

BILLING AND REVENUE SERVICE AGREEMENT

This Service Agreement (“Agreement”), made this ____ day of _____, 20____, by and between City of York, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania having an office for the transaction of business at 50 West King St., York, Pennsylvania 17401 (hereinafter referred to as the “City”) and The York Water Company, a Pennsylvania Corporation with its principal offices at 130 East Market Street, York, Pennsylvania 17401, (hereinafter called “York Water”).

WITNESSETH THAT, in consideration of the mutual promises and payments hereinafter set forth herein, the parties agree that:

1. DEFINITIONS. In this Agreement, the following terms shall have the following meanings:

“York Water Customer Account” (or “Customer Account”) means each billing account for water service rendered to owners or occupants of real estate within the City receiving water utility service from York Water.

“Mutual Account” means each billing account that is either:

- a. a Wastewater and Refuse Customer Account that is billed on the basis of metered water consumption or estimate thereof and a York Water Customer Account with the same customer of record; or
- b. a Wastewater and Refuse Customer Account and a York Water Customer Account with the same customer of record.

“Non-Metered Wastewater and Refuse Customer Account” means each billing account for sanitary wastewater service and refuse service rendered by the City but not served by a metered water supply, or for which sewer billings are not based solely on the amount of water delivered to the premises by York Water, in accordance with schedules established by the City.

“Wastewater and Refuse Customer Account” means each billing account for sanitary wastewater and refuse service rendered by the City to persons owning or occupying real estate that is connected with and uses the City’s facilities for collecting, pumping, treating and disposing of wastewater and is required by City ordinance to use the City’s contract services for refuse collection.

2. TERM. Unless otherwise terminated pursuant to this Paragraph or Paragraphs 4.A.(3), 5.A, or 8 of this Agreement, this Agreement shall continue in full force and effect for a term of five (5) years from the date entered into above (the “Term”). This Agreement shall renew for successive (1) year terms upon the mutual written consent of both parties at least (90) days prior to the expiration of the initial term or any subsequent renewal term. Each party has the right to terminate this Agreement at the end of the initial term or at the end of any renewal term, by giving the other party written notice of termination at least ninety (90) days prior to the expiration of the initial term or any subsequent renewal term.

3. SERVICES TO BE PERFORMED BY THE WATER COMPANY. York Water will perform the following services, hereinafter referred to, respectively, as “Billing Services” and “Revenue Collection Services” or collectively, the “Services” for bills rendered on or after February 1, 2020 or 90 days after receipt of a certificate of filing from the Pennsylvania Public Utility Commission, whichever is later.

4.

A. Billing Services.

(1) Customers of Record. At the commencement of the Term of this Agreement, York Water will provide the City with a list of each Customer Account for water service located in the area served by the City. This list will include each customer's name, billing address, service address, and customer account number. For each account on said list, if the City designates that it provides sanitary wastewater service and refuse service to the service address shown, the account will henceforth be a Mutual Account under this Agreement, in the name of the customer of record for water utility service at said address, as shown on York Water's books and records. Notwithstanding anything else in this Paragraph, the City reserves the right to direct billing of sewer bills and/or refuse bills to a person and address as provided by the City.

(2) Mutual Accounts and Non-Metered Wastewater and Refuse Customer Accounts – Preparation. York Water will prepare bills for Mutual Accounts and Non-Metered Wastewater and Refuse Customer Accounts monthly in accordance with the water service billing periods and billing sequence established by York Water and in accordance with rates and schedules provided by the City. Mutual Account bills will be based on a flat fee as provided to York Water by the City or based upon metered water consumption based on a consumption fee as provided to York Water by the City. The refuse component will be based on a flat fee as provided to York Water by the City. Non-Metered Wastewater and Refuse Customer Accounts will be based on a flat fee as provided to York Water by the City. The refuse component will be based on a flat fee as provided to York Water by the City.

(3) Mailing. York Water will mail bills, postage prepaid, to all Mutual Accounts, based on billing addresses as provided by York Water. York Water will mail bills, postage prepaid, for Non-Metered Wastewater and Refuse Customer Accounts to billing addresses provided by the City.

(4) Adjustments. Adjustments to billing for reconciliation of estimated bills, over-or under-registration of water meters, for underground leaks that do not discharge into the sanitary sewer system, for faulty or inoperative meters, or an obviously incorrect meter reading or other recognized and proper adjustments which are granted to water customers by York Water, shall be accepted by the City and such adjustments for water use shall be recognized in determining the billing for wastewater service charges. Adjustments to billing which are granted to wastewater service customers by the City shall be accepted by York Water.

(5) Billing Inquiries. If a customer has a question about a sanitary sewer bill the customer should call York Water at (717)845-3601 or toll free at (800)750-5561 to speak with a Customer Service Representative. York Water's hours are generally Monday – Friday, 8:30 am – 5:00 pm, except on holidays. Customers may also submit billing inquiries by visiting York Water's web page at www.yorkwater.com and clicking on the Contact Us button or visiting York Water at 130 East Market St., York, PA. If the City has a question about services defined in this Agreement, the City should contact York Water's Chief Operating Officer at (717)718-7554.

(6) Credit Balances on Final Accounts. York Water will report to the City any credit balances on those Mutual Accounts and Non-Metered Wastewater and Refuse

Customer Accounts of customers who no longer receive water services from York Water and wastewater services from the City.

B. Revenue Collection Services.

(1) Receipt of Funds. In addition to receiving payments for Mutual Accounts and Non-Metered Wastewater and Refuse Customer Accounts by mail, York Water, or a duly authorized agent, shall receive such payments at other locations and through such other means where York Water's bills are payable.

(2) Mutual Accounts – Partial Payment and Overpayments.

(a) Unless the customer designates otherwise in writing, payments received by York Water on Mutual Accounts shall be applied first to the York Water Customer Account, then to the Wastewater Customer Account beginning with the oldest respective amounts due. Amounts applied to the Wastewater Customer Account will first be applied to refuse services, then to sewer services then to other miscellaneous fees, if applicable. A payment agreement between the customer and York Water will take precedent over this paragraph.

(b) Unless the customer designates otherwise in writing, if York Water receives an overpayment, it shall first be applied to any outstanding balance(s) on the York Water Customer Account, then to the Wastewater Customer Account. Amounts applied to the Wastewater Customer Account will first be applied to refuse services, then to sewer services then to other miscellaneous fees, if applicable. Any remaining amount will then be credited to the York Water Customer Account.

(3) Transfer of Funds. York Water shall remit all funds received in payment of Wastewater Customer Accounts, Non-Metered Wastewater and Refuse Customer Accounts to the City within ten (10) days following the end of the calendar month in which monies were received by York Water.

(4) Payment by Check, Draft or Money Order. To the extent that any monies collected by York Water on behalf of Wastewater and Refuse Customer Accounts or Non-Metered Wastewater and Refuse Customer Accounts are in the form of checks, drafts, or money orders, they will be accepted by York Water subject to final collection, thereof; and in the event of a failure to collect thereon, and upon notice to the City, York Water is authorized to reduce subsequent deposits made on behalf of the City to the extent that such uncollectible amounts have been previously included in deposits made on behalf of the City. The City authorizes York Water to deposit any checks, drafts, or money orders payable to the City in a York Water account for transfer pursuant to Paragraph 3(B)(3) and will execute all depository institution documentation which may be reasonably necessary to accomplish the same.

C. Exclusion of Debt Collection Services.

(1) General. It is expressly understood and agreed by the City and York Water that York Water is not in any way agreeing to or offering to provide debt collection services to the City for the collection of defaulted Wastewater and Refuse Customer Accounts, Non-Metered Wastewater and Refuse Customer Accounts. York Water assumes no responsibility or liability for the collection of Wastewater and Refuse Customer Accounts or Non-Metered Wastewater and Refuse Customer Accounts which are not collected in the exercise of the ordinary billing and revenue collection process under this Agreement. The City

is responsible for providing Wastewater and Refuse Customer Account and Non-Metered Wastewater and Refuse Customer Account arrearages accumulated prior to the effective date of this agreement to York Water within ten (10) days of the effective date of this agreement such that arrearages may be reflected or included in the billings made under this Agreement.

(2) Write-off of Uncollectible Accounts. York Water will provide the City with a monthly list of those customers with Wastewater and Refuse Customer Accounts and Non-Metered Wastewater and Refuse Customer Accounts with debit balances and the amounts owed by each customer. After a Wastewater and Refuse Customer Account or Non-Metered Wastewater and Refuse Customer Account customer who no longer receives wastewater services from the City is overdue by more than ninety (90) days, York Water will send notice for each such Wastewater and Refuse Customer Account or Non-Metered Wastewater and Refuse Customer Account to the City stating the final amount owed, the billing address as set forth in Paragraph 3(A)(3) of this Agreement, and that the account is more than ninety (90) days overdue. Other than providing this information, York Water will have no further obligations under this Agreement with respect to such Wastewater and Refuse Customer Account or Non-Metered Wastewater and Refuse Customer Account.

D. General Operation.

(1) Regular Reports. York Water shall furnish the City with monthly reports detailing the customers billed, the amount billed and the usage billed, on a monthly basis. York Water shall also furnish reports detailing cash receipts, adjusting journal entries, and unpaid balances by account (collectively the “Regular Reports”).

(2) Correction of Billing Errors. If York Water determines that a Wastewater and Refuse Customer Account or Non-Metered Wastewater and Refuse Customer Account billing was in error, York Water will issue an adjustment or a corrected billing, as appropriate, for the applicable time period or four years, whichever is shorter, except for adjustment of bills for meter errors which is governed by 52 Pa. Code §65.9.

(3) Addition or Deletion of Accounts. It will be York Water's responsibility, as soon as practicable after the creation of a new York Water Customer Account, to notify the City of such new account. The City will then be responsible for determining if the York Water Customer Account is a Mutual Account to be included under this Agreement and informing York Water of that fact. Upon receiving such information from the City, York Water will begin providing Billing Services and Revenue Collection Services for Mutual Accounts.

Upon receiving notification from the City of the existence of any real estate which is connected to and using the City's facilities for collecting, pumping, treating and disposing of wastewater, but for which there is no Wastewater and Refuse Customer Account or Non-Metered Wastewater Customer Account, York Water will begin providing Billing and Revenue Collection Services for such accounts, pursuant to this Agreement. Notification will be made via email to customer.service@yorkwater.com.

York Water will notify the City as soon as practicable upon receiving such information that any service address for which York Water is providing Billing Services for a Wastewater and Refuse Customer Account or Non-Metered Wastewater and Refuse Customer Account is not connected to and using the City's facilities for collecting, pumping, treating and disposing of wastewater. The City will investigate and notify York Water of any

changes necessary to be made in connection with such Wastewater and Refuse Customer Account and Non-Metered Wastewater and Refuse Customer Accounts.

E. Additional Services Requested. If the City requests reports in addition to the Regular Reports identified under Paragraph 3(D)(1), or services in addition to the Billing and Revenue Collection Services described herein, or material changes in said Services, York Water will use its best efforts to comply with such requests within a mutually agreed upon time frame, upon agreement by the parties with respect to York Water's fee for such additional services, as set forth in Paragraph 5(B) of this Agreement ("Fees for Additional Services Requested").

5. PAYMENTS TO THE WATER COMPANY.

A. Per Customer Fee.

(1) Amount and Services Included. For Services rendered pursuant to this Agreement, other than additional services requested (as defined in Paragraph 4(E)), the City will pay to York Water a monthly fee ("Per Customer Fee") of \$2.50 for each Mutual Account that was active (i.e., the account was sent a regular, final, or disconnect bill) during the month being billed. For each Mutual Account that was active (i.e., the account was sent a regular, final, or disconnect bill) during the month being billed that is billed on the basis of metered water consumption or estimate thereof the City will pay York Water a monthly Per Customer Fee of \$2.50. For Non-Metered Wastewater and Refuse Customer Accounts, the City will pay York Water a monthly Per Customer Fee of \$2.50. On or before the twentieth day of the month following the close of the billing month, York Water will invoice the City for all Per Customer Fees earned in the preceding calendar month. With such invoice York Water will provide an accounting for all Wastewater and Refuse Customer Account and Non-Metered

Wastewater and Refuse Customer Account charges billed and collected in the preceding calendar month. Said invoice will be due and payable in thirty (30) days.

(2) Adjustments to the Per Customer Fee. York Water and the City may mutually review the Per Customer Fee at regular intervals during the Term of the Agreement.

(3) Adjustments to York Water Billing Procedure. York Water reserves the right to change its billing procedures, including the billing frequency, as approved by the Pennsylvania Public Utility Commission (“the PUC”). In the event such changes are material in the City’s reasonable opinion, the City may terminate this Agreement upon thirty (30) days of written notice. York Water shall provide the City with notice of any such change upon York Water’s receipt of approval of such change by the PUC.

B. Fees for Additional Services Requested. Prior to incurring any costs in connection with additional services requested by the City, York Water will provide the City a written statement of the charge thereof. If the City approves such charge and York Water renders the additional services requested, York Water will invoice the City and the City will pay the mutually agreed upon fees for such additional services within thirty (30) days of receipt of the notice.

6. GENERAL OBLIGATION OF YORK WATER.

A. Notice of Inability to Perform Services. York Water will, as soon as practicable, notify the City of the occurrence and expected duration of any curtailment or stoppage of operations which may affect York Water’s ability to perform the services under this Agreement. York Water will not be responsible for delays in performance of services or

damages if such delays or damages are solely caused by an act or omission of the City, its agents or anyone employed by the City or by any other circumstances beyond the reasonable control of York Water, its affiliated companies, or their officers, directors, agents or employees. During a period of York Water's non-performance of billing, collecting and remitting services for thirty (30) days or more, the City shall not be required to pay fees due and owing for that period; however, said fees are payable within thirty (30) days of York Water resuming performance. In the event of York Water's inability to perform under this Agreement for a period of ninety (90) days or more, the City may terminate this Agreement immediately upon written notice to York Water.

B. Recovery. To the extent York Water's inability to perform is the fault of others and if York Water pursues a claim from said party and recovers any sum representing the City's losses, York Water will reimburse the City pro rata from any recovery.

7. GENERAL OBLIGATIONS OF THE CITY.

A. Wastewater and Refuse Rates.

(1) City's Warranty of Wastewater and Refuse Rates. The City will provide its schedule of rates to York Water for York Water's use in performing Billing Service. York Water will apply any late payment penalties included in that schedule of rates, or any other fees or penalties not based on consumptive use. The City warrants that all rates will be properly and legally in effect.

(2) Change in Rates Procedure. If, during the course of this Agreement, the City determines that a change in any rate or procedure is necessary, the City will be responsible for legally establishing any new rate or procedure. The City will give York

Water thirty (30) days' written notice of the effective date of any change in the City's rate or procedure for Wastewater and Refuse Customer Accounts and Non-Metered Wastewater and Refuse Customer Accounts. The City agrees to pay York Water's expenses to accommodate such changes only to the extent such changes exceed eight (8) hours of programming time. Changes which require more than eight (8) hours of programming time will require written authorization from the City. York Water shall bill the City for said expenses based on the actual hourly rate and time expended when the programming is done in-house. If York Water uses outside vendors to do the programming, York Water shall bill the City at the face amount of the invoice amount for the services rendered, and York Water will not mark up the bill.

B. City Contract Oversight Person. The City will designate a contract oversight person, who will be responsible for coordinating with York Water, on behalf of the City all activities and procedures under this Agreement.

8. MUTUAL CORRECTION OF ERRORS. Any report, bill, data or service provided to or by the City or York Water under this Agreement which is found by the City or York Water to be in error due to a reason attributable to the other party or affiliate thereof, will be corrected by York Water or the City, without charge to the non-erring party, and, the costs of correcting the error shall be borne by the party causing the error. Upon discovery of such error, each party will promptly notify the other of its existence.

9. TERMINATION. In the event of any material default by either party under this Agreement, if the defaulting party fails to cure such default to the reasonable satisfaction of the non-defaulting party within forty-five (45) days of the defaulting party's receipt of written

notification of such default, the non-defaulting party shall have the right to terminate this Agreement immediately upon written notice.

10. GENERAL PROVISIONS. The following provisions will apply to the parties' performance under this Agreement:

A. Limitation of Liability. Notwithstanding any provision contained in this Agreement to the contrary, the aggregate liability of either party for all claims, costs, loss, damages or other potential or actual expenses which is in any way related, directly or indirectly, to the execution, performance or subject matter of this agreement, except for intentional wrongful acts and negligence of either party, its agents and employees, shall not exceed the amount of the fees paid by the City to York Water prior to such claim, regardless of the form of action employed, whether in contract, warranty, tort (including negligence) or otherwise.

B. Indemnification. It is expressly understood that the City shall and hereby does agree to indemnify, defend, and hold harmless York Water, its officers, directors and employees from and against any and all losses, damages, claims, liabilities and expenses (including reasonable attorney fees) to the extent suffered or incurred by York Water as a result of or arising out of, or in any way related to the action or inaction of the City, hereunder, except when arising out of the intentional wrongful acts or negligence of York Water, its agents or employees; and as limited by the provisions set forth in Paragraph 10(A).

It is further expressly understood that York Water shall and hereby does agree to indemnify, defend, and hold harmless the City, its officers, directors and employees from and against any and all losses, damages, claims, liabilities and expenses (including reasonable attorney fees) to the extent suffered or incurred by the City as a result of or arising out of, or in

any way related to the action or inaction of York Water, except when arising out of the intentional wrongful acts or negligence of the City, its agents or employees; and as limited by the provisions set forth in Paragraph 10(A).

C. Notification and Notices. Each party will promptly notify the other party of actions, past or anticipated which may materially affect the performance of its duties under this contract. Each party also will promptly send the other party a copy of all notices and processes received by it concerning any pending, impending or threatened claim, action or other matter which does or may affect the other party's performance of its duties. All notices provided for in this Agreement will be delivered in person, or by facsimile or electronic communication, or by First Class mail, postage prepaid, to the following addresses, or such other address as either party will designate in writing to the other party:

To York Water

C/o Chief Operating Officer
The York Water Company
130 E. Market St.
York, PA 17401

To City

C/o Business Manager
City of York
58 West King St.
York, PA 17401

D. Applicable Law. This Agreement has been entered into and shall be governed by and construed and interpreted in accordance with Pennsylvania law.

E. Successors and Assigns. This Agreement shall not be assigned by the City without the prior written consent of York Water nor assigned by York Water without the prior

written consent of the City. Subject to the foregoing sentence, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

F. Independent Contractor. York Water will be an independent contractor and not an employee of the City for all purposes of this Agreement. York Water shall be solely responsible for the payment of all employee benefits and the payment of wages and all payroll taxes for all York Water employees.

G. Merger. The Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof and may be modified or amended only by a statement in writing signed by both parties hereto.

H. Force Majeure. Notwithstanding anything contained in this Agreement to the contrary, the parties shall not be liable for any failure or delay on their part to perform, and shall be excused from performing any of their obligations hereunder if such failure, delay or non-performance results in whole or in part from any cause beyond the reasonable control of such party, including but not limited to, any act of God, act of war, riot, fire, explosion, accident, flooding, embargo, sabotage, inability to obtain energy, materials, labor or facilities; governmental law, ordinance, rule, regulation, order of action; injunction or restraining order; labor trouble, strike, lockout or injunction or any other force majeure; this paragraph being subject to the provisions of Paragraph 6(A).

I. Condition Precedent. The obligations of the parties under this Agreement shall be subject to approval by the Pennsylvania Public Utility Commission.

J. Waiver. The failure of any party hereto at any time to enforce any of the provisions of this Agreement shall in no way constitute or be construed as a waiver of such

provisions or of any other provisions hereof, nor in any way affect the validity of, or the right thereafter, to enforce each and every provision of this Agreement.

K. Severability. The invalidity or unenforceability of any particular provision of this Agreement, as determined by a court of competent jurisdiction, shall not affect the other provisions hereof, and upon such determination, this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.

11. INSURANCE. York Water shall carry at all times during the Term of this Agreement insurance in an amount and of the types customary for the industry of which York Water is a party. Notwithstanding the foregoing, and not in limitation thereof, York Water shall, at a minimum, carry:

A. Worker's compensation insurance in compliance with all applicable statutory requirements, including employer's liability in the minimum amount of \$500,000.

B. All-risk property insurance on York Water's personal property.

It is understood that the aforementioned policies shall be primary to any other coverage available to the City. York Water shall have included in all policies of insurance required hereunder a waiver by the insurer of all right of subrogation against the City in connection with any loss or damage thereby insured against. York Water shall provide certificates of all coverage to the City prior to the commencement of any services hereunder and at least ten (10) days prior to each policy renewal date.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and attested by their proper officers and their respective seals to be hereto affixed the day and year first above written.

City:

York Water:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____