. Anyone



wishing to address Council about this Ordinance, please come forward to the podium and state your name and address for the record. Seeing no one coming to the podium, this concludes the Public Hearing for Ordinance No. 3048 and I turn this back over to you Councilman Spellman.

Mr. Spellman: Thank you Mr. President. I move for the adoption of Ordinance No. 3048.

Mr. Gwin: Second.

Mr. Bonnett: Moved and seconded. All those in favor signify by saying aye.

Ms. Coles: It's an Ordinance. We need a roll call.

Mr. Bonnett: I'm sorry! We do need a roll call vote. Those of you who are in favor say "aye" and those of you who are opposed say "no." Will you please call the roll?

<u>In favor of Ord 3048</u>	<u>Opposed to Ord 3048</u>	<u>Excused</u>	<u>Abstained</u>
Bonnett			
Wagner			
Bierling			
Coles			
Gwin			
Keffer			
Manfre			
Faraglia			
Spellman			
Siddique			
Wentz			
11	0	0	0

Mr. Spellman: It's unanimous.

Mr. Bonnett: Thank you Councilman Spellman. Therefore, Ordinance No. 3048 is approved.

Mr. Spellman: Thank you Mr. President. That concludes my report.

Mr. Bonnett: Thank you Mr. Spellman. Law and Government & Rules and Procedures Committee, Ms. Faraglia please.

**Resolution No. 28-18, a Resolution of Upper Darby Township, Delaware County, Pennsylvania in support of Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, proposing an amendment to the Constitution of the Commonwealth of Pennsylvania and providing for a**

**Legislative Reapportionment Commission for the purpose of  
reapportioning and redistricting the Commonwealth of Pennsylvania**

Ms. Faraglia: I would like to ask the Solicitor for a brief on Resolution No. 28-18.

Solicitor: Resolution No. 28-18 is a Resolution of Upper Darby Township, Delaware County, Pennsylvania in support of Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, proposing an amendment to the Constitution of the Commonwealth of Pennsylvania and providing for a Legislative Reapportionment Commission for the purpose of reapportioning and redistricting the Commonwealth of Pennsylvania.

Ms. Coles: OK, before we go any further....

Mr. Bonnett: Wait a minute, just give me a second Sekela, please. We need a motion.

Ms. Faraglia: The Law and Government Committee met and the majority recommended the adoption of Resolution No. 28-18. Therefore, I move for the adoption of Resolution No. 28-18.

Mr. Bonnett: Is there a second?

Mr. Spellman: Second.

Mr. Bonnett: OK. Sekela?

Ms. Coles: OK. Again, I am just echoing the comments that I made earlier during the Public Forum. We had citizens of Upper Darby for Fair Districting that brought us a Resolution that was clearly worded. They mentioned how many other municipalities in the state had adopted a similar Resolution, including Delaware County Council. They were asked to do a survey. They started a survey and I filled it out and posted it on my little Facebook Councilwoman page. My point is, no one has come to this Council meeting publicly objecting to their efforts do I don't know why we're going off-script. They asked us for a Resolution that has nothing to do with 28-18 as it stands. Their language that they gave us was very clear. It was one page and it made no mention of SB-22. It clearly stated that they wanted a Resolution in support of a Citizen's Commission for Legislative and Congressional Re-Districting. I just think that it's in bad faith to go forward with Resolution No. 28-18. I apologize that I was out of order but I wanted to make that statement before a motion was even made to put it on the floor before it was seconded. This was not what they asked for. They are the ones that asked for it, they did the leg work, they met with many of us, they put together the survey, they emailed us! I have all the emails that they sent and I heard them every month that they came to speak about this issue. I just ask that just moving

forward that we really think and make sure that we understand what we are doing and what we were asked to do. They aren't asking for how 28-18 is worded so I think we really should respect that this is not what they asked for.

Ms. Wentz: So, I'm in agreement with Councilwoman Sekela Coles and thusly I created an amendment to the Resolution. I made copies of it. If you could please take one and pass it down. So, I'll wait until you have the copies.

Ms. Faraglia: I sent this out yesterday and nobody responded. It's not the first time. It's the second time that you didn't respond.

Ms. Wentz: Actually I did respond.

Ms. Faraglia: Sekela knew about it too so you should have reached out to her.

Ms. Wentz: I did. I responded on Committee.

Ms. Keffer: I would like to make a comment.

Mr. Bonnett: Hold on please.

Ms. Wentz: Wait, wait. I have a motion on the floor for the amendment.

Ms. Keffer: Second.

Ms. Wentz: So the motion is.....

Ms. Manfre: I don't have the amendment.

Mr. Bonnett: Wait a minute. I know but she does have the right to amend it. Now, are you finished with your general comments?

Ms. Wentz: I am finished with my general comments. I am going to read...

Mr. Bonnett: Well, let's take comments on the original motion.

Ms. Wentz: No, because the amendment, once you start an amendment to, you have to....

Mr. Bonnett: I get it. You want to close down? Are you suggesting we don't give everybody else an opportunity to comment on the original?

Ms. Wentz: Depending on the approval of this amendment will depend on what happens as far as discussion on the other.

Mr. Bonnett: I agree with you as far as procedure and by the book, that's the way to do it...to vote on the proposed amendment. Now...

Ms. Wentz: I am prepared to read this amendment in its entirety.

Mr. Bonnett: I think you should.

Ms. Wentz: OK.

Mr. Bonnett: Now wait a minute. You're going to read it and then you're going move it as a....

Ms. Wentz: As a motion of amendment and I have a second.

Mr. Bonnett: Well excuse me but it seems to me that this is an entirely different Resolution.

Laughter.

Mr. Bonnett: The point being is that it's not on the Agenda!

Ms. Wentz: It is on the Agenda, the motion to amend the Resolution that is on the Agenda.

Mr. Bonnett: All right. You're saying that the wording, and I haven't read it, that this wording is based on the Resolution 28-18 that's in your folder.

Ms. Wentz: The amendment is a replacement based on the request from Fair Districting's Amendment; Fair District's Resolution, I amended the 28-18 Resolution to match what Fair Districts asked us to do.

Mr. Bonnett: Read the Resolution.

Mr. Judge: Hold on a second. This is a motion to amend an amendment so....

Mr. Bonnett: No, to amend a Resolution.

Mr. Judge: To amend a Resolution. My point made earlier in the day to amend the Resolution on the parking meters, perhaps we can handle this the same way.

Mr. Bonnett: The same exact way. She is going to read it.

Mr. Judge: So, she's going to read the Resolution and then you're voting on....

Ms. Wentz: I'm reading the amendment.

Mr. Judge: .....to amend the amendment.

Mr. Bonnett: Exactly.

Ms. Wentz: Correct.

Solicitor: If there is a second to the motion to amend it.

Ms. Wentz: There's already a second.

Mr. Bonnett: Read the Resolution.

*Councilwoman Wentz read the Resolution.*

Mr. Bonnett: All right now. That's a motion to amend and is there a second?

Ms. Keffer: Second.

Mr. Bonnett: Moved and seconded. Let me explain what we're doing her. We're going to take a roll call on this and if you're in favor of amending the original Resolution, vote yes or aye. If you're against amending the original Resolution, say no. Call the roll please.

<u>In favor/amending Res. 28-18</u>	<u>Opposed/amending Res. 28-18</u>	<u>Excused</u>	<u>Abstained</u>
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	Bonnett		
	Wagner		
	Bierling		
Coles			
Gwin			
Keffer			
	Manfre		
	Faraglia		
	Spellman		
Siddique			
Wentz			
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5	6	0	0

Mr. Bonnett: OK. So, the motion to amend fails. So we are back to the original Resolution No. 28-18 which has been moved and seconded. Now, we're about to take a vote on that.

Ms. Keffer: I just wanted to make a comment. I did raise my objections two weeks ago at the Committee meeting about inserting this specific Senate Bill 22 language into this.

Ms. Wentz: So did I.

#### AUDIO LOST DUE TO CHANGING TAPE

Ms. Coles: .....some people did not want to address this type of issue at a Township Council level to now having the various Resolutions. I just don't understand why we can't give the people that actually requested this action what they asked.

Mr. Bonnett: Well, from my perspective, and I can only say from my perspective, it's a very general Resolution. It doesn't specifically address any particular state law but it could apply to any state law. So, I object to that. So, from my perspective, we have an obligation to be specific on what we're adopting and I think that's what the present Resolution is, specific. And, it's on point to what Fair District Pennsylvania.....

#### PEOPLE SCREAMING FROM THE AUDIENCE

Mr. Bonnett: Will you please! Let's have some decorum here please! These meetings are degenerating! Please stop it! Please stop! I will have you escorted out of the room. Therefore, those are my comments. This is a democratic process. We're following the process. It goes to the Committee and the Committee makes a recommendation. You either vote in favor of it or you vote against it. It's plain and simple!

Ms. Coles: I just had some questions because are we saying that Delaware County Council when they passed the Resolution, that they don't go into specifics?

Mr. Bonnett: Why should we do it because somebody else has?

Ms. Coles: I'm just asking.....

Ms. Faraglia: I want to say one thing. I don't know about anybody else at the table but I ran for Council because I wanted to help people with their trash, with their complaints about certain other things. Re-districting, we have no control of, no matter what anybody else says. Once it goes up there, it's done. It's out of our hands! There is no control. I want to approve stuff that we have control of; what we can do for the Township. We have no control over this. Period!

Ms. Wentz: So, I just want to clarify that Senate Bill 22 that this Resolution is about, that Bill does not exist anymore. It was left on the Senate floor and it was replaced with something that completely butchered it which is part of the reason why Fair Districts does not support it in any way and the reason why I created my amendment. So the fact that the Council is considering to pass a Resolution that has no actual bearing because it's based on a version of Senate 22 that does not exist and....

Mr. Bonnett: We are adopting provisions of a pre-existing version of Senate Bill 22 that was endorsed by Fair Districts PA.

Ms. Wentz: It was not. It was not.

Mr. Bonnett: Let me read this from Fair Districts PA. This is a response to the SB 22 opposition. "I am writing in response to criticism of Senate Bill 22 by Keystone Progress, the Pennsylvania Budget and Policy Center (PBPC) and others. We are sorry to see any advocate organization come out against the bill that is still a work in progress and is likely the best avenue toward reform of our current and very partisan re-districting process. That's a statement made by Fair District of the version that we are adopting.

Ms. Wentz: Right. For a Bill that doesn't exist anymore and since then they also, it has been replaced. And what has been replaced...

Mr. Bonnett: OK. It's been moved and seconded. We will take a roll call vote again. When your name is called, if you are in favor signify by saying aye. Opposed say no. If you're against amending the original Resolution, say no. Call the roll please.

<u>In favor of Res. 28-18</u>	<u>Opposed to Res. 28-18</u>	<u>Excused</u>	<u>Abstained</u>
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Bonnett			
Bierling			
Wagner			

	Coles		
	Gwin		
	Keffer		

Manfre			
Faraglia			
Spellman			

	Siddique		
	Wentz		

6	5	0	0
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Mr. Bierling: That's 6 in favor and 5 against.

Mr. Bonnett: OK. Therefore, Resolution No. 28-18 is adopted. Madam Solicitor, do you have anything for Council this evening?

Solicitor: No, I have nothing. Thank you.

Mr. Bonnett: OK. A motion would be in order for adjournment.

Ms. Coles: Wait. I'm sorry. I was talking to Tom Wagner. I have some concerns. I meant to bring this up. We're in the Law and Government Committee still and I think that there's some serious communications issues, whether it is between constituents and their district Council people or whether it is between fellow Council people or Council people and the Administration. It's a couple of things that I've been hearing over the past few months that really disturb me. First, when any constituent comes here and they are publicly airing complaints or concerns or whatever their issue or grievance is, even if the Council person and that constituent do not get along and can't stand each other, that doesn't matter. That Council person represents that person and they have publicly asked for help, support or guidance in some sort of way, that's as good as any email or phone call that the 2 or 3 parties may agree or disagree did not occur. I think that is a public cry for help that they are asking for some sort of assistance from their elected representative. Another thing is the way we communicate to one another. I am really getting very short tempered with hearing certain things being brought up and everybody is acting surprised. We all have each other's cell phone numbers. We all have each other's email addresses and we also have each other's home addresses if it comes to that. But, my thing is, if we can communicate about some of these issues either at Council Committee, then again prior to coming here, we wouldn't have this public display of negative energy. It is childish. It makes me sick and I am the youngest person up here and I feel like this is high school if not junior high school. We should all be embarrassed. This is ridiculous. This doesn't make any sense and I'm sure everybody in their own way, regardless of what they like, who they like, who they don't like, I'm sure they're up here because their heart is in the right place to do something better for Upper Darby Township. We are at a crossroads. We do have a lot of issues that we need to consider. There was a shooting on Friday night in my district. You know, there are real things happening in some of our communities that some of us are worried about. I have teenagers. I am a single mother. I have to worry about real stuff going on, not bickering back and forth about petty nonsense and I really think that we need to exercise the communication channels that we all have available as adults, whether it's over parking meters, whether it's over Resolutions or amendments, I think we have to now be the bigger people and communicate to one another apart from the 3<sup>rd</sup> Wednesday night of the month. I apologize if anybody feels that this is disrespectful. I mean this with all due respect.

Mr. Bonnett: And, I would like to add that in lieu of the way this meeting has degenerated tonight and the public calling out, we're going to start running these meetings according to Robert's Rules of Order. That means you address the Chair, whoever is sitting in this chair, if you want to comment, you get recognized by the Chair before you comment. So, that's a process and it's a process that we are technically obligated to follow and we don't. So, we're going to start doing that and I think that might tamp down some of this friction, if you will, that has



occurred. So, let's be aware that coming forth, I encourage everyone to read Robert's Rules of Order. We are obligated under the Administrative Code to follow Robert's Rules of Order and another Ordinance that we adopted that indicates that we are obligated to follow Robert's Rules of Order. So, going forward, I am going to ask everyone to respect that, become aware of the procedure and we will begin to enforce that.

Ms. Coles: I'm sorry, there is one addition to that comment that I left out. If we do not have things on our website that the public is asking to see in the meantime, I think that people that are social media savvy that are on this Council think they should post once it becomes public to the Council person, you can take a screen shot of the Ordinance, of the Agenda. I take a screenshot of the Agenda the week before when it's emailed to me. We can post that. You can get information out here. If you are retired and live near your constituents, you can walk over the Ordinance that you received two weeks before at a Council Committee meeting. Until things are done differently, I think that we can adapt. You know, there are other ways to do things. I just think coming here arguing, I mean, it makes me feel like I'm breaking up an argument between my two children. It's just embarrassing. This is not what Council should be about.

Mr. Manfre: Mr. Bonnett, can I make an announcement please?

Mr. Bonnett: Yes.

Mr. Manfre: The 4<sup>th</sup> of July parade at the Highland Park Fire House is going to be on at 9 am. It is sponsored by the newly formed, reorganized Highland Park Civic Association and I invite all of Council there at 9am at the fire house.

Ms. Coles: Thank you.

Mr. Bonnett: We also have the fireworks on July 3<sup>rd</sup> in the evening at the high school.

Mr. Judge: The rain date has been changed to July 6<sup>th</sup> because of other activities at the school so let's hope that there is no rain.

Mr. Bonnett: I'm going to follow up with one more comment about decorum. When we have a voting Council meeting such as this Council meeting, if it's not on the Agenda, we are not going to be able to have just general discussion. General discussion happens at Committee meetings so we're going to follow the Agenda faithfully going forward. I think that will control our process a little better than it had been controlled tonight. So, is there a motion for adjournment?

### **Adjournment**

Mr. Bierling: So moved.

Ms. Faraglia: Seconded.

Cont'd

June 20, 2018

169

Mr. Bonnett: This meeting stands adjourned.

Respectfully submitted,

*Richard G. Nolan*

Richard G. Nolan  
Chief Municipal Clerk

RGN/akc

**UPPER DARBY TOWNSHIP  
RESOLUTION NO. 22-18**

**In Re: Appeal Of: Kakoli Rahman**

**Owner: Kakoli Rahman**

**Property Address: 313 Sanford Road  
Upper Darby Township, PA  
Tax Folio No.: 16-04-01719-00**

WHEREAS, this matter has been in litigation with an Appeal filed awaiting decision in the Court of Common Pleas of Delaware County under Docket No. 2017-010514;

WHEREAS, a proposed settlement agreement has been reached in this matter fixing the following tax assessment upon the above-named property;

<u>YEAR</u>	<u>ASSESSMENT</u>
2018	\$27,495

WHEREAS, the Board of School Directors of the Upper Darby School District has approved the settlement of the above-listed tax assessment, and;

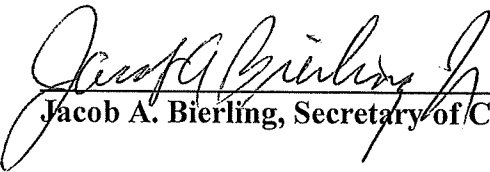
WHEREAS, the Solicitor recommends this settlement.

NOW THEREFORE, be it resolved that the above tax assessment be approved and the Solicitor is hereby authorized and directed to executed a Stipulation in the Court of Common Pleas of Delaware County agreeing to such assessed value for the property.

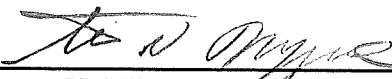
RESOLVED, this 20<sup>th</sup> day of June, 2018.

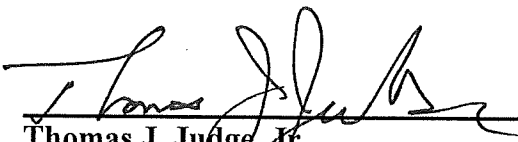
**UPPER DARBY TOWNSHIP**

**BY: Donald P. Bennett  
Donald P. Bonnett, President of Council**

ATTEST:   
Jacob A. Bierling, Secretary of Council

Resolution No. 22-18 above is hereby approved this 20<sup>th</sup> day of June, 2018.

BY:   
Thomas N. Micozzie, Mayor

ATTEST:   
Thomas J. Judge, Jr.,  
Chief Administrative Officer

**UPPER DARBY TOWNSHIP  
RESOLUTION NO. 23-18**

**In Re: Appeal Of: Delldog, Inc.**

**Owner: Delldog, Inc.**

**Property Address: 7808 Westview Avenue  
Upper Darby Township, PA  
Tax Folio No.: 16-07-00854-00**

WHEREAS, this matter has been in litigation with an Appeal filed awaiting decision in the Court of Common Pleas of Delaware County under Docket No. 2017-010517;

WHEREAS, a proposed settlement agreement has been reached in this matter fixing the following tax assessment upon the above-named property;

<u>YEAR</u>	<u>ASSESSMENT</u>
2018	\$33,605


WHEREAS, the Board of School Directors of the Upper Darby School District has approved the settlement of the above-listed tax assessment, and;

WHEREAS, the Solicitor recommends this settlement.

NOW THEREFORE, be it resolved that the above tax assessment be approved and the Solicitor is hereby authorized and directed to executed a Stipulation in the Court of Common Pleas of Delaware County agreeing to such assessed value for the property.

RESOLVED, this 20<sup>th</sup> day of June, 2018.

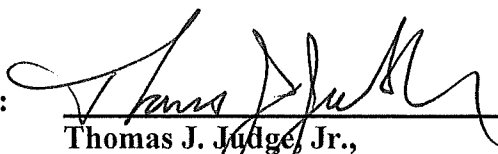
**UPPER DARBY TOWNSHIP**

**BY:**   
**Donald P. Bonnett, President of Council**

ATTEST:   
Jacob A. Bierling, Secretary of Council

Resolution No. 23-18 above is hereby approved this 20<sup>th</sup> day of June, 2018.

BY:   
Thomas N. Micozzie, Mayor

ATTEST:   
Thomas J. Judge, Jr.,  
Chief Administrative Officer

**RESOLUTION NO. 24-18**

WHEREAS, ORDINANCE NO. 482 OF THE TOWNSHIP OF UPPER DARBY, COMMONLY KNOWN AS "THE PARKING METER ORDINANCE" PROVIDES FOR INSTALLATION, OPERATION, MAINTENANCE, REGULATION AND CONTROL OF THE USE OF PARKING METERS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

NOW, THEREFORE, BE IT RESOLVED:

THAT ORDINANCE NO. 482 BE AND THE SAME IS HEREBY AMENDED AND SUPPLEMENTED BY THE FOLLOWING:

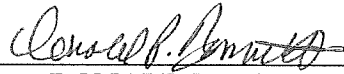
**TO REMOVE PARKING METER NO. 406 & 411 FROM THE 800 BLOCK OF GARRETT ROAD**

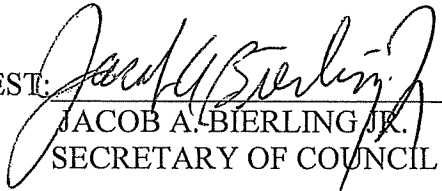
**TO REMOVE PARKING METER NO. 430, 431, 432, 433 & 434 THAT ARE SITUATED ON THE 700 OF GARRETT ROAD FROM WALNUT STREET TO THE CURRENT LOCATION OF THE DOLLAR GENERAL STORE**

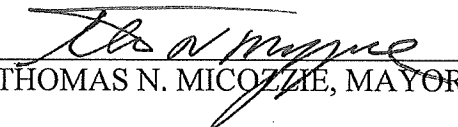
**TO REMOVE PARKING METER NO. 435 & 436 THAT ARE SITUATED ON THE 700 BLOCK OF GARRETT ROAD IN FRONT OF THE PARKING LOT BELONGING TO A&E CONSTRUCTION**

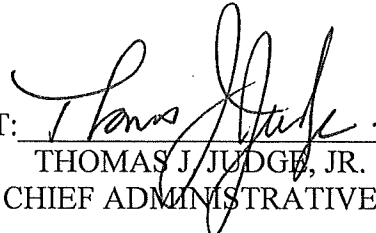
RESOLVED THIS 20<sup>TH</sup> DAY OF JUNE, A.D., 2018.

UPPER DARBY TOWNSHIP

  
\_\_\_\_\_  
DONALD P. BONNETT  
PRESIDENT OF COUNCIL

ATTEST:   
\_\_\_\_\_  
JACOB A. BIERLING, JR.  
SECRETARY OF COUNCIL

  
\_\_\_\_\_  
THOMAS N. MICOZZIE, MAYOR

ATTEST:   
\_\_\_\_\_  
THOMAS J. JUDGE, JR.  
CHIEF ADMINISTRATIVE OFFICER

**RESOLUTION NO. 25-18**

WHEREAS, ORDINANCE NO. 482 OF UPPER DARBY TOWNSHIP COMMONLY KNOWN AS "THE PARKING METER ORDINANCE" PROVIDES FOR THE INSTALLATION, OPERATION, MAINTENANCE, REGULATION AND CONTROL OF THE USE OF PARKING METERS AND IMPOSES PENALTIES FOR THE VIOLATION THEREOF:

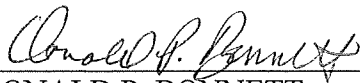
NOW, THEREFORE, BE IT RESOLVED:

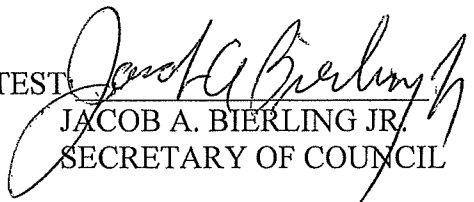
THE FOLLOWING METERED PARKING SPACES SHALL BE RESERVED FOR USE BY HANDICAPPED PERSONS AND DESIGNATED AS "HANDICAP ONLY" SPACES. THIS CHANGE WILL PERMIT ONLY THOSE WITH HANDICAP PLATES OR PLACARD TO USE THE METERED SPACES. A ONE HOUR GRACE PERIOD WILL BE AFFORDED THOSE WHO LEGALLY USE THE SPACES BEFORE ANY METER VIOLATION IS ISSUED.

**LOCATION: 69<sup>th</sup> STREET,  
METERED SPACES 347 & 356**

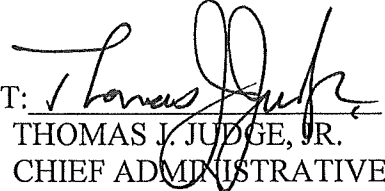
RESOLVED, THIS 20TH DAY OF JUNE, A.D., 2018.

UPPER DARBY TOWNSHIP

  
\_\_\_\_\_  
DONALD P. BONNETT  
PRESIDENT OF COUNCIL

ATTEST:   
\_\_\_\_\_  
JACOB A. BIERLING JR.  
SECRETARY OF COUNCIL

  
\_\_\_\_\_  
THOMAS N. MICOZZIE, MAYOR

ATTEST:   
\_\_\_\_\_  
THOMAS J. JUDGE, JR.  
CHIEF ADMINISTRATIVE OFFICER



**UPPER DARBY TOWNSHIP**

**Resolution No. 26-18**

**A RESOLUTION OF UPPER DARBY TOWNSHIP,  
DELAWARE COUNTY, PENNSYLVANIA  
APPROVING THE APPLICATION OF SAINT  
DOROTHY SCHOOL TO FURTHER DEVELOP 7.015  
ACRES WITH A PRE-K FACILITY WITH AN  
ACCESSORY PARKING LOT AND PLAYGROUND  
NEAR THE SOUTHEAST CORNER OF TOWNSHIP  
LINE AND BURMONT ROAD AND BEING SUBJECT  
TO CERTAIN CONDITIONS OF APPROVAL.**

WHEREAS, Saint Dorothy School, (“Applicant”) has submitted for approval its Final Land Development Plan to further develop 7.015 acres with a Pre-K facility with an accessory parking lot and playground near the southeast corner of Township Line and Burmont Road (1201 Burmont Road), prepared by LANDCORE Engineering Consultants, P.C., said plans consisting of eight (8) sheets dated April 18, 2018 (collectively “Final Plans”); and

**NOW THEREFORE, BE IT RESOLVED**, that the above-cited Final Plans are hereby approved subject to certain Conditions of Approval including the following:

1. Applicant has obtained approval by Pennsylvania Department of Transportation of all necessary permits, including but not limited to any required highway occupancy permit, where applicable.
2. Approval by the Township Solicitor and execution by Saint Dorothy School and where applicable, Applicant’s lender, of all necessary and appropriate documentation where applicable including Developer’s Agreement and Improvement Security Agreement, and such other documentation as acceptable to the Solicitor, including but not limited to documentation concerning the ongoing maintenance, operation and repair of the common site improvements, if any, which are not to be dedicated to the Township;

3. Applicant obtaining Sewer Planning Module Act 537 approvals or exemption there from, Storm Water Management approvals and Delaware County Conservation District approvals where applicable;

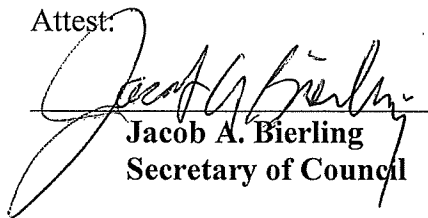
4. Formal recording of the Land Development Plan (the "Record Plans") following Township execution of the Record Plans;


5. Applicant shall comply with all applicable federal, state and local codes or ordinances and shall obtain all required permits.

6. Applicant shall comply with all conditions and approvals applicable to zoning variances granted by the Upper Darby Township Zoning Hearing Board by decision and order dated December 21<sup>st</sup>, 2017.

**TOWNSHIP OF UPPER DARBY**

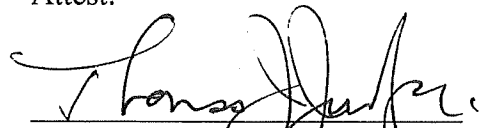
Attest:


  
**Jacob A. Bierling**  
Secretary of Council

By:   
**Donald P. Bonnett**  
President of Council

**Resolution No. 26-18 above is hereby approved this 20<sup>th</sup> day of June, A.D., 2018.**

Attest:

  
**Thomas J. Judge, Jr.**  
Chief Administrative Officer

Approved:   
**Thomas N. Micozzie**  
Mayor

**UPPER DARBY TOWNSHIP****ORDINANCE NO. 3046**

**AN ORDINANCE OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA AMENDING ORDINANCE 2937 TO ADJUST CERTAIN FEES CHARGED BY THE DEPARTMENT OF LICENSES AND INSPECTIONS AND REPEALING ALL ORDINANCES, RESOLUTIONS AND PARTS OF ORDINANCES OR RESOLUTIONS INCONSISTENT HEREWITH.**

**WHEREAS**, the Department of Licenses and Inspection of Upper Darby Township has, pursuant to the provisions of the Township Charter, Administrative Code and various Ordinances, been delegated with the duty for administering and supervising the operation of certain activities within Upper Darby Township; and

**WHEREAS**, to facilitate such supervision and administration it is necessary that the operators of and/or participants in these activities obtain certain licenses and permits from the Department of Licenses and Inspections; and

**WHEREAS**, it is recognized that a certain increased expenditure of time and money by the Department of Licenses and Inspections is necessitated in carrying out the above duties; and

**WHEREAS**, this Council deems it desirous that the Township recover such costs by charging license and permit fees to the applicants therefore; and

**WHEREAS**, the purpose of such fees shall be to recover administrative expenses only, and not to raise revenue.

**NOW, THEREFORE**, Upper Darby Township hereby ordains that the following sections of Ordinance 2937 be amended:

Section 1.n is amended as follows:

RESALE/REFINANCE CERTIFICATE FEES FOR SALE OF PROPERTY.

Resale/Refinance Certification:

~~Residential property (one & two family) - \$100.00, plus \$25.00 to process any required escrow; (All violations of record corrected)~~

~~Residential property (one & two family) less than 5 days prior to settlement - \$150.00, plus \$25.00 to process any required escrow; \$200.00 (Conditional with violations to be corrected within 12 months)~~

~~Commercial property or residential apartments (three units and up) - \$200.00, plus \$50.00 to process any required escrow;~~

~~\$250.00 (For properties with less than 20,000 square feet of gross floor area)~~

~~\$500.00 (For properties 20,000 square feet of gross floor area or greater)~~

a. SUBDIVISION, REVERSE SUBDIVISION AND LAND DEVELOPMENT APPLICATIONS.

No Public/Site Improvements Proposed

1. ~~Residential Subdivision Type of Plan: Single Family Dwelling - \$150.00 for all plans plus \$30.00 per lot or unit. \$300 for all plans plus \$50 per lot or unit. Multi-Family Dwelling or Condominium - \$150.00 \$400.00 per plan plus \$30.00 per unit.~~
2. ~~Non-Residential Subdivision Plan - \$200.00 \$400.00 per plan plus \$50.00 \$75.00 per lot.~~
3. ~~Non-Residential Land Use Development Plan - \$200.00 \$400.00 per plan plus additional fees computed as follows: \$50.00 per acre or portion thereof; \$50.00 per 1,000 square feet of gross floor area or portion thereof.~~

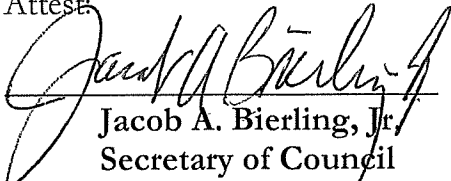
Public/Site Improvements Proposed

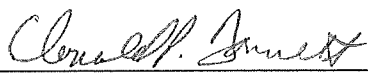
4. Residential Subdivision Plan: Single Family Dwelling - \$400 for all plans plus \$75 per lot or unit. Multi-Family Dwelling or Condominium - \$400.00 per plan plus \$50.00 per unit.
5. Non-Residential Subdivision Plan - \$400.00 per plan plus \$100.00 per lot.

- 6. Non-Residential Land Use Development Plan - \$400.00 per plan plus additional fees computed as follows: \$75.00 per acre or portion thereof; \$75.00 per 1,000 square feet of gross floor area or portion thereof

ENACTED and ORDAINED this 20<sup>th</sup> day of June, A.D. 2018.

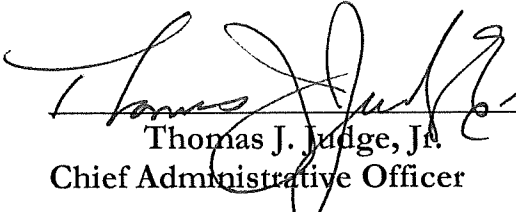
Attest:


  
 Jacob A. Bierling, Jr.  
 Secretary of Council

By:   
 Donald P. Bonnett  
 President of Council

Ordinance No. 3046 above is hereby approved this 20<sup>th</sup> day of June, A.D., 2018.

Attest:

  
 Thomas J. Judge, Jr.  
 Chief Administrative Officer

Approved:   
 Thomas N. Micozzie  
 Mayor

**RESOLUTION NO. 27-18**

WHEREAS, THE UNDERSIGNED MUNICIPALITY DESIRES TO TAKE ADVANTAGE OF THE ACT APPROVED JUNE 1, 1954, P.P. 1242 AND AS PROVIDED IN THE ACT APPROVED MAY 18, 1945, P.P. 803, PERMITTING COUNTIES OF THE COMMONWEALTH OF PENNSYLVANIA TO APPROPRIATE AND EXPEND MONEYS FOR THE IMPROVEMENT AND MAINTENANCE OF STATE HIGHWAYS AND STATE AID HIGHWAYS OR ANY PUBLIC HIGHWAY IN ANY COUNTY OF THE COMMONWEALTH.

THEREFORE, BE IT RESOLVED:


THAT WE, THE OFFICIALS OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA IN A REGULAR SESSION ASSEMBLED ON THIS 20<sup>th</sup> DAY OF JUNE 2018, DO HEREBY MAKE APPLICATION TO THE COUNTY COUNCIL OF DELAWARE COUNTY FOR A SUPPLEMENTAL ALLOCATION OF COUNTY LIQUID FUEL TAX FUNDS IN THE AMOUNT OF **\$33,509.00** TO BE USED FOR :

**POTHOLE REPAIR ON VARIOUS STREETS THROUGHOUT THE TOWNSHIP, ESTIMATED TOTAL COST OF PROJECT: \$33,509.00**

IT IS CERTIFIED BY THE MUNICIPALITY AND THE OFFICERS WHO EXECUTE THIS APPLICATION THAT ALL MATERIALS USED AND WORK DONE HEREUNDER SHALL CONFORM TO THE CURRENT PENNSYLVANIA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS, OR SPECIFICATIONS APPROVED BY THE DEPARTMENT, AND THAT ALL WORK WILL BE DONE WITHIN THE LEGAL RIGHT OF WAY OR WITH PERMISSION OF THE ABUTTING PROPERTY OWNERS.

RESOLVED, THIS 20<sup>TH</sup> DAY OF JUNE A.D., 2018

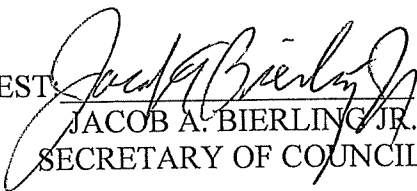
UPPER DARBY TOWNSHIP

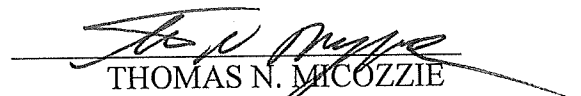
  
DONALD P. BONNETT  
PRESIDENT OF COUNCIL

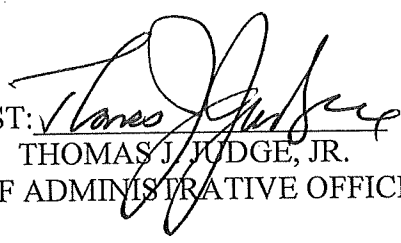
**RESOLUTION NO. 27-18**

JUNE 20<sup>TH</sup>, 2018

PAGE 2

ATTEST:   
JACOB A. BIERLING JR.  
SECRETARY OF COUNCIL

  
THOMAS N. MICOZZIE  
MAYOR

ATTEST:   
THOMAS J. JUDGE, JR.  
CHIEF ADMINISTRATIVE OFFICER

UPPER DARBY TOWNSHIP  
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE No. 3047

AN ORDINANCE AUTHORIZING UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA TO ENTER INTO AN EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT AMONG THE BOROUGH OF COLLINGDALE, THE BOROUGH OF DARBY, THE TOWNSHIP OF DARBY, THE BOROUGH OF EAST LANSDOWNE, THE TOWNSHIP OF HAVERFORD, 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 COLLABORATIVELY THROUGH THE OPERATION OF THE EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE

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, Upper Darby 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; 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, Upper Darby 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 Amended and Restated Intergovernmental Agreement, a copy of which is appended hereto as Exhibit "A" and made a part hereof, and to approve said agreement by the enactment of this ordinance; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE UPPER DARBY TOWNSHIP COUNCIL AS FOLLOWS:

**Section 1. Approval of Cooperative Memorandum of Agreement:** The Upper Darby Council hereby approves that certain Amended and Restated Intergovernmental Agreement, a copy of which is appended hereto as Exhibit "A," among , Upper Darby Township and each of the other municipalities listed in the heading of this Ordinance, and the appropriate officers of the Upper Darby Township are hereby authorized and



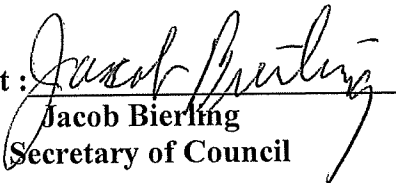
to execute and deliver said Amended and Restated Intergovernmental Agreement on behalf of Upper Darby Township

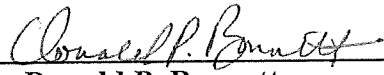
**Section 2. Repealer:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

**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.

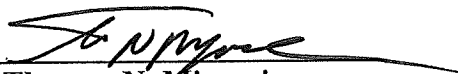
ENACTED and ORDAINED this 20<sup>th</sup> day of June, A.D. 2018.

Attest:   
Jacob Bierling  
Secretary of Council

By:   
Donald P. Bonnett  
President of Council

Ordinance No. 3047 is above is hereby approved this 20<sup>th</sup> day of June A.D., 2018

Attest:   
Thomas J. Judge, Jr.  
Chief Administrative Officer

Approved:   
Thomas N. Micozzie  
Mayor

**EXHIBIT "A"**  
**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT**

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**EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE  
AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT**

This Eastern Delaware County Stormwater Amended and Restated Intergovernmental Agreement dated \_\_\_\_\_, ~~2017~~ May 16, 2018 (the "Agreement") is entered into by and among the following municipal governments in Delaware County, Pennsylvania: Borough of Collingdale; Borough of Darby; Township of Darby; Borough of East Lansdowne; Township of Haverford; Borough of Glenolden; Borough of Morton; ~~Borough of Norwood~~; Borough of Sharon Hill; Upper Darby Township; and 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, and each additional municipality that may hereafter join into this Agreement pursuant to Section 10.2 below, 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 Darby Creek watershed 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 each hold an MS4 Permit from the Pennsylvania Department of Environmental Protection ("DEP").
2. The Municipalities recognize that collaborating to comply with the MS4 permit requirements will result in a more effective compliance at a lower cost than if they had complied with such Regulations separately.
3. The Municipalities shall enter into this Agreement in conformity with the Intergovernmental Cooperation Act, the applicable municipal administrative and general codes.
4. 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 1  
DEFINITIONS**

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.

“County” shall mean the County of Delaware, a home rule county in Pennsylvania.

“DEP” shall mean the Pennsylvania Department of Environmental Protection.

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

“Green Stormwater Infrastructure,” also referred to as “GSI,” shall include a range of soil-water-plant systems that intercept stormwater, infiltrate 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.

“Intergovernmental Cooperation Act” shall have the definition set forth in the heading of this Agreement.

“Officers” shall mean the persons appointed by the Management Committee pursuant to Section 5.1 hereof.

“Management Committee” shall mean the governing board that oversees the Collaborative, consisting of Members appointed by each member municipality.

“MS4 Program” shall mean the Municipal Separate Storm Sewer System Program established by DEP under the MS4 Regulations as defined below.

“MS4 Regulations” shall mean the applicable sections of the NPDES section of the Clean Water Act, as delegated to the PA DEP.

“Municipalities” and “Municipality” shall mean collectively and individually the municipal entities named in the heading of this Agreement, beginning on the date such municipal entities respectively have become parties to this Agreement by enacting an authorizing ordinance and executing a counterpart hereof. This term shall also include such municipal entities as may subsequently become parties to this Agreement pursuant to Section 10.2 hereof.

“Pollutant Reduction Plan” shall mean the required plan created to reduce pollutant load to streams as found in DEP document 3800-PM-BCW0100k Rev 3/2017.

“Program Coordinator” shall mean the person or entity appointed and serving pursuant to Article VI hereof.

“Project/s” shall mean activity or activities undertaken by the Collaborative in support of the MS4 permit requirement.

“Supplementary Agreement” shall refer to an agreement signed by the municipalities

participating in the Pollutant Reduction Program.

**ARTICLE II  
COLLABORATIVE IMPLEMENTATION OF MS4 REGULATIONS**

**Section 2.1. Purpose of the Collaborative.** The Municipalities agree that certain actions required in order to fulfill their obligations under the MS4 Regulations will be undertaken by them collaboratively through the operation of the Collaborative. The functions to be performed by the Collaborative are identified in Exhibit A attached hereto. Such jointly administered functions may be changed from time to time by action of the Management Committee established in Section 3.1 hereof with the approval of all the Municipalities.

**Section 2.2. Additional Activities of Collaborative.** The Collaborative may undertake additional action related to the MS4 Program for one or more Municipalities upon request to the Management Committee, provided the party or parties making the request for such additional action agree to pay the Collaborative separately for the agreed cost for such action.

**Section 2.3. Activities of Municipalities Separately.** The Municipalities will perform individually all the other actions required for them to comply with the MS4 Regulations and their MS4 Permits that are undertaken by the Collaborative. Without limiting the preceding sentence each Municipality agrees that it will implement in timely manner the separate actions described in Exhibit B attached hereto.

**Section 2.4 Pollution Reduction Plan.** The Collaborative members participating in the pollution reduction plans identified in the supplementary agreement will undertake the requirements therein.

**Section 2.5. 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.

**Section 2.6. Annual Reports.** Each Municipality will file an annual report with DEP under the MS4 Regulations and will deliver to the Collaborative a copy of such report, but the Collaborative will have no obligation to take any action related to such report or the performance by any Municipality of its separate obligations under this Agreement or the MS4 Regulations.

**Section 2.7. 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  
MANAGEMENT COMMITTEE**

**Section 3.1. Creation of Management Committee:** The Collaborative shall be governed by a

Management Committee. The Management Committee shall consist of one representative from each Municipality. Each Municipality agrees to appoint one representative and one alternate representative promptly upon execution of this Agreement. In the absence of any Municipality's representative, the alternate representative shall sit and vote on behalf of its respective Municipality. Representatives and alternate representatives will serve for terms of two years; they may be reappointed for an unlimited number of terms, and they will be subject to recall at any time for any reason by action of the appointing Municipality. At any time when for any reason there is no representative or there is no alternate representative in office for any Municipality, such Municipality agrees to appoint a successor representative or alternate representative, respectively, within 60 days after such vacancy has occurred, and such replacement shall serve for the balance of the unexpired term.

**Section 3.2. Qualifications.** The representative and the alternate representative may be an elected or appointed official of the Municipality, a member of an advisory committee of the Municipality, a consultant of, or person employed by, the Municipality or an interested volunteer. If such person is a consultant of the Municipality, that person may serve as representative or alternate representative for more than one Municipality, and by making such overlapping appointments, the Municipalities agree that they will not raise a conflict of interest objection later against that person serving in dual capacities.

**Section 3.3. Duties of Management Committee:** The Management Committee shall oversee the activities of the Collaborative, subject to the prior approval by each Municipality of any action of the Collaborative imposing a financial obligation upon it. Without limiting the foregoing, the Management Committee shall have the following duties:

1. Retaining a Program Coordinator as described in Article VI;
2. Retaining a solicitor and accountant;
3. Obtaining proposals and entering into contracts for services including printing, laboratory testing, and purchasing of supplies and other services;
4. Adopting an annual work plan and related budget as described in Section 9.2 hereof;
5. Supervising the work of consultants retained by the Collaborative;
6. Preparing annual financial statements as described in Sections 5.5 and 9.6 hereof;
7. Determining the amount of annual contributions to be paid by each Municipality as its share of the operating costs of the Collaborative;
8. Providing advice to the Municipalities on matters related to their MS4 Applications and Permits;
9. Applying for and administering grants from governmental and nongovernmental entities to aid the Collaborative in achieving its project objectives and responsibilities related to stormwater management;
10. Facilitating coordination of stormwater management across municipal boundaries;
11. Reviewing and providing advice to Municipalities on any proposed new MS4 regulations;
12. Coordinating implementation of a joint Pollutant Reduction Program in conformance with DEP requirements and the supplemental agreement; and

13. Purchasing liability insurance and the bond required by Section 5.5 hereof, which may be carried by a Municipality on behalf of the Collaborative.

**ARTICLE IV  
MEETINGS OF COMMITTEE**

**Section 4.1. Annual Meeting:** An annual meeting of the Management Committee shall be held at the first regular meeting of the new year at a designated municipal Office of the Collaborative, or other public building in Delaware County.

**Section 4.2. Regular Meetings:** Regular meetings of the Management Committee shall be held at least one time each calendar quarter at the municipal building of any of the member Municipalities or other public building in Delaware County, and at a date and time established by the Management Committee.

**Section 4.3. Special Meetings:** Special meetings of the Management Committee may be held whenever called by the Chairman or by any two representatives. Written notice of any special meeting shall be sent to each representative and each alternate representative by mail or electronic means, not later than two (2) days before the day on which the meeting is to be held.

**Section 4.4. Notice of Meetings to Comply with Statute:** The Secretary shall give public notice of meetings of the Management Committee by posting on the bulletin board in each municipal Office and on the Collaborative website ([www.edcsc.org](http://www.edcsc.org)) as follows, and otherwise as required by applicable law, including the provisions of the Sunshine Act of Pennsylvania:

- A. Schedule of regular meetings for each calendar year, designating time and place; and
- B. Notice of the time, place and purpose of each special meeting and each re-scheduled meeting at least 24 hours prior to the time of the meeting.

**Section 4.5. Quorum:** At all meetings of the Management Committee, a majority of the Municipalities shall constitute a quorum for the purpose of transacting business, and either the regular representative or the alternate representative of a Municipality shall be counted for the purpose of that Municipality being present.

**Section 4.6. Voting:** Each Municipality is entitled to one vote, which may be cast by the regular representative for that Municipality, if present and not disabled by a conflict or abstaining; otherwise, the vote may be cast by the alternate representative for that Municipality. The vote cast must be in favor, against or abstain. Any representative or alternate representative deciding to abstain from a vote shall state the reasons for so doing, which shall be recorded in the minutes of the meeting. Voting cannot be absentee or by proxy, but members may be connected by appropriate electronic means as authorized by law.

**Section 4.7.** The Pennsylvania Sunshine Act shall apply to meetings and action of the Management Committee. The Management Committee shall cause minutes to be kept of each of its meetings

and they shall be available pursuant to the Pennsylvania Right-To-Know Law. Copies of minutes shall also be sent promptly to each Municipality.

**ARTICLE V  
OFFICERS**

**Section 5.1. Officers:** The officers of the Collaborative shall be a Chair, a Vice Chair, a Secretary, and a Treasurer, to be elected from the representatives. The offices of Secretary and Treasurer may be occupied by the same person.

**Section 5.2. Chair:** The Chair shall preside at all meetings of the Management Committee. Except as otherwise authorized by resolution of the Management Committee, the Chair shall sign all contracts and other instruments made by the Collaborative. The Chair may establish sub-committees of the Committee and appoint members to it.

**Section 5.3. Vice Chair:** The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair or the refusal of the Chair to act. In case of the resignation or death of the Chair, the Vice Chair shall perform the duties of the Chair until the Management Committee elects a new Chair.

**Section 5.4. Secretary:** The Secretary shall keep the records of the Collaborative, shall act as secretary of the meetings of the Management Committee. The Secretary shall prepare minutes of the meetings of the Management Committee and shall retain them in a minute book. The Secretary shall perform all other duties incident to this office.

**Section 5.5. Treasurer:** The Treasurer shall have custody of all funds of the Collaborative, which the Treasurer shall deposit in such bank as the Management Committee may select. All checks for the payment of money and all disbursements being made under the direction of the Management Committee, except as otherwise authorized by resolution of the Management Committee, shall be signed by the Treasurer or another officer and countersigned by one other officer. The Treasurer shall keep or cause to be kept books of account showing receipts and expenditures, and shall give to the Management Committee at each meeting a financial report of the Collaborative. The Treasurer shall be bonded.

**Section 5.6. Additional Duties:** The officers of the Collaborative shall perform such other duties and functions as may be directed from time to time by the Management Committee.

**Section 5.7. Election:** The Chair, Vice Chair, Secretary, and Treasurer shall be elected at the first meeting of the Management Committee after this Agreement becomes effective, and again at the first meeting of the Management Committee in each calendar year. Such officers shall hold office for terms of one year and until their successors are elected and qualified. Should any of the aforementioned offices become vacant, the Management Committee shall elect a successor for the unexpired term at its next regular meeting, or may elect a successor at a special meeting.



**ARTICLE VI  
CONSULTANTS; PROGRAM COORDINATOR**

**Section 6.1. Primary Consultants.** The Management Committee shall appoint the following consultants:

- A. Program Coordinator;
- B. Solicitor;
- C. Auditor;

**Section 6.2. Other Consultants.** The Management Committee may appoint other consultants as determined by it, from time to time, all of which shall report to the Management Committee.

**Section 6.3. Service at Will.** All consultants shall serve at the pleasure of the Management Committee.

**Section 6.4. Qualifications of Program Coordinator.** The Program Coordinator shall be a person or entity experienced in the organization and management of stormwater projects and agencies who shall be selected by the Management Committee based upon the professional qualifications of such person or entity. The Program Coordinator shall be a person or entity which is not an employee or consultant of a Municipality.

**Section 6.5. Duties of Program Coordinator.** The Program Coordinator shall act as a consultant and not an employee. Subject to that status, the Program Coordinator shall carry out the Management Committee's directives and policies for managing the activities of the Collaborative, and shall perform such other duties related to the Project as may be requested by the Management Committee. The Program Coordinator shall be responsible for timely preparing the preliminary annual budget and 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 VII  
PERSONNEL POLICIES; CODE OF ETHICS**

**Section 7.1. Qualifications of Consultants.** The Collaborative will retain and terminate consultants solely upon the basis of their qualifications and performance.

**Section 7.2. Limiting of Relationships.** The Collaborative will not retain any person who is a family member of a representative or alternate representative of the Management Committee or of an elected official or employee of any Municipality.

**Section 7.3. Limitation on Prior Relationship to Collaborative.** The Collaborative will not retain as a consultant any person who has served, or firm whose personnel have served, on the

Management Committee within one year prior to such retention.

**ARTICLE VIII  
COMPENSATION; INDEMNIFICATION**

**Section 8.1. No Compensation or Reimbursement.** The members of the Management Committee shall not be entitled to compensation or to reimbursement for expenses for serving as such members, or for service as officers of the Collaborative.

**Section 8.2. Indemnification of Representatives and Officers.** The Collaborative shall indemnify to the fullest extent permitted by law any and all persons who may serve or who have served at any time as an "Employee" of the Collaborative, as defined in 42 PA C.S.A. §8501 et seq., which includes, without limitation, representatives and alternate representatives on the Management Committee, the Program Coordinator, the Consultants listed in Section 6.1 above and officers of the Collaborative and their heirs, administrators, successors, and assigns (the "Indemnified Parties"), against any and all judgments against such persons in any action, suit, or proceeding in which they, or any of them are made parties or a party by reason of being or having been an Employee where there is a final judicial determination that the act of the Indemnified Party which give rise to the action, suit or proceeding was, or the Indemnified Party in good faith reasonably believed that such act was, within the scope of the office or duties of such person; provided the Indemnified Party being indemnified shall have given to the Collaborative timely prior written notice of the claim of such Indemnified Party for such indemnification. For this purpose, notice shall be deemed to be timely if given not later than fourteen (14) days after the Indemnified Party is served with notice of commencement of the action for which indemnification is claimed. Nothing contained in this Section 8.2 shall be deemed to waive any professional duty or standard of care owed by any Consultant to the Collaborative.

**Section 8.3. Defense of Claims:** When an action is brought against an Indemnified Party and either (a) it is alleged that the act which gave rise to the claim was within the scope of the office or duties of the Indemnified Party, or (b) the Management Committee determines that such act was within the scope of such office or duties, or the Indemnified Party in good faith reasonably believed the act was within the scope of such office or duties, then upon written request of the Indemnified Party, made not more than fourteen (14) days after the Indemnified Party is served with notice of the commencement of the action, the Collaborative shall defend the action on behalf of the Indemnified Party, at its own expense, or at its option, provide independent representation for the Indemnified Party, also at the expense of the Collaborative, and the Collaborative shall also pay on behalf of such Indemnified Party amounts payable in any settlement, which settlement has been approved by a disinterested majority of the representatives on the Management Committee, or in the absence thereof, approved by independent counsel for the Collaborative.

**Section 8.4. Limitation on Indemnification.** Notwithstanding the foregoing sections of this Article (i) the Collaborative shall not indemnify an Indemnified Party where there is a final judicial determination that the act of the Indemnified Party caused an injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, and (ii) the Collaborative shall not provide any legal defense where the Management Committee reasonably determines that, the act

of the Indemnified Party which gave rise to the action, suit or proceeding constituted a crime, actual fraud, actual malice or willful misconduct.

## ARTICLE IX FINANCES

**Section 9.1. Fund Accounting; Fiscal Year:** The books of the Collaborative shall be based on fund accounting, and revenues and expenses shall be allocated to the respective funds for which the projects are created. All municipal dues and all grant proceeds and other revenues related to the Collaborative and from which all expenses of the Collaborative shall be paid for all work completed through the Collaborative shall be deposited in a separate account. The Collaborative shall have a fiscal year beginning on January 1 and ending on December 31 of each year ("Fiscal Year").

**Section 9.2. Preparation and Approval of Budget:** On or before September 1 of each year, the Program Coordinator shall prepare and present to the Management Committee a proposed budget for the succeeding Fiscal Year of the Collaborative. On or before October 1 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 November 15 of such year unless before such date one or more Municipalities have given notice of withdrawal from the Collaborative pursuant to Section 10.3 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 9.3. Shares of Municipalities.** General expenses for the Collaborative shall be allocated among the Municipalities in equal shares. Expenses of subsequent projects shall be allocated in such manner as may be approved by the Management Committee, using a formula approved by all Municipalities prior to the beginning of the Fiscal Year in which the Municipalities shall be required to contribute. Shares of municipalities for the development or implementation of the Pollutant Reduction Plan including staff tasked with planning and/or implementing will be as specified in the Supplementary Agreement, and are not governed by this Agreement.

**Section 9.4. Payment of Contributions:** Subject to the provisions of Section 9.3 hereof, each Municipality agrees to pay the share of expenses allocated to it not later than May 30. 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 9.5. Modification of 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 9.6 Annual Financial Review/Audit:** The books of the Collaborative shall undergo a financial review or audit for each Fiscal Year by an independent certified public accountant at the expense of the Collaborative. Each annual financial review or audit shall be approved by the Management Committee and a copy of the 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.

**ARTICLE X  
ADDITIONS; WITHDRAWAL; AMENDMENTS**

**Section 10.1. Additional Projects:** Additional projects related to the management of stormwater within the area of the Municipalities may be undertaken upon the prior approval of the Management Committee, and if the added project involves any additional financial obligation for one or more Municipalities, such project shall be undertaken only with the prior approval of such Municipality or Municipalities. The scope, cost, and duration of each additional project shall be set forth in the resolutions approving the project. The method of allocating the expenses of such project and the revenues, if any, from it shall be part of the approval.

**Section 10.2. Additional Municipalities:** Any general-purpose municipal government within the watersheds of Darby Creek or Cobbs Creek may be added as a party to this Agreement upon application by the governing body of the entity applying to become a member, and approval of the application by the Management Committee. The action of the applicant entity shall be by ordinance of its governing body. Any municipality joining the Collaborative after the effective date of this agreement will pay a **Buy in Fee** equal to the most recent value of the two (2) previous years' annual dues, plus the annual dues for the year in which they join.

**Section 10.3. Withdrawal:** Any Municipality may withdraw as a member of the Collaborative at the end of any Fiscal Year of the Collaborative 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. Withdrawal from the Collaborative shall not affect the withdrawing Municipality's rights, duties and obligations under the Supplemental Agreement among the Municipalities relating to the Pollution Reduction Program.

**Section 10.4 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 XI  
MISCELLANEOUS**

**Section 11.1 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.

**Section 11.2 Interpretation:** This Agreement shall be governed and construed in accordance with the law of the Commonwealth of Pennsylvania.

**Section 11.3 Effectiveness:** This Agreement shall become effective upon approval by ordinances enacted by seven of the Municipalities identified in the heading of this Agreement followed by execution of this Agreement as set forth below.

**Section 11.4 Execution:** This Agreement may be executed in separate counterparts, and shall become effective when all counterparts taken together have been appropriately executed.

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

TOWNSHIP OF HAVERFORD

SEAL:

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

\_\_\_\_\_  
Attest: Township 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 NORWOOD \_\_\_\_\_ 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 Thomas N. Micozzie, Mayor Attest: \_\_\_\_\_ Township  
Secretary Thomas J. Judge Jr.  
Mayor \_\_\_\_\_ Chief Administrative Officer

BOROUGH OF YEADON \_\_\_\_\_ SEAL:

\_\_\_\_\_  
By: Borough Council President \_\_\_\_\_ Attest: Borough Secretary

**Exhibit A**

**Collaborative Roles and Responsibilities**

This exhibit identifies duties to be undertaken by the Eastern Delaware County Stormwater Collaborative (EDCSC) as agreed in the Eastern Delaware County Stormwater Intergovernmental Agreement, dated \_\_\_\_\_, 2017 May 16, 2018 (“the Agreement”) and consistent with the most current Municipal Separate Storm Sewer Systems (“MS4”) Permit. The defined terms used herein, but not defined herein, will have the meanings set forth in the agreement.

**1. Public Education and Outreach**

To assist Municipalities with Permit Compliance for Minimum Control Measure One (MCM 1) related to public education and outreach, the Collaborative will:

1.1 review and recommend updates to Collaborative model Education and Outreach Plan (the “Outreach Plan”) that describes methods of outreach and education to inform the public about stormwater impacts consistent with the Permit; the Outreach Plan includes information about target audiences and education and outreach activities and materials to guide the Collaborative and Municipalities.

1.2 obtain Municipalities updated target audience list consistent with the Permit; use available information from Municipalities to periodically update target audience lists to include approximate numbers of entities in each target audience including residences, commercial, industrial, and retail businesses, developers, schools, and municipal employees.

1.3 prepare and provide Municipalities with at least one publication annually, such as a newsletter article, pamphlet, flyer, a website notice or page, a tax insert, or a descriptive advertisement, to educate one or more of the target audiences about one or more MCM, to include information and guidance to help target audiences address PAG-13 stormwater problems including, but not limited to illicit discharges, construction site runoff, or post construction stormwater management and issues reported in the PAG-13 Municipal Reports.

1.4 provide two educational items or publications annually to be reproduced and disseminated by Municipalities in print and electronic format that address different target audiences and different PAG-13 stormwater problems; to vary over the permit period and to include issues reported in PAG-13 Municipal Reports;

1.5 Conduct additional educational outreach that could include, but is not limited to community events, school education, and webpage development.

**2. Public Involvement and Public Participation**



To assist Municipalities with Permit Compliance for PAG-13 Minimum Control Measure Two (“MCM2”) related to public involvement and public participation, the Collaborative will:

2.1 review and recommend updates to Collaborative Public Involvement and Public Participation Plan (“PIPP Plan”) that describes methods of soliciting public input and involvement such as public participation activities; the PIPP Plan will guide activities of the Collaborative and Municipalities;

2.2 upon request and per agreed upon compensation, assist the Collaborative or individual Municipality with recommendations, review, and assistance with enactment of any new or updated related ordinance, such as a pet waste control or grading ordinance;

2.3 conduct two public meeting stormwater presentations each permit year on a rotating-basis in different geographic areas with at least one in each municipality during the permit period; presentations to disseminate information about PAG-13 MS4 activities and accomplishments, including other topics as needed; presentation to be scheduled at public sites;

2.4 solicit public involvement and participation in at least two education outreach solicitation events to be conducted each permit year on a rotating basis in different geographic areas over the permit period; events to enlist participation from, and provide opportunities to, target audience groups related to PAG-13 MS4 stormwater issues including illicit discharges, construction site runoff, and post-construction stormwater management.

3. Illicit Discharge Detection and Elimination (“IDDE”)

IDDE activity may be assigned to the Collaborative in the future.

4. Construction Site Runoff Control

Construction Site Runoff Control activity may be assigned to the Collaborative in the future.

5. Post-Construction Stormwater Management (“PCSWM”) at New and Redeveloped Sites

Construction Site Runoff Control activity may be assigned to the Collaborative in the future.

6. Pollution Prevention and Good Housekeeping for Municipal Operations

To assist Municipalities with Permit compliance for PAG-13 Minimum Control Measure Six (MCM6) related to Municipal Operations Pollution Prevention and Good Housekeeping (“PPGH”), the Collaborative will:

6.1 upon request and agreed to by the Collaborative, revise and update information

concerning municipally-owned facilities, operations and activities to identify applicable pollution prevention and good housekeeping practices to be employed by Municipalities related to PAG13;

6.2 upon request and agreed to by the Collaborative, recommend updates and revisions to Collaborative model Operation and Maintenance Plan ("OM Plan");

6.3 implement annual training program to inform municipal employees about Municipal Operations Pollution Prevention and Good Housekeeping annually; provide current pollution prevention and good housekeeping information relevant to Municipalities facilities, operations and activities;

#### 7. Permit Coordination

7.1 coordinate with DEP regarding MS4 Program requirements, changes, and related technical materials, and convey information to the Management Committee;

7.2 make recommendations for revision of Collaborative activities and projects as necessary to reflect this information;

7.3 with approval of the Management Committee, initiate additional and/or modify existing activities and projects, as necessary;

#### 8. Other Duties

To ensure its ongoing functionality of the Collaborative and the fulfillment of duties and obligations specified in the Agreement, the Collaborative will:

8.1 plan and conduct activities for Municipalities, including quarterly meetings, budget preparations, communications; coordinate and procure services authorized by the Collaborative Management Committee, including preparation and administration of subcontracts for such services as auditing and graphic design and project implementation;

8.2 provide Municipalities with an annual summary of Collaborative activities to facilitate Municipal budgeting and MS4 report preparations;

8.3 with approval from the Collaborative Management Committee solicit and apply for grant funding annually to support work of the Collaborative;

8.4 with approval from the Collaborative Management Committee undertake joint purchasing arrangements to support PAG-13 compliance;

8.5 upon request provide other technical or administrative services to one or more Municipality which agrees to compensate the Collaborative for the cost of such service;

8.6 upon request, make other presentations for the Collaborative or an individual Municipality per agreed upon compensation;

8.7 upon request, provide information on low impact development (LID) practices to one

or more Municipality which agrees to compensate the Collaborative for the cost of such service;

8.8 upon request, compile or update data related to PAG-13 MCM3, MCM4, and MCM5, such as a post-construction stormwater management facility list, to one or more Municipality which agrees to compensate the Collaborative for the cost of such service;

8.9 upon request, conduct education and training services related to PAG-13 MCM3, MCM4, and MCM5, such as an educational training for construction industry representatives, for one or more Municipality which agree to compensate the Collaborative for the cost of such service;

8.10 upon request, prepare a logo or other public education item for the use and benefit of the Collaborative and Municipalities per agreed upon compensation.

Revised 5/1/2017

Exhibit B

Eastern Delaware County Stormwater Intergovernmental Agreement

Municipal Roles and Responsibilities

This exhibit identifies the duties which under the Eastern Delaware County Stormwater Intergovernmental Agreement, dated \_\_\_\_\_ May 16, 2018 (the "Agreement") will be performed by the Municipalities consistent with the Pennsylvania Municipal Separate Storm Sewer Systems ("MS4s") General Permit ("PAG-13") (the "Permit"), dated \_\_\_\_\_. The defined terms used herein, but not defined herein, will have the meanings set forth in the Agreement.

1. Public Education and Outreach

With the Collaborative as the lead for Minimum Control Measure 1 ("MCM1") related to public education and outreach, Municipalities will:

- 1.1 maintain an up-to-date Education and Outreach Plan (the "Outreach Plan") consistent with the Collaborative model Outreach Plan, its Permit and local ordinances;
- 1.2 provide up-to-date information and estimated numbers of entities in each target audience group in support of Collaborative public education and outreach activities;
- 1.3 disseminate education and outreach materials and messages;
- 1.4 provide review and comments on stormwater public education and outreach materials and activities prepared by the Collaborative consistent with the agreed upon schedule;
- 1.5 disseminate and post education and outreach materials consistent with the agreed upon schedule;

2. Public Involvement and Public Participation

With the Collaborative as the lead for MCM2 related to Public Involvement and Public Participation, consistent with its PAG-13, Municipalities will:

- 2.1 maintain an up-to-date Public Involvement and Public Participation ("PIPP") Plan consistent with the Collaborative model PIPP Plan, its Permit and local ordinances;
- 2.2 enact new or update ordinances, as needed and required, and solicit input, support and recommendations from Collaborative in its efforts to maintain needed ordinances;
- 2.3 provide information and opportunities to support the Collaborative for two annual stormwater presentations; information to include input on program status, achievements and current activity relating to illicit discharges, construction site runoff and post-construction stormwater facilities; presentations to include scheduled events at public sites

on a rotating basis in different geographic areas of the Collaborative over the permit period;

2.4 provide input and support for two annual education and outreach events designed for various PAG-13 target audience groups, covering different stormwater issues, and different geographic areas over the permit period;

### 3. Illicit Discharge Detection and Elimination (“IDDE”)

Municipalities maintain responsibility for all activities required by MCM3 related to Illicit Discharge Detection and Elimination (“IDDE”) consistent with its PAG-13, Municipalities will:

3.1 maintain an up-to-date IDDE Plan to guide its IDDE activities;

3.2 implement its IDDE Plan;

3.3 maintain and enforce ordinances that prohibit non-stormwater discharges to the municipal separate sewer system;

3.4 develop and maintain a storm sewer map and information and, upon request, provide copies of its maps to the Collaborative for informational purposes ;

3.5 conduct IDDE outfall field screenings;

3.6 conduct IDDE investigations and enforcement;

### 4. Construction Site Runoff Control

Municipalities retain responsibility for all activities required by MCM4 related Construction Site Runoff Control consistent with PAG-13, Municipalities will:

4.1 maintain an up-to-date Construction Site Runoff Control (“CSRC”) Plan;

4.2 implement its CSRC Plan;

4.3 adopt and enforce ordinances and ordinance updates;

4.4 adopt and implement a procedure for receiving and acting on complaints;

### 5. Post-Construction Stormwater Management at New and Redeveloped Sites

Municipalities retain responsibility for all activities required by MCM5 related to Post-Construction Stormwater Management at New and Redeveloped Sites; consistent with its PAG-13, Municipalities will:

5.1 maintain an up-to-date Post-Construction Stormwater Management (“PCSWM”) Plan to guide PCSWM activities and ensure consistency with its PAG-13;

5.2 implement its PCSWM Plan;

- 5.3 adopt and enforce its ordinances and ordinance updates;
- 5.4 inspect its facilities;
- 5.5 prepare an inventory of stormwater management facilities;
- 5.6 maintain an operation and maintenance program of post-construction stormwater facilities;

6. Pollution Prevention and Good Housekeeping for Municipal Operations

Working with the Collaborative, Municipalities will:

- 6.1 upon request by the Collaborative, provide review and input to support the Collaborative model Operation and Maintenance Plan (“O&M Plan”) update;
- 6.2 maintain an O&M Plan consistent with the Collaborative model O&M Plan;
- 6.3 conduct Pollution Prevention and Good Housekeeping for Municipal Operations activities consistent with its permit and O&M Plan;
- 6.4 provide information about municipal operations and facilities that generate stormwater runoff to support the development of Pollution Prevention and Good Housekeeping trainings; upon request, provide annual updates about relevant municipal operations and facilities activities;
- 6.5 assign appropriate staff and contractors to attend Pollution Prevention and Good Housekeeping Training events conducted by the Collaborative;

7. Other Functions and duties retained and to be performed by Municipalities:

- 7.1 All powers and duties of Municipalities under regulations and permits not delegated will remain the responsibility of Municipalities to fulfill;
- 7.2 Adopt, maintain and enforce ordinances required by PAG-13 and notify Collaborative of any changes or revisions to ordinances;
- 7.3 Assist the Collaborative with education and outreach activities, including periodically hosting municipal meetings and training events, and periodically publishing and posting education and informational materials, notices, and messages;
- 7.4 Participate in employee training events and attend meetings of the Collaborative;
- 7.5 Conduct PAG-13 activities, inspections, maintenance, operations, enforcement, documentation, and record keeping in good faith consistent with PAG-13 requirements not being performed by the Collaborative;
- 7.6 Provide an electronic or printed copy of its PAG-13 reports to the Collaborative for informational purposes;
- 7.7 Compensate the Collaborative consistent with the terms of the Agreement.



EXHIBIT "C"

ADDITIONAL MUNICIPALITY JOINDER AND SIGNATURE PAGE

In accordance with the terms of the Amended and Restated Eastern Delaware County Stormwater 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.

ENACTED and ORDAINED this 16<sup>th</sup> day of May, A.D. 2018.

Attest:

Approved:

Thomas J. Judge, Jr.

Thomas N. Micozzie

Chief Administrative Officer

Mayor

NAME OF MUNICIPALITY:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

ATTEST:

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

Title:

Acknowledged and Accepted by:

EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE

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

Name:



Title:

Dated:

TOWNSHIP OF UPPER DARBY  
DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE No. 3048

AN ORDINANCE AUTHORIZING UPPER DARBY TOWNSHIP DELAWARE COUNTY, PENNSYLVANIA TO ENTER INTO THE 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, UPPER DARBY TOWNSHIP AND THE BOROUGH OF YEADON 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, Upper Darby 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, Upper Darby 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 UPPER DARBY COUNCIL AS FOLLOWS:

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

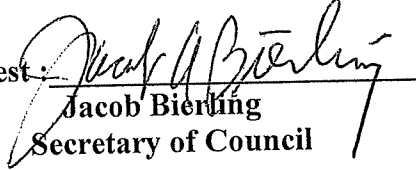
authorized and directed to execute and deliver said PRP Agreement on behalf of Upper Darby Township.

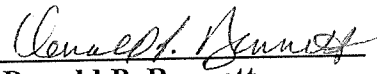
**Section 2. Repealer:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

**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.

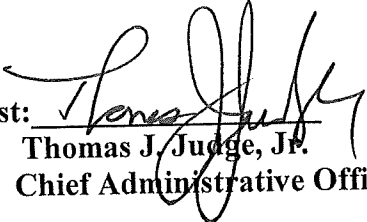
**Section 4. Effective Date:** This ordinance shall be effective immediately.

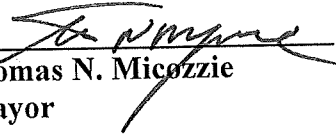
ENACTED and ORDAINED this 20<sup>th</sup> day of June, A.D. 2018.

Attest:   
Jacob Bierling  
Secretary of Council

By:   
Donald P. Bonnett  
President of Council

Ordinance No. 3048 above is hereby approved this 20<sup>th</sup> day of June A.D., 2018

Attest:   
Thomas J. Judge, Jr.  
Chief Administrative Officer

Approved:   
Thomas N. Micozzie  
Mayor



**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") and the Borough of Norwood ( Norwood) have formed the Collaborative (as hereinafter defined) to work collaboratively to undertake their MS4 Permit requirements. While Haverford and Norwood ~~is a party~~are parties to the Amended and Restated Intergovernmental Agreement and ~~a members~~of the Collaborative, Haverford and Norwood ~~have~~ 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, updated 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 NORWOOD

SEAL:

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

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

BOROUGH OF SHARON HILL

SEAL:

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

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

UPPER DARBY TOWNSHIP

SEAL:

Attest: \_\_\_\_\_  
Thomas J. Judge, Jr.  
Chief Administrative Officer

Approved: \_\_\_\_\_  
Thomas N. Micozzie  
Mayor

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.

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**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: jamlea98@yahoo.com;

Cc: jefields@pa.gov; prpalel@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)

**PRIVILEGED AND CONFIDENTIAL COMMUNICATION** The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers.

**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>COBBS WATERSHED</b>				
<b>Municipality</b>	<b>Existing Load</b>	<b>Credit for Street Sweeping</b>	<b>Final Load Share</b>	<b>% Share</b>
Darby Borough	97,656	2161.56	95,494.44	4.24%
East Lansdowne Borough	59,166	0	59,166	2.63%
Upper Darby Township	1,637,960	46,102.81	1,592,857.19	70.66%
Yeadon Borough	515,782	9,465.52	506,316.48	22.47%
<b>DARBY WATERSHED</b>				
Collingdale Borough	353,576	13,572	340,004.18	9.02%
Darby Borough	268,769	4,527	264,242.30	7.01%
Darby Township	661,266	4,740	656,525.79	17.42%
Glenolden Borough	365,110	13,100	352,009.88	9.34%
Morton Borough	125,424	0	125,242	3.33%
Norwood Borough	396,438	0	396,438	10.52%
Sharon Hill Borough	340,741	3,764	336,977.30	8.94%
Upper Darby Township	1,248,247	38,744	1,209,502.76	32.09%
Yeadon Borough	89,462	1,021	88,440.80	2.35%

**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: \_\_\_\_\_

EATERN 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.

ENACTED and ORDAINED this 16<sup>th</sup> day of May, A.D. 2018.

Formatted: Font: (Default) Times New Roman, 12 pt

Attest: \_\_\_\_\_ Approved: \_\_\_\_\_  
Thomas J. Judge, Jr. Thomas N. Micozzie  
Chief Administrative Officer Mayor

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NAME OF MUNICIPALITY:

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

ATTEST:

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

Acknowledged and Accepted by:  
EASTERN DELAWARE COUNTY STORMWATER COLLABORATIVE

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

Title:

Dated:

**UPPER DARBY TOWNSHIP**

**RESOLUTION NO. 28- 18**

**A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA SUPPORTING AN AMENDMENT TO THE CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA TO PROVIDE FOR A LEGISLATIVE REAPPORTIONMENT COMMISSION FOR THE PURPOSE OF REAPPORTIONING AND REDISTRICTING THE COMMONWEALTH OF PENNSYLVANIA.**

**WHEREAS**, Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, was recently introduced in the Pennsylvania Legislature (a copy of the State Senate Bill is attached hereto); and

**WHEREAS**, Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, was recently endorsed by Fair Districts PA (a copy of the endorsement is attached hereto); and

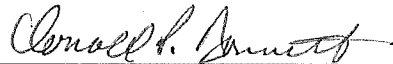
**WHEREAS**, the State Senate Bill Number 22, as amended May 22, 2018, proposed to amend the Constitution of the Commonwealth of Pennsylvania to reform the decennial legislative and congressional redistricting process by creating an independent legislative and congressional reapportionment and redistricting commission; and

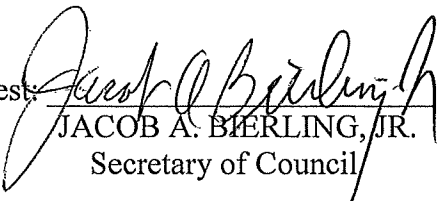
**NOW, THEREFORE, BE IT RESOLVED** that the Upper Darby Township Council does hereby support Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, or a legislative effort substantially similar to Pennsylvania State Senate Bill Number 22, as amended May 22, 2018, which represents legislative efforts to secure a constitutional amendment that would, among other reforms, assign the decennial task of both legislative and congressional redistricting to an independent citizens redistricting commission; and

**BE IT FURTHER RESOLVED**, by the Upper Darby Township Council that a copy of this Resolution should be delivered to all elected officials in the Commonwealth of Pennsylvania who represents the citizens of Upper Darby Township.

Resolved this 20<sup>th</sup> day of June 2018.

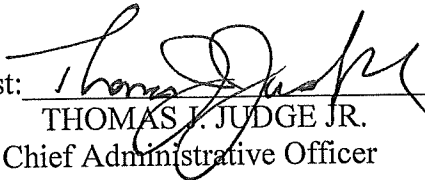
**TOWNSHIP OF UPPER DARBY**

By:   
DONALD P. BONNETT  
President of Council

Attest:   
JACOB A. BIERLING, JR.  
Secretary of Council

RESOLUTION NO. 28-18  
PAGE 2

By:   
THOMAS N. MICOZZIE  
Mayor

Attest:   
THOMAS J. JUDGE JR.  
Chief Administrative Officer

MENU



## FDPA Statement on Amended SB 22

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May 30, 2018

In recent weeks representatives of Fair Districts PA, along with leaders of allied advocate organizations, took part in extensive conversations regarding the Folmer amendment to Senate Bill 22, which would amend the state Constitution to create an independent citizens redistricting commission.

The outcome reflects the hard work all parties invested in this effort and highlights the challenge of compromise in the context of producing legislation that could garner enough votes to move out of committee.

While the amendment as passed does not represent the complete vision for which we aimed, it has strong safeguards to protect the independence of commissioners, strict rules for transparency, prohibitions against use of electoral data, constraints on splitting counties and municipalities, and mechanisms requiring broad buy-in among the commissioners for the final map.

Even though the General Assembly would have a role in the appointment process for the new Independent Redistricting Commission, we believe the essential principles necessary for the commission to operate independently of outside influences remain intact for several reasons:

1. Membership on the commission will be open to any Pennsylvania voter who meets qualifications to be spelled out in implementing legislation, but no elected or appointed government officials will be eligible;
2. The Secretary of the Commonwealth will filter the applications based on eligibility, ensuring that the list of eligible applicants referred to the General Assembly is diverse in terms of race, gender, geography, etc. AND adequately removed from partisan motivation;
3. Members of the commission will include Democrats, Republicans, independents and third party members, all of whom must be approved by two-thirds of the General Assembly, assuring that all appointees have broad bipartisan support;



4. Once the commission is in place, no outside parties (including party leaders) will be permitted to communicate with commission members, staff or advisors on redistricting matters except in an open public meeting;
5. The commission made up of citizens, not legislators, will decide how congressional, Senate and House districts will be redrawn; and
6. The preliminary and final maps must be approved by two commissioners from each of the major parties and two independent or third-party commissioners, meaning that neither major party can hijack the process, and their ability to cut sweetheart deals is diminished.

There is a "fail-safe" provision whereby the General Assembly would vote on a limited number of options if the commission fails to act. But, FDPA is confident that a group of citizens willing to give up months of their lives to play such an important role in our Democracy - and NOT motivated by self-interest - will be able to find consensus.

While some of the details around eligibility have been deleted from the original SB 22, those issues would still be addressed in implementing legislation, which is quite common when the Constitution is amended. In fact, it is very unusual to have the level of detail that was in the original version of SB 22. For example, while the original version specified that lobbyists and some family members could not be included on the commission, the bill did not define the term lobbyist and it would be unusual if not unprecedented to define that term in the Constitution by reference to a statute that could change over time.

FDPA is very confident that the implementing legislation will include a ban on lobbyists, political party operatives, etc. In our negotiations with the Senate State Government Committee staff, all agreed that there was nothing objectionable about the specific eligibility exclusions, but all agreed that level of detail should not be in the Constitution.

In the California commission process, a model for Senate Bill 22, both independence and success of the commission were in large part due to extensive vetting of commission applicants, a process spelled out in great detail in implementing legislation and attendant regulation. Those were crafted as the commission was being formed. We would expect those details to be in place and open for review well before the final bill goes to public referendum.

As far as the negotiation process is concerned, representatives of FDPA, Common Cause, Committee of Seventy and League of Women Voters participated in negotiations that resulted in the amendment approved unanimously on May 22. These negotiations followed two well-attended public hearings. We have been very appreciative of the level of input we were allowed by Senator Mike Folmer and Majority Leader Jake Corman.

This is not the end of the process by any means. FDPA anticipates there will be additional amendments offered on the Senate floor as well as continued alterations as the bill moves through the House. FDPA will continue to push for the strongest bill possible in terms of independence and transparency, as well as criteria and constraints to be applied in drawing district lines.

Carol Kuniholm, Chair, Fair Districts PA

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**The Problem**

- District Maps
- How Redistricting Works
- About Gerrymandering

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- Our Progress
- Measuring Fairness

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## Response to SB 22 opposition

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June 5, 2018

I am writing in response to criticism of Senate Bill 22 by Keystone Progress, the Pennsylvania Budget and Policy Center and others. We are sorry to see any advocate organization come out against a bill that is still a work in progress and is likely the best avenue toward reform of our current very partisan redistricting process.

The status quo is not acceptable.

Without a viable legislative vehicle, such as SB 22, to advance reform efforts in the current legislative session the status quo continues for another decade or more.

Despite the criticism we've heard, it's hard to imagine how 11 citizens, working in public meetings, forbidden to use partisan data and constrained by rules limiting split municipalities and counties would yield legislative maps even worse than those currently drawn by five party operatives working in secret with any data they choose.

And it's hard to believe that the process that gave us Goofy kicking Donald and other wild distortions would be seen as offering checks and balances stronger than language added to the amended SB 22 to ensure a fair, transparent process.

Any legislative solution — even an ideal one — is subject to a perfect storm scenario, where anything that can go wrong, does go wrong. Rather than dwelling on the least likely outcomes, let's focus on the most likely. SB 22 as amended puts in place a process manifestly less likely to be subverted by partisan manipulation than the current one.

We believe SB 22 as amended is an important step forward in efforts to end partisan gerrymandering in PA.

We are also confident that the current version of SB 22 is not the final version. Fair Districts PA and other organizations have been working with Senator Folmer and other legislators on specific changes to further strengthen the bill before it goes to a vote on the floor.

Implementing legislation will add more safeguards. The California redistricting commission, the model for the original SB 22, owes much of its success to the very detailed commissioner vetting regulations developed from ideas originating in public town halls, online comments and extensive negotiation. All took place after passage of the citizens initiative itself.

Much of the pushback we've seen about details removed from SB 22 to be added back in implementing language, reflects a misunderstanding about the scope of a constitutional amendment. The policy staff who drafted the original Senate Bill 22 argued that it was too long and contained too much detail. Even with some of that detail removed, the amended version dwarfs whole sections of the PA Constitution.

If strong implementing language is not in place in time for a public referendum, then that would be the time to vote no. Opposition at this point is premature and would imperil the process rather than help build momentum toward reform.

The Folmer amendment to Senate Bill 22 is not perfect. Neither was the original SB 22, or the current HB 2402 (the reintroduced HB 722). The bill introduced by House Majority Leader Dave Reed is not perfect. The California commission, the only independent redistricting commission in the country selected without any legislative input, offers a good model but is itself imperfect. We will continue to work toward the strongest bill possible, but insist that any comparison be with the current partisan process rather than a theoretical ideal.

This is a complicated, important statewide and national conversation, and Fair Districts PA has been at the forefront here in PA, resulting in:

Over 40,000 citizen signatures, heavily bipartisan, on petitions calling for reform.

Over 30,000 Fair Districts members and supporters across the Commonwealth.

Over 260 resolutions asking for reform from city and town governments and 19 county commissions of all political persuasions.

Over 435 public meetings with over 20,000 attending.

The response from politicians and the public has been clear:

Strong bipartisan support in the Legislature in terms of authorship and co-sponsorship. The original version of HB 722 had more co-sponsors than any bill on this session's calendar.

60 editorials this year alone (84 in all) from 40 media outlets statewide, ALL of them calling for reform.

A public poll shows nearly 70% of Pennsylvanians support redistricting reform.

Because Pennsylvania has no provision for initiative or referendum, any effort toward redistricting reform must include the Legislature. Therefore, we very much appreciate the

willingness of Senators Folmer, Corman, Costa and others to join and support that conversation as it unfolds. We ask Speaker Turzai to do the same in the House.

We invite all organizations committed to redistricting reform to join the conversation in a positive way. Not by criticizing efforts already underway, but by supporting legislation that has a real chance to succeed in replacing our current hyper-partisan system with a fully functioning independent citizens commission free from political interference..

Carol Kuniholm, Chair, Fair Districts PA

**Amended Senate Bill 22 is not perfect and is not finalized.**  
 We invite citizens & organizations to ask for amendments to strengthen the bill & to push for action in the House rather than come out in opposition.

Status Quo for legislative districts:	Folmer Amendment to SB 22:
<ul style="list-style-type: none"> <li>• Four legislative leaders, one partisan appointee from PA Supreme Court</li> <li>• No input from third party or unaffiliated voters</li> <li>• No diversity requirement; no new voices or citizen perspective</li> <li>• No requirement for transparency or public hearings</li> <li>• Unrestrained use of electoral, personal, partisan data</li> <li>• Vague, unenforced constraints on mapping process</li> </ul>	<ul style="list-style-type: none"> <li>• Eleven pre-screened non-legislators chosen through a multistep process</li> <li>• 3 of 11 commissioners selected from pool of independent or third party voters</li> <li>• All candidate pools required to reflect demographic diversity</li> <li>• Full transparency with public hearings &amp; other citizen input</li> <li>• Prohibitions on any electoral, personal or partisan data</li> <li>• Enforceable constraints on number of split counties or municipalities</li> </ul>

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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 22 Session of 2017

INTRODUCED BY BOSCOLA, SCAVELLO, BROWNE, SCHWANK, BLAKE, DINNIMAN, LEACH, WILLIAMS, YUDICHAK, HAYWOOD, FARNESE, FONTANA, TOMLINSON, HUGHES, KILLION, ALLOWAY, MCGARRIGLE, RAFFERTY, TARTAGLIONE, BARTOLOTTA, STREET AND COSTA, FEBRUARY 27, 2017

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, MAY 22, 2018

A JOINT RESOLUTION

~~Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for the Legislative Reapportionment Commission for the purpose of reapportioning and redistricting the Commonwealth of Pennsylvania.~~

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE COMMONWEALTH OF PENNSYLVANIA, FURTHER PROVIDING FOR THE LEGISLATIVE REAPPORTIONMENT COMMISSION FOR THE PURPOSE OF REAPPORTIONING AND REDISTRICTING THE COMMONWEALTH OF PENNSYLVANIA.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

~~Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:~~

~~That section 17 of Article II be amended to read:~~

~~§ 17. Legislative [Reapportionment] and Congressional Redistricting Commission.~~

~~(a) [In each year following the year of the Federal decennial census] Not later than December 31 of each year ending in zero, a Legislative [Reapportionment] and Congressional Redistricting Commission shall be constituted for the purpose of~~

~~[reapportioning] redistricting the Commonwealth. The commission shall [act by a majority of its entire membership.]:~~

~~(1) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines.~~

~~(2) Draw district lines according to the redistricting criteria specified in this section.~~

~~(3) Conduct itself with integrity and fairness.~~

~~{(b) The commission shall consist of five members: four of whom shall be the majority and minority leaders of both the Senate and the House of Representatives, or deputies appointed by each of them, and a chairman selected as hereinafter provided. No later than 60 days following the official reporting of the Federal census as required by Federal law, the four members shall be certified by the President pro tempore of the Senate and the Speaker of the House of Representatives to the elections officer of the Commonwealth who under law shall have supervision over elections.~~

~~The four members within 45 days after their certification shall select the fifth member, who shall serve as chairman of the commission, and shall immediately certify his name to such elections officer. The chairman shall be a citizen of the Commonwealth other than a local, State or Federal official holding an office to which compensation is attached.~~

~~If the four members fail to select the fifth member within the time prescribed, a majority of the entire membership of the Supreme Court within 30 days thereafter shall appoint the chairman as aforesaid and certify his appointment to such elections officer.~~



~~Any vacancy in the commission shall be filled within 15 days in the same manner in which such position was originally filled.~~

~~(c) No later than 90 days after either the commission has been duly certified or the population data for the Commonwealth as determined by the Federal census are available, whichever is later in time, the commission shall file a preliminary reapportionment plan with such elections officer.~~

~~The commission shall have 30 days after filing the preliminary plan to make corrections in the plan.~~

~~Any person aggrieved by the preliminary plan shall have the same 30 day period to file exceptions with the commission in which case the commission shall have 30 days after the date the exceptions were filed to prepare and file with such elections officer a revised reapportionment plan. If no exceptions are filed within 30 days, or if filed and acted upon, the commission's plan shall be final and have the force of law.~~

~~(d) Any aggrieved person may file an appeal from the final plan directly to the Supreme Court within 30 days after the filing thereof. If the appellant establishes that the final plan is contrary to law, the Supreme Court shall issue an order remanding the plan to the commission and directing the commission to reapportion the Commonwealth in a manner not inconsistent with such order.~~

~~(e) When the Supreme Court has finally decided an appeal or when the last day for filing an appeal has passed with no appeal taken, the reapportionment plan shall have the force of law and the districts therein provided shall be used thereafter in elections to the General Assembly until the next reapportionment as required under this section 17.~~

~~(f) Any district which does not include the residence from which a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at such election.~~

~~(g) The General Assembly shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by the commission, and other necessary expenses. The members of the commission shall be entitled to such compensation for their services as the General Assembly from time to time shall determine, but no part thereof shall be paid until a preliminary plan is filed. If a preliminary plan is filed but the commission fails to file a revised or final plan within the time prescribed, the commission members shall forfeit all right to compensation not paid.~~

~~(h) If a preliminary, revised or final reapportionment plan is not filed by the commission within the time prescribed by this section, unless the time be extended by the Supreme Court for cause shown, the Supreme Court shall immediately proceed on its own motion to reapportion the Commonwealth.~~

~~(i) Any reapportionment plan filed by the commission, or ordered or prepared by the Supreme Court upon the failure of the commission to act, shall be published by the elections officer once in at least one newspaper of general circulation in each senatorial and representative district. The publication shall contain a map of the Commonwealth showing the complete reapportionment of the General Assembly by districts, and a map showing the reapportionment districts in the area normally served by the newspaper in which the publication is made. The publication shall also state the population of the senatorial~~

~~and representative districts having the smallest and largest population and the percentage variation of such districts from the average population for senatorial and representative districts.]~~

~~(b) The commission shall consist of 11 members, as follows: four who are registered with the largest political party in this Commonwealth based on registration, four who are registered with the second largest political party in this Commonwealth based on registration and three who are not registered with either of the two largest political parties in this Commonwealth based on registration.~~

~~(c) The General Assembly shall prescribe by law the qualification to serve as a commission member. Each commission member shall possess all of the following qualifications, in addition to any qualifications prescribed by law:~~

~~(1) Be a voter who has been continuously registered in this Commonwealth with the same political party or unaffiliated with a political party or political body and whose political affiliation has not changed in the three years immediately preceding the date of appointment to the commission.~~

~~(2) Has voted in two of the last three Statewide general elections immediately preceding the date of appointment to the commission.~~

~~(3) Has not held or does not have an immediate family member who has held elective public office at the Federal or State level or elective judicial office in this Commonwealth in the five years immediately preceding the date of appointment to the commission.~~

~~(4) Has not served or does not have a spouse who has served~~

as a paid staff member or paid consultant to Congress, the General Assembly or staff appointed by the Governor in the five years immediately preceding the date of appointment to the commission.

(5) Has not registered or does not have a spouse who has registered as a Federal or State lobbyist in this Commonwealth in the five years immediately preceding the date of appointment to the commission.

(6) Has not been nominated or does not have a spouse who has been nominated as a candidate for elective office by a political party or political body or served or does not have a spouse who has served as a paid staff member or officer of a political party, political body, political committee or political action committee in the five years immediately preceding the date of appointment to the commission.

(d) Application and selection of the members of the commission shall be subject to the following:

(1) Application to serve as a member of the commission may be filed with, and on a form developed by, the Secretary of the Commonwealth indicating thereon evidence of his or her qualifications as provided by this section.

(2) The Secretary of the Commonwealth shall verify the qualifications of each applicant. If the Secretary of the Commonwealth finds that an applicant is not qualified, the Secretary of the Commonwealth shall not include the applicant's name in the pool of applicants.

(3) The Secretary of the Commonwealth shall separate all qualified applicants into three subpools consisting of those who are:

~~(i) registered with the largest political party in this Commonwealth based on registration;~~

~~(ii) registered with the second largest political party in this Commonwealth based on registration; and~~

~~(iii) not registered with either of the two largest political parties in this Commonwealth based on registration.~~

~~(4) The Secretary of the Commonwealth shall select, on a random basis, 40 qualified applicants from each of the three subpools provided in paragraph (3). The Majority Leader and Minority Leader of the Senate and the Majority Leader and Minority Leader of the House of Representatives may each strike up to two applicants from each subpool. Each leader shall have no more than six strikes.~~

~~(5) After the legislative leaders have exercised their strikes under paragraph (4), the Secretary of the Commonwealth shall select for appointment as members of the commission on a random basis from the remaining applicants in each of the three subpools of qualified applicants. In addition to the qualification requirements provided in subsection (c), appointments from each subpool shall reasonably reflect the racial, geographic and gender diversity of this Commonwealth.~~

~~(6) One of the members shall be selected as chair by a vote of at least six members of the commission.~~

~~(c) The term of office of each member of the commission shall expire at the same time the commission expires as provided in this section.~~

~~(f) Removal of a member and vacancies on the commission shall be subject to the following:~~

~~(1) If a member of the commission fails to attend more than~~

~~two consecutive meetings at which a vote of the commission is scheduled, the member's position shall be deemed vacant unless the member is absent due to death of an immediate family member, personal illness or illness of an immediate family member.~~

~~(2) If a member of the commission has been convicted, found guilty or pled guilty or nolo contendere to embezzlement of public money, bribery, perjury or other infamous crime, whether or not sentence has been imposed, the member's position shall be deemed vacant.~~

~~(3) A vacancy in the commission shall be filled within 14 days from the time the commission is notified of the vacancy in the same manner that the position was originally filled and using the same pool of applicants from which the vacating member was chosen. If none of those remaining applicants are available for service, the Secretary of the Commonwealth shall fill the vacancy from a new pool of applicants created from the same voter registration category as the vacating member.~~

~~(g) A member shall be ineligible to do the following for a period of three years beginning from the expiration of the term for which the member was appointed to the commission:~~

~~(1) Serve as a paid staff member or paid consultant to Congress, the General Assembly or staff appointed by the Governor.~~

~~(2) Register as a Federal or State lobbyist in this Commonwealth.~~

~~(3) Serve as a paid staff member or paid political consultant for a political party, political body, political committee or political action committee.~~

~~(h) A member and the member's spouse shall be ineligible to~~

do the following for a period of five years beginning from the expiration of the term for which the member was appointed to the commission:

(1) Hold an appointed position or elective public office at the Federal or State level in this Commonwealth.

(2) Be eligible for nomination as a candidate for elective office by a political party or political body.

(3) Hold office for a political party, political body, political committee or political action committee.

(i) Seven members of the commission shall constitute a quorum. Seven or more affirmative votes shall be required for any official action. The final redistricting plan must be approved by at least seven affirmative votes that must include at least one vote of a member registered from each of the two largest political parties in this Commonwealth based on registration and one vote from a member who is not registered with either of the two largest political parties.

(j) To begin the process of preparing information necessary to the redistricting process, the commission shall:

(1) Acquire all necessary and appropriate information, review and evaluate available facilities and develop programs and procedures, that may include the use of software, in preparation for drawing congressional and legislative redistricting plans on the basis of each Federal census. The commission shall make the information available to the public in a manner prescribed by law.

(2) As soon as possible after December 31 of each year ending in zero, obtain from the United States Census Bureau the population data needed for legislative redistricting that the

~~Census Bureau is required to provide the Commonwealth under 13 U.S.C. § 141 (relating to population and other census information) and use that data to assign a population figure based upon census data to each geographic and political unit described pursuant to subparagraph (i). Upon completing that task, the commission shall begin the preparation of congressional and legislative redistricting plans as required by this subsection and subsection (k). The commission shall use the data obtained to prepare:~~

~~(i) Necessary descriptions of census blocks, voting districts, wards, municipalities and counties that census data will be reported and that are suitable for use as components of districts.~~

~~(ii) Maps of census blocks, voting districts, wards, municipalities and counties within this Commonwealth, that may be used to illustrate the locations of district boundaries proposed in plans.~~

~~(3) In establishing districts, the commission shall not consider the following data:~~

~~(i) Addresses of any individual.~~

~~(ii) Political affiliations of registered voters.~~

~~(iii) Previous election results, unless required by Federal or State law.~~

~~(k) The commission shall establish congressional and legislative districts pursuant to a mapping process in accordance with Federal or State law.~~

~~(l) Each plan drawn under this section shall provide that any vacancy in the General Assembly that is filled under the plan, occurring at a time that makes it necessary to fill the~~



~~vacancy at a special election held under section 629 of the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, shall be filled from the same district that elected the senator or representative whose seat is vacant.~~

~~(m) The commission, within 30 days prior to the deadline for approval of a preliminary plan as set forth in subsection (n) (1), shall schedule and conduct at least four public hearings in different geographic regions of this Commonwealth.~~

~~(m.1) All commission meetings that are attended or participated in by a quorum of the members of the commission held for the purpose of deliberating official business of taking official action shall be open to the public.~~

~~(n) (1) Not later than July 1 of each year ending in one, the commission shall complete and approve a preliminary redistricting plan and maps as required under this section and make the preliminary plan and maps available to the public in a manner prescribed by law.~~

~~(2) The commission, within 30 days following the deadline for approval of a preliminary plan as provided in paragraph (1), shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the preliminary plan.~~

~~(3) Not later than August 15 of each year ending in one, the commission shall approve a final redistricting plan. Upon approval, the commission shall certify the resulting plan to the Secretary of the Commonwealth, and that plan shall constitute the certified final plan.~~

~~(4) If the commission fails to approve a final plan in accordance with paragraph (3), the following shall apply:~~

~~(i) Not later than September 1 of each year ending in one, the commission shall complete and approve a second preliminary redistricting plan and maps prepared in accordance with subsections (j) and (k) and make the second preliminary plan and maps available to the public in a manner prescribed by law.~~

~~(ii) Within 30 days following the deadline for approval of the second preliminary plan as set forth in subparagraph (i), the commission shall schedule and conduct at least four public hearings, in different geographic regions of this Commonwealth, on the second preliminary plan.~~

~~(iii) Not later than October 15 of each year ending in one, the commission shall approve a final redistricting plan. Upon approval, the commission shall certify the resulting plan to the Secretary of the Commonwealth, and that plan shall constitute the certified final plan.~~

~~(o) If the commission does not complete and approve a final redistricting plan by October 16 of each year ending in one, the Secretary of the Commonwealth shall immediately petition the Supreme Court for an order directing the appointment of a special master to develop and complete a final redistricting plan in accordance with the criteria and requirements provided in subsections (j) and (k). The special master must demonstrate expertise in geographic information systems by holding a graduate degree in geographic information systems and currently serving as a faculty member for a geographic information systems program at an institution of higher learning located within this Commonwealth and must meet the qualifications in subsection (c) and be bound by the restrictions in subsections (g) and (h). Upon the Supreme Court's approval of the master's plan, the~~

~~court shall certify the resulting plan to the Secretary of the Commonwealth, and that plan shall constitute the certified final plan.~~

~~(p) The commission has the sole legal standing to defend an action regarding a certified final plan and shall inform the General Assembly if it determines that funds or other resources provided for the operation of the commission are not adequate.~~

~~(q) (1) The Supreme Court has original and exclusive jurisdiction in all proceedings that a certified final plan is challenged or is claimed not to have taken timely effect.~~

~~(2) An aggrieved person who is a registered voter in this Commonwealth may file a petition with the Supreme Court within 30 days after the commission has certified a final plan to the Secretary of the Commonwealth to bar the Secretary of the Commonwealth from implementing the plan on the grounds that the filed plan violates the Constitution of the United States, the Constitution of Pennsylvania or any Federal or State statute.~~

~~(r) The Department of State shall provide staff as needed to support the commission in the performance of its duties.~~

~~(s) Upon the filing of all redistricting plans required under this section and the exhaustion of all appeals of a redistricting plan:~~

~~(1) the commission shall expire and the commission's responsibilities shall terminate; and~~

~~(2) the final plan shall have the force of law and the districts provided in the plan shall be used thereafter in elections to the General Assembly until the next redistricting as required under this section.~~

~~(t) The General Assembly shall appropriate sufficient funds~~

~~for the compensation and expenses of members and staff appointed by the commission and for other necessary expenses. In addition to necessary expenses, the members of the commission shall receive a per diem for each day or part of a day spent performing their official duties. The per diem shall be the most recent per diem rate for locations in this Commonwealth as established and published by the United States General Services Administration.~~

~~(u) A district that does not include the residence that a member of the Senate was elected whether or not scheduled for election at the next general election shall elect a Senator at the election.~~

~~(v) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:~~

~~"Commission." The Legislative and Congressional Redistricting Commission.~~

~~"Community of interest." A contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. It shall not include relationships with political parties, incumbents or political candidates.~~

~~"Federal census." The decennial census required by Federal law to be conducted by the United States Census Bureau in every year ending in zero.~~

~~"Immediate family." A parent, spouse, child, brother or sister.~~

~~"Member." A member of the Legislative and Congressional Redistricting Commission.~~

~~"Plan." A plan for legislative and congressional redistricting drawn under the requirements of this section.~~

~~Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.~~

~~(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.~~

SECTION 1. THE FOLLOWING AMENDMENT TO THE CONSTITUTION OF PENNSYLVANIA IS PROPOSED IN ACCORDANCE WITH ARTICLE XI:

THAT SECTION 17 OF ARTICLE II BE AMENDED TO READ:

§ 17. INDEPENDENT LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT

AND REDISTRICTING COMMISSION.

(A) IN EACH YEAR [FOLLOWING THE YEAR] OF THE FEDERAL DECENNIAL CENSUS, BUT NOT LATER THAN JULY 1, [A] AN INDEPENDENT LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT AND REDISTRICTING COMMISSION SHALL BE CONSTITUTED FOR THE PURPOSE OF REAPPORTIONING AND REDISTRICTING THE COMMONWEALTH. THE COMMISSION SHALL ACT BY A MAJORITY OF ITS ENTIRE MEMBERSHIP.

(B) THE COMMISSION SHALL CONSIST OF [FIVE] 11 MEMBERS[: FOUR OF WHOM SHALL BE THE MAJORITY AND MINORITY LEADERS OF BOTH THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR DEPUTIES APPOINTED BY EACH OF THEM, AND A CHAIRMAN SELECTED AS HEREINAFTER PROVIDED.] AND THE GENERAL ASSEMBLY SHALL PRESCRIBE BY LAW:

(1) THE QUALIFICATIONS TO SERVE AS A MEMBER OF THE COMMISSION, PROVIDED THAT NO PERSON WHO HAS HELD ELECTIVE OR APPOINTIVE PUBLIC OFFICE AT THE FEDERAL OR STATE LEVEL OR ELECTIVE JUDICIAL OFFICE IN THIS COMMONWEALTH IN THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPOINTMENT TO THE COMMISSION SHALL BE ELIGIBLE FOR APPOINTMENT.

(2) THE MANNER BY WHICH THE SECRETARY OF THE COMMONWEALTH SHALL PROVIDE FOR AN OPEN AND TRANSPARENT PROCESS TO:

(I) RECEIVE APPLICATIONS FOR APPOINTMENT AS A MEMBER OF THE COMMISSION.

(II) DETERMINE ELIGIBILITY OF APPLICANTS.

(III) ENSURE APPLICANTS TO BE CONSIDERED BY THE GENERAL ASSEMBLY REASONABLY REFLECT THE GEOGRAPHIC, GENDER AND RACIAL DIVERSITY OF THIS COMMONWEALTH.

(3) REASONS FOR REMOVING A MEMBER OF THE COMMISSION AND THE MANNER BY WHICH VACANCIES SHALL BE FILLED.

(4) THE MANNER BY WHICH THE SECRETARY OF THE COMMONWEALTH

SHALL SUBMIT TO THE GENERAL ASSEMBLY A LIST OF QUALIFIED APPLICANTS BY POLITICAL PARTY AFFILIATION.

(B.1) UPON RECEIPT OF THE LIST OF QUALIFIED APPLICANTS FROM THE SECRETARY OF THE COMMONWEALTH, MEMBERS OF THE COMMISSION SHALL BE APPOINTED AS FOLLOWS:

(1) THE GOVERNOR SHALL RECOMMEND THREE INDIVIDUALS FROM THE LIST OF QUALIFIED APPLICANTS WHO ARE NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES IN THIS COMMONWEALTH BASED UPON REGISTRATION FOR APPROVAL BY A TWO-THIRDS VOTE OF EACH CHAMBER.

(2) THE MAJORITY LEADER AND MINORITY LEADER OF THE SENATE SHALL EACH RECOMMEND TWO INDIVIDUALS FROM THE LIST OF QUALIFIED APPLICANTS FOR APPROVAL BY A TWO-THIRDS VOTE OF THE SENATE.

(3) THE MAJORITY LEADER AND MINORITY LEADER OF HOUSE OF REPRESENTATIVES SHALL EACH RECOMMEND TWO INDIVIDUALS FROM THE LIST OF QUALIFIED APPLICANTS FOR APPROVAL BY A TWO-THIRDS VOTE OF THE HOUSE OF REPRESENTATIVES.

NO LATER THAN [60 DAYS FOLLOWING THE OFFICIAL REPORTING OF THE FEDERAL CENSUS AS REQUIRED BY FEDERAL LAW] JULY 1 IN EACH YEAR OF THE FEDERAL DECENNIAL CENSUS, THE [FOUR] MEMBERS APPROVED UNDER THIS SECTION SHALL BE CERTIFIED BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO THE ELECTIONS OFFICER OF THE COMMONWEALTH WHO UNDER LAW SHALL HAVE SUPERVISION OVER ELECTIONS.

[THE FOUR MEMBERS WITHIN] WITHIN 45 DAYS AFTER THEIR CERTIFICATION, THE MEMBERS SHALL SELECT [THE FIFTH MEMBER, WHO SHALL SERVE AS] A CHAIRMAN OF THE COMMISSION. [, AND SHALL IMMEDIATELY CERTIFY HIS NAME TO SUCH ELECTIONS OFFICER. THE CHAIRMAN SHALL BE A CITIZEN OF THE COMMONWEALTH OTHER THAN A

LOCAL, STATE OR FEDERAL OFFICIAL HOLDING AN OFFICE TO WHICH COMPENSATION IS ATTACHED.

IF THE FOUR MEMBERS FAIL TO SELECT THE FIFTH MEMBER WITHIN THE TIME PRESCRIBED, A MAJORITY OF THE ENTIRE MEMBERSHIP OF THE SUPREME COURT WITHIN 30 DAYS THEREAFTER SHALL APPOINT THE CHAIRMAN AS AFORESAID AND CERTIFY HIS APPOINTMENT TO SUCH ELECTIONS OFFICER.

ANY VACANCY IN THE COMMISSION SHALL BE FILLED WITHIN 15 DAYS IN THE SAME MANNER IN WHICH SUCH POSITION WAS ORIGINALLY FILLED.] IF THE 11 MEMBERS FAIL TO SELECT A CHAIRMAN WITHIN THE TIME PRESCRIBED, THE GENERAL ASSEMBLY, BY A TWO-THIRDS VOTE OF EACH CHAMBER, SHALL APPOINT THE CHAIRMAN OF THE COMMISSION WITHIN 30 DAYS.

(C) NO LATER THAN 90 DAYS AFTER EITHER THE COMMISSION HAS BEEN DULY CERTIFIED OR THE POPULATION DATA FOR THE COMMONWEALTH AS DETERMINED BY THE FEDERAL CENSUS ARE AVAILABLE, WHICHEVER IS LATER IN TIME, THE COMMISSION SHALL FILE A PRELIMINARY REAPPORTIONMENT AND REDISTRICTING PLAN WITH SUCH ELECTIONS OFFICER[.] BASED UPON FEDERAL CENSUS DATA FOR EACH GEOGRAPHIC AND POLITICAL UNIT. THE PRELIMINARY REAPPORTIONMENT AND REDISTRICTING PLAN MUST BE APPROVED BY AT LEAST SEVEN AFFIRMATIVE VOTES THAT MUST INCLUDE AT LEAST TWO VOTES OF MEMBERS REGISTERED FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN THIS COMMONWEALTH BASED ON REGISTRATION AND TWO VOTES OF MEMBERS NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES BASED UPON REGISTRATION. THE COMMISSION SHALL SCHEDULE AND CONDUCT AT LEAST SIX PUBLIC HEARINGS IN DIFFERENT GEOGRAPHIC REGIONS THROUGHOUT THIS COMMONWEALTH.

IN ADDITION TO THE REQUIREMENTS OF SECTION 16, THE FOLLOWING



SHALL APPLY:

(1) A COUNTY MAY NOT CONTAIN MORE SENATORIAL DISTRICTS THAN THE NUMBER REQUIRED BY THE POPULATION PLUS ONE.

(2) A COUNTY MAY NOT CONTAIN MORE REPRESENTATIVE DISTRICTS THAN THE NUMBER REQUIRED BY THE POPULATION PLUS TWO.

(3) DISTRICTS SHALL EACH HAVE A POPULATION AS CLOSE TO THE APPLICABLE IDEAL DISTRICT POPULATION AS POSSIBLE AND SHALL BE COMPOSED OF COMPACT AND CONTIGUOUS TERRITORY AND, UNLESS ABSOLUTELY NECESSARY, NO COUNTY, CITY, INCORPORATED TOWN, BOROUGH, TOWNSHIP OR WARD SHALL BE DIVIDED IN FORMING CONGRESSIONAL DISTRICTS.

(4) THE BOUNDARIES OF EACH DISTRICT SHALL BE A SINGLE NON-INTERSECTING CONTINUOUS LINE.

(5) IN ESTABLISHING DISTRICTS, THE COMMISSION SHALL NOT CONSIDER THE FOLLOWING DATA:

(I) ADDRESSES OF ANY INDIVIDUAL.

(II) POLITICAL AFFILIATION OF REGISTERED VOTERS.

(III) PREVIOUS ELECTION RESULTS, UNLESS REQUIRED BY FEDERAL LAW.

(6) ALL MEETINGS OF THE COMMISSION AT WHICH A QUORUM IS PRESENT HELD FOR THE PURPOSE OF DELIBERATING OFFICIAL BUSINESS OR TAKING OFFICIAL ACTION SHALL BE CONDUCTED IN AN OPEN FORUM AND IN A MANNER BY WHICH THE PUBLIC MAY CONTEMPORANEOUSLY OBSERVE THE PROCEEDINGS.

(7) COMMISSION MEMBERS AND THEIR EMPLOYEES AND ADVISORS SHALL NOT COMMUNICATE WITH OR RECEIVE COMMUNICATIONS FROM ANY OTHER PERSON ABOUT REAPPORTIONMENT OR REDISTRICTING MATTERS UNLESS DURING AN OPEN PUBLIC MEETING OR UNDER SUCH EXCEPTIONS AS THE GENERAL ASSEMBLY MAY PRESCRIBE BY LAW.

THE COMMISSION SHALL HAVE 30 DAYS AFTER FILING THE PRELIMINARY PLAN AND COMPLETING THE SIX PUBLIC HEARINGS ON THE PLAN TO MAKE CORRECTIONS IN THE PLAN.

ANY PERSON AGGRIEVED BY THE PRELIMINARY PLAN SHALL HAVE THE SAME 30-DAY PERIOD TO FILE EXCEPTIONS WITH THE COMMISSION IN WHICH CASE THE COMMISSION SHALL HAVE 30 DAYS AFTER THE DATE THE EXCEPTIONS WERE FILED TO PREPARE AND FILE WITH SUCH ELECTIONS OFFICER A REVISED REAPPORTIONMENT AND REDISTRICTING PLAN. IF NO EXCEPTIONS ARE FILED WITHIN 30 DAYS, OR IF FILED AND ACTED UPON, THE COMMISSION'S PLAN SHALL BE FINAL AND HAVE THE FORCE OF LAW.

(C.1) THE FINAL REAPPORTIONMENT AND REDISTRICTING PLAN MUST BE APPROVED BY AT LEAST SEVEN AFFIRMATIVE VOTES THAT MUST INCLUDE AT LEAST TWO VOTES OF MEMBERS REGISTERED FROM EACH OF THE TWO LARGEST POLITICAL PARTIES IN THIS COMMONWEALTH BASED ON REGISTRATION AND TWO VOTES OF MEMBERS NOT REGISTERED WITH EITHER OF THE TWO LARGEST POLITICAL PARTIES BASED UPON REGISTRATION.

(D) ANY AGGRIEVED PERSON MAY FILE AN APPEAL FROM THE FINAL PLAN DIRECTLY TO THE SUPREME COURT WITHIN 30 DAYS AFTER THE FILING THEREOF. IF THE APPELLANT ESTABLISHES THAT THE FINAL PLAN IS CONTRARY TO LAW, THE SUPREME COURT SHALL ISSUE AN ORDER REMANDING THE PLAN TO THE COMMISSION AND DIRECTING THE COMMISSION TO REAPPORTION AND REDISTRIBUTE THE COMMONWEALTH IN A MANNER NOT INCONSISTENT WITH SUCH ORDER.

(E) WHEN THE SUPREME COURT HAS FINALLY DECIDED AN APPEAL OR WHEN THE LAST DAY FOR FILING AN APPEAL HAS PASSED WITH NO APPEAL TAKEN, THE REAPPORTIONMENT AND REDISTRICTING PLAN SHALL HAVE THE FORCE OF LAW AND THE DISTRICTS THEREIN PROVIDED SHALL BE USED THEREAFTER IN ELECTIONS TO THE GENERAL ASSEMBLY UNTIL THE NEXT REAPPORTIONMENT AND REDISTRICTING AS REQUIRED UNDER THIS SECTION.

17.

(F) ANY DISTRICT WHICH DOES NOT INCLUDE THE RESIDENCE FROM WHICH A MEMBER OF THE SENATE WAS ELECTED WHETHER OR NOT SCHEDULED FOR ELECTION AT THE NEXT GENERAL ELECTION SHALL ELECT A SENATOR AT SUCH ELECTION.

(G) THE GENERAL ASSEMBLY SHALL APPROPRIATE SUFFICIENT FUNDS FOR THE COMPENSATION AND EXPENSES OF MEMBERS AND STAFF APPOINTED BY THE COMMISSION, AND OTHER NECESSARY EXPENSES. THE MEMBERS OF THE COMMISSION SHALL BE ENTITLED TO SUCH COMPENSATION FOR THEIR SERVICES AS THE GENERAL ASSEMBLY FROM TIME TO TIME SHALL DETERMINE, BUT NO PART THEREOF SHALL BE PAID UNTIL A PRELIMINARY PLAN IS FILED. IF A PRELIMINARY PLAN IS FILED BUT THE COMMISSION FAILS TO FILE A REVISED OR FINAL PLAN WITHIN THE TIME PRESCRIBED, THE COMMISSION MEMBERS SHALL FORFEIT ALL RIGHT TO COMPENSATION NOT PAID.

(H) IF A PRELIMINARY, REVISED OR FINAL REAPPORTIONMENT AND REDISTRICTING PLAN IS NOT FILED BY THE COMMISSION [WITHIN THE TIME PRESCRIBED BY THIS SECTION UNLESS THE TIME BE EXTENDED BY THE SUPREME COURT FOR CAUSE SHOWN, THE SUPREME COURT SHALL IMMEDIATELY PROCEED ON ITS OWN MOTION TO REAPPORTION THE COMMONWEALTH.] BY OCTOBER 1 OF EACH YEAR ENDING IN ONE, THE FOLLOWING SHALL APPLY:

(1) THE COMMISSION SHALL CONSIDER PROPOSED MAPS FOR CONGRESSIONAL, SENATORIAL AND REPRESENTATIVE DISTRICTS AS SEPARATE CATEGORIES.

(2) NOT LATER THAN OCTOBER 15 OF EACH YEAR ENDING IN ONE, THE COMMISSION SHALL SUBMIT AT LEAST TWO, BUT NOT MORE THAN THREE, MAPS IN EACH CATEGORY TO THE GENERAL ASSEMBLY. ALL MAPS SUBMITTED TO THE GENERAL ASSEMBLY UNDER THIS PARAGRAPH SHALL BE

MADE AVAILABLE FOR REVIEW BY THE PUBLIC FOR A PERIOD OF NOT LESS THAN 10 DAYS PRIOR TO ANY VOTE BY THE GENERAL ASSEMBLY.

(3) THE GENERAL ASSEMBLY SHALL APPROVE ONE MAP SUBMITTED IN EACH CATEGORY BY A TWO-THIRDS VOTE OF EACH CHAMBER.

(4) ANY PLAN APPROVED BY THE COMMISSION FINALLY SHALL SUPERSEDE ALL PREVIOUS PLANS.

(1) ANY REAPPORTIONMENT AND REDISTRICTING PLAN FILED BY THE COMMISSION, OR [ORDERED OR PREPARED] APPROVED BY THE [SUPREME COURT] GENERAL ASSEMBLY UPON THE FAILURE OF THE COMMISSION TO ACT, SHALL BE PUBLISHED BY THE ELECTIONS OFFICER ONCE IN AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN EACH SENATORIAL AND REPRESENTATIVE DISTRICT. THE PUBLICATION SHALL CONTAIN A MAP OF THE COMMONWEALTH SHOWING THE COMPLETE REAPPORTIONMENT AND REDISTRICTING OF THE GENERAL ASSEMBLY BY DISTRICTS, AND A MAP SHOWING THE [REAPPORTIONMENT] REAPPORTIONED AND REDISTRICTED DISTRICTS IN THE AREA NORMALLY SERVED BY THE NEWSPAPER IN WHICH THE PUBLICATION IS MADE. THE PUBLICATION SHALL ALSO STATE THE POPULATION OF THE SENATORIAL AND REPRESENTATIVE DISTRICTS HAVING THE SMALLEST AND LARGEST POPULATION AND THE PERCENTAGE VARIATION OF SUCH DISTRICTS FROM THE AVERAGE POPULATION FOR SENATORIAL AND REPRESENTATIVE DISTRICTS.

SECTION 2. (A) UPON THE FIRST PASSAGE BY THE GENERAL ASSEMBLY OF THIS PROPOSED CONSTITUTIONAL AMENDMENT, THE SECRETARY OF THE COMMONWEALTH SHALL PROCEED IMMEDIATELY TO COMPLY WITH THE ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE XI OF THE CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE REQUIRED ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN WHICH SUCH NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER PASSAGE OF THIS PROPOSED CONSTITUTIONAL AMENDMENT.

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(B) UPON THE SECOND PASSAGE BY THE GENERAL ASSEMBLY OF THIS PROPOSED CONSTITUTIONAL AMENDMENT, THE SECRETARY OF THE COMMONWEALTH SHALL PROCEED IMMEDIATELY TO COMPLY WITH THE ADVERTISING REQUIREMENTS OF SECTION 1 OF ARTICLE XI OF THE CONSTITUTION OF PENNSYLVANIA AND SHALL TRANSMIT THE REQUIRED ADVERTISEMENTS TO TWO NEWSPAPERS IN EVERY COUNTY IN WHICH SUCH NEWSPAPERS ARE PUBLISHED IN SUFFICIENT TIME AFTER PASSAGE OF THIS PROPOSED CONSTITUTIONAL AMENDMENT. THE SECRETARY OF THE COMMONWEALTH SHALL SUBMIT THIS PROPOSED CONSTITUTIONAL AMENDMENT TO THE QUALIFIED ELECTORS OF THIS COMMONWEALTH AT THE FIRST PRIMARY, GENERAL OR MUNICIPAL ELECTION WHICH MEETS THE REQUIREMENTS OF AND IS IN CONFORMANCE WITH SECTION 1 OF ARTICLE XI OF THE CONSTITUTION OF PENNSYLVANIA AND WHICH OCCURS AT LEAST THREE MONTHS AFTER THE PROPOSED CONSTITUTIONAL AMENDMENT IS PASSED BY THE GENERAL ASSEMBLY.