

**SUBSIDY AGREEMENT**

Dated as of March 23, 2022

Between

**LOWER PAXTON TOWNSHIP AUTHORITY**

and

**TOWNSHIP OF LOWER PAXTON,  
Dauphin County, Pennsylvania,**

With Respect To The

General Obligation Bonds, Series 2022

Dated as of March 23, 2022

of

The Township of Lower Paxton  
Dauphin County, Pennsylvania

## ***SUBSIDY AGREEMENT***

THIS SUBSIDY AGREEMENT, dated as of March 23, 2022, between LOWER PAXTON TOWNSHIP AUTHORITY, a municipality authority existing under the Authorities Act of the Commonwealth, and TOWNSHIP OF LOWER PAXTON, Dauphin County, Pennsylvania, a municipality (Township of the Second Class) of the Commonwealth.

WITNESSETH:

WHEREAS, The Authority, with the approval and consent of the Township, heretofore acquired and constructed the Sewer System; and

WHEREAS, The Township heretofore undertook the design, acquisition, construction and implementation of various capital improvements with respect to the Sewer System to, inter alia, eliminate hydraulic overload in the Beaver Creek basin, the Paxton Creek basin and the Spring Creek drainage basin by the replacement of portions of the collection and conveyance system (the “Sewer Remediation Project”) to comply with a Second Consent Decree with the Commonwealth of Pennsylvania, Department of Environmental Protection, approved by the Pennsylvania Commonwealth Court on September 13, 2013, as (collectively the “Consent Decree”); and

WHEREAS, The Township has heretofore, issued its General Obligation Bonds, Series of 2010, dated as of May 14, 2010, to the Pennsylvania Infrastructure Improvement Authority in the aggregate principal amount of \$10,901,016 ( the “Series of 2010 Bonds”) issued in part for the for the purpose of implementing the Sewer Remediation Project; and

WHEREAS, The Township has determined that it in the best interests of the Township to refund the Series of 2010 Bonds, in order to reduce debt service over the life of the Series of 2010 Bonds ( the “Refunding Project”) ; and

WHEREAS, The Board of Supervisors of the Township contemplates the authorization, sale, issuance and delivery of its General Obligation Bonds, Series of 2022 ( the “Series of 2022 Bonds”) with the proceeds to be applied for the purposes of providing funds for and toward the Refunding Project and to pay the costs of issuance of the Series of 2022 Bonds; and

WHEREAS, The Series of 2022 Bonds are to be issued under and pursuant to Ordinance No. 22-02 duly enacted on February 1, 2022 (the “Ordinance”); and

WHEREAS, The Board of Supervisors of the Township has appointed the 2022 Paying Agent as paying agent and sinking fund depository with respect to the 2022 Bonds; and

WHEREAS, The Authority, as an inducement to the Township to undertake the Project and to authorize and issue the Series 2022 Bonds, desires to enter into this Subsidy Agreement with respect to a portion of the Series 2022 Bonds, as permitted by the Debt Act; and

WHEREAS, The parties hereto desire to set forth the terms and conditions under and pursuant to which portions of the Debt Service related to a portion of the Series 2022 Bonds shall be paid by the Township from available Authority funds, to the extent and in the manner provided herein and related matters.

NOW, THEREFORE, The parties hereto, intending to be legally bound hereby, covenant and agree as follows:

## ARTICLE I

### *Definitions*

**SECTION 1.01.** Terms and phrases defined in this Section 1.01, for all purposes of this Subsidy Agreement, as herein defined, shall have the meanings herein specified, unless the context clearly otherwise requires:

*“Administrative Expenses”* shall mean: compensation and expenses of officers and members of the Board of the Authority; legal, printing, advertising, engineering, architectural and auditing fees and expenses; fees and expenses of any trustee or paying agent of the Authority and any authorized depository of the Authority; and other items of general administrative expense incurred by the Authority, including any amounts required to be rebated or reimbursed to the United States pursuant to any statute or regulatory requirement, all of the foregoing being subject to proper allocation to various projects of the Authority, if applicable.

*“Authorities Act”* shall mean the Act of the General Assembly of the Commonwealth, known as the “Municipality Authorities Act”, 53 Pa. C.S. Ch. 56, as amended and supplemented, from time to time.

*“Authority”* shall mean Lower Paxton Township Authority, a municipality authority of the Commonwealth organized by the Board of Supervisors of the Township.

*“Board”* shall mean the governing body of the Authority.

*“Commonwealth”* shall mean the Commonwealth of Pennsylvania.

*“Consulting Engineers”* shall mean an individual, partnership or corporation appointed by the Board of the Authority, qualified to pass upon engineering questions relating to sewage collection, treatment and disposal systems and having a favorable reputation for skill and experience in inspecting construction and operation of sewage collection, treatment and disposal systems. If such person shall be an individual, he shall be a professional engineer duly registered under laws of the Commonwealth. If such person shall be a partnership or corporation, it shall have a partner, officer, employee or member who is a professional engineer duly registered under laws of the Commonwealth.

*“Consulting Engineers’ Certificate”* shall mean a certificate executed by the Consulting Engineers.

*“Debt Act”* shall mean the Act of the General Assembly of the Commonwealth known as the “Local Government Unit Debt Act”, 53 Pa.C.S. Chs. 80-82, as amended and supplemented, from time to time.

*“Debt Service”* shall mean, with respect to any Fiscal Year, the sum of amounts required to be set aside in such Fiscal Year for payment of interest on and principal of the Series 2022 Bonds and applicable amounts required to be deposited in such Fiscal Year to the credit of the “Mandatory Sinking Fund” established for the Series of 2022 Bonds (such *“Debt Service”* being more particularly described in Schedule A attached hereto and hereby made a part hereof); Provided, however, that *“Debt Service”*, with respect to any Fiscal Year, for the Series 2022 Bonds shall be determined after projecting operation of the Mandatory Sinking Fund to

retirement of such Series of 2022 Bonds to the extent that the same shall be required to be retired and giving effect to reduction in interest payments to be made with respect to such Series of 2022 Bonds by reason of such retirement.

***“Fiscal Year”*** shall mean the fiscal year of the Township as provided by laws of the Commonwealth.

***“Officers”*** shall mean the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority.

***“Officers’ Certificate”*** shall mean a certificate executed by the Officers of the Authority.

***“Operating Expenses”*** shall mean all expenses required in operating and maintaining the Sewer System (excluding depreciation), including, in each case, without intending to limit the generality of the foregoing:

A. Expenses of operation, maintenance, repair, alteration, insurance and inspection and any sums payable periodically to any Person pursuant to any agreement relative to collection, transportation, treatment or disposal of Sewage collected in and through the Sewer System;

B. Expenses of managerial, supervisory, administrative, engineering, architectural, legal and auditing services and premiums, fees and expenses associated with any performance, maintenance and other type bonds or similar instruments required by any governmental authority related to operation or maintenance of any part of the Sewer System;

C. Sums payable to any Person, which sums, under sound accounting and/or engineering practice, constitute expenses of operation and maintenance; and

D. All taxes, assessments and charges, including, without intending to limit the generality of the foregoing, income, profits, property, franchise and excise taxes.

***“Ordinance”*** shall mean an Ordinance of the Township, duly enacted on February 1, 2022 authorizing issuance and delivery of the Series 2022 Bonds.

***“2022 Paying Agent”*** shall mean Manufacturers and Traders Trust Company, a New York state chartered bank with trust powers, having a corporate trust office in the City of Harrisburg, Pennsylvania.

***“Receipts and Revenues from the Sewer System”*** shall mean:

A. All sewer rates and other charges collected by the Authority from owners of improved property which shall be connected to the Sewer System for use thereof and for services rendered by the Authority in connection therewith; and

B. Receipts from Tapping Fees; and

C. All other receipts, revenues and money derived by the Authority or in behalf of the Authority in any manner, from any source, from or in connection with operation of the Sewer System, excepting, however: (1) money derived from tapping, connection, customer facilities or like fees charged by the Authority in those cases and to the extent that the Authority agrees to refund such tapping,

connection, customer facilities or like fees or any part thereof to any person who has paid for the construction of any part of the Sewer System which was constructed by the Authority or constructed by such person under the supervision of the Authority as permitted by law; and (2) Receipts from Assessments, to the extent that such shall be necessary to pay costs and expenses, including legal fees, engineering fees and administrative costs and expenses, of charging and collecting assessments, filing municipal claims or liens therefore and collecting such claims or liens.

***“Receipts from Assessments”*** shall mean all money, including assessments, installments of assessments and interest, penalties and costs, if any, derived by the Authority or in behalf of the Authority from the charging by the Authority, in whole or in part, of the cost of construction and acquisition of certain sewer mains constituting part of the Sewer System against properties benefitted, improved or accommodated by such construction and acquisition.

Money derived by the Authority or in behalf of the Authority under agreements with owners of property whereby such owners shall be obligated to pay money to the Authority in lieu of assessments or which are in the nature of assessments also shall constitute ***“Receipts from Assessments”***.

***“Receipts from Tapping Fees”*** shall mean all money of the Authority derived from the charge of tapping, connection, customer facilities or like fees against owners of property who connect such property with any sewer main constructed or acquired by the Authority and constituting a part of the Sewer System.



Money in the nature of tapping, connection, customer facilities or like fees derived by the Authority under agreements with owners of property who connect such property with the Sewer System, whereby such owners shall be obligated to pay such moneys to the Authority also shall constitute ***“Receipts from Tapping Fees”***.

Notwithstanding the foregoing definition ***“Receipts from Tapping Fees”*** shall not include money derived from tapping, connection, customer facilities or like fees charged by the Authority in those cases and to the extent that the Authority agrees to refund such tapping, connection, customer facilities or like fees or any part thereof to any person who has paid for the construction of any part of the Sewer System which was constructed by the Authority or constructed by such person under the supervision of the Authority as permitted by law.

***“Revenue Fund”*** shall mean the Revenue Fund created pursuant to Article IV hereof.

***“Sewer System”*** shall mean the existing sanitary sewage collection, treatment and disposal system owned and operated by the Authority, including all related facilities heretofore acquired and/or constructed or hereafter acquired and/or constructed by the Authority, together with all appurtenant facilities and properties which the Authority has acquired or hereafter shall acquire in connection therewith, including all property, real, personal and mixed, rights, powers, licenses, easements, rights of way, whatsoever nature used or useful in connection with such facilities, and together with all additions, extensions, alterations and improvements which may be made or acquired, from time to time. As of any particular time, the ***“Sewer System”*** means the aforesaid facilities and all property, real, personal, and mixed, rights, powers, licenses, easements, rights of way, privileges, franchises and any and all other property or interests in property of whatsoever nature used or

useful in connection with such facilities, and capital additions (including property in the nature of capital additions acquired or constructed from funds wholly or partially contributed or advanced by users, developers or other persons) acquired, owned, made or constructed by or for the Authority; and the ***“Sewer System”*** without intending to limit the generality of the foregoing, as of any particular time, shall include all buildings, sewage collection, transportation, treatment and disposal systems and facilities, sewer plants and systems, sewage treatment and disposal facilities, sludge and septage treatment and disposal facilities, basins, machinery, mains, conduits, pipes, pipe lines, interceptor lines, trunk lines, service lines, tanks, shops, pumping stations, ejector stations, force mains, fixtures, engines, boilers, pumps, meters and other equipment, all personal property and all franchises, land rights of way, privileges, easements, licenses, rights and any other interests in real property, all of the foregoing being owned by the Authority and used or useful in connection with the transporting, treating, pumping and/or disposing of sanitary sewage and wastewater.

***“Sinking Fund”*** shall mean the special funds of the Township established under the Ordinance for the benefit of the Series of 2022 Bonds.

***“Subsidy Agreement”*** shall mean this document and all modifications, alterations, amendments and supplements hereto made and delivered in accordance with provisions hereof, which phrase sometimes is referred to in this document by use of such words as “hereto”, “hereby”, “herein”, “hereof”, or “hereunder”.

## ARTICLE II

### ***Covenants and Agreements of the Township***

**SECTION 2.01.** The Township certifies that certain portions of the proceeds of the Series 2022 Bonds shall be made available to the Authority for application for and toward payment of costs and expenses of the Project.

**SECTION 2.02.** The Township covenants that it has enacted an ordinance requiring owners of certain property located within the boundaries of the Township to make connection of such property with the Sewer System and providing for the enforcement of such ordinance as maybe permitted by law. The Township also covenants and agrees to keep such ordinance or a subsequent similar ordinance or ordinances requiring such connections in full force and effect continuously during the term hereof and so long as the Authority owns and operates the Sewer System and to enforce the same as may be permitted by applicable law.

**SECTION 2.03.** The Township confirms and grants to the Authority, its successors and assigns, to the extent necessary or desirable, all easements, rights of way and other rights and privileges necessary and desirable in, along, over and under streets, roads, lanes, courts, cul-de-sacs, alleys, public ways, public squares and other properties of the Township, together with free ingress, egress and regress therein and thereto, along with other persons having interests or rights therein, for use in connection with constructing, replacing, repairing, altering and maintaining the Sewer System; Subject, however, to all applicable rules and regulations from time to time established by resolution or ordinance of the Township with respect thereto.

### **ARTICLE III**

#### ***Representations and Warranties of the Township***

**SECTION 3.01.** The Township represents and warrants that:

A. The Township is a municipality (Township of the Second Class) of the Commonwealth;

B. The Township is possessed of all requisite power and authority under laws of the Commonwealth to enter into and to perform all covenants and agreements contained in this Subsidy Agreement;

C. The Township duly has been authorized to enter into this Subsidy Agreement, pursuant to proper and required official action of its Board of Supervisors, in accordance with laws of the Commonwealth;

D. The Township, in entering into this Subsidy Agreement, is acting in the public interest in connection with preservation and protection of the general health and welfare of inhabitants of the Township and of the Commonwealth;

E. The Township has duly enacted the 2022 Ordinance and has authorized and issued the Series 2022 Bonds.

#### **ARTICLE IV**

##### ***Revenue Fund; Application of Funds***

**SECTION 4.01.** The Authority covenants to deposit in the “Revenue Fund”, which Fund is hereby created, all Receipts and Revenues from the Sewer System. The Revenue Fund shall be maintained with an incorporated bank or trust

company doing business in the Commonwealth and may be invested by the Authority as provided by applicable laws of the Commonwealth.

Moneys from time to time in the Revenue Fund shall be applied for the purposes set forth in Article V hereof and for any other legally permissible purposes of the Authority, including, without limiting the generality of the foregoing, transferring any available surplus balance in the Revenue Fund to other funds established by the Authority for legally permissible purposes of the Authority; and, pending such application, such moneys shall be held, in trust, for purposes of this Agreement.

## ARTICLE V

### *Payment of Sums by the Authority*

**SECTION 5.01.** The Authority hereby unconditionally agrees to pay to the Township or its assigns, but only from the Receipts and Revenues from the Sewer System and other legally available funds and only after payment or proper provision for payment of Administrative Expenses and Operating Expenses, the following sums at the following times (or less frequently if paid in advance, subject to Section 5.02 hereof), in immediately available funds:

A. Commencing on or before March 15, 2021, and on or before March 15 of each year thereafter, the amount which, together with other available funds, is required to pay the Debt Service with respect to the Series 2022 Bonds, as provided in Schedule A hereto, on the next succeeding April 1; and

B. Commencing on or before September 15, 2021, and on or before September 15 of each year thereafter, the amount which, together with other available funds, is required to pay the Debt Service with respect to the Series 2022 Bonds, as provided in Schedule A hereto, on the next succeeding October 1; and

C. Additionally, the Authority shall also pay to the Township or its assigns, when and as required, all 2022 Paying Agent's fees and expenses reasonably required and fairly attributable to the portion of the Series 2022 Bonds attributable to the Project, as applicable and appropriate.

**SECTION 5.02.** The Authority may make payments in advance from time to time, on account of the amounts payable to the Township or its assigns hereunder, in installments, all of which amounts shall be credited against the payments at the time next due. All such payments shall be made directly to the 2022 Paying Agent, as applicable and appropriate, unless otherwise directed by the Township, and shall be deposited by the 2022 Paying Agent, as applicable and appropriate, in the Sinking Fund created under the Ordinance, as applicable and appropriate, in the respective amounts set forth in Schedule A hereto. The Authority may also prepay all or any portion of the amounts payable hereunder at the times, to the extent and upon the same conditions that the Township has the right under the Ordinance to redeem the Series 2022 Bonds and such amounts shall promptly be applied by the Township toward optional redemption of the Series 2022 Bonds.

**SECTION 5.03.** The obligations of the Authority to make the payments hereunder and to perform and observe the other agreements on its part contained herein shall be specifically enforceable and shall be absolute and

unconditional, subject only to the limitations contained herein. During the term of this Subsidy Agreement, the Authority: (a) will perform and observe all of its covenants, agreements and obligations contained in this Subsidy Agreement; (b) will perform and observe all of its covenants, agreements and obligations contained in any agreement relating to the Sewer System; and (c) will pay without abatement, diminution or deduction (whether for taxes or otherwise) all amounts required to be paid hereunder, regardless of any cause or circumstances whatsoever including, without limiting the generality of the foregoing, any defense, set-off, recoupment or counterclaim which the Authority may have or assert against the Township, the 2022 Paying Agent or any other person, any failure of the Township to perform any covenant or agreement contained herein or in any other agreement between the Authority and the Township, any indebtedness or liability at any time owing to the Authority by the Township, any commercial frustration of purpose, any change in the tax or other laws of the United States or of the Commonwealth or any political subdivision of either or any failure of the Township to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Subsidy Agreement, the Ordinance, the Series of C 2022 Bonds or the Sewer System. Amounts required to be paid by the Authority hereunder shall be received by the Township as net sums and the Authority covenants to pay all charges against or which might diminish such net sums.

Nothing contained in this Section 5.03 shall be construed to release the Township from the performance of any of the agreements on its part herein contained; in the event the Township should fail to perform any such agreement on its part, the Authority may deem it necessary to compel performance so long as such action does not affect the performance of the obligations of the Authority contained herein. The Authority may, however, at its own cost and expense and in its own name or in the name of the Township, prosecute or defend any action or proceeding or take any other action involving third persons which the Authority deems

reasonably necessary in order to secure or protect its rights hereunder, and in such event the Township hereby agrees to cooperate fully with the Authority and to take all actions necessary to effect the substitution of the Authority for the Township in any such action or proceeding if the Authority shall so request.

The Authority hereby waives, to the extent permitted by applicable law, any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate or cancel or to limit its liability under this Subsidy Agreement, except in accordance with the express terms hereof.

**SECTION 5.04.** It is the intent and purpose of this Subsidy Agreement that (1) the Authority shall be obligated to subsidize the full Debt Service on the Series 2022 Bonds, as specified on Schedule A hereto, (2) and that the Township shall be required to pay over to the 2022 Paying Agent, as applicable and appropriate, only that portion of the Debt Service that cannot be paid from the Receipts and Revenues from the Sewer System or from other money of the Authority that shall be available for the purpose. Therefore, the parties hereto agree that the Township shall be entitled to credits against the Debt Service, which credits shall be equal to the total of: (1) the amount that from time to time shall be paid by the Authority to the 2022 Paying Agent in each Fiscal Year to be available for applicable Debt Service in accordance with terms of the Ordinance; and (2) any other amount that shall be available for Debt Service in accordance with the terms of the Ordinance, respectively. Accordingly, on or before April 1 and on or before October 1, respectively, of each Fiscal Year, the 2022 Paying Agent, after having received from the Authority such money as shall be available for transfer to the 2022 Sinking Fund, as applicable and appropriate, each, as applicable and appropriate, shall notify the Township of any deficiency in the funds that shall be available for transfer to the 2022 Sinking Fund, for Debt Service, and the Township



forthwith shall pay over to the 2022 Paying Agent, any amount or amounts required at the time to eliminate such deficiency for Debt Service for such Fiscal Year that would occur on the following April 1 or October 1, as appropriate. If in any Fiscal Year the total Debt Service on the Series of 2022 Bonds shall be in excess of the credits to which the Township is entitled under this Section 5.04 and the Township has paid over to the 2022 Paying Agent, in its capacity as paying agent for the Series of 2022 Bonds, such amount or amounts as at that time shall be required to discharge, in full, the obligations of the Township under the Ordinance, the Authority agrees to cause to be repaid to the Township the amount or amounts actually advanced to 2022 Paying Agent, in its capacity as paying agent for the Series of 2022 Bonds, from any money that shall be available for that purpose.

**SECTION 5.05.** In order to facilitate the budgeting of anticipated credits by the Township as provided in Section 5.04, the Authority agrees to furnish to the Township, on or before September 15 of each Fiscal Year, a Consulting Engineers' Certificate with respect to the money anticipated to be available for payment by the Authority to the applicable Paying Agent on or before April 1 and on or before October 1 of the following Fiscal Year for deposit in the 2022 Sinking Fund and to be available for Debt Service.

**SECTION 5.06.** The obligations of the Authority under this Subsidy Agreement shall be absolute and unconditional, subject to the limitations contained herein, irrespective of any other agreement or instrument to which the Authority shall be a party, and shall remain in full force and effect until the entire principal of and interest on the Series 2022 Bonds shall have been paid or shall have been provided for to the satisfaction of the 2022 Paying Agent, as applicable and appropriate, and shall not be affected, modified, diminished or impaired upon the happening, from time to time, of any event, including, without limitation, any of the

following, whether or not with notice to or consent of the Township, unless such notice or consent is required hereunder:

A. The failure of the Authority to perform any obligation contained in any other agreement, for any reason whatsoever, including, without limiting the generality of the foregoing, insufficiency of funds, negligence or willful misconduct on the part of the Authority or its agents or independent contractors, legal action of any nature that shall delay construction relating to, or operation of, the Sewer System, labor disputes, war, insurrection, natural catastrophe or laws, rules or regulations of any body, governmental or otherwise, having proper jurisdiction;

B. The failure to give notice to the Authority of the occurrence of a default under terms and provisions of this Subsidy Agreement or the Ordinance;

C. The inaccuracy of the estimate of credits or anticipated credits, as appropriate, required under Section 5.05;

D. The validity, enforceability or termination of the Ordinance;

E. The neglect or failure of the Township or the 2022 Paying Agent to exercise or to preserve any rights or rights of action against any party, person or property;

F. The failure of the Township or the 2022 Paying Agent to have enforced, on prior appropriate occasions, any right or right of action against any party, person or property;

G. The compromise, settlement, release, alteration, indulgence or any other change or modification of any obligation or liability of the Township under the Ordinance, regardless of the nature of such obligation or liability and regardless of the extent to which such obligation or liability shall have been modified, compromised or otherwise changed;

H. The waiver of the payment, performance or observance by the Authority, the 2022 Paying Agent or the Township of any obligations, covenants or agreements contained in the Ordinance or in this Subsidy Agreement;

I. The extension of the time for payment of the principal of any Series 2022 Bonds or any part thereof owing or payable under this Subsidy Agreement or of the time for performance of any other obligations, covenants or agreements under or arising out of the Ordinance or this Subsidy Agreement;

J. The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Ordinance;

K. The taking of, or the omission to take, any action referred to in the Ordinance or in this Subsidy Agreement;

L. Any failure, omission or delay on the part of the Township or the 2022 Paying Agent to enforce, to assert or to exercise any right, power or remedy conferred upon or vested in the Township or the 2022 Paying Agent hereunder or under the Ordinance, or to enforce, to

assert or to exercise any other right or rights on the part of the Township, the 2022 Paying Agent or any of the holders, at any time or from time to time, of the Series 2022 Bonds;

M. The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustments or other similar proceedings affecting the Township or the Authority or any of the assets of either of them, or any allegation or contest of the validity of this Subsidy Agreement in any such proceeding;

N. The release or discharge of the Authority, to the extent permitted by law, from performance or observance of any obligation, covenant or agreement contained in this Subsidy Agreement, by operation of law;

O. The default or failure of the Authority fully to perform any of its obligations set forth in this Subsidy Agreement; or

P. The damage to or partial or total destruction of the Sewer System or the taking of title to or the temporary or permanent use of the Sewer System by any lawful body or authority.

**SECTION 5.07.** Obligations of the Authority hereunder shall not be affected by any bankruptcy, arrangement for the benefit of creditors, reorganization or other similar proceedings; and the Authority specifically waives any rights or benefits that could accrue to it by reason of any such proceeding and agrees that the

same shall not affect its liability or responsibility hereunder, regardless of the effect that such proceedings may have with respect to the obligations of the Township.

**SECTION 5.08.** Obligations of the Authority hereunder shall not be subject to any setoff, counterclaim or defense resulting from any breach or any alleged breach by the Township or by the 2022 Paying Agent of any obligation to the Authority, whether said obligation arises under this Subsidy Agreement or from any other transaction between the Authority and the Township or the 2022 Paying Agent, regardless of the nature of such transaction.

## **ARTICLE VI**

### ***Limitation of Obligations***

**SECTION 6.01.** Anything to the contrary herein notwithstanding, there shall not be any obligation on the part of the Authority to make any payment except from the Receipts and Revenues from the Sewer System deposited into the Revenue Fund and other legally available funds of the Authority and this Subsidy Agreement shall not constitute a general obligation of the Authority, but shall, pursuant to the Authorities Act, constitute a special obligation of the Authority, payable solely from the Receipts and Revenues from the Sewer System and other legally available funds of the Authority.

## ARTICLE VII

### *Rate Covenant; Budgeting of Debt Service*

**SECTION 7.01.** The Authority covenants that it has adopted resolutions fixing and charging sewer rentals, rates and other charges upon owners of improved property that shall be connected to the Sewer System for use thereof and for services rendered by the Authority in connection therewith. The Authority also covenants to keep such resolutions or subsequent similar resolutions in full force and effect continuously during the time any portion of the Series of 2022 Bonds attributable to the Project shall remain outstanding.

The Authority covenants that such sewer rentals, rates and other charges imposed pursuant to the resolutions in effect at the time shall be at least such that the estimated amounts to be received by the Authority therefrom, together with other estimated Receipts and Revenues from the Sewer System to be received by the Authority, and together with money otherwise estimated to be available under provisions hereof for the purposes, will be sufficient:

A. To pay the reasonable Administrative Expenses of the Authority in connection with the Sewer System in each Fiscal Year, to the extent that such Administrative Expenses otherwise shall not be provided for;

B. To pay the reasonable Operating Expenses of the Authority, in each Fiscal Year, to the extent that such Operating Expenses otherwise shall not be provided for;

C. To meet its obligations and satisfy the requirements of the rate covenant under any indenture or loan agreement; and

D. To provide an amount, in each Fiscal Year, so long as any portion of the Series 2022 Bonds attributable to the Project shall remain outstanding, equal to at least 110% of the Debt Service, in such Fiscal Year, on the then outstanding portion of the Series of 2022 Bonds attributable to the Project, as set forth on Schedule A hereto, to the extent that such Debt Service otherwise shall not be provided for;

Provided, however, that in determining, for any Fiscal Year, whether or not the Authority is or will be, as applicable, in compliance with the foregoing covenants, the requirements for such Fiscal Year shall be decreased by the aggregate amount or amounts, if any, of Receipts and Revenues from the Sewer System received by the Authority in any prior Fiscal Year or Fiscal Years that was or were in excess of the aggregate amount or amounts required to be collected in such prior Fiscal Year or Fiscal Years pursuant to the foregoing covenant, but only to the extent that such excess Receipts and Revenues from the Sewer System at such time shall be available in the Revenue Fund for the purposes set forth above.

**SECTION 7.02.** The Authority covenants to keep on file with the Township and the 2022 Paying Agent, at all times, certified resolutions fixing and charging sewer rentals, rates and other charges upon owners of improved property that shall be connected to the Sewer System for use thereof and for services rendered by the Authority in connection therewith, together, if applicable, with a certified resolution or certified resolutions establishing and adopting rules and regulations, including alterations, amendments and additions thereto and modifications and revisions thereof, as adopted, from time to time, by the Authority, relating to use of the Sewer System, if a separate resolution or resolutions is or are adopted for such purpose, together with an Officers' Certificate, to be filed with the Township on or before December 1 of each Fiscal Year, beginning on or before December 1, 2022, stating that, in the opinion of the Officers, amounts estimated to

be received by the Authority from collection of such sewer rentals, rates and other charges, together with other Receipts and Revenues from the Sewer System estimated to be received by the Authority, and together with money otherwise estimated to be available for the purposes, are sufficient to meet debt service requirement on the Series 2022 Bonds attributable to the Authority.

The Authority covenants to enforce, at all times, the then effective certified resolutions fixing and charging sewer rentals, rates and other charges, duly and promptly to collect such then effective sewer rentals, rates and other charges, and, if such then effective sewer rentals, rates and other charges are not paid, to take all reasonable and proper steps to enforce such payments, including the filing of proper municipal claims or liens to the extent and in the manner provided by law, from time to time.

The Authority covenants, from time to time, as often as it shall appear necessary, and, in any event, if at any time the Officers shall not file an Officers' Certificate required to be filed under this Section 7.02 because of the inadequacy of Receipts and Revenues from the Sewer System estimated to be received by the Authority, as stated by the Consulting Engineers in writing, to immediately revise its sewer rentals, rates and other charges so as to meet requirements of Section 7.01 and to eliminate any deficiencies of the prior Fiscal Year or Fiscal Years and to file a certified resolution fixing and charging such revised sewer rentals, rates and other charges with the Township and to cause the Consulting Engineers to file with the Township an Officers' Certificate as required by this Section 7.02.

## **ARTICLE VIII**

### ***Additional Covenants and Agreements of the Authority***



**SECTION 8.01.** The Authority covenants and agrees as long as the Series 2022 Bonds shall remain outstanding: (a) to maintain the Sewer System in good repair and operating condition; (b) to continuously operate the same; (c) to make all necessary and proper repairs, renewals, replacements and improvements to the Sewer System in order to maintain adequate service; (d) to maintain adequate insurance against fire and such other risks as usually are included in extended coverage endorsements and also against such other risks as shall be deemed proper by the Authority, upon physical structures constituting part of the Sewer System upon which such insurance, as a trade practice in operation of sewer systems, normally is carried; (e) to maintain such public liability insurance, property damage insurance and worker's compensation insurance with respect to the Sewer System and the operation thereof as shall not be unsatisfactory of the Township; (f) to furnish the Township with such reports, statements or audits as the Township reasonably may require with respect to the Sewer System; (g) to continuously maintain all of its agreements, covenants and obligations under any agreement relating to the Sewer System with respect to the operation, maintenance and management of the Sewer System or otherwise; and (h) to maintain its corporate existence and its right to own and operate the Sewer System.

**SECTION 8.02.** The Authority covenants to furnish to the Township each annual statement relating to the Sewer System, prepared by its certified public accountant and to promptly furnish to the Township its annual budget upon adoption.

**SECTION 8.03.** The Authority covenants that it shall not take any action or suffer or permit any action to be taken or any condition to exist (inclusive of the application, use or investment of the "proceeds" of the Series of 2022 Bonds) that causes or may cause the interest payable on the Series of 2022 Bonds to be subject to Federal income taxes, or that will cause the Township to be in violation of

the Township's covenants under the Ordinance, or which, if the Township were taking such action, would cause the Township to be in violation of the Township's covenants under the Ordinance; and the Authority covenants to take all action, to do all things and to cause all things to be done that may be necessary so that the interest payable on the Series 2022 Bonds shall be and shall continue to be exempt from Federal income taxes.

## ARTICLE IX

### *Representations and Warranties of the Authority*

**SECTION 9.01.** The Authority makes the following representations and warranties, upon which the Township may rely, and upon which the Authority understands the Township is relying in entering into this Subsidy Agreement, and the Authority covenants and agrees that such representations and warranties shall be deemed to be continuing during the entire life of this Subsidy Agreement:

A. The Authority duly is existing under the Authorities Act and is authorized and empowered to acquire, construct, own, hold and operate the Sewer System;

B. The Authority duly is authorized and empowered to enter into this Subsidy Agreement and to incur the obligations provided for in this Subsidy Agreement;

C. The Authority, by due and legal action of its Board, has authorized execution and delivery of this Subsidy Agreement;

D. There is no litigation, pending or threatened, against the Authority, the outcome of which might affect the ability of the

Authority to own or operate the Sewer System or which otherwise might affect the validity of this Subsidy Agreement;

E. There is no statute, rule, regulation, contract or agreement which is binding upon the Authority, which will be contravened by execution and delivery hereof or by performance of any term, condition, agreement or undertaking of the Authority provided for herein; and

F. The Authority has acquired, or the Authority has legal power and authority to acquire and will acquire, at the appropriate time, good and adequate title in and to all land and interests in land which shall be required for operation and use of the Sewer System.

## **ARTICLE X**

### ***Miscellaneous***

**SECTION 10.01.** No amendment, change, modification, alteration or termination of the Ordinance that would in any way increase the obligations of the Authority under this Subsidy Agreement shall be effective without obtaining the prior written consent of the Authority.

**SECTION 10.02.** The Authority covenants with the Township that it duly and punctually will perform every covenant and agreement undertaken by the Authority under this Subsidy Agreement.

**SECTION 10.03.** In the event of default by the Authority in the punctual discharge of its obligations hereunder, the Township shall be entitled to exercise such remedies as are provided under the Debt Act, together with any other remedies that otherwise may be provided at law or in equity, including specific performance, or by other statutes, including but not limited to the remedies provided by Section 18 of the Authorities Act.

**SECTION 10.04.** No remedy conferred upon or reserved to the Township hereunder is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Subsidy Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Township to exercise any remedy reserved in this Subsidy Agreement, it shall not be necessary to give any notice other than such notice as herein expressly may be required. In the event any provision contained in this Subsidy Agreement shall be breached by any party and thereafter duly shall be waived by the other party so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification hereof shall be established by conduct, custom or dealing, but shall be established solely by an instrument, in writing, duly executed by the appropriate parties.

**SECTION 10.05.** This Subsidy Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof; and this Subsidy Agreement may be executed. simultaneously, in multiple counterparts,

each of which counterparts shall be deemed to be an original, but all of which counterparts, together, shall constitute but one and the same instrument.

**SECTION 10.06.** The Authority expressly waives notice, in writing or otherwise, from the Paying Agent of the assignment of sums payable hereunder.

**SECTION 10.07.** This Subsidy Agreement is entered into by the Authority for the benefit of the Township.

**SECTION 10.08.** Terms of this Subsidy Agreement may be enforced as to any one or more breaches, either separately or cumulatively.

**SECTION 10.09.** Provisions of this Subsidy Agreement shall be severable, if any one or more of the phrases, sentences, clauses, Articles, Sections or parts contained in this Subsidy Agreement shall be deemed or declared invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of remaining portions of this Subsidy Agreement or any remaining parts thereof.

**SECTION 10.10.** This Subsidy Agreement may be amended or supplemented, from time to time, by a written document duly signed by the parties hereto; Provided, however, that no amendment or supplement shall be made that shall diminish or discontinue the obligations of the Authority and of the Township hereunder.

**SECTION 10.11.** This Subsidy Agreement shall be construed in accordance with and shall be governed by laws of the Commonwealth.

**IN WITNESS WHEREOF**, each of the parties hereto, intending to be legally bound, pursuant to proper authorization of its governing body, causes this Subsidy Agreement to be executed by a duly authorized officer and to be attested by a duly authorized officer and its official or corporate seal to be affixed to this Subsidy Agreement, all as of the day and year first above written.

**LOWER PAXTON TOWNSHIP  
AUTHORITY**

ATTEST:

By: \_\_\_\_\_  
David B. Blain, Chairman

\_\_\_\_\_  
Chris Judd, Secretary

(SEAL)

**TOWNSHIP OF LOWER PAXTON,  
Dauphin County, Pennsylvania**

ATTEST:

By: \_\_\_\_\_  
Chairman of the Board  
of Supervisors

\_\_\_\_\_  
Secretary

(SEAL)

Date of Delivery: March 23, 2022

## **SCHEDULE A**

Debt Service, as such phrase is defined in the Subsidy Agreement to which this Schedule A is attached, on the Series 2022 Bonds