

STANDARD STORMWATER FACILITIES AND BEST MANAGEMENT PRACTICES (BMP)

MAINTENANCE AND MONITORING AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20__, by and between _____, (hereinafter the "Owner"), and Conewago Township, Dauphin County; Pennsylvania, (hereinafter "Municipality");

WITNESSETH

WHEREAS, the Owner is the owner of certain real property identified as (address) _____, Tax Parcel Number _____, (hereinafter "Property").

WHEREAS, the Owner is proposing to make improvements to the Property; and

WHEREAS, the SWM Site Plan (hereinafter "Plan") for the Property which is expressly made a part hereof, as approved or to be approved by the Municipality, provides for detention, retention, infiltration and/or treatment of stormwater within the confines of the Property; and

WHEREAS, the Municipality and the Owner, successors, heirs and assigns agree that the health, safety, and welfare of the public require that on-site stormwater management facilities and BMPs be constructed and maintained on the Property; and

WHEREAS, the Municipality requires, through the implementation of the SWM Site Plan, that stormwater management facilities and BMPs as required by said Plan and the Conewago Township Stormwater Management Ordinance be constructed and adequately operated and maintained by the Owner, successors, heirs 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 on-site stormwater management facilities and BMPs shall be constructed by the Owner, successors, heirs and assigns, in accordance with the terms, conditions, details and specifications identified in the Plan.
2. The Owner, successors, heirs and assigns, shall maintain the stormwater management facilities and BMPs in good working condition, acceptable to the Municipality so that they are performing their design functions.
3. The Owner, successors, heirs and assigns, hereby grant permission to the Municipality, its authorized agents and employees, upon presentation of proper identification, to enter upon the Property at reasonable times, and to inspect the stormwater management facilities and BMPs whenever the Municipality deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When inspections are conducted, the Municipality shall give the Owner, successors, heirs and assigns, copies of the inspection report with findings and evaluations. At a minimum, maintenance inspections shall be performed in accordance with the schedule specified in the BMP Operations and Maintenance Plan.
4. All reasonable costs for said inspections shall be borne by the Owner, successors, heirs and assigns, and payable to the Municipality.

5. By signing this Agreement, the owner shall convey to the Municipality easements and/or rights-of-way adequate to assure access for periodic inspections by the municipality and maintenance, if required.
6. In the event the Owner, successors, heirs and assigns, fail to maintain the stormwater management facilities and BMPs in good working condition acceptable to the Municipality, the Municipality shall give proper notice to Owner setting forth the specifics of such failure to maintain, the remediation required, and deadline to complete such action. After failure by the Owner to remedy within the specified time limit, the Municipality may enter upon the Property and take such necessary and prudent action to maintain said stormwater management facilities and BMPs and to charge the costs of the maintenance and/or repairs to the Owner, successors, heirs and assigns. This provision shall not be construed as to allow the Municipality to erect any structure of a permanent nature on the land of the Owner, outside of any easement rights that the Municipality may have. 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.
7. The Owner, successors, heirs and assigns, will perform operation, maintenance and inspections in accordance with the BMP Operations and Maintenance Plan for the stormwater management facilities and BMPs including sediment removal as outlined on the approved Drainage Plan.
8. 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 on account of the Owner's, successors', heirs' or assigns' failure to perform such work, the Owner, successors, heirs and assigns, shall reimburse the Municipality upon demand, within 30 days of receipt of invoice thereof, for all costs incurred by the Municipality hereunder. If not paid within said 30-day period, the Municipality may enter a lien against the property, including any and all properties when the Owner is a Homeowners Association, in the amount of such costs, or may proceed to recover his costs through proceedings in equity or at law as authorized by law.
9. The Owner, successors, heirs and assigns, shall indemnify the Municipality and its agents and employees against any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the Municipality for the construction, presence, existence or maintenance of the stormwater management facilities and BMPs by the Owner, successors, heirs and assigns.
10. In the event a claim is asserted against the Municipality, its agents or employees, the Municipality shall promptly notify the Owner, successors, heirs or assigns, and they shall defend, at their own expense, any suit based on such claim. If any judgment or claims against the Municipality, its agents or employees shall be allowed, the Owner, successors, heirs and assigns shall pay all costs and expenses in connection therewith.
11. In the event of an emergency or the occurrence of special or unusual circumstances or situations, the Municipality may enter the Property, if the Owner is not immediately available, without notification or identification, to inspect and perform necessary maintenance and repairs, if needed, when the health, safety or welfare of the citizens is at jeopardy. However, the Municipality shall notify the Owner of any inspection, maintenance, or repair undertaken within five days of the activity. The Owner shall reimburse the Municipality for its costs.
12. It is agreed between the two entities known as Owner that they shall be bound jointly and severally by the terms, covenants and agreements herein.

13. Invalidation of any one of these provisions by judgment or Court Order shall in no wise affect any other provisions that shall remain in full force and effect.
14. The Owner shall provide the Municipality with an annual written report documenting the following items:
 - a) Listing of all Post-Construction Stormwater Management (PCSM) Best Management Practices (BMPs) that were installed to meet requirements in NPDES Permits for Stormwater Discharges Associated with Construction Activities approved since March 10, 2003;
 - b) The exact location of the PCSM BMP (e.g., street address);
 - c) Information (e.g., name, address, phone number(s)) for BMP owner and entity responsible for BMP Operation and Maintenance (O&M), if different from BMP owner;
 - d) The type of BMP and the year it was installed;
 - e) Maintenance required for the BMP type according to the Pennsylvania Stormwater BMP Manual or other manuals and resources;
 - f) The actual inspection/maintenance activities performed for each BMP during the year;
 - g) An assessment by the permittee if proper operation and maintenance occurred during the year and if not, what actions the permittee has taken, or shall take, to address compliance with O&M requirements.

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

ATTEST:

MUNICIPALITY: Conewago Township

(CORPORATE SEAL)

By _____

Secretary

Chairman

OWNER

(Individual)

Signature of Individual

Witness:

Trading and Doing Business as

(Partnership)

(Name of Partnership)

Witness:

By _____ **(Seal)**

By _____ **(Seal)**

By _____ **(Seal)**

ATTEST:

(Corporation)

(Assistant) Secretary

(Name of Corporation)

(CORPORATE SEAL)

By _____

(Vice) President

(ACKNOWLEDGMENT FOR CONEWAGO TOWNSHIP)

COMMONWEALTH OF PENNSYLVANIA)
)SS:
COUNTY OF _____)

On this, the _____ day of _____, A.D., 20____, before me, a Notary Public, the undersigned, personally appeared _____, who acknowledged himself to be Chairman of the Conewago Township Board Of Supervisors, a body politic, and that as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the body politic, by himself as Chairman.

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

Notary Public: _____

My Commission expires: _____

(ACKNOWLEDGMENT FOR INDIVIDUAL - GRANTOR)

COMMONWEALTH OF PENNSYLVANIA)
)SS:
COUNTY OF _____)

On this, the ____ day of _____, 20____, before me, a Notary Public, personally appeared, _____ known to me (or satisfactory proven)) to be the person(s) whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same for the purposes therein contained.

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

Notary Public: _____

My Commission expires: _____

(ACKNOWLEDGMENT FOR CORPORATE - GRANTOR)

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF _____)

On this, the ____ day of _____, 20____, before me, a Notary Public, personally appeared, _____ as _____ of the GRANTOR, known to me or satisfactory proven to be the person whose name is subscribed to the within instrument and as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

In Witness Whereof, I have set my hand and official seal.

Notary Public: _____

My Commission expires: _____