**APPENDIX C**

**Operation and Maintenance (O&M) Agreement**

**Stormwater Management Facilities**

Prepared By:

Return To:

Parcel ID #:

**STORM WATER MANAGEMENT AGREEMENT
AND DECLARATION OF EASEMENT**

**THIS AGREEMENT AND DECLARATION OF EASEMENT** made this day of
 20\_, by and between ,a

with a mailing address at

(hereinafter whether singular or plural referred to as the "Grantor"), and the [NAME OF TOWNSHIP], Lancaster County, Pennsylvania, a municipal corporation duly organized under the laws of the Commonwealth of Pennsylvania, with its municipal office located at

Pennsylvania (hereinafter referred to as the "TOWNSHIP" OR "BOROUGH" AS APPLICABLE).

BACKGROUND

Grantor is the owner of premises located at

in the [TOWNSHIP/BOROUGH], Lancaster County, Pennsylvania, as more specifically described

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in a deed recorded in Deed or Record Book , Volume , Page , in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, and as shown on the plan for

prepared by

Drawing No. , dated , last revised , (hereinafter referred to as

the "Premises").

Prior to beginning construction on any subdivision or land development, Grantor is required, under the [NAME OF TOWNSHIP] Subdivision and Land Development Ordinance and the [NAME OF TOWNSHIP] Stormwater Management Ordinance (collectively referred to as the "Ordinance"), to file a final plan with the [NAME OF TOWNSHIP] Commission and/or [NAME OF GOVERNING BODY]. Pursuant to the Ordinance, Grantor must include stormwater management data in its subdivision and/or land development application. The Ordinance requires that Grantor's final plan reflect and/or be accompanied with supporting documentation which identifies the ownership of, and the method of administering and maintaining, all permanent stormwater management facilities. Drainage courses, swales, grassed waterways, stormwater inlets, pipes, conduits, detention basins, retention basins, infiltration structures, and other stormwater management facilities, including Best Management Practices facilities ("BMPs"), shall be included under the term "stormwater management facilities" in this Agreement and Declaration of Easement.

The purpose of this Agreement and Declaration of Easement is to describe the

ownership and maintenance responsibilities for the stormwater facilities which will be installed on the Premises and to impose the ownership and maintenance responsibilities upon Grantor, his heirs, personal representatives and assigns and upon successor owners of the Premises, and set forth the rights of the [TOWNSHIP/BOROUGH].

NOW, THEREFORE, intending to be legally bound hereby and in consideration of receiving approval of its Subdivision and/or Land Development Plan or its Stormwater Management Plan (hereinafter referred to as the "Final Plan") from the [NAME OF ENTITY WHICH APPROVES THE PLAN], and in consideration of receiving permits from the

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[TOWNSHIP/BOROUGH] to develop the Premises, Grantor, for Grantor and the heirs, personal representatives and assigns of Grantor, covenant and declare as follows:

1. The stormwater facilities will be owned by Grantor, his heirs, personal representatives, successors and assigns.

2. All drainage courses, swales, stormwater inlets, pipes, conduits, detention basins

BMPs, and other stormwater facilities shall be installed, constructed and maintained by Grantor, his heirs, personal representatives, successors and assigns, in a first-class condition in conformance with the Final Plan, as approved by the [NAME OF ENTITY WHICH APPROVES THE PLAN], including any accompanying stormwater management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County, and in a manner sufficient to meet or exceed the performance standards and specifications set forth on the Final Plan, as approved by the [NAME OF ENTITY WHICH APPROVES THE PLAN], including any accompanying stormwater management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County. These responsibilities shall include, but not be limited to, the following:

(a) Liming, fertilizing, seeding and mulching of vegetated channels and all other unstabilized soils or areas according to the specifications in the "Erosion and Sedimentation Pollution Control Manual" published by the Pennsylvania Department of Environmental Protection, the Penn State Agronomy Guide, or such similar accepted standard.

(b) Reestablishment of vegetation by seeding and mulching or sodding of scoured areas or areas where vegetation has not been successfully established.

(c) Mowing as necessary to maintain adequate stands of grass and to control weeds. Chemical weed control may be used if federal, state and local laws and regulations are met. Selection of seed mixtures shall be subject to approval by the [TOWNSHIP OR BOROUGH].

(d) Removal of silt from all permanent structures which trap silt or sediment in order to keep the material from building up in grass waterways, pipes, detention or retention basins, infiltration structures, BMPs, and/or other facilities and thus reducing their capacity.

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(e) Removal of silt from all permanent drainage structures, in particular BMPs, in

order to maintain the design storage volumes. Regular programs shall be established and maintained.

(f) Regular inspection of the areas in question to assure proper maintenance and care, including but not limited to proper implementation of BMPs. ADD ANY SPECIFIC INSPECTION REQUIREMENTS IN THE PCSM PLAN.

(g) Regular maintenance to insure that all pipes, swales and detention facilities shall be kept free of any debris or other obstruction. ADD ANY SPECIFIC MAINTENANCE REQUIREMENTS IN THE PCSM PLAN.

(h) Regular maintenance of all facilities designed to improve water quality to insure

that such facility function in accordance with their design. ADD ANY SPECIFIC MAINTENANCE REQUIREMENTS IN THE PCSM PLAN SUCH AS IF APPLICABLE: Maintenance of the infiltration bed and infiltration system by mowing grass regularly over the infiltration bed; keeping the yard drains and roof drains free of debris in good repair at all times; flushing the infiltration system using a water hose at the cleanouts once every 90 days to insure the infiltration system using a water hose at the cleanouts once every 90 days to insure the infiltration system is clear of debris; keeping the sumps in the yard inlets and downspout sumps free of debris; and inspecting the infiltration bed four times per year or after each rain event exceeding one inch.

(i) Repair of any subsidence, including subsidence caused by sinkholes.

(j) IF APPLICABLE: Replacement of displaced riprap within the outlet energy

dissipater immediately after it is displaced, particularly after major storm discharge events.

(k) IF APPLICABLE: Vacuum sweeping of areas of porous paving to keep surface free

of sediment as needed, typically three to four times per year and maintaining all areas of

porous paving free from sealing, surfacing or re-paving with non-porous materials.

(I) Removal of trash and debris on a regular basis.

Include a statement that the approved Operations and Maintenance (O&M) Plan is attached

as an exhibit if there are any requirements in addition to those in Paragraph 2.

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Grantors, his heirs, personal representatives, successors and assigns, shall be responsible for performing the foregoing maintenance.

3. Grantor, for himself, his heirs, personal representatives, successors and assigns, agrees that the failure to maintain all drainage courses, swales, storm water inlets, pipes, conduits, detention basins, BMPs, and other stormwater management facilities in a first-class condition in conformance with this Agreement and Final Plan, as approved by the [NAME OF ENTITY WHICH APPROVES THE PLAN], including any accompanying stormwater management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County, shall constitute a nuisance and shall be abatable by the [TOWNSHIP] as such.

4. Grantor, for himself, his heirs, personal representatives, successors and assigns, authorizes the [TOWNSHIP], at any time and from time to time, by its authorized representatives, to enter upon the Premises to inspect the stormwater facilities.

5. The [TOWNSHIP] may require that Grantor, and assigns or any future owner or

occupier of the Premises or any part thereof, take such corrective measures as the [TOWNSHIP] may deem reasonably necessary to bring the Premises into compliance with this Agreement and with the Final Plan, as approved by the [NAME OF ENTITY WHICH APPROVES THE PLAN], including any accompanying stormwater management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County.

6. Upon the failure of the owner or occupier of the Premises or any part thereof to

comply with the terms of this Stormwater Management Agreement or to take corrective measures following reasonable notice from the [TOWNSHIP], THE [TOWNSHIP], through its authorized representatives, may take such corrective measures as it deems reasonably necessary to bring the Premises into compliance with this Agreement and with the Final Plan, as approved by the [NAME OF ENTITY WHICH APPROVES THE PLAN], including any accompanying stormwater management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County, including, but not limited to, the removal of any blockage or obstruction from drainage pipes, swales, detention basins, and BMPs, and may charge the cost thereof to Grantor, his heirs, personal representatives, successors and assigns, or any

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owner of the Premises or any part thereof and, in default of such payment, may cause a municipal lien to be imposed upon the Premises or any part thereof. Any municipal lien filed pursuant to this Agreement shall be in the amount of all costs incurred by the [TOWNSHIP], plus a penalty of ten (10%) of such costs, plus the [TOWNSHIP'S] reasonable attorneys' fees.

7. The stormwater management facilities have been designed to allow a

maximum impervious surface coverage

- (if a single lot] of square feet. Any proposal to add additional impervious surface coverage to the Premises will require the submission of a stormwater management plan meeting all requirements of applicable regulations in effect at the time such application is filed.

- (if multiple lots with the same coverage] of square feet for each lot to be created from the Premises. If the owner of any lot to be created from the Premises desires to install additional impervious surface coverage, such lot owner must submit an application under the Stormwater Management Ordinance in effect at such time as the application is filed and meet all applicable stormwater management regulations.

- [if multiple lots with different coverage limits] as set forth in Exhibit A attached hereto and incorporated herein. If the owner of any lot to be created from the Premises desires to install additional impervious surface coverage beyond that allocated to such lot in Exhibit A, such lot owner must submit an application under the Stormwater Management Ordinance in effect as such time as the application is filed and meet all applicable stormwater management regulations.

8. If ownership or maintenance responsibility of the stormwater management

facilities is assigned to a homeowner's association, condominium unit owners' association, or similar entity, the [TOWNSHIP] shall be notified. If such association fails to properly maintain the stormwater management facilities, the [TOWNSHIP] shall have the same rights granted to municipalities under Section 705 of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, with reference to maintain the stormwater management facilities.

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Any association so formed shall enter into an agreement with the [TOWNSHIP] recognizing its duties and the [TOWNSHIP'S] rights under this Agreement.

9. Grantor hereby imposes upon the Premises for the benefit of all present and future owners of the Premises or part of the Premises, the [TOWNSHIP], and all other property owners affected by the stormwater facilities, the perpetual right, privilege and easement for the draining of stormwater in and through the drainage courses, swales, stormwater inlets, pipes, conduits, detention basins, BMPs, and other stormwater facilities depicted on the plan or plans submitted to the [TOWNSHIP] or hereafter made of record and now or hereafter installed on or constructed upon the Premises and, in addition, easements of access to the stormwater facilities.

10. Grantor agrees to indemnify the [TOWNSHIP] and all of its elected and

appointed officials, agents and employees (hereinafter collectively referred to as the "Indemnitees") against and hold Indemnitees harmless from any and all liability, loss or damage, including attorneys' fees and costs of investigation and defense, as a result of claims, demands, costs or judgments against Indemnitees which arise as a result of the design, installation, construction or maintenance of the stormwater facilities.

11. Grantor's personal liability under this Agreement shall cease at such time as (a)

all stormwater management facilities have been constructed in accordance with the specifications of the [TOWNSHIP OR LANCASTER COUNTY, as applicable] Subdivision and Land Development Ordinance, the [TOWNSHIP] Stormwater Management Ordinance and the approved plans; (b) the stormwater management facilities have been inspected and approved by the [TOWNSHIP] Engineer; (c) all financial security, including any maintenance security, posed by Grantor has been released by the [TOWNSHIP]; and (d) Grantor has transferred all lots to be created from the Premises to third parties. Notwithstanding the foregoing, Grantor's personal liability shall continue for any violations of this Agreement and Declaration of Easement which occurred during the time that Grantor owned the Premises or

any lot created from the Premises or in the event the stormwater management facilities were not completed, inspected or approved as set forth in (a) through (c) herein.

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12. It is the intent of the parties to this Agreement that personal liability and

maintenance obligations shall pass to subsequent title owners upon change in ownership of the Premises or any lot created from the Premises, and such subsequent owners shall assume all personal liability and maintenance obligations for the time period during which they hold title. Personal liability shall remain for any violations of this Agreement and Declaration of Easement which occurred during the period in which an owner held title.

13. The [TOWNSHIP] may, in addition to the remedies prescribed herein, proceed

with any action at law or in equity to bring about compliance with the [TOWNSHIP] Stormwater

Management Ordinance, the [TOWNSHIP OR LANCASTER COUNTY, as applicable] Subdivision

and Land Development Ordinance and this Agreement.

14. This Agreement and Declaration of Easement shall be binding upon Grantor, the

successors and assigns of Grantor, and all present and future owners of the Premises, or any part thereof, and is intended to be recorded in order to give notice to future owners of the Premises, of their duties and responsibilities with respect to the stormwater facilities. Grantor shall include a specific reference to this Agreement in any deed of conveyance for the Premises or any part thereof.

15. This Agreement and Declaration of Easement may be amended only by written

instrument signed on behalf of all owners of the Premises and the [TOWNSHIP].

IN WITNESS WHEREOF, the undersigned have caused this Agreement and

Declaration to be executed on the day and year first above written.

[TOWNSHIP]

Lancaster County, Pennsylvania

Attest: By:

(Assistant) Secretary [PROPER INDENTIFICATION OF GOVERNING BODY]

[TOWNSHIP SEAL]

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(Individual or Husband and Wife Developer)

Witness:

(SEAL) (Signature of Individual)

SEAL)

(Signature of Spouse if Husband and Wife are Co-Developers)

IF APPLICABLE

Trading and doing business as:

(Partnership Developer\*)

(Name of Partnership)

Witness:

By: (SEAL) Partner

By: (SEAL) Partner

By: (SEAL) Partner

\*AII Partners must execute this Agreement

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(Corporation Developer)

(Name of Corporation)

ATTEST:

By: By:

(Assistant) Secretary (Vice) President

[CORPORATE SEAL]

(Limited Liability Company Landowner\*\*\*)

(Name of Limited Liability Company)

Witnesses:

By:

Member

By:

Member

By:

Member

\*\*\*AII members must sign.

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(TOWNSHIP ACKNOWLEDGEMENT)

COMMONWEALTH OF PENNSYLVANIA

SS: COUNTY OF LANCASTER

On this day of , 20\_, before me, the undersigned officer,

a notary public in and for the aforesaid Commonwealth and County, personally appeared

, who acknowledged self to be (Vice) of the

of the [TOWNSHIP], Lancaster County, Pennsylvania, and

that he/she, as such officer, being authorized to do so, executed the foregoing Stormwater

Management Agreement and Declaration of Easement, for the purposes therein contained, by

signing the name of such [TOWNSHIP] by self as such officer.

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

Notary Public

My Commission Expires:

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(INDIVIDUAL OR HUSBAND AND WIFE DEVELOPER ACKNOWLEDGEMENT)

COMMONWEALTH OF PENNSYLVANIA

SS: COUNTY OF LANCASTER

On this day of , 20\_, before me, the subscriber, a notary

public in and for the aforesaid Commonwealth and County, came the above-named

known to me, (or satisfactorily proven) to be the

person(s) whose name(s) is/are subscribed on the within instrument and acknowledged the foregoing Stormwater Management Agreement and Declaration of Easement to be act

and deed and desired the same to be recorded as such.

Witness my hand and official seal.

Notary Public

My Commission Expires:

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(PARTNERSHIP DEVELOPER ACKNOWLEDGEMENT)

SS:

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF LANCASTER

On this day of

undersigned officer, personally appeared

, 20\_, before me, a notary public, the

who acknowledged themselves to be all of the partners of , a

partnership, and that they, as such partners, being

authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by themselves as such partners.

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

Notary Public

My Commission Expires:

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(CORPORATE DEVELOPER ACKNOWLEDGEMENT)

COMMONWEALTH OF PENNSYLVANIA

SS: COUNTY OF LANCASTER

On this day of , 20\_, before me, a notary public, the

undersigned officer, personally appeared ,

who acknowledged self to be the of

, a corporation, and that as such officer being authorized to do so, acknowledged the foregoing instrument for the purpose therein contained, by signing the name of the corporation by self as

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

Notary Public

My Commission Expires:

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(LIMITED LIABILITY COMPANY LANDOWNER ACKNOWLEDGEMENT)

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF LANCASTER

On this day of personally appeared

SS:

, 20\_, before me, the undersigned officer,

who acknowledged

themselves to be all of the members of , a

limited liability company, and that they as such members, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of said limited liability company by themselves as such members.

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

Notary Public

My Commission Expires:

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