

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (this "Agreement"), made as of the 6th day of September, 2024 ("Effective Date") is by and between **ABINGTON TOWNSHIP ECONOMIC DEVELOPMENT CORPORATION**, a Pennsylvania non-profit corporation having an address of 1176 Old York Road, Abington, Pennsylvania 19001 ("AEDC"), and **ABINGTON TOWNSHIP**, a township of the first class under the provisions of the First Class Township Code of the Commonwealth of Pennsylvania having an address of 1176 Old York Road, Abington, Pennsylvania 19001 (the "Township"). AEDC and the Township are each individually referred to herein as a "Party" and jointly as the "Parties."

Recitals

A. AEDC was organized to promote economic growth, neighborhood revitalization, the creation of employment opportunities and the enhancement of quality of life in Abington Township.

B. AEDC has requested that Township provide such services as are necessary and appropriate to operate and manage AEDC (collectively, the "Services") in exchange for the fees, costs and charges set forth herein and Township is willing to provide the Services in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. **Services to be Provided by Township.**

(a) During the Term (as hereinafter defined), Township shall provide Services to AEDC in accordance with the terms and conditions of this Agreement on an as-needed and as-requested basis. In furtherance of the foregoing, the Township agrees to provide *administrative and financial services*, including but not limited to accounting and procurement services. Any action or service required of Township hereunder requires authorization by AEDC to perform such action by Township.

(b) All requests to the Township for Services shall be made by the Executive Director of the AEDC directly to the Township Manager.

(c) Notwithstanding anything contained in this Agreement to the contrary, AEDC shall *only* be and remain solely liable and responsible for any and all debts, obligations, duties, expenses, costs, claims, and liabilities *incurred by and of* AEDC.

2. **Compensation.**

(a) As compensation for the Services and assumption of liabilities hereunder, AEDC shall: (i) pay the Township the sum of \$1.00 per year (the "Services Fee"), which shall be due on the date hereof and on each anniversary of the date hereof so long as this Agreement is still in effect.

(b) The Parties agree that the Services Fee payable under this Agreement is fair value for the Services to be provided by the Township and is not determined in a manner that takes into account the business generated between the Parties. Further, the Parties agree that the Services Fee was arrived at pursuant to arm's length bargaining between the Parties, taking into account, among other things, the multiplicity of Services to be provided, the difficulty thereof, and the expertise, training, manpower, and capital facilities required.

3. **Obligations of Parties.** In addition to their other obligations hereunder, each Party shall cooperate with the other Party so that the other Party may properly accomplish its duties and responsibilities hereunder.

(a) The Township agrees to furnish or arrange the provision of all personnel reasonably necessary to support AEDC and provide Services hereunder. AEDC also agrees to cause its employees and any independent contractors, *in accordance with paragraph 1 (c)*, providing goods and services to reasonably cooperate in a timely manner with Township to facilitate timely provision of Services hereunder. Township shall have sole responsibility for worker's compensation insurance coverage, applicable tax withholding, fringe benefits and any other withholding required by law for Township's employees and all other employment matters and decisions relating to such employees, including exclusive responsibility for termination of any employees of Township and compliance with all applicable laws affecting any such termination.

(b) The Township shall maintain separate books of account of the receipt and disposition of compensation and the payment of expenses under this Agreement. Such books of account and supporting records shall at all times be maintained at the Township's principal place of business, and shall be open to inspection and examination at reasonable times by AEDC and its duly authorized representatives.

(c) AEDC agrees and covenants: (i) to work in good faith with Township to provide all data, information and assistance as reasonably necessary for Township to provide Services; (ii) to make telephone, data and environmental resources available for personnel and subcontractors of Township as reasonably necessary for those individuals to provide Services; and (iii) with Township's assistance, to provide, or arrange for the provision of, insurance coverage for AEDC and its employees and maintain all required and necessary licenses, permits and accreditations in good standing.

(d) In performing their respective duties and obligations hereunder or operating their respective businesses, each of the Parties shall comply with all applicable laws, codes, ordinances, rules, and regulations of all federal, state and municipal authorities now in force, or which may hereafter be in force, which are applicable to them. Without limiting the generality of

the foregoing, each Party agrees to perform its respective duties and obligations in a non-discriminatory manner.

4. **Term of Agreement; Termination Rights.** The term of this Agreement shall extend for five (5) years from the Effective Date, and thereafter from year to year. *Provided, however,* that either party may terminate this agreement upon ninety (90) days advance written notice to the other party.

5. **Relationship of Parties.** Nothing herein contained shall be deemed to make AEDC an owner, member, shareholder, partner, co-venturer or other participant in the business or operations of Township, or in any manner to render AEDC, it's Board Members or Officers liable, as principal, surety, accommodation party, guarantor, agent or otherwise, for any of the debts, obligations or liabilities of Township, it being understood that such debts, obligations and liabilities are and shall be and remain solely those of Township. The Parties acknowledge and agree that this Agreement is an agreement whereby the Township will provide Services to AEDC, and that nothing in this Agreement shall be deemed to give the Township any control over the AEDC.

6. **Representations and Warranties of Parties.** As of the Effective Date, each Party represents and warrants to the other as follows:

(a) **Organization: Good Standing and Power.** It is (a)(1) with respect to AEDC, an entity duly organized, validly existing and in good standing under the laws of its state of organization and (2) with respect to the Township a township of the first class under the provisions of the First Class Township Code of the Commonwealth of Pennsylvania, and (b) has all requisite power and authority to carry on its business as now being conducted, to execute and deliver this Agreement and to perform its obligations hereunder.

(b) **Authority.** The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on its part. This Agreement is the valid and binding obligation of it, enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally. Neither the execution, delivery or performance of this Agreement nor the consummation by it of the transactions contemplated hereby, will (a) conflict with or result in a breach of any provisions of its organizational documents, (b) cause a default (with due notice, lapse of time or both), or give rise to any right of termination, cancellation or acceleration, under any of the terms, conditions or provisions of any material note, bond, lease, mortgage, indenture, license or other instrument, obligation or agreement to which it is a party or by which it or any of its assets is or may be bound (with respect to which defaults or other rights all requisite waivers or consents shall have been obtained at or prior to the date hereof) or (c) violate any law, statute, rule or regulation or order, writ, judgment, injunction or decree of any court, administrative or regulatory agency or governmental body applicable to it or any of its assets.

7. **Confidentiality.**

(a) (i) Except as otherwise specifically provided in this Agreement, upon the termination or expiration of this Agreement, each Party shall (a) immediately cease to use the other Party's confidential information, (b) return to the other Party such confidential information and all copies thereof within ten (10) days of the termination or expiration, unless otherwise provided in this Agreement, and (c) upon request, certify in writing to the other Party that it has complied with its obligations set forth in this paragraph unless otherwise provided in this Agreement.

(ii) The Parties acknowledge that monetary remedies may be inadequate to protect rights in confidential information and that, in addition to legal remedies otherwise available, injunctive relief is an appropriate judicial remedy to protect such rights.

(iii) Notwithstanding anything to the contrary contained herein, the Parties acknowledges that this Agreement is a government record, subject to release under the Pennsylvania Right-to-Know Law.

8. **Warranty.** Township warrants that its Services will be performed with commercially reasonable care in a diligent, timely and competent manner in accordance with industry practices and standards.

THIS WARRANTY IS THE ONLY WARRANTY CONCERNING THE SERVICES AND ANY DELIVERABLE, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY DISCLAIMED.

9. **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the written consent of the other Party, which consent may be granted or withheld in such Party's sole and absolute discretion since this is an Agreement for the provision of Services that are specific in nature to the Parties hereto.

10. **Entire Agreement.** This Agreement, including all schedules and attachments and licenses, if any, which are incorporated by reference, expresses the entire agreement and understanding between the parties with respect to the subject matter hereof and all prior agreements or understandings relating to the subject matter hereof are hereby superseded and cancelled. This Agreement may not be modified, varied, supplemented or amended in any respect except in a writing executed by all parties hereto.

11. **Severability.** If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect if neither Party is deprived thereby of a material element of the bargain. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held valid or unenforceable. The terms of this Agreement which by their nature are to survive this Agreement will survive its expiration or termination.

12. **Notice.** Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, or sent by nationally recognized overnight courier: if to AEDC, to the Executive Director of the AEDC at AEDC's address set forth on the first page hereof, or at such other address as AEDC shall designate by written notice to Township, pursuant to this Section, and if to Township, to the Township Manager of the Township at Township's address set forth on the first page hereof, or at such other address as Township shall designate by written notice to AEDC, pursuant to this Section. If delivered personally as aforesaid, notice shall be deemed to have been received upon delivery. If sent by nationally recognized overnight courier as aforesaid, notice shall be deemed to have been received one business day after deposit with such courier, specifying next day delivery, with written verification of receipt. Rejection or refusal to accept or the inability to deliver because of change of address of which no notice was given shall be deemed to be received as of the date such notice was deposited in the mail or delivered to the courier.

13. **Compliance With and Change of Law.** The Parties agree to perform under this Agreement in accordance with all applicable laws. In the event any state or federal laws or regulations, now existing or enacted or promulgated after the execution date of this Agreement, are interpreted by any judicial decision or regulatory agency with jurisdiction in any manner so as to indicate that the terms and conditions of this Agreement may be in violation of applicable laws or regulations, this Agreement shall be either terminated or, if possible, amended by mutual agreement of the Parties as necessary to comply with such underlying changes; provided if feasible that the remainder of this Agreement shall remain in full force and effect.

14. **Waiver.** The failure of either Party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or the right of either Party thereafter to enforce each and every such provision. No waiver of any provision of this Agreement shall be valid unless the same is in writing and signed by the Party against whom such waiver is sought to be enforced.

15. **Force Majeure.** Neither Party shall be responsible for its inability to act as caused by labor troubles, fires, accidents, war, epidemics, pandemics or other causes beyond its reasonable control, and performance shall be continued after such cause of interrupted performance has ceased.

16. **Miscellaneous.**

(a) **Governing Law.** Any dispute or claim arising out of or relating to this Agreement or the Services will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its laws of conflicts. **Each Party waives trial by jury and agrees that any dispute or claim should be resolved by a judge without a jury.**

(b) **Further Assurances.** The Parties agree to execute and deliver any additional documents and instruments and take such other actions as may reasonably be necessary to implement this Agreement or as may be required by applicable law.

(c) Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement.

(d) No Beneficiaries. No third parties are intended to benefit by the covenants, agreements, or any other terms or conditions of this Agreement.

(e) Headings. All headings used are for convenience only and shall not be referred to in construing this Agreement.

[Remainder of Page Intentionally Blank; Signature Page Immediately Follows]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

AEDC:

ABINGTON TOWNSHIP ECONOMIC DEVELOPMENT CORPORATION

Witness:

DocuSigned by:
Theresa Castorina
014B59F89F4E4BA...

By: *Cornelius Brown*
Name: D7E311D5A9B4496...

Title: Chairman of the Board of Directors

TOWNSHIP:

ABINGTON TOWNSHIP

Witness:

Theresa Castorina

By: *Thomas Heel*
Name:

Title: President of the Board of Commissioners