

COPY

Contract No: C000045979

COMMONWEALTH OF PENNSYLVANIA
COMMONWEALTH FINANCING AUTHORITY

H2O PA GRANT AGREEMENT

This Contract, entered into by and between the Commonwealth of Pennsylvania (the "Commonwealth"), acting through the Commonwealth Financing Authority (the "Grantor" or "Authority"), and

WEST CORNWALL TOWNSHIP MUNICIPAL
AUTHORITY
P. O. Box 1262
Quentin, PA 17083

(the "Grantee").

BACKGROUND:

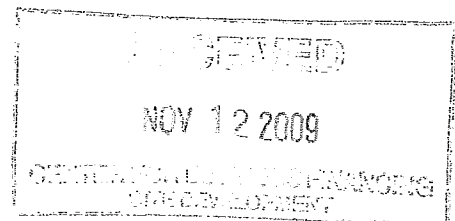
Section 502 of the Act of July 9, 2008, known as the H2O PA Act, authorizes the Commonwealth Finance Authority to award grants to eligible applicants for eligible applicant owned water or sewer projects, flood control projects, or high hazard unsafe dam repair or rehabilitation projects.

The General Assembly of the Commonwealth has appropriated funds to the Grantor to carry out the provisions of the Act.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the parties hereto intending to be legally bound hereby, do covenant and agree for themselves, their respective successors and assignees as follows:

ARTICLE I
AMOUNT OF THE CONTRACT

Subject to the terms of this Grant, the Grantor hereby makes available to the Grantee out of funds appropriated a grant in the sum of ONE MILLION, SIX HUNDRED THREE THOUSAND, ONE HUNDRED DOLLARS (\$1,603,100.00) AND NO CENTS---- or such portion thereof as may be required by the Grantee and authorized by the Grantor, subject to the condition that it shall be used by the Grantee to carry out the activities described in the application submitted by the Grantee and as approved by the Grantor, and which is incorporated herein by reference. In addition, this Grant shall be subject to Appendix A, Project Description and Special Conditions, and Appendix B, Budget Summary, which are attached hereto and incorporated herein.



**ARTICLE II
EFFECTIVE DATES**

The term of this Grant shall commence on the Effective Date (as defined below) and shall end on JUNE 30, 2012, subject to the other provisions of this Grant.

The Effective Date shall be the date the fully executed Grant is sent to the Grantee. A fully executed contract is one that has been signed by the Grantee and by the Grantor and contains all approvals required by Commonwealth contracting procedures.

This Grant is not binding in any way, nor will the Commonwealth be bound, until this document has been fully executed and sent to the Grantee. Any cost incurred by the Grantee prior thereto are incurred at the Grantee's risk.

**ARTICLE III
PAYMENT PROVISIONS AND FISCAL RESPONSIBILITIES**

(a) The Grantor agrees to pay the Grantee for eligible project costs incurred under this Grant between JULY 14, 2009 and JUNE 30, 2012 (the "Grant Activity Period") as follows:

- (1) Subject to the availability of state funds and other terms and conditions of this Grant, the Grantor will reimburse the Grantee based upon the Grantor's determination of the Grantee's needs and in accordance with the proposed budget as set forth in Appendix B.

The Grantor may pay the Grantee for eligible project costs at intervals to be determined by the Grantor. Under no circumstances shall the Commonwealth or the Grantor be liable for any expenditure exceeding the amount stated in this Grant or amendments hereto.

The Grantor shall have the right to disapprove any expenditure made by the Grantee which is not in accordance with the terms of this Grant and the Grantor may adjust payment to the Grantee accordingly.

- (2) Initial payments to the Grantee to perform the activities under this Grant and all other payments shall be made on invoice forms and in accordance with instructions provided by the Grantor.

To receive payments under this Grant, the Grantee shall submit requests for payment based on the Grantee's estimate of expenditures, at intervals as determined by the Grantee to meet disbursement needs. Unless otherwise instructed by the Grantor, this estimate may not exceed the current disbursement needs of the Grantee in order that the amount of cash on hand and available to the Grantee is as close to daily needs as administratively feasible. The Grantor may, however, set a minimum payment level or amount for each request for payment.

(b) Conditions for Payment:

- (1) Grant payments under this Grant shall be conditioned upon the completion of any Special Conditions set forth in Appendix A or otherwise incorporated into this Grant.
- (2) Costs allocated to program administration shall be limited to those set forth in the project budget or as otherwise revised in accordance with the amendment provisions of this Grant set forth in the Article entitled Amendments and Modifications.
- (3) Payment by the Commonwealth and all other terms of this Grant are subject to the effect of any federal deficit reduction legislation upon the availability of funds awarded by this Grant.

(c) The Grantee shall charge to the project account all approved costs of the project. All such costs, including activities contributed by the Grantee or others and charged to the project account, shall be supported by properly executed vouchers or other records indicating in proper detail the nature and propriety of the charge.

(d) Conditions for Repayment of Grant Funds:

- (1) Misuse or Failure to Use Funds.
 - (A) The Grantee agrees that it will use the funds granted hereunder, or as much as may be necessary, to carry out the aforesaid project in accordance with the terms of this Grant. If after all or any part of the funds has been paid to the Grantee and the Grantee shall fail to carry out the activities, the Grantee shall repay the Grantor the funds theretofore paid.
 - (B) If the Grantee does not use all or a portion of the funds paid under the terms of this Grant for purposes of and in accordance with this Grant, the Grantee shall be liable to the Grantor for the amount of funds unused or improperly used and shall return said funds to the Grantor.
 - (C) In the event the Grantor shall be entitled to repayment of all or a portion of the funds granted herein, the repayment shall include all interest, income, accumulations and the monetary equivalent of

any appreciation in value of any property (real, personal or mixed) purchased with the funds granted them. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Grantor for: (1) the principal and (2) the total of any such interest, income, accumulations or appreciation in value.

- (2) Violation of the Prohibition of Illegal Alien Labor on Assisted Projects Act.

In the event that the Grantee

- (i) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and
- (ii) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall repay to the Grantor all grant funds received by the Grantee from the Grantor pursuant to this Grant. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Grantor.

ARTICLE IV BONDING, INSURANCE AND TAX LIABILITY REQUIREMENTS

- (a) Fidelity Bonding:

Unless otherwise authorized by the Grantor, the Grantee shall procure 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 Grant as determined by the Grantor and such bond must be maintained until the Grant is closed out by the Grantor.

- (b) Hold Harmless:

The Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based or arising out of any activities performed by the Grantee and its employees and agents under this Grant; and shall defend any and all actions brought against the Commonwealth based upon any such claims or demands. It is understood and agreed that the Grantee's standard liability insurance policies shall protect, or shall be endorsed to protect, the Commonwealth from claims of bodily injury

and/or property damage arising out of any activities performed by the Grantee or its employees or agents under this Grant, including business and non-business invitees, and their property and all other property sustaining damage as a direct or indirect result of the execution of this project when validly present on Grantee's premises 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 Commonwealth or of its agents or employees. Upon request, the Grantee shall furnish to the Grantor proof of insurance as required by this paragraph.

(c) Other Liability Requirements:

The Grantee shall provide workmen's compensation insurance where the same is required and shall accept full responsibility for the payment of premiums for workmen's compensation and social security and any other taxes or payroll deductions required by law for its employees who are performing activities specified by this Grant.

**ARTICLE V
COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS**

All activities authorized by this Grant shall be performed in accordance with applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be attached hereto as Appendix C or are otherwise provided by the Grantor. The Grantee acknowledges that this Grant is subject to all requirements set forth herein and further agrees that it will comply with future requirements determined by the Grantor as necessary.

(a) Compliance with State Statutes and Regulations:

The Grantee also agrees to comply with all applicable state statutes and regulations.

(b) Nondiscrimination/Sexual Harassment Provisions:

During the term of this Grant, the Grantee agrees as follows:

- (1) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Grant or any subcontract, the Grantee, subcontractor, or any person acting on behalf of the Grantee or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- (2) Neither the Grantee nor any subcontractor nor any person on their behalf 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 the Grant on account of gender, race, creed, or color.

- (3) The Grantee and subcontractors shall establish and maintain 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 Grantee shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Grant relates.
 - (5) The Grantee and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the Grantor and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Grantee or any subcontractor does not possess documents or records reflecting the necessary information requested, the Grantee or subcontractor shall furnish such information on reporting forms supplied by the Grantor or the Bureau of Contract Administration and Business Development.
 - (6) The Grantee shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
 - (7) The Commonwealth 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 Grantor may proceed with debarment or suspension and may place the Grantee in the Contractor Responsibility File.
- (c) Compliance with the State Contractor Responsibility Program:

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Grantee may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

- (1) The Grantee must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of any Commonwealth contract, that neither the Grantee, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Grantee cannot so certify,

then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

- (2) The Grantee must also certify, in writing, that as of the date of its execution, of any Commonwealth contract it has no tax liabilities or other Commonwealth obligations.
- (3) The Grantee's obligations pursuant to these provisions are ongoing from and after the effective date of the Grant through the termination date thereof. Accordingly, the Grantee shall have an obligation to inform the Grantor if, at any time during the term of the Grant, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- (4) The failure of the Grantee to notify the Grantor of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Grant with the Commonwealth.
- (5) The Grantee agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Grantee's compliance with the terms of this or any other agreement between the Grantee and the Commonwealth, which results in the suspension or debarment of the Grantee. 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 Grantee shall not be responsible for investigative costs for investigations that do not result in the Grantee's suspension or debarment.
- (6) The Grantee may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at http://www.dgsweb.state.pa.us/DebarmentList_portlet/ or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

(d) Compliance with the Offset Provision for Commonwealth Grants:

The Grantee agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Grantee or its subsidiaries that is owed to the Commonwealth and is not being contested on appeal, against any payments due the Grantee under this or any other contract with the Commonwealth.

(e) Compliance with The Americans with Disabilities Act:

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. §35.101 et seq., the Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Grant or from activities provided for under this Grant. As a condition of accepting and executing this Grant, the Grantee agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth through contracts with outside contractors.

The Grantee shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth as a result of the Grantee's failure to comply with the provisions of the above paragraph.

(f) Compliance with Anti-Pollution Regulations:

The Grantee and its subcontractors agree that in the performance of their obligations under this Grant they shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

(g) Contractor Integrity Provisions:

(1) Definitions:

Confidential Information means information that is not public knowledge or available to the public on request, disclosure of which would give an unfair, unethical or illegal advantage to another desiring to contract with the Commonwealth.

Consent means written permission signed by a duly authorized officer or employe of the Commonwealth, provided that where the material facts have been disclosed in writing by pre-qualification, bid, proposal or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Grant.

Grantee means the individual or entity that has entered into this Grant with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a 5% interest.

Financial Interest means:

Ownership of more than a 5% interest in any business; or

Holding a position as an officer, director, trustee, partner, employe, or the like, or holding any position of management.

Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or contracts of any kind.

- (2) The Grantee shall maintain the highest standards of integrity in the performance of this Grant and shall take no action in violation of state or federal laws, regulations or other requirements that govern contracting with the Commonwealth.
- (3) The Grantee shall not disclose to others any confidential information gained by virtue of this Grant.
- (4) The Grantee shall not, in connection with this or any other agreement with the Commonwealth, 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 employe of the Commonwealth.
- (5) The Grantee shall not, in connection with this or any other agreement with the Commonwealth, 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 employe of the Commonwealth.
- (6) Except with the consent of the Commonwealth, neither the Grantee nor anyone in privity with him 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 work under this Grant except as provided therein.
- (7) Except with the consent of the Commonwealth, the Grantee shall not have a financial interest in any other contractor, subcontractor or supplier providing services, labor or material on this project.
- (8) The Grantee, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Authority in writing.
- (9) The Grantee, by execution of this Grant and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.
- (10) The Grantee, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall

provide, or if appropriate, make promptly available for inspection and copying, any information of any type or form deemed relevant by the Inspector General to the Grantee's 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 Grantee's business and financial records, documents or files of any type or form which refer to or concern this Grant. Such information shall be retained by the Grantee for a period of three (3) years beyond the termination of the Grant unless otherwise provided by law.

- (11) For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Grantee, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Grantee from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

- (h) Compliance with the Prohibition of Illegal Alien Labor on Assisted Projects Act.

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 Grantee shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by a grant or loan issued by an executive agency of the Commonwealth of Pennsylvania.

In the event that the Grantee

- (a) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and
- (b) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall:

- (a) repay to the Grantor all grant funds received by the Grantee from the Grantor pursuant to this Grant, and
- (b) be ineligible to apply for any Commonwealth grant or loan for a period of two years.

(i) Right to Know Law Provisions

- (1) The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Grant.
- (2) Unless the Grantee provides the Commonwealth, in writing, with the name and contact information of another person, the Grantor shall notify the Grantee using the Grantee information provided by the Grantee in the legal contact information provided in this Grant, if the Grantor needs the Grantee's assistance in any matter arising out of the Right to Know Law ("RTKL"). The Grantee shall notify the Grantor in writing of any change in the name or the contact information within a reasonable time prior to the change.
- (3) Upon notification from the Commonwealth that the Commonwealth requires the Grantee's assistance in responding to a RTKL request for records in the Grantee's possession, the Grantee shall provide the Commonwealth, within fourteen (14) calendar days after receipt of such notification, access to, and copies of, any document or information in the Grantee's possession which arises out of the Grant that the Commonwealth requests ("Requested Information") and provide such other assistance as the Commonwealth may request in order to comply with the RTKL. If the Grantee fails to provide the Requested Information within fourteen (14) calendar days after receipt of such request, the Grantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, detriment or harm that the Commonwealth may incur under the RTKL as a result of the Grantee's failure, including any statutory damages assessed against the Commonwealth.
- (4) The Commonwealth's determination as to whether the Requested Information is a public record is dispositive of the question as between the parties. The Grantee agrees not to challenge the Commonwealth's decision to deem the Requested Information a Public Record. If the Grantee considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, the Grantee will immediately notify the Commonwealth, and will provide a written statement signed by a representative of the Grantee explaining why the requested material is exempt from public disclosure under the RTKL within seven (7) calendar days of receiving the request. If, upon review of the Grantee's written statement, the Commonwealth still decides to provide the Requested Information, the Grantee will not challenge or in any way hold the Commonwealth liable for such a decision.
- (5) The Commonwealth will reimburse the Grantee for any costs associated with complying with this provision only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

- (6) The Grantee agrees to abide by any decision to release a record to the public made by the Office of Open Records, or by the Pennsylvania Courts. The Grantee agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL. The Grantee's duties relating to the RTKL are continuing duties that survive the expiration of this Grant and shall continue as long as the Grantee has Requested Information in its possession.

**ARTICLE VI
ASSIGNMENT, TRANSFER, COLLATERAL USE**

This Grant shall be binding upon and inure to the benefit of the Grantor, the Grantee, and their respective successors and assigns, except that the Grantee may not assign or transfer its rights hereunder without the prior written consent of the Grantor. Approval of an assignment does not establish any legal relationship between the Commonwealth or the Grantor and any other third party, and under no circumstances shall the Commonwealth be held liable for any act or omission committed pursuant to such an assignment.

**ARTICLE VII
INDEPENDENT CONTRACTOR**

Notwithstanding anything contained herein to the contrary, the rights and duties hereby granted to and assumed by the Grantee are those of an independent contractor only. Nothing contained herein shall be so construed as to create an employment, agency or partnership relationship between the Grantor and the Grantee.

**ARTICLE VIII
INTEREST OF PARTIES AND OTHERS**

No officer, member, employee, independent contractor or elected official of the Authority and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this Grant shall participate in any decision relating to this Grant which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested. Nor shall any such officer, member, elected official or employee of the Commonwealth or any member of its governing body have any interest direct or indirect in this Grant or the proceeds thereof.

The Grantee covenants that the Grantee (including directors, officers, members and employees of the Grantee) presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of activities required to be performed under this Grant. The Grantee further covenants that no person having any such interest shall be employed in the performance of activities for this Grant.

The Grantee represents and warrants that no elected state official or any employee of the Grantor or a member of such elected state official's or the Grantor's employee's immediate family (parent, spouse, domestic partner, child, brother or sister,

daughter-in-law or son-in-law, or grandchild), or any entity in which any such person shall have an ownership interest of 5% or greater, or in which entity such person shall have a controlling interest, has received or will receive a direct or indirect pecuniary benefit from or as a result of the full execution of this Grant. Further, the Grantee represents and warrants that it has not and will not enter into any contract for goods or services with the persons enumerated above using any funds made available to Grantee under this Grant.

ARTICLE IX SUBCONTRACTS

The Grantee shall not execute or concur in any subcontract with any person or entity in any respect concerning the activities herein without prior written approval of the Grantor. Such prior written approval shall not be required for the purchase by the Grantee of articles, supplies, equipment and activities which are both necessary for and merely incidental to the performance of the work required under this Grant. The Grantee shall not execute or concur in any subcontract declared disapproved by the Grantor. A subcontractor shall be automatically disapproved, without a declaration from the Grantor, if the subcontractor is currently or becomes suspended or debarred by the Commonwealth or the federal government. In any event, the Grantee shall be responsible for the quantity and quality of the performance of any of its subcontracts.

All subcontracts must contain provisions of nondiscrimination/sexual harassment as specified in the Article entitled Compliance with Applicable Statutes and Regulations, subsection (b). In addition, all subcontracts involving the pass through of Grant funds to subrecipients must include the audit requirements contained in the Article entitled Grant Audit and Closeout Requirements. The Grantee is responsible for ensuring that all required audits of subcontractors are performed, and for resolving any findings contained in the audit reports. All costs deemed unallowable in the subcontract audit report are required to be returned to the Grantor, through the Grantee.

ARTICLE X BIDDING REQUIREMENTS

If the Grantee is a political subdivision or other entity for which open and competitive bidding procedures have been established by law, the Grantee shall comply with those procedures if they are applicable to the project being funded with the grant funds. Otherwise, the Grantee shall comply with open and competitive bidding procedures in awarding any and all grants, subgrants, contracts, subcontracts or other agreements in excess of \$10,000.00 for construction, reconstruction, demolition, alteration and/or repair, for acquisition of machinery and equipment, or for engagement of the services of a professional consultant, when said grants, subgrants, contracts, subcontracts or other agreements are funded in whole or at least 50% in part with funds made available under this Grant. The Grantor may require the Grantee to submit proof of compliance with said procedures, and failure to provide such proof to the satisfaction of the Grantor may result in termination of the Grant and repayment of all or a portion of the funds available under this Grant. Upon written request and for good cause shown, the Grantor may, at the Grantor's sole discretion, permit the Grantee to use an alternative procedure for solicitation of bids not inconsistent with law.

ARTICLE XI RECORDS

The Grantee, using accepted procedures, shall maintain at its principal office or place of business complete and accurate records and accounts including documents, correspondence and other evidence pertaining to costs and expenses of this Grant, and reflecting all matters and activities covered by this Grant.

At any time during normal business hours and as often as the Grantor deems necessary, the Grantee shall make available for inspection by the Grantor, the Commonwealth Auditor General, the Commonwealth Attorney General, or the Comptroller General of the United States, or their duly authorized representative, all of its records with respect to all matters covered by this Grant and will permit the Grantor to audit, examine and make copies of such records.

All required records shall be maintained by the Grantee for a period of five (5) years from the date of final audit or close out of this Grant by the Grantor, except in those cases where unresolved audit questions may require maintaining some or all records for a longer period. In such event, records shall be maintained until all pending matters are resolved.

ARTICLE XII PROGRESS REPORTS

The Grantee and its subcontractors shall furnish to the Grantor such progress reports in such form and quantity as the Grantor may from time to time require, including, but not limited to, status reports of the project, project account statements, certificates, approvals, proposed budgets, invoices, copies of all contracts executed and proposed, employment placements, follow-up reports and any and all other information relative to the Grant as may be requested. The Grantor or its representative shall have the right to make reasonable inspections to monitor the Grantee's performance under this Grant.

In the event that the Grantor determines that the Grantee or its subcontractor(s) has not furnished such reports as required by the Grantor, the Grantor, by giving written notice to the Grantee, may suspend payments under this Grant until such time as the required reports are submitted.

ARTICLE XIII ACKNOWLEDGMENT OF COMMONWEALTH ASSISTANCE

Any publication concerning a project financed by the Grantor will acknowledge Commonwealth financial assistance as follows:

"This Project was financed *[in part]* by a grant
from the Commonwealth of Pennsylvania, Commonwealth Financing Authority."

Signs acknowledging said Commonwealth financial assistance or administrative participation will be erected in the project area as soon as possible after the effective date of this Grant. Acknowledgment of Commonwealth financial assistance may be

combined with acknowledgment of other funding sources on project signs or in project publications.

ARTICLE XIV CONTRACT AUDIT AND CLOSEOUT REQUIREMENTS

This Grant is funded entirely with state funds. If the amount of the Grant is less than \$100,000.00 the Grantee is exempt from all audit requirements and should refer to the procedures issued by the Grantor for instructions on closeout of this Grant.

If the amount of the Grant is \$100,000.00 or more, a final audit of the entire Grant (Project Audit) is required by the Grantor within 120 days after the termination of project activities but no later than 120 days after the Grant termination date. This audit is the responsibility of the Grantee. Audits performed under the Single Audit Act of 1984 will not be accepted in lieu of a Project Audit required under this Grant.

The Project Audit must be performed by a certified public accountant. The Grantee is responsible for securing a qualified auditor, however, the Grantor reserves the right of selection or prior approval of the independent auditor to perform the audit. The Project Audit must be a financial audit conducted in accordance with the provisions of the U.S. General Accounting Office's Government Auditing Standards, current revision, and contain all the requirements detailed in the Grantor's "Procedures for Closeout of Grants." Unless otherwise authorized by the Grantor, the audit must include those funds received under this Grant as well as any required private match funds and encompass the entire Grant Activity Period. Other grant periods may also be specified at the discretion of the Grantor and the Grantor reserves the right to designate additional compliance factors for state financial assistance programs.

The Grantor will determine any overpayment or underpayment and any additional auditing deemed necessary and inform the Grantee of the settlement amount.

The Grantee agrees that if the final audit of the Grant as accepted by the Grantor or any duly authorized representative discloses that the full amount of the Grant was not required to complete the project or that funds were improperly used, then the funds unused, improperly used or expended but not required to complete the project, shall be repaid to the Grantor with interest unless otherwise directed in writing by the Grantor.

The Commonwealth reserves the right for state agencies or their authorized representative to perform additional audits of a financial or performance nature if deemed necessary. Any such additional audit work will rely on work already performed by the Grantee's auditor, and the costs for any additional work performed by the state or federal agencies will be borne by those agencies at no additional expense to the Grantee.

All terms and conditions of this Grant will remain in effect and be binding upon the parties thereto until a final audit is submitted and accepted by the Grantor.

None of the above provisions under this article exempts the Grantee from maintaining records of state financial assistance programs or providing upon request, access to such records to the Grantor or its authorized representatives.

The submission of a Single Audit in accordance with the Single Audit Act and related Circulars does not exempt the Grantee from complying with all Project Audit and any closeout procedures as may be issued by the Grantor, including, but not limited to, the submission of a financial statement of the project after termination of project activities.

For additional information on audit and general closeout requirements, the Grantee should refer to the procedures for closeout of contracts issued by the Grantor.

ARTICLE XV TEMPORARY SUSPENSION OF THE CONTRACT

Upon written notice and at any time during the period covered under this Grant, the Grantor may suspend payments and/or request suspension of all or any part of the Grant activities. The Grantor may give such notice to suspend for the following reasons:

- (a) Violations of laws and regulations, audit exceptions, misuse of funds, failure to submit required reports or when responsible public officials or private citizens make allegations of mismanagement, malfeasance or criminal activity.
- (b) When, in the opinion of the Grantor, the activities cannot be continued in such manner as to adequately fulfill the intent of statute or regulations due to act of God, strike or disaster.

During the term of suspension, the Grantor and Grantee shall retain and hold available any and all funds previously approved for application to the activities. During this period all such funds held by the Grantee shall be placed in an interest bearing program expenditures account. The Grantee may not expend any such funds during the period that the Grant is suspended except pursuant to order of a court of competent jurisdiction. The Grantee shall have the right to cure any default or other circumstance that is the basis for suspension of this Grant within a reasonable period of time.

This Grant is also conditioned upon complete performance by the Grantee of past agreements or contracts between the Grantor and the Grantee. Complete performance includes the Grantee's timely submission of the required final audit of past agreements or contracts to the Grantor. In the event that the Grantor determines that there has been incomplete performance of past agreements or contracts by the Grantee, the Grantor, by giving written notice to the Grantee, will suspend payments under this Grant until such time as the Grantee has fulfilled its obligations under past agreements or contracts to the satisfaction of the Grantor. When the Grantee has fulfilled its obligation under past agreements or contracts to the Grantor's satisfaction, the Grantor will resume payments under this Grant.

**ARTICLE XVI
TERMINATION OF THE CONTRACT**

The Grantor may terminate this Grant at any time for its convenience or for any other reason if it determines that termination is in its best interests, or is otherwise appropriate, by giving written notice to the Grantee of such termination and specifying the effective date thereof.. Termination pursuant to this section shall not be applicable to funds that the Grantee is legally or contractually obligated to pay as a result of project activities entered into prior to the date that it receives written notice of termination. All grant monies not legally or contractually obligated, plus accrued interest, shall be returned to the Grantor on or before the effective date of termination and all project records shall be made available to the Grantor.

**ARTICLE XVII
ENTIRE AGREEMENT**

This Grant, when signed by all the parties hereto, constitutes the full and complete understanding and agreement of the parties of its express terms as provided above.

No provision of this Grant shall be construed in any manner so as to create any rights in third parties not party to this Grant. It shall be interpreted solely to define specific duties and responsibilities between the Grantor and the Grantee and shall not provide any basis for claims of any other individual, partnership, corporation, organization or municipal entity.

**ARTICLE XVIII
AMENDMENTS AND MODIFICATIONS**

A properly executed Grant amendment is required to change the termination date of this Grant, to change the Grant Activity Period, to amend the grant amount or to make major changes in the approved program scope, objectives or methods. Such an amendment must be executed if there is a significant change in the activities to be conducted under this Grant. Other revisions to the Project Description or Budget may be made upon written approval from the Grantor after prior written request of the Grantee; provided, the request is made by the Grantee and approved by the Grantor prior to the termination or expiration of the Grant.

**ARTICLE XIX
SEVERABILITY**

Should any section or any part of any section of this Grant 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 Grant.

**ARTICLE XX
CONSTRUCTION**

This Grant shall be interpreted and construed in accordance with federal law, where applicable, and with the laws of the Commonwealth. All of the terms and conditions of this Grant are expressly intended to be construed as covenants as well as conditions. The titles of the sections and subsections herein 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.

**ARTICLE XXI
NONWAIVER OF REMEDIES**

No delay or failure on the part of the Grantor 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 Grantor hereunder are cumulative and concurrent and not exclusive of any rights or remedies which it might otherwise have. The Grantor shall have the right at all times to enforce the provisions of this Grant in accordance with the terms hereof notwithstanding any conduct or custom on the part of the Grantor in refraining from so doing at any time or times. The failure of the Grantor at any time or times to enforce its rights under such provisions, in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Grant or as having in any way or manner modified or waived the same.

IN WITNESS WHEREOF the parties hereunto have set their hands and seals on:

WITNESS:

WEST CORNWALL TOWNSHIP
MUNICIPAL AUTHORITY

For Authority signatures only



Commonwealth Financing Authority

Federal Identification Number ~~230570430~~
25-1640412

GRANTEE: Please sign & complete at "X's" only



X By [Signature] (Seal)

X Title Chairman

X Date 11/9/09

[Signature] 12/3/09
Executive Director Date

X By William Matthews

X Title Secretary

X Date 11/3/09

For Commonwealth signatures only



Approved as to Legality and Form

[Signature] 12/2/09
Authority Counsel Date

[Signature] 12/4/09
Office of Attorney General Date



Commonwealth Financing Authority
Harrisburg PA, 17120

July 23, 2009

AUG 03 2009

Clair A. Enck, Chairman
West Cornwall Township Municipal Authority
P.O. Box 1262
Quentin, PA 17083

Re: H2O PA – Water & Sewer
Grant: \$1,603,100
Mine Road Sanitary Sewer System

Dear Mr. Enck:

I am pleased to inform West Cornwall Township Municipal Authority (*the "Applicant"*) that the Commonwealth Financing Authority (*the "CFA"*), at its meeting held July 14, 2009, approved your application (*the "Application"*) for a grant in an amount up to ONE MILLION SIX HUNDRED THREE THOUSAND ONE HUNDRED DOLLARS (\$1,603,100) (*the "Grant"*). The Application has been approved based upon and in accordance with the terms and the representations made therein and in no event will the grant amount exceed 66% of the total project cost.

The grant will be used by the Applicant for the construction of an interceptor sewer, to include project construction, land acquisition, engineering, inspection and administration as part of the Mine Road Sanitary Sewer System (*the "Project"*) at the property located in West Cornwall Township, Lebanon County, Pennsylvania. The following conditions shall apply to the Grant award:

1. Receipt by the CFA from the Applicant of all executed contracts for all Project-related work to be performed to ensure that all such contracts contain the nondiscrimination/sexual harassment provision enclosed as Exhibit A, comport with the Pennsylvania Prevailing Wage Act, where applicable, and the competitive bidding requirements, where applicable. All contracts must also contain a certificate of insurance, and performance and payment bonds.
2. Receipt by the CFA of satisfactory evidence that all taxes and other monies due and owing to the Commonwealth of Pennsylvania are paid current, unless any of said taxes or other payments are being contested, in which case, the CFA may require that funds be escrowed to pay said taxes or other payments in the event of any adverse decision.
3. Compliance with H2O PA guidelines.

APPENDIX A & B

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Mr. Clair A. Enck

Page Two

July 23, 2009

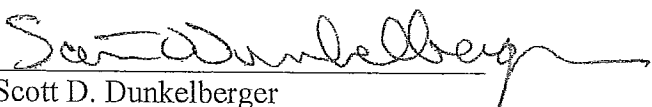
4. The Applicant must comply with all applicable federal, state and local laws and regulations dealing with bidding and procurement with regards to work that will be conducted with H2O PA funds.
5. The CFA reserves the right to approve or reject contracts between the applicant and consultants or contractors for work that will be paid for with H2O PA funds.
6. The Applicant may not make or authorize any substantial change in an approved project without first obtaining the consent of the CFA in writing.
7. The Applicant will maintain full and accurate records with respect to the project. The CFA shall have free access to such records and to inspect all project work, and other relative data and records. The Applicant must furnish upon request of the CFA all data, reports, contracts, documents, and other information relevant to the project as may be requested.
8. The Applicant will be required to submit a copy of any reports prepared with the assistance of Grant funds to the CFA before final payment of the Grant is made.
9. The Project must be completed prior to June 30, 2012.
10. This commitment is contingent upon the availability of funds for the H2O PA Program established under the Act of July 9, 2008 (P.L. __, No. 63) (32 P.S. §694.101 et. seq.), known as the H2O PA Act, and upon the balance of the financing being finalized as outlined in your application.

Exhibit B further describes the procedure to access the H2O PA grant funds after all of the necessary conditions are met.

This commitment will expire sixty (60) days from the date of this letter unless we have received your written acceptance by returning the original commitment letter fully executed. Our receipt of the signed commitment letter will constitute your authorization to incur costs for reimbursement.

If you should have any questions regarding this Grant, please contact the Center for Business Financing, Site Development Division at (717) 787-7120. The signed commitment letter should be returned to Brian Eckert, Director, Site Development Division, Center for Business Financing, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120.

Very truly yours,


Scott D. Dunkelberger
Executive Director

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Mr. Clair A. Enck
Page Three
July 23, 2009

The foregoing terms and conditions are hereby agreed to and accepted this 3RD day
of AUGUST, 2009.

ATTEST:

WEST CORNWALL TOWNSHIP
MUNICIPAL AUTHORITY

William R. Matthews
Secretary

[Signature]
By: CHM

(SEAL)

FEDERAL TAX IDENTIFICATION NUMBER

25-1640412

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EXHIBIT A

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Grant, Grant Applicant agrees as follows:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under a contract or any subcontract, the Grant Applicant, subcontractor, or any person acting on behalf of the Grant Applicant or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

2. Neither the Grant Applicant nor any contractor or subcontractor nor any person on their behalf 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 the contract on account of gender, race, creed, or color.

3. Grant Applicant, or any contractor or subcontractor shall establish and maintain 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. Grant Applicant or any contractor or subcontractor shall not discriminate by reason of gender, race, creed, or color against any contractor or subcontractor or supplier who is qualified to perform the work to which the contracts relates.

5. The Grant Applicant and each contractor and subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the Grant Applicant, any contractor or subcontractor does not possess documents or records reflecting the necessary information requested, the Grant Applicant, contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

6. The Grant Applicant shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every contract so that such provisions will be binding upon each contractor.

7. The Commonwealth Financing Authority may cancel or terminate the Grant, and all money payable pursuant to the Grant may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Commonwealth Financing Authority may proceed with debarment or suspension and may place the Grant Applicant in the Grantee Responsibility File.

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EXHIBIT B

H2O PA

INSTRUCTIONS FOR RECEIVING GRANT FUNDS

The grant award is contingent upon receipt and execution of documents as stated in this letter. Failure to accomplish this may result in the rescindment of your Grant, as required by applicable law. Listed below are the steps you must follow.

GRANT AGREEMENT

Once the Grant Agreement is mailed out, please sign the Grant Agreement and return it as instructed in the grant cover letter. The signature process requires approximately 45 days. One fully executed copy of the grant agreement will be returned to you with a copy of a payment request form for requesting payment.

Payment of Funds

Submit to the CFA all executed construction contracts, which must include the nondiscrimination/sexual harassment provision as set forth in the Grant Agreement and any other documents required in the Grant Award Letter.

Where applicable, comply with the Pennsylvania Prevailing Wage Act which requires that the specifications for every contract for public work to which a public body is a party contain a provision that the prevailing wage rate be paid to workmen employed in the performance of the contract.

The Applicant agrees to provide public liability, property damage and workmen's compensation insurance, against any and all claims arising out of the activities undertaken pursuant to the grant which are to any extent financed by the funds from this Grant. The Applicant agrees to maintain such insurance and to name the CFA as a named insured on such policies of insurance. Further, the Applicant agrees to notify the CFA of any change or cancellation of such insurance policies.

When you have submitted the required documents to this office, complete the payment request form following the sample provided and return it to this office. The payment request will take from 2-3 weeks to process.

APPENDIX A & B

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PAYMENT REQUESTS

The CFA requires the applicant to provide completed payment request forms and accompanying invoices verifying the costs incurred for the Project.

The Applicant may begin requesting reimbursement of any eligible costs after the receipt of the fully executed Grant Agreement.

The Applicant should continue to submit payment requests. Each subsequent payment request must be accompanied by invoices verifying costs incurred. Final invoices must be submitted following the completion of the Project for **costs incurred prior to June 30, 2012. Costs incurred after June 30, 2012, are not eligible for reimbursement.**

The following are the procedures for submitting payment requests:

Step One

Prepare payment request form for submission to the CFA. To determine eligible costs, refer to the H2O PA Guidelines.

Step Two

Attach copies of all supporting invoices for costs listed on the payment request form. Invoices must be marked "Paid" or "Incurred."

NOTE: Fees for securing other financing, as well as interest charges on borrowed funds, are not eligible for reimbursement.

FINAL INSTRUCTIONS

All payment requests and invoices must be submitted no later than August 1, 2012.

Should you have any questions, do not hesitate to contact:

Pennsylvania Department of Community
and Economic Development
Center for Business Financing
400 North Street – 4th Floor
Harrisburg, Pennsylvania 17120
(717) 787-7120

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