



**CITY OF BETHLEHEM**  
OFFICE OF THE CITY SOLICITOR

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**INTEROFFICE MEMORANDUM**

To: Tad J. Miller, City Clerk

From: John F. Spirk, Jr., Esq., City Solicitor

Re: Intergovernmental Cooperation Agreement with Borough of Fountain Hill  
Yard Waste Facility Usage

Date: June 2, 2022

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Attached is a proposed Resolution and associated Intergovernmental Cooperation Agreement with the Borough of Fountain Hill for Council's consideration.

Please place this matter on City Council's agenda for review and appropriate action.

*John F. Spirk, Jr.*

John F. Spirk, Jr., Esq., Solicitor

Cc: J. William Reynolds, Mayor  
Laura Collins, Director of Community & Economic Development  
Alicia Miller Karner, Deputy Director of Economic Development  
Mike Halbfoerster, Director of Recycling

**RESOLUTION 2022-\_\_\_\_\_**

**AUTHORIZING THE EXECUTION OF AN  
INTERGOVERNMENTAL COOPERATION AGREEMENT  
PURSUANT TO 53 Pa. C.S.A. §2307 BY AND BETWEEN THE  
CITY OF BETHLEHEM AND THE BOROUGH OF  
FOUNTAIN HILL.**

WHEREAS, the CITY OF BETHLEHEM, is a municipal corporation being a City of the Third-Class, subject to the Optional Third-Class City Charter Law, organized and existing under the laws of the Commonwealth of Pennsylvania, its constituent parts being split by law between Northampton County and Lehigh County, Pennsylvania with principal administrative offices at City Hall, 10 E. Church Street, Bethlehem, PA 18018 (hereinafter referred to as “City”); and

WHEREAS, THE BOROUGH OF FOUNTAIN HILL, is a borough organized under the laws of the Commonwealth of Pennsylvania (the “Borough”); and

WHEREAS, the City owns and operates a yard waste facility (the “Facility”); and

WHEREAS, the Borough and the City have agreed to allow the residents of the Borough to use the Facility; and

WHEREAS, the Intergovernmental Cooperation Agreement, attached hereto, (the “Agreement”) shall be subject to all rules and regulations established by the City from time to time as it relates to the Facility; and

WHEREAS, the duration of the Agreement shall be three years from the date it is fully-executed, unless earlier terminated as provided therein.

WHEREAS, the Agreement further addresses the manner and extent of funding the obligations of the Agreement and the organizational structure necessary to implement the Agreement.

NOW THEREFORE BE IT RESOLVED, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022, that the City Council of the City of Bethlehem, approves and ratifies the Intergovernmental Cooperation Agreement attached hereto and that the Mayor and the Controller and/or such other

City officials as deemed appropriate by the City Solicitor, are hereby authorized to execute the same on behalf of the City of Bethlehem.

Sponsored by \_\_\_\_\_

\_\_\_\_\_

ADOPTED by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

**Intergovernmental Cooperation Agreement**  
**By and Between**  
**City of Bethlehem**  
**And**  
**Fountain Hill Borough**  
**Related to Yard Waste Facility Usage**

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT (this “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the CITY OF BETHLEHEM, a municipal corporation being a City of the Third Class, subject to the Optional Third Class Charter Law, organized and existing under the laws of the Commonwealth of Pennsylvania, with offices at City Hall, 10 E. Church Street, Bethlehem, Pennsylvania 18018 (hereinafter referred to as “City”) and FOUNTAIN HILL BOROUGH, a borough organized under the laws of the Commonwealth of Pennsylvania with offices at 941 Long Street, Fountain Hill, Bethlehem, Pennsylvania 18015 (hereinafter referred to as “FHB”).

WHEREAS, the City owns and operates a yard waste facility located at 1480 Schoenersville Road, Bethlehem, Pennsylvania, 18017 (hereinafter referred to as “Facility”), and

WHEREAS, the City and FHB desire to allow FHB and its residents to use the Facility;

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties agree as follows:

1. FHB agents or employees may use the Facility to deposit yard waste collected from FHB’s residents or FHB public areas.
2. FHB will adhere to all rules set forth by the City relating to the Facility, including but not limited to hours of operation, types of materials accepted/not accepted, size of material accepted, operations within the Facility, and any other rules or requirements that may hereafter be developed or implemented, provided however that amendments or modifications to the rules in place at the time of execution of the Agreement shall not be effective for a period of thirty

(30) days after FHB receives written notice of such modifications or amendments.

3. The term of this Agreement shall be three years, beginning on January 1, 2022 and ending on December 31, 2024 (the “Term”), unless terminated in accordance with Paragraph 12 below.

4. FHB agrees to pay the City in accordance with the following schedule:

Year #1 – 2022, \$1,400

Year #2 – 2023, \$1,450

Year #3 – 2024, \$1,500

The City will invoice FHB for Year #1 upon full execution of this Agreement, and thereafter on an annual basis every January during the Term and will direct all invoices to the Borough Manager. All payments will be due thirty (30) days from invoice date.

5. The City will not be responsible for FHB vehicles or personnel while FHB vehicles or personnel are at the Facility.

6. Residential residents of FHB (“FHB Residents”) may also use the Facility on an individual basis. In order to use the Facility, FHB Residents must purchase a compost card directly from FHB at the cost of \$20.00 per year during the Term (the “Fee”). For each compost card purchased, the Fee shall be split equally between the City and FHB. No later than thirty (30) days following the previous month, FHB shall provide the City with a monthly accounting of all compost cards issued the previous month along with the remittance of the City’s portion of the applicable Fee collected for such compost cards.

7. During the Term, FHB shall notify FHB Residents of the rules and regulations or amendments to the rules and regulations relating to the Facility through its website, social media, and Borough Hall postings . The City will provide educational flyers to FHB, on an as needed basis, for FHB to give to FHB Residents.

8. During the Term, FHB may receive mulch/compost for Township public areas at

a discounted price of \$5.00 per cubic yard; provided that the City, at its sole discretion, has enough mulch/compost to sell to FHB. The City will invoice FHB monthly for any mulch/compost that was sold the previous month.

9. Businesses in FHB or landscapers representing said businesses or FHB Residents are not authorized to access the Facility, except as set forth in Section 6 of this Agreement.

10. FHB agrees that any program designed to collect additional yard waste in FHB to be deposited in the Facility will be coordinated with the City no less than six (6) months prior to the planned implementation.

11. FHB shall indemnify, defend, and hold the City harmless from and against all claims, actions, damages, judgements, expenses, loss or liability (including but not limited to reasonable attorneys' fees and court costs) caused by, arising out of or related in any way to breach of this Agreement by FHB or negligence of FHB, including but not limited to claims for or on account of any injury (including death) or damages received or sustained by any person or persons or property damage provided, however, FHB shall not be obliged to indemnify and hold City Harmless from the negligent actions of the City or its representatives or employees.

12. Either party may terminate this Agreement for any reason, and without cause, upon three (3) months advance written notice to the other.

13. Notices required by this Agreement shall be in writing and delivered via (a) mail (postage prepaid), (b) nationally recognized overnight carrier, or (c) personal delivery, and may also be sent by facsimile or other electronic means, provided notice is sent by one other means of delivery set forth in subsection (a), (b) or (c). Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless

otherwise modified by subsequent written notice.

Communication and details concerning this contract shall be directed to the following contract representatives:

For City:

City of Bethlehem  
Attn: Michael J. Halbfoerster, Director of Recycling  
10 East Church Street  
Bethlehem, PA 18018

For FHB:

Fountain Hill Borough  
Attn: Eric C. Gratz, Borough Manager  
941 Long Street  
Fountain Hill, PA 18015

14. FHB agrees that the City, at its sole discretion, may revoke or discontinue use privileges to any FHB Resident that does not adhere to the facility rules and regulations, as may be amended from time to time.

15. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and thereof, and supersedes all prior understandings and agreements of the parties with respect thereto.

16. This Agreement may not be amended except by the written agreement of both parties.

17. The failure of any party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act that would have originally constituted a violation, from having the effect of an original violation.

18. If any provision of this Agreement or its application to any person or circumstance shall be held or declared to be invalid, illegal or unenforceable to any extent by a court of competent jurisdiction, the remainder of this Agreement and its application shall not be

affected and shall be enforceable to the fullest extent permitted by law.

19. Each party shall execute all such certificates and other documents and shall do all other such acts as are appropriate to comply with (a) the requirements of law for entering into this Agreement and (b) the intent and purposes of this Agreement.

20. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have set their hands and seals on the date first above written.

ATTEST:

FOUNTAIN HILL BOROUGH

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

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

ATTEST:

CITY OF BETHLEHEM

\_\_\_\_\_  
City Controller

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

The within Agreement is certified to be  
Needed, necessary and appropriate.

By:\_\_\_\_\_  
City of Bethlehem Department Head  
Print Name: Laura Collins