

**STORM WATER ASSESSMENT AND LAND DEVELOPMENT PLAN
AGREEMENT AND DECLARATION OF EASEMENT**

THIS AGREEMENT AND DECLARATION OF EASEMENT made this _____ day of _____, 20____, by and between _____ (hereinafter referred to as the "Grantor") and **West Cocalico Township**, Lancaster County, Pennsylvania, a Township duly organized under the laws of the Commonwealth of Pennsylvania, with its municipal office located at 156B West Main Street, Reinholds, PA 17569 (hereinafter referred to as the "Township").

BACKGROUND

Grantor is the owner of premises located at _____, in West Cocalico Township, Lancaster County, Pennsylvania, as more specifically described in a deed recorded in Record Book _____, Page _____, in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, and as shown on the _____, prepared by _____, Drawing No. _____, dated _____, last revised _____ (hereinafter referred to as the "Premises").

Prior to beginning construction on any subdivision or land development, Grantor is required, under the West Cocalico Township Subdivision and Land Development Ordinance and the West Cocalico Township Storm Water Management Ordinance (collectively referred to as the "Ordinances"), to file a final plan with West Cocalico Township. Pursuant to the Ordinances, Grantor must provide storm water management data in its application. The Ordinances require that Grantor's final plan reflect and/or be accompanied with supporting documentation which identifies the ownership of, and the method of administering and maintaining, all permanent storm water 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 ("BMPs"), shall be included under the term "storm water management facilities" in this Agreement and Declaration of Easement.

The purpose of this Agreement and Declaration of Easement is to describe the ownership and maintenance responsibilities for the storm water management facilities which will be installed on the Premises and to impose the ownership and maintenance responsibilities upon Grantor, his heirs, personal representatives and assigns and upon successor owners of the Premises, and 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 or its Storm Water Management Site Plan (hereinafter referred to as the "Plan") from West Cocalico Township, and in consideration of receiving permits from the Township to develop the Premises, Grantor, for Grantor and the heirs, personal representatives and assigns of Grantor, covenant and declare as follows:

1. The storm water management facilities will be owned by Grantor, his heirs, personal representatives, successors and assigns.
2. All drainage courses, swales, storm water inlets, pipes, conduits, detention basins BMPs, and other storm water management facilities shall be installed, constructed and maintained by Grantor, his heirs, personal representatives, successors and assigns, in a first-class condition in

conformance with the Plan, as approved by West Cocalico Township, including any accompanying storm water management plans and information, and as recorded in the Office of the Recorder of Deeds in and for Lancaster County, and in a manner sufficient to meet or exceed the performance standards and specifications set forth on the Plan, as approved by West Cocalico Township, including any accompanying storm water management plans and information. These responsibilities shall include, but not be limited to, the following:

- A. Liming, fertilizing, seeding and mulching of vegetated channels and all other unstablized soils or areas according to the specifications in the "Erosion and Sediment Pollution Control Manual" published by the Pennsylvania Department of Environmental Protection; the Penn State Agronomy Guide, or similar standard acceptable to West Cocalico Township.
- 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 stands 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 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, BMPs, and/or other facilities and thus reducing their capacity.
- E. Removal of silt from all permanent drainage structures, in particular BMPs, in order to maintain the design storage volumes. Regular programs shall be established and maintained.
- F. Regular inspection of the areas in question to assure proper maintenance and care, including, but not limited to, proper implementation of BMPs. **ADD ANY SPECIFIC INSPECTION REQUIREMENTS IN THE PCSM PLAN.**
- G. Regular maintenance to insure that all pipes, swales and detention facilities shall be kept free of any debris or other obstruction. **ADD ANY SPECIFIC MAINTENANCE REQUIREMENTS IN THE PCSM PLAN.**
- H. Regular maintenance of all storm water management facilities designed to improve water quality to ensure that the storm water management facilities function in accordance with their design. **ADD ANY SPECIFIC MAINTENANCE REQUIREMENTS IN THE PCSM PLAN SUCH AS:** Maintenance of the infiltration system by mowing grass regularly over the infiltration system; 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 ninety (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 system four (4) times per year or after each rain event exceeding one (1) inch.
- I. Repair of any subsidence, including subsidence caused by sinkholes.
- J. **IF APPLICABLE:** Replacement of displaced riprap within the outlet energy dissipater immediately after it is displaced, particularly after major storm discharge events.
- K. **IF APPLICABLE:** Vacuum sweeping of areas of porous paving to keep surface free of sediment, typically three to four times per year and maintaining all areas of porous

paving free from sealing, surfacing or re-paving with non-porous materials.

- L. Removal of trash and debris on a regular basis.

Include a statement that the approved Operations and Maintenance (O&M) Plan is attached as an exhibit if there are any requirements in addition to those in Paragraph 2.

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

3. Grantor, for himself, his heirs, personal representatives, successors and assigns, agrees that the failure to maintain all drainage courses, swales, storm water inlets, pipes, conduits, detention basins, BMPs, and other storm water management facilities in a first-class condition in conformance with this Agreement and Plan, as approved by West Cocalico Township, including any accompanying storm water management plans and information, shall constitute a nuisance and shall be abatable by the Township as such.
4. The Grantor agrees to provide the Township with an annual written report documenting the following items:
 - A. Listing of all Post-Construction Storm Water 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 Storm Water 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.
5. Grantor, for himself, his heirs, personal representatives, successors and assigns, authorizes the Township, at any time and from time to time, by its authorized representatives, to enter upon the Premises to inspect the storm water management facilities. Grantor acknowledges that the Township has the right to establish a schedule of regular inspections including, but not limited to, annual inspections. If the Township determines to establish a schedule of inspections of storm water management facilities, Grantor, its successors and assigns, shall reimburse the Township for the costs of such inspection and/or pay any annual fee for the administration of a Township storm water management program.
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 West Cocalico Township, including any accompanying storm water management plans and information.

7. Upon the failure of the owner or occupier of the Premises or any part thereof to comply with the terms of this Storm Water 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 West Cocalico Township, including any accompanying storm water management plans and information, including, but not limited to, the removal of any blockage or obstruction from drainage pipes, swales, detention basins, and BMPs, and may charge the cost thereof to Grantor, his heirs, personal representatives, 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 percent (10%) of costs, including the Township's reasonable engineering and attorneys' fees.
8. If ownership or maintenance responsibility of the storm water management facilities is assigned to a home owners' association, condominium unit owners' association, or similar entity, the Township shall be notified. If the 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.
9. 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 storm water management 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, BMPs, and other storm water management 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 storm water facilities.
10. Grantor agrees to indemnify and defend West Cocalico 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 costs 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 storm water facilities.
11. 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 Township Subdivision and Land Development Ordinance, the Township Storm Water Management 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 the Premises and/or 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.

12. 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.
13. 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 West Cocalico Township Storm Water Management Ordinance, the West Cocalico Township Subdivision and Land Development Ordinance and this Agreement.
14. This Agreement and Declaration of Easement shall be binding upon the Grantor, the 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 storm water management facilities. Grantor shall include a specific reference to this Agreement in any deed of conveyance for the Premises or any part thereof.
15. This Agreement and Declaration of Easement may be amended only by written instrument signed by all owners of the Premises and West Cocalico Township.
16. 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.

West Cocalico Township
Lancaster County, Pennsylvania

Attest: _____
(Assistant) Secretary

By: _____
(Vice) Chairman
Township Board of Supervisors

[West Cocalico Township SEAL]

(Individual or Husband and Wife Developer)

Witness:

_____ (SEAL)

(Signature of Individual)

_____ (SEAL)

(Signature of Spouse if Husband and Wife are Co-Developers)

IF APPLICABLE

Trading and Doing Business as

(Partnership Developer*)

Witness:

_____ (Name of Partnership)

_____ By _____ (Seal)

Partner

_____ By _____ (Seal)

Partner

_____ By _____ (Seal)

Partner

*All Partners must execute the Agreement.

(Corporation Developer)

_____ (Name of Corporation)

ATTEST:

By: _____

(Assistant) Secretary

By: _____

(Vice) President

(CORPORATE SEAL)

(Limited Liability Company Landowner***)

Witness: _____

_____ (Name of Limited Liability Company)

By _____ (Seal)
Member

By _____ (Seal)
Member

By _____ (Seal)
Member

***All Members must sign.

ACKNOWLEDGMENT FOR CORPORATE DEVELOPER

COMMONWEALTH OF PENNSYLVANIA)
)
) SS:
COUNTY OF _____)

On this, the ____ day of _____, 20____, before me, a Notary Public, personally appeared, the undersigned officer, _____ who acknowledged ___self to be the _____ of _____ a corporation, and that such officer being authorized to do so, acknowledged the foregoing instrument for the purpose therein contained, by signing the name of the corporation by ___self as _____.

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

Notary Public: _____
My Commission expires: _____

ACKNOWLEDGMENT FOR PARTNERSHIP DEVELOPER

COMMONWEALTH OF PENNSYLVANIA)
)
) SS:
COUNTY OF _____)

On this, the ____ day of _____, 20____, before me, a Notary Public, the undersigned officer, personally appeared _____ who acknowledged themselves to be all of the partners of _____ a _____ partnership, and that they, as such partners, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by themselves as such partners.

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

Notary Public: _____
My Commission expires: _____

ACKNOWLEDGMENT FOR LIMITED LIABILITY COMPANY LANDOWNER

COMMONWEALTH OF PENNSYLVANIA)
)
) SS:
COUNTY OF _____)

On this, the ____ day of _____, 20____, before me, the undersigned officer, personally appeared _____ who acknowledged themselves to be all of the members of _____ a _____ limited liability company, and that they, as such members, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of said limited liability company by themselves as such members.

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

Notary Public: _____
My Commission expires: _____

JOINDER BY MORTGAGEE

_____ ("Mortgagee"), as holder of a certain mortgage on the pre-
County, Pennsylvania, which mortgage, in the amount of
_____ dollars (\$_____) and
dated _____ and is recorded or is about to be recorded in the Re
"Mortgages"), joins in, consents to, and expressly approves the grant of easements and other rights and
privileges described in the attached Storm Water Management Agreement and Declaration of Easement
(the "Agreement").

The Mortgagee, for itself, its successors and assigns (which shall include any assignee of the
Mortgages and any purchaser of the Premises at a sale in foreclosure of the Mortgages or otherwise),
hereby covenants and agrees that the rights and privileges herein granted with respect to the
Premises shall not be terminated or disturbed by reason of any foreclosure or other action which may
be instituted by the Mortgagee, its successors and assigns, as a result of any default under the
Mortgages or the debt instruments that such Mortgages secure. Mortgagee by consenting to the
Agreement shall not by virtue of its interest as Mortgagee be deemed to have undertaken any of the
obligations of the Grantor under the Agreement, including, but not limited to, construction,
maintenance, inspection or indemnification.

IN WITNESS WHEREOF, Mortgagee hereby joins in the execution of the Agreement as of this
_____ day of _____, 20____

(Name of Mortgagee)

ATTEST: _____ By:

[SEAL]

ACKNOWLEDGMENT FOR MORTGAGEE

COMMONWEALTH OF PENNSYLVANIA)

) SS:

COUNTY OF _____)

On this, the _____ day of _____, 20____, before me, a Notary Public, the undersigned officer, personally appeared, _____ who acknowledged ___self to be the _____ of _____, a corporation, and that such officer being authorized to do so, acknowledged the foregoing instrument for the purpose therein contained, by signing the name of the Bank by ___self as _____.

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

Notary Public: _____

My Commission expires: _____