

OPERATION AND MAINTENANCE (O&M) AGREEMENT
STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES (SWM BMPs)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between _____, (hereinafter the "Landowner"), and Summit Township, Erie County, Pennsylvania, (hereinafter "Municipality");

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of Erie County, Pennsylvania, Deed Book _____ at Page _____, (hereinafter "Property"), located at _____ in Summit Township, Erie County, Pennsylvania.

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

WHEREAS, the SWM Site Plan approved by the Municipality (hereinafter referred to as the "Plan") for the property identified herein, which is recorded as Instrument No. _____ and made part hereof, as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of BMPs; and

WHEREAS, the Municipality, and the Landowner, his successors and assigns, agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that on-site SWM BMPs be constructed and maintained on the Property; and

WHEREAS, the Municipality requires, through the implementation of the SWM Site Plan, that privately owned stormwater BMPs as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained solely by the Landowner, 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. The Landowner shall construct the BMPs in accordance with the plans and specifications identified in the SWM Site Plan.
2. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMPs 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.
3. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality and its representatives from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees and representatives from the calculations, design, construction, presence, existence, or maintenance of the BMPs by the Landowner or Municipality.
4. The Landowner hereby grants permission to the Municipality, its authorized agents, and employees, to enter upon the property, at reasonable times and upon presentation of proper credentials, to inspect the BMPs whenever necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
5. The Municipality may inspect the BMPs at a minimum of once every three years to ensure their continued functioning.
6. The Landowner shall operate and maintain the BMPs as shown on the Plan in good working order in accordance with the specific maintenance requirements noted on the approved SWM Site Plan. At a minimum the maintenance required will be periodic inspection and cleaning of privately owned catch basins, conveyance systems and storage facilities, including the outlet structure. The catch basins, conveyance systems and storage facilities, including the outlet structure shall be cleaned every spring and fall and inspected and cleaned if necessary, after every significant rain event. The

conveyance systems and storage facilities shall be inspected yearly and cleaned, if necessary, and maintained in a safe and attractive manner.

7. The Landowner will be the person responsible for the maintenance of the Stormwater management BMP's. The address and contact information for the person responsible is:

Name: _____

Address: _____

Phone: _____

Email Address: _____

If this information changes at any time the Municipality will be notified within ten (10) days of the change.

8. In the event the Landowner fails to operate and maintain the BMPs per paragraph 6, the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMPs. It is expressly understood and agreed that the Municipality 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 Municipality.
9. In the event the Municipality, 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 Municipality for all expenses (direct and indirect) incurred within ten (10) days of receipt of invoice from the Municipality.
10. The Landowner shall retain a qualified professional engineer or surveyor to inspect and submit a certified report to the Municipality, per the following schedule.
- Annually for the first three (3) years.
 - As required by the Municipality thereafter, within thirty (30) days of a 24 hour rainfall that exceeds 4.46 inches.

This report at a minimum will state the facility conditions including storage volumes calculated for the 2, 10, 25, & 100 year storm events, outlet structure condition (including condition, configuration, sizes & elevations), emergency overflow, catch basins, conveyance piping (including inverts), and embankments. The report should include the recommendations for maintenance at the time of inspection.

11. The Landowner understands that the estimated annual cost for maintenance (including Engineering fees) for the first three (3) years as estimated by the stormwater plan preparer and agreed to by the Municipality is \$_____.
12. The estimated cost of construction of the Stormwater management system is \$_____. A bond or certified check is posted in this amount in the name of the Municipality. When the system is complete, as-built drawings as outlined below shall be submitted and approved by the Municipality. The Municipality agrees to release the bond or certified check in the manner prescribed by the Pennsylvania Municipalities Planning Code.
13. The owner agrees to provide as-built drawings & calculations which shall include at a minimum the following information:
- i. A scaled drawing of the development including the storage facility showing elevations, volume information,, outlet structure (location, configuration, & elevations), emergency spillway (location, elevation, & lining), catch basins, and conveyance piping (material, slope & invert).
 - ii. Storage facility routing calculations verifying the volumes and elevations of the 2, 10, 25, and 100 yr storms. These calculations shall be prepared by a Pennsylvania Professional Engineer or Professional Land Surveyor and shall be reviewed by the Municipality prior to release of any bonds.

14. The Summit Township Model Stormwater Management Ordinance, the Summit Township Subdivision and Land Development Ordinance and all other ordinances, resolutions, regulations, and specifications of Summit Township governing stormwater management plans, subdivisions and developments, as may in the future be amended, are incorporated in this Agreement by reference, and shall be controlling in the interpretation of this Agreement.
15. This Agreement has been entered into in Erie County, Pennsylvania and shall be interpreted under the laws of the Commonwealth of Pennsylvania.
16. This Agreement may be modified only by a writing signed by both of the parties and authorized by their governing bodies.

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

ATTEST:	SUMMIT TOWNSHIP
Nancy A. Agostine, Vice Chairman	By: Thomas H. Church Jr., Chairman
Jack F. Lee Jr., Supervisor	
COMMONWEALTH OF PENNSYLVANIA))
COUNTY OF ERIE)) §
<p>On this, the _____ day of _____, 2014, before me, a Notary Public, the undersigned officer, personally appeared Thomas H. Church Jr., Chairman of the Summit Township Board of Supervisors, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes herein contained.</p> <p style="text-align: center;">IN WITNESS WHEREOF, I hereunto set my hand and official seal.</p> <p>MY COMMISSION EXPIRES: _____</p>	
	Notary Public

ATTEST:	COMPANY
Secretary	By: NAME, TITLE
STATE OF _____))
COUNTY OF _____)) §
<p>On this, the _____ day of _____, 2014 before me, a Notary Public, the undersigned officer, personally appeared _____, who acknowledged himself to be the owner of _____, and that he, as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained.</p> <p style="text-align: center;">In witness whereof, I hereunto set my hand and official seal.</p> <p>MY COMMISSION EXPIRES: _____</p>	
	Notary Public