

Engineered

Record and Return to: Edgmont Township
1000 Gradyville Road
Newtown Square, PA 19073

Folio No.: _____
Address: _____

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

THIS AGREEMENT (hereinafter the “**Agreement**”), made and entered into this _____ day of _____, 20____, by and between _____, (hereinafter the “**Landowner**”), and Edgmont Township, a Pennsylvania Township of the Second Class, (hereinafter “**Township**”).

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property, located in the Township, as recorded by deed in the land records of Delaware County, Pennsylvania, Deed Book _____ at Page _____, (hereinafter “**Property**”). The Property is more fully identified and described on **Exhibit “A”** attached hereto and made part hereof,

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

WHEREAS, the Stormwater Controls and BMP Operations and Maintenance Plan of Landowner, entitled _____, prepared by _____, dated _____, last revised _____ and consisting of sheets _____ (hereinafter referred to as the “**Plan**”) for the Property identified herein, which is attached hereto as **Exhibit “B”** and made part hereof, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (hereinafter “**BMPs**”), was approved by the Township on _____; 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 BMPs be constructed and maintained on the Property in accordance with the Plan; and

WHEREAS, the Municipality requires, through the implementation of the Plan, that stormwater management BMPs as required by said Plan and the Edgmont Township Stormwater Management Ordinance be constructed and properly operated and maintained by the Landowner, its 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, intending to be legally bound, agree as follows:

1. For the purposes of this Agreement, BMPs shall include, but not be limited to, activities, facilities, designs, measures, or procedures used to manage stormwater impacts from land development or land disturbance and shown or depicted on the Plan and whose primary purpose is to protect and maintain water quality and infiltration, and to otherwise meet the purposes of the Edgmont Township 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 and retention basins.
2. All BMPs shall be constructed, installed and implemented by the Landowner in accordance with the plans and specifications identified in the Plan.
3. 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.
4. The Landowner hereby grants permission to the Township, its authorized agents, and employees to enter upon the Property, at all times and upon presentation of proper identification, to inspect the BMP(s) whenever the Township deems such inspection necessary and, subject to this Agreement, to otherwise perform and maintenance or repair deemed necessary by the Township. Whenever practicable, the Township shall notify the Landowner prior to entering the Property.
5. In the event that the Landowner fails to operate, repair or maintain the BMP(s) as shown on the Plan in good working order acceptable to the Township, the Township may suspend and/or revoke any permits and/or certificates of occupancy for the Property until such time as the BMP's are repaired or properly maintained. In addition, the Township or its designated representatives may enter upon the Property and take whatever action is deemed necessary to repair or 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 which is not included on the Plan. 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.
6. In the event that the Township, pursuant to this Agreement, inspects the Property or 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 ten (10) days of receipt of an invoice from the Township. Such reimbursement shall be made from the Township Stormwater Control and BMP Operation and Maintenance Fund, to the extent available. Otherwise, if payment is available from the Township Stormwater Control and BMP Operation and Maintenance Fund and is not received by the Township within said ten (10) days, interest shall accrue at the rate of 18% per annum, until paid, and the Township may lien the Property for the charges, together with all costs, interest and expenses, including reasonable attorney fees, and/or otherwise proceed to collect said charges as provided by law. Further, in the event that payment is not available from the Township Stormwater Control and BMP Operation and Maintenance Fund and is not received within said ten (10) days, the Township may require

that the Landowner post financial security with the Township, in amount determined by the Township, to be sufficient to cover the costs of future inspections and maintenance by the Township.

7. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMP(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on any party for damage alleged to result from or be caused by stormwater runoff.
8. The Landowner, its executors, administrators, assigns, and other successors in interest does hereby release the Township's appointed and elected officials, employees, designated and appointed representatives, agents, successors and assigns (each a "**Released Party**" and collectively the "**Released Parties**") from and against all causes of actions, damages, accidents, casualties, occurrences, claims, costs and expenses (including attorney and other professional fees and costs), of any kind or nature whatsoever (individually each a "**Liability Event**" and collectively the "**Liability Events**"), which arise or may be asserted against said Released Parties from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or the Township. In the event that a Liability Event is asserted against the any Released Party, the Released Party against whom the Liability Event is asserted shall promptly notify the Landowner, and the Landowner shall indemnify, defend and hold the Released Party, at Landowner's sole cost and expense, from and against the asserted Liability Event. If any Liability Event against any Released Party shall be allowed, the Landowner shall pay, without exception, all awards, penalties, damages, costs and expenses regarding or relating to said Liability Event, except in the event that the Liability Event is the result of the Released Party's willful misconduct.
9. The Municipality shall inspect the BMP(s) at a minimum of once every three (3) years to ensure their continued functioning. All costs of inspection shall be paid by the Landowner in accordance with Paragraph 6 of this Agreement.
10. This Agreement shall be recorded within fifteen (15) days of the date of full execution Office of the Recorder of Deeds of Delaware County, Pennsylvania, with evidence of said recording being provided to the Township within five (5) days of the date of such recording.
11. This Agreement shall constitute a covenant running with the title to the Property and shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.
12. This Agreement constitutes the entire Agreement between the parties with regard to the subject matter hereof and there are no other Agreements, oral or written, between the parties with regard thereto. This Agreement may only be modified in a writing signed by the parties.
13. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania, without consideration of its conflicts of laws principles.

[SIGNATURE PAGE TO FOLLOW]

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

TOWNSHIP OF EDMONT

Ronald Gravina, Chairman

James R. Hallam, Vice-Chairman

(TOWNSHIP SEAL)

Lindsey J. Conan, Supervisor

Attest:

Neil D. Vaughn
Township Manager

LANDOWNER

Witness/Attest

Name:

Title:

By: _____

Name:

Title:

ACKNOWLEDGEMENT

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF :

On the _____ day of _____, 20____, before me, the undersigned officer, personally appeared _____, who acknowledged himself to be the person who executed the foregoing Agreement, and being authorized to do so, did so for the purposes therein contained, intending that the same might be recorded as such.

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

Notary Public

Exhibit “A”

Property Description

Exhibit “B”

Plan