

APPENDIX B

OPERATION AND MAINTENANCE (O&M) AGREEMENT STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES (SWM BMP'S)

THIS AGREEMENT, made and entered into this _____ day of _____, 20____. By _____ and _____ between _____, (hereinafter "Landowner"), and Pine Township, (hereinafter "Municipality"), Mercer County, Pennsylvania,

WHEREAS, the Landowner is the owner of certain real property as recorded in Deed Book _____ at Page _____, (hereinafter "Property") of the Mercer County Records, Pennsylvania, and

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

WHEREAS, the SWM Site Plan approved by the Municipality (hereinafter "Plan") for the property identified herein, which is attached hereto as Addendum A and made part hereof, as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of SWM BMP's; 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 BMP's be constructed and maintained on the Property; and

WHEREAS, the Municipality requires, through the implementation of the SWM Site Plan, that SWM BMP's as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the landowner , successors 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 SWM BMP's in accordance with the plans and specifications identified in the SWM Site Plan.
2. The Landowner shall operate and maintain the SWM BMP's as shown on the Plan in good working order in accordance with the specific maintenance requirements of "Section 902 - Inspection" of the SWM Ordinance.
3. The Landowner hereby grants permission to the Municipality, it's authorized agents, and employees, to enter upon the property, at reasonable times and upon the presentation of proper credentials, to inspect the SWM BMP's whenever necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to operate and maintain the SWM BMP's per paragraph 2, the Municipality or it's representatives may enter upon the property and take whatever action is deemed necessary to maintain said SWM BMP's. 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.
5. 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.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site SWM 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. The Landowner, it's executors, administrators, assigns, and other successors in interests, shall release the Municipality from all damages, accidents, causalities, occurrences or claims which might arise or be asserted against said employees and representatives from the construction, presence, existence, or maintenance of the SWM BMP's by the Landowner or Municipality.
8. The Municipality may inspect the SWM BMP's at a minimum of once every three years to ensure their continued functioning.

This Agreement shall be recorded at the Office of the Recorder of Deeds of Mercer 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 other successors in interests, in perpetuity.

ATTEST:

WITNESS the following signatures and seals:

(SEAL)

For the Municipality:
Pine Township

_____ TITLE _____

ATTEST:

For the Landowner:

_____ TITLE _____

_____ (City, Borough, Township)

County of _____, State of _____

I, _____, a Notary Public in and for the County and State aforesaid, whose commission expires on the _____ day of _____, 20____, do hereby certify that _____ whose name(s) is/are signed to the foregoing Agreement bearing date of the _____ day of _____, 20____, has acknowledged the same before me in my said County and State for the purposes contained by signing the name of the corporation by himself as _____.

GIVEN UNDER MY HAND THIS _____ day of _____, 20____.

NOTARY PUBLIC _____