

APPENDIX F

**STORMWATER MANAGEMENT AGREEMENT
AND DECLARATION OF EASEMENT**

THIS AGREEMENT AND DECLARATION OF EASEMENT made this _____ day of _____ 20__, by and between **BRECKNOCK TOWNSHIP**, Lancaster County, Pennsylvania, a municipal corporation duly organized under the laws of the Commonwealth of Pennsylvania with a municipal office located at 1026 Dry Tavern Road, Denver, PA 17517 (hereinafter referred to as the “Township”), and _____, a _____, with a mailing address of _____, _____ (hereinafter, whether singular or plural, referred to as the “Grantor”).

BACKGROUND

Grantor is the owner of certain real estate located in Brecknock Township, Lancaster County, Pennsylvania, as more specifically described in a deed recorded in Document ID No. _____ in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, (hereafter referred to as the “Premises”) and as shown on the final stormwater management plan prepared by _____ dated _____, 20__.

Prior to beginning construction on any stormwater management project, Grantor is required, under the Brecknock Township Stormwater Management Ordinance, as amended (collectively referred to as the “Ordinance”), to file a stormwater management plan with the Township and obtain approval of the stormwater management plan. Sections 93-29 and 93-30 of the Ordinance require that Grantor’s stormwater management 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, storm water inlets, pipes, conduits, detention basins, retention basins, infiltration structures, and other storm water management facilities, including Best Management Practices facilities (“BMP’s) shall be included under the term “stormwater management facilities” in this Agreement and Declaration of Easement. Prior to final approval of any subdivision and land development plan, the issuance of any permit or the commencement of any development, a developer must submit a stormwater management plan to the Township for approval. The Brecknock Township Stormwater Management Ordinance provides that no approval of any subdivision, land development plan, the issuance of any permit, or the commencement of any development shall be granted prior to the approval of a Stormwater Management Plan.

The purpose of this Agreement and Declaration of Easement is to describe the ownership and maintenance responsibilities for the stormwater facilities and the erosion and sedimentation control facilities which will be installed on the Premises and to impose the ownership and

maintenance responsibilities upon Grantor, his heirs, personal representatives, successors and assigns and upon successor owners of the Premises, and to set forth the rights of the Township.

NOW THEREFORE, intending to be legally bound hereby and in consideration of receiving approval of its subdivision and/or land development plan and /or its storm water management site plan (hereinafter referred to as the “Plan”) from the Board of Supervisors of Brecknock Township, and in consideration of receiving permits from the Township to develop the Premises, Grantor, for Grantor and his heirs, personal representatives, successors and assigns covenants and declares as follows:

1. The stormwater facilities will be owned by the Grantor his heirs , personal representatives, successors and assigns.
2. The Grantor shall inform the Township of the person or company responsible for maintenance activities; in the event of a change, new information shall be submitted to the Township within ten (10) days of the change.
3. All drainage courses, swales, stormwater inlets, pipes, conduits, detention basins, BMP’s and other stormwater facilities shall be installed, constructed and maintained by Grantor, its successors and assigns, in a first-class condition in conformance with the Plan, as approved by the Board of Supervisors, and in a manner sufficient to meet or exceed the performance standards and specifications set forth on the plan as approved by the Township. These responsibilities shall include, but not be limited to, the following:
 - (a) Liming and fertilizing, seeding and mulching of vegetated channels and all

other unstabilized soils or areas according to the specifications in the “Erosion and Sedimentation Control Manual” published by the Pennsylvania Department of Environmental Protection, the Penn State Agronomy Guide, or other 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 strands 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.

(d) Removal of any subsidence from all permanent drainage structures, in particular, BMP’s, in order to maintain the design storage volumes. Regular programs shall be established and maintained.

(e) Regular inspection of the areas in question to assure proper maintenance and care, including but not limited to proper implementation of BMP’s.

(f) Regular maintenance to insure that all pipes, swales and detention facilities shall be kept free of any debris or other obstruction.

(g) Regular maintenance of the drainage facilities shall consist of weekly inspections of each facility to determine how well the slope stabilization measures are working. All facilities shall be inspected after each storm to determine their durability to driving rain and erosion. Sediment cleaned from silt control fences shall be disposed of in an approved disposal area. Any seeded or sodded areas that have become stripped of vegetation shall be re-established

with appropriate stabilization materials. This procedure shall be repeated after every sizable storm until no more signs of erosion are evident. At monthly intervals, thereafter, inspections and necessary cleaning will be performed. Under the Township's BMP Inspection Program for compliance with its MS4 program, BMP owners shall submit a copy of the Township-provided inspection sheet, or similar approved documentation, containing a written report documenting each inspection and all BMP repair and maintenance activities, annually or as requested by the Municipality.

(h) Regular maintenance of all facilities designed to improve water quality to ensure that such facility functions in accordance with their design. 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 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) 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, BMP's, and/or other facilities and thus reducing their capacity.

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

(k) Any and all operation and maintenance responsibilities specifically outlined in the approved Plan.

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

4. Grantor, his heirs, personal representatives, successors and assigns, agree that the failure to maintain all drainage courses, swales, storm water inlets, pipes, conduits, detention basins, BMP's and other stormwater management facilities in a first-class condition in conformance with this Agreement and Plan, as approved by the Board of Supervisors, and with any subdivision or land development plan 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.

5. Grantor his heirs, personal representatives, successors and assigns, authorize the Township, at any time and from time to time, by its authorized representatives, to enter upon the Premises to inspect the stormwater facilities.

6. 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 Plan, as approved by the Board of Supervisors, and with any subdivision and land development 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.

7. 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 Plan, as approved by the Board of Supervisors, 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 and swales, detention basins and BMP's, and may charge the cost thereof to Grantor, its successors and assigns, or any 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 attorney's fees.

8. 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 storm water in and through the drainage courses, swales, storm water inlets, pipes, conduits, detention basins, BMP's 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.

9. Grantor agrees to indemnify the Township and all of its elected and appointed officials, agents and employees (hereafter collectively referred to as the “Indemnitees”) against and hold Indemnitees harmless from any and all liability, loss or damage, including attorneys’ fees and cost 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.

10. 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.

11. 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 Brecknock Township Stormwater Management Ordinance and/or this Agreement.

12. Grantor shall, upon completion and approval by the Township of the installation of the stormwater management facilities, and prior to the release of the improvement security, deposit financial security with the Township to secure the structural integrity of the stormwater management facilities as well as the functioning of the stormwater management facilities in accordance with the design and specifications of the approved plans. The financial security shall

be in the amount of fifteen (15%) percent of the actual cost of installation of the storm water management facilities and shall have a term of not less than eighteen (18) months.

13. This Agreement and Declaration of Easement shall be binding upon the Grantor his heirs, personal representatives, 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 Stormwater Management Agreement and Declaration of Easement in any deed of conveyance for the Premises or any part thereof. Grantor shall record this Agreement in the Office of the Lancaster County Recorder of Deeds.

14. If ownership or maintenance responsibility of the storm water management facilities is assigned to a home owner's association, condominium unit owners' association, or similar entity, the Township shall be notified. If such association fails to properly maintain the storm water 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 maintenance of common open space, to maintain the storm water management facilities. Any association so formed shall enter into an agreement with the Township recognizing its duties and the Township's rights under this Agreement.

15. Grantor's personal liability under this Agreement shall cease at such time as:
(a) all storm water management facilities have been constructed in accordance with the

specifications of the Ordinance and with any applicable subdivision and land development ordinance and the approved plans; (b) the storm water management facilities have been inspected and approved by the Township Engineer; (c) all financial security, including any maintenance security, posted 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 storm water management facilities were not completed, inspected or approved as set forth in (a) through (c) herein.

16. 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. 17. When the sense so requires, words of any gender used in this Agreement and Declaration of Easement shall be held to include any other gender, and the words in the singular number shall be held to include the plural, and vice versa.

IN WITNESS WHEREOF, the undersigned have caused this Agreement and Declaration to be executed on the day and year first above written.

BRECKNOCK TOWNSHIP

Secretary

By: _____
Supervisor

APPLICANT(S)

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 himself to be (Vice)Chairman, Supervisor of the Board of Supervisors of Brecknock Township, Lancaster County, Pennsylvania, and that he, 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 himself as such officer.

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

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) ss:
COUNTY OF LANCASTER)

ON THIS, the ___ day of _____, 20___, before me, the undersigned
officer, personally appeared _____ of
_____, a _____, known to me (or
satisfactorily proven) to be the person whose name is subscribed on the foregoing instrument,
and acknowledged to be their act and deed and desired the same to be recorded as such.

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

Notary Public