

Prepared By:

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Parcel ID # \_\_\_\_\_

## **STORM WATER MANAGEMENT AGREEMENT AND DECLARATION OF EASEMENT**

**THIS AGREEMENT AND DECLARATION OF EASEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, a \_\_\_\_\_ with a mailing address at \_\_\_\_\_ (hereinafter whether singular or plural referred to as the "Grantor"), and **WARWICK TOWNSHIP**, Lancaster County, Pennsylvania, a municipal corporation duly organized under the laws of the Commonwealth of Pennsylvania, with its municipal office located at 315 Clay Road, P. O. Box 308, Lititz, Pennsylvania (hereinafter referred to as the "Township").

### **BACKGROUND**

Grantor is the owner of premises located at \_\_\_\_\_, in the Township of Warwick, Lancaster County, Pennsylvania, as more specifically described in a deed recorded in Deed or Record Book \_\_\_\_\_, Volume \_\_\_\_\_, Page \_\_\_\_\_, or at Document No. \_\_\_\_\_ in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, and as shown on the plan for NAME OF PLAN, prepared by \_\_\_\_\_, Drawing No. \_\_\_\_\_, dated \_\_\_\_\_, last revised \_\_\_\_\_ (hereinafter referred to as the "Premises").

Prior to beginning construction on any subdivision or land development or regulated activity as defined in the Warwick Township Storm Water Management Ordinance, Grantor is required, under the Warwick Township Subdivision and Land Development Ordinance and the Warwick Township Storm Water Management Ordinance (collectively referred to as the "Ordinance"), to file a plan with the Warwick Township Board of Supervisors. Pursuant to the Ordinance, Grantor must include storm water management data in its subdivision and/or land development application. The Ordinance requires that Grantor's 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 Plan (hereinafter referred to as the "Final Plan") from the Board of Supervisors, 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, riparian buffers, 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 approved Final Plan, 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 approved Final Plan, 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. These responsibilities are identified on the ***approved Post-Construction Stormwater Management Operation & Maintenance Schedule, which is attached as Exhibit A and incorporated herein by reference.***

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

3. Grantor, his personal representatives, heirs, successors and assigns, shall be responsible for maintaining records of all inspections of and maintenance to BMPs and other storm water management facilities. Grantor, his personal representatives, heirs, successors and assigns, shall be responsible to prepare all annual BMP and post construction storm water management facility reports detailing the actual inspection and maintenance activities which are required by the terms of any NPDES permit or other state or federal regulation or requirement and submit such reports to the Township on or before January 1<sup>st</sup> of each calendar year, together with any fee which the Township may impose for the review and processing of such report. It is the responsibility of Grantor to inform successors owners of the Premises or any lot created from the Premises of this reporting requirement.

The failure to submit an annual report is a violation of this Agreement. The Township may prepare any required report and recover all costs required to prepare such report from the then-owner of the Premises or any lot created from the Premises, plus a penalty of ten (10%) percent of such costs and

may file a municipal claim to secure payment of such costs.

4. 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 approved Final Plan, 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, shall constitute a nuisance and shall be abatable by the Township as such.

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 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 approved Final Plan, 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.

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 approved Final Plan, 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, 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 (10%) of such costs, plus the Township's reasonable attorneys' fees.

***8. The storm water management facilities have been designed to allow a maximum impervious surface coverage***

***–[if a single lot] of \_\_\_\_\_ square feet. Any proposal to add additional impervious surface coverage to the Premises will require the submission of a storm water management plan meeting all requirements of applicable regulations in effect at the time such application is filed.***

***– [if multiple lots with the same coverage] of \_\_\_\_\_ square feet for each lot to be created from the Premises. If the owner of any lot to be created from the Premises desires to install additional impervious surface coverage, such lot owner must submit an application***

***under the Storm Water Management Ordinance in effect at such time as the application is filed and meet all applicable storm water management regulations.***

***–[if multiple lots with different coverage limits] as set forth in Exhibit A attached hereto and incorporated herein. If the owner of any lot to be created from the Premises desires to install additional impervious surface coverage beyond that allocated to such lot in Exhibit A, such lot owner must submit an application under the Storm Water Management Ordinance in effect at such time as the application is filed and meet all applicable storm water management regulations.***

9. 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 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.

10. 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 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 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.

11. 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 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.

12. 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 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.

13. 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.

14. 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 Township Storm Water Management Ordinance, the Township Subdivision and Land Development Ordinance and this Agreement.

15. 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 facilities. Grantor shall include a specific reference to this Agreement in any deed of conveyance for the Premises or any part thereof.

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.

WARWICK TOWNSHIP  
Lancaster County, Pennsylvania

Attest:

By: \_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
(Vice) Chairman  
Board of Supervisors

[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\*)

\_\_\_\_\_  
(Name of Partnership)

Witness:

\_\_\_\_\_

By:\_\_\_\_\_(SEAL)  
Partner

\_\_\_\_\_

By:\_\_\_\_\_(SEAL)  
Partner

\_\_\_\_\_

By:\_\_\_\_\_(SEAL)  
Partner

\*All Partners must execute this Agreement

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(Corporation Developer)

\_\_\_\_\_  
(Name of Corporation)

ATTEST:

By:\_\_\_\_\_  
(Assistant) Secretary

By:\_\_\_\_\_  
(Vice) President

[CORPORATE SEAL]

(Limited Liability Company Landowner\*\*\*)

\_\_\_\_\_  
(Name of Limited Liability Company)

Witnesses:

\_\_\_\_\_ By: \_\_\_\_\_  
Member

\_\_\_\_\_ By: \_\_\_\_\_  
Member

\_\_\_\_\_ By: \_\_\_\_\_  
Member

\*\*\* All members must sign.

(MUNICIPALITY ACKNOWLEDGMENT)

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 of the Board of Supervisors of Warwick Township,  
Lancaster County, Pennsylvania, and that he, as such officer, being authorized to do so, executed the  
foregoing Storm Water 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

My commission expires:



COMMONWEALTH OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF LANCASTER                 )

Witness my hand and notarial seal.

My commission expires:

(PARTNERSHIP DEVELOPER ACKNOWLEDGMENT)

COMMONWEALTH OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF LANCASTER                 )

On this \_\_\_\_\_ 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 have hereunto set my hand and notarial seal.

Notary Public

My commission expires:

(CORPORATE DEVELOPER ACKNOWLEDGMENT)

COMMONWEALTH OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF LANCASTER                 )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public,  
the undersigned officer, personally appeared \_\_\_\_\_, who  
acknowledged \_\_\_\_\_self to be the \_\_\_\_\_ of \_\_\_\_\_, a  
corporation, and that as 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:

COMMONWEALTH OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF LANCASTER                 )

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

My Commission Expires:

**JOINDER BY MORTGAGEE**

\_\_\_\_\_ ("Mortgagee"), as holder of a certain mortgage on the premises of \_\_\_\_ [Name(s) of Borrower / Mortgagor / Grantor] \_\_\_\_ within Warwick Township, Lancaster County, Pennsylvania, described in the Deed recorded in/at \_\_\_\_\_ in the Office of the Recorder of Deeds in and for Lancaster County, Pennsylvania, which mortgage, in the amount of \$ \_\_\_\_\_, dated \_\_\_\_\_, and recorded at \_\_\_\_\_ in the Recorder of Deeds Office in and for Lancaster County, Pennsylvania, as well as any other mortgages which Mortgagee may now or hereafter hold on the Premises (all such mortgages hereinafter collectively referred to as the "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]

## (MORTGAGEE ACKNOWLEDGMENT)

COMMONWEALTH OF PENNSYLVANIA     )  
  )     SS:  
COUNTY OF LANCASTER                 )

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 as 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:

## **CONSENT AND JOINDER OF HOMEOWNERS' ASSOCIATION**

The undersigned hereby consents to and joins in the attached Storm Water Management Agreement and Declaration of Easement (the "Agreement"). The undersigned shall maintain all storm water management facilities in accordance with the terms and provisions of the Agreement and in accordance with any separate Declaration of Restrictions. The undersigned specifically agrees that the Township shall have the rights referred to in Paragraph 9 of the Agreement.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound, hereby consents to and joins in the Agreement.

(Name of Homeowners' Association or similar entity)

Attest: \_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
(Vice) President

[SEAL]

COMMONWEALTH OF PENNSYLVANIA     )  
   )     SS:  
COUNTY OF LANCASTER                     )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged \_\_\_\_\_ self to be the \_\_\_\_\_ of \_\_\_\_\_, a nonprofit corporation, and that as 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: