

APPENDIX A - OPERATION AND MAINTENANCE AGREEMENT

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 the Township of Fairview, Erie County, Pennsylvania, (hereinafter
“Township”);

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”).

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

WHEREAS, the SWM Site Plan approved by the Township (hereinafter referred
to as the “Plan”) for the property identified herein, which is attached hereto as Appendix
A and made part hereof, as approved by the Township, provides for management of
stormwater within the confines of the Property through the use of BMPs; 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 SWM BMPs be constructed and maintained on the Property; and

WHEREAS, the Township requires, through the implementation of the SWM Site Plan, that stormwater BMPs as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately 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 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 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.
3. The Landowner shall inspect the BMPs and provide inspection reports to the Municipality according to the frequencies noted in Article IX - Section 901.C.
4. The Landowner hereby grants permission to the Township, 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 Township shall notify the Landowner prior to entering the property.

5. In the event the Landowner fails to operate and maintain the BMPs per paragraph 2, the Township 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 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 the Township, 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 Township for all expenses (direct and indirect) incurred within ten (10) days of receipt of invoice from the Township.

7. 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.

8. The Landowner shall pay such fees as determined by the Township and to escrow same with the Township.

9. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Township from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against said employees

and representatives from the construction, presence, existence, or maintenance of the BMPs by the Landowner or Township.

10. The Township may inspect the BMPs 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 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:

WITNESS the following signatures and seals:

(SEAL)

For Fairview Township:

For the Landowner:

ATTEST:

_____ (City, Borough, Township)

County of Erie, Pennsylvania

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.

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

(SEAL)

Notary Public