

**CARROLL VALLEY SEWER AND WATER AUTHORITY**

**REGULAR MEETING**

**MONDAY, MARCH 28, 2022– 7:00 P.M.**

**AGENDA**

N. Kenneth Lundberg, Chairman, presiding

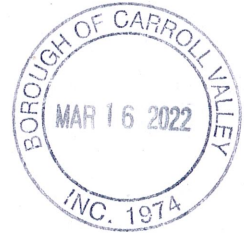
Roll Call

1. Approval of Minutes of the February 28, 2022 Regular Meeting
2. Open to the Public
3. Administrative Business
  - A. Chapter 94 Report
  - B. Cooperation Agreement: H2O Grant Award
4. Adjournment



March 11, 2022

Kenneth Lundberg  
Carroll Valley Sewer & Water Authority  
5685 Fairfield Road  
Fairfield, PA 17320-9611



Re: Annual Wasteload Management (Chapter 94) Report  
Carroll Valley STP  
NPDES Permit No. PA0080039  
Carroll Valley Borough, Adams County

Dear Mr. Lundberg:

The Department of Environmental Protection (DEP) has completed its review of your 2021 Annual Wasteload Management Report as required by 25 Pa. Code § 94.12. No hydraulic or organic overloading was observed during 2020 and 2021. As per the report there were no max monthly flow or organic load exceedances since February 2019. You may request a CAP closure.

Pump station data was not included in the report. The reporting form states that the CAP is attached to the report, but it is not. Please remove such inconsistencies in future reports.

The report is considered acceptable. DEP appreciates your cooperation in meeting the Chapter 94 reporting requirements.

DEP's website at [www.dep.pa.gov/chapter94](http://www.dep.pa.gov/chapter94) includes a "Chapter 94 Spreadsheet" and a "Chapter 94 Report Template" form for presenting hydraulic and organic data and graphs along with other crucial details for treatment plants. Thank you for using these templates. DEP strongly encourages the use of these tools for future reports to facilitate statewide consistency in the preparation of Chapter 94 reports.

If you have any questions concerning this notice, please contact Dharmendra Kumar at 717-705-4767 or [dkumar@pa.gov](mailto:dkumar@pa.gov).

Sincerely,

A handwritten signature in red ink that reads "Timothy K. Wagner".

Timothy K. Wagner  
Environmental Group Manager  
Clean Water Program

cc: Wm. F. Hill & Assoc. Inc. (pdf)

## COOPERATION AGREEMENT

This Cooperation Agreement (the "Agreement") is made as of the \_\_\_\_\_ day of March 2022, between Carroll Valley Borough (the "Borough"), with a principal address of 5685 Fairfield Road, Fairfield, PA 17320 and the Carroll Valley Sewer and Water Authority (the "Authority"), with a principal address of 5685 Fairfield Road, Fairfield, PA 17320, collectively known as the Parties.

WHEREAS, the Borough was awarded an H2O PA Grant (the "Grant") of Seven Hundred Thousand Dollars (\$700,000.00) by the Commonwealth Financing Authority (the "CFA");

WHEREAS, the Grant scope of work includes the construction, utilities, and engineering costs associated with the upgrades to the wastewater treatment plant (the "Project");

WHEREAS, the Authority has been appointed by the Borough to contract with the engineer to design the Project, incur costs on the Borough's behalf that are part of the Project, and that are reimbursable by the Grant;

WHEREAS, the Borough has authorized the Authority to incur Project costs on behalf of the Borough that may be reimbursed by the Grant;

WHEREAS, Grant funds received by the Borough will be used to reimburse the Authority for costs that the Authority has incurred on the Project;

WHEREAS, the Authority, with authorization from the Borough, has entered into a professional services contract with Wm. F. Hill & Assoc., Inc. to design the Project and to release publicly-advertised bids for the Project; and

WHEREAS, upon completion of the design work, the Borough shall exercise control over the Project and the Authority's limited role in the Project shall cease; and

WHEREAS, the CFA has requested documentation memorializing the relationship between the Borough and the Authority illustrating the Borough's authorization for the Authority to contract on its behalf, and to incur Project costs on its behalf, to be later reimbursed with Grant funds at all times in accordance with any and all terms and provisions on the Grant.

NOW THEREFORE, intending to be legally bound and in consideration of the terms set forth herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

### SECTION 1. RECITALS/PARTNERS/COOPERATION

- A. The above recitals are incorporated herein as if set forth at length.
- B. Subject to the availability of the Grant funds from the CFA, the Borough shall make the Grant funds, upon its receipt thereof from the CFA, available to the Authority to the extent the Authority incurred costs related to the Project, pursuant to the terms of this Agreement. The Authority duly acknowledges that it will be the recipient of a portion of the Grant funds and represents to the Borough that it shall use such Grant funds only to reimburse costs and expenses directly related to the Project, which costs and expenses must be eligible for reimbursement pursuant to the Grant guidelines. The Authority represents and warrants that

it shall comply with all applicable requirements, provisions, terms and conditions of the Grant program, as if the Authority were the stated Grantee therein.

- C. The Authority shall use its best efforts to cooperate with and assist the Borough in complying with the terms of the Grant program, including, but not limited to, the timely completion of the Project.

## **SECTION 2. DISBURSEMENT /INDEMNIFICATION**

- A. So long as no Event of Default, as hereinafter defined, has occurred and/or is continuing, and provided that the Borough and Authority have satisfied all conditions precedent set forth herein, and are otherwise in compliance with, all the terms and conditions of this Agreement and all applicable regulations and guidelines of the Grant, and any other applicable laws, the Borough shall make the Grant funds available to the Authority for the purpose described in Section 1 above. Grant funds will only be disbursed by the Borough to the Authority for the sole purpose of reimbursing the Authority for eligible costs and expenses under the Grant program that the Authority incurs directly related to the Project. The Authority agrees to submit reimbursement requests in any format requested by the Borough and submit any supporting documentation requested by the Borough prior to the Authority being able to receive any such funds from the Grant. The Authority shall not submit reimbursement requests to the Borough more frequently than one time for each calendar month. The Borough reserves the right to withhold payment until adequate documentation has been provided to the Authority.
- B. The Borough and Authority acknowledge that, pursuant to the Grant program, the Borough is obligated to reimburse the CFA for any expenditures of the Grant funds that are found to be ineligible by the CFA. The Authority hereby warrants and represents to the Borough that they will only make expenditures of the Grant funds for costs and expenses directly relating to the Project and eligible for reimbursement under the Grant Program.

## **SECTION 3. BONDING, INSURANCE, HOLD HARMLESS**

- A. Fidelity Bonding. Unless otherwise authorized by the CFA and the Borough, the Authority shall procure and maintain throughout fidelity bonding for anyone authorized to sign checks, certify vouchers and/or handle or control funds, checks, securities or property. If a check signing machine is used which is not operated under the direct supervision of the authorized signer or counter signer, the machine operator shall be bonded in the same amount as the check signer. The amount of the bond required shall be adequate to insure the security of all funds received under this Agreement.
- B. Workmen's Compensation. The Parties shall procure and maintain throughout workmen's compensation insurance as and to the extent required by law and shall accept full responsibility for the payment of premiums for such insurance and for payment of social security and any other taxes or payroll deductions required by law for employees of the Parties who are performing activities relating to this Agreement and/or the Project.
- C. Liability insurance. The Parties shall cause general public liability and property damage insurance policies to be maintained throughout the Project in amounts required by the Grant

Program. It is understood and agreed that the Borough's and Authority's said insurance policies, to the fullest extent permitted by law, shall be endorsed to protect the Commonwealth and the CFA, as named insureds therein, from any and all claims of bodily injury and/or property damage arising out of any activities performed by the Borough and Authority or its employees or agents relating to this Agreement and/or the Project, including business and non-business invitees, and their property and all other property sustaining damage as a direct or indirect result of the performance of the Project when validly present on the Project area whether or not actually engaged in the Project at the time the claim inures. Such policies shall not include any provision limiting then existing sovereign immunity of the CFA or the Commonwealth or any of their agents or employees. Upon request of the CFA or as otherwise required under the Grant Documents, the Borough and Authority shall provide the CFA with evidence of such insurance. Such insurance policies shall comply with all other requirements as set forth in the Grant Documents.

Hold Harmless. The Borough and Authority shall hold the CFA and the Commonwealth harmless from and indemnify the CFA and the Commonwealth against any and all claims, demands and actions based on or arising out of any activities performed by the Parties and their employees or agents relating to this Agreement and/or the Project; and the Borough shall defend any and all actions brought against the CFA and/or the Commonwealth based on any such claims or demands, to the extent caused by the gross negligent acts, errors, or omissions of Borough and Authority or their employees acting within the scope of their official duties only to the extent that such liabilities arise from an action which can be properly brought against Borough and Authority as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541, *et seq.* and in accordance with such limits of liability set forth in the Act. Borough and Authority do not in any manner waive their rights and immunities provided by applicable law and/or regulation by entering into this Agreement.

#### **SECTION 4. LEGAL COMPLIANCE**

- A. Compliance with Laws. In connection with the Borough's and Authority's performance of the Project, their activities under this Agreement, and their use of the Grant funds, the Borough and Authority agree to comply with any and all applicable federal, state, agency, and municipal laws, regulations, statutes, codes, conditions, directives, and guidelines including, without limitation, the Grant Program regulations and guidelines and all laws and requirements set forth and identified in the Grant Documents. The Borough and Authority further agree that they will comply with any future laws, guidelines, regulations or requirements that may be imposed by the Commonwealth or the CFA pursuant to and/or under the Grant Program.
- B. Nondiscrimination/Sexual Harassment. The Parties agree as follows:
  - 1.) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity under a contract or any subcontract, the Parties and their subcontractors, or any person acting on behalf of the Parties or their subcontractors, shall not by reason of gender, race, creed, age, or color,

discriminate against any person who is qualified and available to perform the work to which the employment relates.

- 2.) Neither the Parties nor any of their contractors or subcontractors, nor any person on their behalves shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under a contract or any subcontract on account of gender, race, creed, color, or age.
- 3.) The Parties and their contractors and subcontractors shall establish and maintain throughout a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- 4.) The Parties and their contractors and subcontractors shall not discriminate by reason of gender, race, creed, age, or color against any contractor or subcontractor or supplier who is qualified to perform the work to which the contract or subcontract relates.
- 5.) The Parties and each of their contractors and subcontractors shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the CFA and/or for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Parties or any contractor or subcontractor does not possess documents or records reflecting the necessary information requested, the Parties, contractors or subcontractors shall furnish such information on reporting forms supplied by the CFA and/or Commonwealth.
- 6.) The Parties shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every contract and subcontract so that such provisions will be binding on each contractor and subcontractor.
- 7.) The Commonwealth and/or the CFA may cancel or terminate the Grant; and all money due or to become due under the Grant may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Parties may be subject to debarment or suspension and placed in the Contractor Responsibility File.

C. State Contractor Responsibility Program.

- 1.) The Parties certify herein, for themselves and all of their contractors and subcontractors, that as of the date of this Agreement, neither the Parties, nor any of their contractors or subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority.

- 2.) The Parties certify herein that, as of the date of this Agreement, they have no tax liabilities or other outstanding obligations owing to the federal government or the Commonwealth.
  - 3.) The Parties' obligations and certifications herein shall be deemed ongoing from and after the date of this Agreement until all close-out requirements concerning the use of the Grant funds have been completed, including the Grant Project Audit. Accordingly, the Parties shall have an obligation to inform and provide written notification to the CFA if, at any time, they become delinquent in the payment of taxes, or other obligations owing to the federal government or the Commonwealth, or if they or any of their contractors or subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such written notification shall be made within 15 days of the date of suspension or debarment.
  - 4.) The Borough agrees to reimburse the CFA and the Commonwealth for the reasonable costs of investigation incurred by the Commonwealth and/or the CFA for investigations of Parties' compliance with the terms of this Agreement, which results in the suspension or debarment of any of the Parties. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Borough shall not be responsible for investigative costs for investigations that do not result in any of the Parties' suspension or debarment.
- D. The Americans with Disabilities Act. Pursuant to federal regulations promulgated under the authority of The Americans with Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Parties understand and agree that no individual with a disability shall, on the basis of the disability, be excluded from participation in activities relating to this Agreement and/ or the Project. As a condition of accepting and executing this Agreement, the Parties agree to comply with the "General Prohibitions Against Discrimination", 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act. The Borough shall be responsible for and agree to indemnify and hold harmless the CFA and the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the CFA and/or the Commonwealth as a result of the Parties' failure to comply with this paragraph.
- E. Anti-Pollution. The Parties and their subcontractors agree that in the performance of their activities relating to this Agreement and/or the Grant Project, they shall minimize pollution and shall strictly comply with any and all applicable environmental laws and regulations.
- F. Contractor Integrity
- 1.) The Parties shall maintain the highest standards of integrity in the performance of their activities relating to this Agreement and/or the Project, and shall take no action in violation of local, state or federal laws, regulations, guidelines, or other requirements that govern contracting with governmental entities.

- 2.) The Parties shall not disclose to others any confidential information gained by virtue of this Agreement.
- 3.) The Parties shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the CFA or the Commonwealth.
- 4.) The Parties shall not, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of, or at the direction or request of, any officer or employee of the CFA or the Commonwealth.
- 5.) Neither the Parties, nor anyone in privity with them shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of the Project.
- 6.) The Parties shall not have a financial interest in any contractor, subcontractor or supplier providing services, labor, or material for the Project.
- 7.) The Parties, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the CFA in writing.
- 8.) The Parties by execution of this Agreement and by the submission of any bills or invoices in connection with verification of Parties' compliance with the Program and the terms of this Agreement, certify and represent that they have not violated any of these provisions.
- 9.) The Parties, upon inquiry or request of the CFA and/or the Commonwealth, shall provide, or if appropriate, make promptly available for inspection and copying, any information of any type or form deemed relevant by the CFA or the Commonwealth to the Parties' integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Parties' business and financial records, documents or files of any type or form which refer to or concern this Agreement and/or the Project. Such information shall be retained by the Parties for a period of at least five (5) years after the Grant Project Audit has been completed and fully accepted by the CFA, or longer if otherwise required by law.
- 10.) The Parties shall maintain adequate records supported by properly executed vouchers or other records indicating in detail the nature and propriety of all charges and costs for which the Grant funds are being used. Said records shall be maintained and provided in a format as required by the Commonwealth and/or the CFA under the Grant Documents and the Grant Program regulations and/or guidelines in order to permit the CFA and the Commonwealth to confirm that the Grant funds have been used by the Parties properly and only for eligible costs and activities directly relating to the Grant Project, which are properly reimbursable under the Grant Documents and the Grant Program. The Parties, upon request



by the CFA or the Commonwealth, shall provide all such records to the CFA and/or the Commonwealth and permit the CFA and/or the Commonwealth to inspect and audit such records. The Parties shall use their best efforts to assist CFA and the Commonwealth with their inspection and audit of such records. Such records shall be retained by the Parties for a period of at least five (5) years after the Project Audit has been completed and fully accepted by the CFA, or longer if otherwise required by law.

11.) The Parties certify that all the Parties (including any directors, officers, members, or employees of the Parties) presently have no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of activities relating to this Agreement and/or the Project.

- G. Illegal Alien Labor. Pursuant to the Act of May 11, 2006 (P.L. 173, No. 43), known as the Prohibition of Illegal Alien Labor on Assisted Projects Act, the Parties shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien in connection with any activities related to this Agreement and/or the Project.
- H. Lead Based Paint. The Parties shall comply with the lead-based paint requirements of 24 CFR, part 35, Subpart B, issued pursuant to the Lead Based Paint Poisoning Act (42 U.S.C. Section 4801 et seq.).
- I. Discrimination. The Parties and their contractors and subcontractors shall comply with any and all federal, state and local laws and regulations relating to discrimination, including, but not limited to, the provisions of the Age Discrimination Act of 1975, including as amended.
- J. Right to Know Law. The Parties acknowledge and understand that their use of the Grant and records relating to or arising out of the Project and/or this Agreement are subject to right to know requests made pursuant to the PA Right to Know Law, 65 P.S. Section 67.101-3104 ("RTK Law"). The Parties shall use their best efforts to assist each other in timely responding to any right to know request either of them may receive under the RTK Law relating to the use of the Grant or any records relating to or arising out of the Grant and/or this Agreement subject to any immunity afforded to it by law. The Borough shall indemnify and hold harmless CFA and the Commonwealth for any damages, penalties, costs, attorneys' fees, detriment, or harm that the CFA and/or the Commonwealth may incur as a result of any failure by the Parties to use their best efforts to assist in timely responding to such right to know requests. The Parties' duties relating to using their best efforts hereunder to assist each other in responding to such right to know requests shall survive expiration of this Agreement and shall continue as long as the Parties have information in their possession relating to any such right to know requests.
- K. Commonwealth Statutes and Regulations. Without in any way limiting the foregoing in any manner, the Parties shall comply with all applicable Commonwealth statutes and regulations, including, but not limited to: the Statewide Building Code, Flood Plain Management Act, Prevailing Wage Act, 43 P.S. Section 165-1 et seq., Steel Products

Procurement Act, 73 P.S. Section 1881 et seq., Trade Practices Act, 71 P.S. Section 773.101 et seq., Public Works Contractors Bond Act, 8 P.S. Section 191 et seq., worker's compensation insurance laws, historic preservation requirements, Commonwealth's Agricultural Preservation Policy (Executive Order 1994-3), and any other applicable Executive Orders.

- L. Program Guidelines. The Parties shall comply with all Grant Program regulations and guidelines and shall not use the Grant funds for any ineligible activities or costs thereunder.

#### **SECTION 5. SUBCONTRACTS**

- A. Debarment. The Parties shall not contract or subcontract with any person, individual or entity for any activities relating to this Agreement and/or the Project, if they are currently or become suspended or debarred by the Commonwealth or the federal government.
- B. Clauses.
  - 1.) All contracts and subcontracts must contain provisions of non-discrimination/sexual harassment as specified under Section 4.
  - 2.) All contracts and subcontracts must include the right of the CFA and the Commonwealth to audit their records in order to confirm compliance with the Grant Documents and the Grant Program and all other applicable laws and regulations. The Borough is responsible for ensuring that all required audits of contractors and subcontractors are performed, and for resolving any findings contained in the audit reports.
  - 3.) All contracts and subcontracts must contain an acknowledgement that the CFA and the Commonwealth shall not be liable to any party for completion of, or failure to complete, any activities which are part of the Project.

#### **SECTION 6. BIDDING**

The Parties shall comply with open and competitive bidding procedures in awarding any and all contracts, subcontracts or other agreements in excess of \$10,000.00 in connection with the performance of activities relating to this Agreement and/or the Project. Upon request, the Parties shall provide the CFA with proof of compliance with said procedures.

#### **SECTION 7. RECORDS AND PROGRESS REPORTS**

- A. Records. The Parties, using accepted procedures, shall maintain at their common principal office complete and accurate records and accounts including documents, correspondences and other evidence pertaining to Parties' use of the Grant funds and all costs and expenses relating to the Project. At any time during normal business hours and as often the CFA or the Commonwealth deem necessary, the Parties shall make available for inspection, by the CFA and/or the Commonwealth, all of its records with respect to all activities relating to this Agreement and/or the Project, and will permit the CFA and/or the Commonwealth to audit, examine and make copies of such records at no cost. The

Parties shall use their best efforts to assist the CFA and the Commonwealth with their inspection and audit of such records. Such records shall be retained by the Parties for a period of at least five (5) years after the Project Audit has been completed and fully accepted by the CFA, or longer if otherwise required by law.

- B. Progress Reports. The Parties shall furnish, at no cost, progress reports on the Project in such form and quantity as the CFA or the Commonwealth may from time to time require, including, but not limited to, status reports of the Project, Project account statements, certificates, approvals, permits, proposed budgets, invoices, copies of all contracts executed and proposed, employment placements, follow up reports, and any and all other information relative to the Project as may be requested. The CFA and/or the Commonwealth shall have the right to make reasonable inspections to monitor the Parties' performance under this Agreement.

#### **SECTION 8. ACKNOWLEDGMENT OF ASSISTANCE**

- A. Publications. Any publication concerning the Project will acknowledge the Commonwealth's financial assistance as follows, "This Project was financed [in part] by a loan from the Commonwealth of Pennsylvania, Commonwealth Financing Authority."
- B. Signs. Signs acknowledging the Commonwealth's financial assistance will be erected in the Project area, as soon as possible after the date of this Agreement.

#### **SECTION 9. DEFAULT**

- A. Default. The Authority shall be in default under this Agreement (an "Event of Default") if they shall:
  - 1.) Fail to keep, perform or comply with any of the covenants, terms and conditions of this Agreement to the extent such failure continues for more than thirty (30) days following written notice from the Borough and/or the CFA; or
  - 2.) Take any actions that could result in the Borough being in breach of and/ or default under the Grant Documents and/or the Grant Program.
- B. Remedies.
  - 1.) Upon the occurrence of an Event of Default, the Borough shall be entitled, upon ten (10) days prior written notice to the Authority to suspend and/or terminate this Agreement.
  - 2.) Upon the occurrence of an Event of Default, the Borough shall be entitled, upon written notice to the Authority, to demand that the Authority repay to the Borough, within thirty (30) days of such demand, all Grant funds disbursed hereunder and any penalties, fines, interest, fees, and charges levied upon the Borough by the Commonwealth and/or CFA which is based on or relates to the Authority's default.
  - 3.) The rights and remedies herein expressed are cumulative and not exclusive of any other rights which the Borough may otherwise have at law or in equity.

## **SECTION 10. COVENANTS**

The Authority covenants, represents and warrants to the Borough the following:

- A. The Authority is duly formed and validly existing and in good standing under the laws of the Commonwealth of Pennsylvania and has all necessary power and authority to duly execute this Agreement.
- B. There is no action, suit or proceeding pending, or to the best of the Authority's knowledge threatened, against or affecting the Authority in any court at law or in equity, or before or by any governmental instrumentality, whether federal, state, county, or municipal, which may have a material effect on the Authority's ability to perform the Project.
- C. This Agreement has been duly authorized and executed by authorized representatives of the Authority, will not conflict with or result in a breach of any of the terms, conditions, or provisions of any documents and filings pursuant to which the Authority has been organized and is existing, or of any law or any regulation, order, injunction, or decree of any court or governmental instrumentality, or of any agreement or instrument to which the Authority is now parties or subjects of, or constitute a default thereunder.
- D. No consent or authorization of or registration, declaration, or filing with any governmental authority is required in connection with the valid execution and delivery by the Authority of this Agreement or the performance of any of the transactions required thereby, or if required such consent or authorization shall have been obtained or such registration, declaration or filing shall have been accomplished prior to the date such consent is required to have been obtained.
- E. There is no material fact that the Authority has not disclosed to the Borough which could have a material adverse effect on the Project or the prospects or condition (financial or otherwise) of the Project. No certificate or statement delivered herewith or heretofore by the Authority in connection with the Grant and/or this Agreement contains any untrue statement of material fact or omits to state any material facts necessary to keep the statements contained herein or therein from being misleading.
- F. The Authority shall keep, perform, and comply in each case in all material respects with all covenants, terms, and conditions of this Agreement.
- G. The Borough shall pay, or cause to be paid, promptly when due all real estate taxes, sewer rentals, and other municipal assessments, rentals, and charges of every nature and kind at any time levied and imposed on any property located within the Project area, as well as all debts, obligations, and claims of every nature and kind which, if unpaid, might or could become a lien or charge upon any such property.
- H. The Parties shall furnish all additional information with respect to the Parties that the CFA and/or the Commonwealth may from time-to-time request or as otherwise required by the Grant Documents.
- I. The Parties shall comply with all applicable provisions of all laws, regulations, and ordinances governing any property located within the Project area, including but not limited to, procuring

and complying with any and all required permits necessary to commence and complete the Project.

- J. The Parties shall complete the Project within the time period required by the Grant Documents.
- K. The Authority shall not take any actions that may result in the Borough being in breach of, or default under, the Grant Documents and/or the Grant Program.
- L. The Borough shall be solely responsible to reimburse the Commonwealth and/or CFA for any Grant funds disbursed hereunder found by the CFA to have been used for any ineligible costs or activities under the Grant Documents or the Grant Program.
- M. The Parties shall comply with all regulations and guidelines under the Grant Program relating to the use of the Grant funds and the performance and completion of the Project.

## **SECTION 12. GENERAL**

- A. Entire Agreement. This Agreement constitutes the entire and complete understanding and agreement of the Parties.
- B. Severability. Should any section or any part of this Agreement be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or part of any section of this Agreement.
- C. Modifications. The terms of this Agreement may not be waived, modified or changed in any way by implication, correspondence, orally, or otherwise unless such waiver, modification or change is made in the form of a written amendment to this Agreement signed by the Parties.
- D. Construction. The titles of the sections and subsections of this Agreement have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.
- E. Governing Law. The Parties agree that this Agreement shall be governed by the internal laws of the Commonwealth of Pennsylvania. The Parties irrevocably consent to the exclusive jurisdiction of the Court of Common Pleas of Adams County, PA to resolve any and all litigation between the Parties relating to this Agreement. The Borough hereby waives and shall not interpose any objections of forum non conveniens, or to venue, and waives any right to remove any proceeding commenced in state court to a federal court.
- F. Binding. All covenants, terms, and provisions of this Agreement shall be binding on the Parties and their respective successors and assigns. The Authority shall not have a right to assign this Agreement, or any rights hereunder, without the express prior written consent of the Borough, which shall not be unreasonably withheld.
- G. Nonwaiver of Remedies. No delay or failure on the part of the Borough in exercising any right, power or privilege hereunder shall affect such right, power, or privilege; nor shall any single or partial exercise thereof or any abandonment, waiver, or discontinuance of steps to enforce such a right, power, or privilege preclude any other or further exercise thereof, or the exercise of any other right, power, or privilege. The rights and remedies of the Borough hereunder are cumulative and concurrent and not exclusive of any other rights or remedies which it might otherwise have.

The Borough shall have the right at all times to enforce the provisions of this Agreement in accordance with the terms hereof notwithstanding any conduct or custom on the part of the Borough in refraining from so doing at any time or times. The failure of the Borough at any time or times to enforce its rights under such provisions, in accordance with same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Agreement or as having in any way or manner modified or waived the same.

- H. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and which together shall constitute one and the same agreement.
- I. Contracts. The CFA reserves the right to approve or reject contracts between the Parties and consultants, contactors, or subcontractors for work that will be paid with Grant funds.
- J. Project Changes. The Parties may not make or authorize any substantial change in the Project without first obtaining the consent of the CFA in writing.

IN WITNESS WHEREOF, intending to be legally bound, the Parties hereto have duly caused this Agreement to be duly executed.

BOROUGH OF CARROLL VALLEY

WITNESS/ATTEST:

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

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

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

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

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

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

CARROLL VALLEY SEWER AND WATER  
AUTHORITY

WITNESS/ATTEST:

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

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

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

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

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

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