

STORMWATER MANAGEMENT

**STORMWATER BEST MANAGEMENT PRACTICES
OPERATIONS AND MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 200____, by and between _____, (hereinafter the “**Landowner**”), and Whitpain Township, Montgomery County, Commonwealth of Pennsylvania, (hereinafter “**Township**”);

WITNESSETH

WHEREAS, the Landowner is the owner of a certain parcel or tract of real property known as Parcel No. 66-____-_____-_____-_____ located at _____ and as recorded in the Office of the Recorder of Deeds in and for the County of Montgomery at Norristown, Pennsylvania in Deed Book _____ at Page _____, (hereinafter “**Property**”);and

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, the stormwater management BMP Operations and Maintenance Plan has been approved by the Township (hereinafter referred to as the “**Plan**”) for the property identified herein, which is attached hereto as Appendix A and made part hereof, as approved by the Township, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (“**BMP’s**”); and

WHEREAS, the Township, and the Landowner, his successors and assigns, agree that the health, safety, and welfare of the residents of the Township and the protection and maintenance of water quality require that on-site stormwater Best Management Practices be constructed and maintained on the Property; and

WHEREAS, for the purposes of this agreement, the following definitions shall apply:

BMP – “Best Management Practice;” activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.

Infiltration Trench – A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

Seepage Pit – An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer.

Rain Garden – A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer, and

WHEREAS, the Township requires, through the implementation of the Plan, that stormwater management BMP's as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, his successors and assigns;

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. Construction of BMP Facility by Landowner. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.

2. Duty of Operation & Maintenance of Facility. The Landowner shall operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Township and in accordance with the specific maintenance requirements noted on the Plan.

3. Right of Entry on Premises. The Landowner hereby grants permission to the Township, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.

4. Options if Landowner fails to Maintain. In the event the Landowner fails to operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Township, the Township or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Township to erect any permanent structure on the land of the Landowner. It is expressly understood and agreed that the Township is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Township.

5. Reimbursement by Landowner. In the event the Township, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Township for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the Township.

6. Purpose of Agreement. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMP(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.

7. Release of Township, The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Township’s employees and designated representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or Township. In the event that a claim is asserted against the Township, its elected officials, Township Officers or employees, designated representatives or employees, the Township shall promptly notify the Landowner and the Landowner shall defend, at his own expense, any suit based on the claim. If any judgment or claims against the Township’s employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.

8. Duty to Inspect by TownshipThe Township shall inspect the BMP(s) at a minimum of once every three years to ensure their continued functioning.

9. Recording of Agreement/ Covenant running with the Land. This Agreement shall be recorded at the Office of the Recorder of Deeds of Montgomery County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Landowner, his or her heirs, successors and , assigns, and any other successors in interests, in perpetuity.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and date first above written.

Witnesses:

Landowner

_____ (SEAL)

_____ (SEAL)

WHITPAIN TOWNSHIP

By: _____
, Chairman

Attest: _____
, Secretary

ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA :
COUNTY OF MONTGOMERY : **SS**

ON THIS, the day of , 200 , before me, the undersigned officer, personally appeared and , being Chairman and Secretary of Whitpain Township, and as such officers, being duly authorized to do so, executed the within instrument on their behalf, for the purposes therein contained by signing the name of the Township by themselves as Chairman and Secretary.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :
SS
COUNTY OF MONTGOMERY :

ON THIS, the day of , 200 , before me, a Notary Public of the Commonwealth of Pennsylvania, personally appeared and , who acknowledged that they are the President and Secretary of , a Pennsylvania corporation, which is the Landowner referred to in the foregoing Agreement, and being authorized to do so did executed the foregoing Agreement for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA:
SS
COUNTY OF MONTGOMERY :

ON THIS, the day of __ , 200 , before me, the undersigned officer, personally appeared _____ and , known to me or properly identified to be the Landowner(s) herein named, being duly authorized to do so, executed the within instrument on their own behalf, for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public