

AGREEMENT

THIS AGREEMENT made this ____ day of _____, 20__, by and between **WARWICK TOWNSHIP MUNICIPAL AUTHORITY**, a municipality authority organized and existing under the laws of the Commonwealth of Pennsylvania and specifically organized under the Municipality Authorities Act of 1945, as amended, having its principal office at 315 Clay Road, Lititz, Pennsylvania 17543, hereinafter called the "Authority", and _____, with a business address of _____, hereinafter called the "Developer".

WITNESSETH:

WHEREAS, Authority owns and operates municipal sewerage facilities (the "Sewer System") within the Township of Warwick, Lancaster County, Pennsylvania (the "Township"); and

WHEREAS, Developer desires to install sanitary sewers and other appurtenances in and along the streets to be constructed and/or within rights-of-way in the development to be known as _____ in the Township of Warwick, Lancaster County, Pennsylvania, to serve Developer's subdivision (hereinafter sometimes referred to as the "Project") and to connect (and, if necessary, extend) the same to the Authority's Sewer System; and

WHEREAS, Authority is willing to permit the installation of sanitary sewers by the Developer and the connection of such sanitary sewers to the Authority's Sewer System subject to compliance by Developer with the Authority's policies, rates, rules, regulations, standards and specifications including, but not limited to, the Authority's Developers' Manual.

NOW, THEREFORE, in consideration of the promises, terms and conditions of this Agreement more fully hereinbelow set forth, and intending to be legally bound hereby, the parties agree as follows:

1. Developer agrees to furnish to Authority the Developer's complete and accurate development plans and rights-of-way surveys to show the following items: (a) location of buildings, roads and streets and other land use facilities; (b) location of existing utilities; (c) proposed easements and rights-of-way other than for street and road use; (d) land to be dedicated to the Authority; and (e) such other details of the project as may influence the design and/or construction of the sanitary sewers.

2. Developer agrees to establish a final rough grade on all roads, streets, easements and rights-of-way within which sanitary sewers are to be installed prior to the installation thereof.

3. Developer has deposited with Authority the sum of \$ _____ to be used by the Authority to apply against the following costs: (i) cost of obtaining, filing or recording any necessary applications, permits and approvals from or with governmental bodies including but not limited to a Water Quality Management Permit from the Pennsylvania Department of Environmental Protection ("DEP"); (ii) cost of supervision of final stake-out; (iii) cost of inspection of the sanitary sewers; (iv) cost of sewer line and appurtenance testing, including, but not limited to, televising of sewer lines and leak detection in accordance with the Authority's Developers' Manual; (v) cost of preparation of "as constructed" drawings and record documents in accordance with the Authority's Developers' Manual; (vi) cost of any Pennsylvania Department of Transportation ("PennDOT") inspection fees if state roads are involved in the Project; (vii) any legal expenses (including expenses relating to the preparation of this Agreement) and engineering fees Authority may incur in the furtherance of the design, installation or dedication to the Authority of the proposed sanitary sewage facilities for the Project; and (viii) any other costs or expenses which may require a deposit pursuant to the terms of the Authority's Developers' Manual. In the event said sum deposited is insufficient to pay such costs, Authority shall bill Developer for the actual or anticipated additional costs, and Authority shall have the right to suspend work pending receipt of the sum billed. In the event said sum deposited is in excess of such costs, Authority shall refund such excess money, without interest, to Developer upon completion of the work and acceptance of dedication of said sewer facilities. Authority is hereby irrevocably authorized to withdraw from time to time any monies deposited by Developer in escrow in order to pay expenses and fees, including legal and engineering fees, incurred by Authority pursuant to or in connection with the administration of this Agreement.

4. Authority agrees to cooperate with Developer to obtain any necessary permits and to perform the Authority's other obligations hereunder. Developer or its engineer shall coordinate with the Authority's engineer the responsibility for preparing permit applications and "as constructed" drawings and the performance of the other engineering work related to this Agreement. Developer shall be responsible for preparing and obtaining approval of the DEP Planning Module for Land Development if such approval is required. It is understood that the Planning Module must be approved before the Authority or its engineer can proceed to perform any of their obligations hereunder. If Developer proceeds with the construction of the sanitary sewers prior to the issuance (if required) of a Water Quality Management Permit by DEP, all such construction shall be at the sole risk of Developer, and Developer shall indemnify and hold the Authority harmless from any and all fines, penalties or liabilities arising therefrom.

5. Developer shall install the sanitary sewers with its own contractors; provided, however, the work shall not be undertaken intermittently, but shall be rapidly prosecuted to the completion on or before _____, said time being of the essence. No work may commence

unless and until the Authority approves in writing Developer's construction submittals. Developer's contractors shall be experienced in the installation of sanitary sewerage facilities and must be approved by the Authority. At all times during the installation of the sanitary sewers, Developer or its contractors shall obtain and maintain in force liability insurance insuring against liability for injury to and/or death of any person and/or damage to property of any person or persons in connection with the construction of the sewerage facilities. The minimum limits and coverages of such insurance shall be determined by the Authority's engineer, and any policy or policies shall name the Authority, its agents, servants and employees, as named insureds or additional insureds. The policies of insurance shall be written by one or more responsible insurance carriers licensed to do business in Pennsylvania . Developer shall provide to the Authority copies of such certificates or endorsements as are necessary to establish that the insurance policies required by this Agreement are in place. The insurance policies shall provide that the Authority is a named insured or an additional insured, and shall require notice be sent to the Authority at least thirty (30) days in advance of termination or cancellation thereof. Developer shall indemnify and hold the Authority harmless from any and all claims arising from damages relating to the construction of the sanitary sewerage facilities and the violation of any permits, including reasonable attorneys' fees and cost of investigation and defense.

6. All construction of sanitary sewerage facilities by Developer shall be completed in strict conformity to (a) Authority's plans and specifications including, but not limited to, the Authority's Developers' Manual, which are on file in the office of the Authority located at 315 Clay Road, Lititz, Pennsylvania 17543, and which are incorporated herein by reference thereto and (b) the requirements of DEP. Without limiting the foregoing, Developer shall cause its contractors to comply with the Authority's Developer's Manual, including technical specifications and construction submittals. Developer acknowledges and agrees that even though the Authority, and/or the Authority's engineer, may communicate directly with the Developer's contractors, the Developer shall nevertheless remain fully and primarily responsible for compliance with the Authority's Developer's Manual, including technical specifications and construction submittals, notwithstanding.

7. Upon completion of the installation of the sewer mains, the Developer's engineer shall, at the Developer's expense, prepare "as constructed" drawings and record documents, in accordance with the Authority's Developers' Manual, to record the sewer mains as actually constructed. Without limiting the forgoing, Developer shall comply with Section 9 of the Authority's Developer's Manual regarding record documents and Section 10 of the Authority's Developers' Manual regarding acceptance procedure. The Authority's staff, or the Authority's engineer, shall make a final inspection, prepare the necessary closing documents and, if the work is satisfactory,

recommend that the sewer mains be accepted by the Authority. In the event that the Developer's engineer fails to prepare such "as constructed" drawings and record documents, the Authority's engineer shall, at Developer's expense, prepare the "as constructed" drawings and record documents.

8. Developer hereby irrevocably dedicates the sanitary sewerage facilities to the Authority, and the Authority agrees to accept said sanitary sewers and appurtenances upon completion, provided:

(a) The location, plans and specifications for said sewerage facilities have been approved or prepared by the Authority's engineer prior to the start of construction;

(b) Developer has obtained approval for grades and locations from all appropriate governmental bodies and has been issued the necessary permits from all appropriate state and municipal agencies, including, but not limited to DEP Part II Water Quality Management, PennDOT Highway Occupancy, Township Road Opening and Township Use and Occupancy Permits;

(c) Said sewerage facilities have been constructed in accordance with the aforesaid plans and specifications which are to be approved by the engineer for the Authority prior to the beginning of construction thereof;

(d) Inspection by the Authority's engineer or employees is permitted during the entire course of construction, during which Developer shall comply with reasonable requirements of said engineer or employees as to advance notice of time when the inspections are to be made;

(e) Developer shall cooperate with and assist the Authority to obtain any necessary Highway Occupancy Permits from PennDOT for any laying of sewer lines on public highways, shall pay all expenses related to compliance with state or local requirements, and shall hold Authority harmless from any cost, including inspection fees, in connection with state or local requirements;

(f) Developer furnishes the Authority or the Authority's certified public accountant with information reflecting the actual cost of the sewerage facilities dedicated to the Authority if requested to do so by Authority;

(g) Developer has obtained all rights-of-way and easements for the sewer lines, has provided evidence satisfactory to the Authority's solicitor that title to said rights-of-way and easements is good and marketable and free of all liens and encumbrances, and has transferred such rights-of-way and easements to Authority; and

(h) Developer has complied with all the terms of this Agreement.

If the sewerage facilities constructed by Developer include a pumping station that is intended for dedication to the Authority, then Developer shall dedicate the pumping station to the Authority

prior to the issuance of any sewer permits required for the connection of any properties within the Project to the Authority's Sewer System.

In the event that Developer is installing a low-pressure sewer system with individual grinder pumps, Developer agrees to ensure that all grinder pumps connecting to the sewerage facilities and the appropriate space grinder pump(s) are a make and model approved by the Authority. Developer shall pay all expenses incurred in replacing installed grinder pumps that are not deemed acceptable by the Authority. Developer shall further enter into a separate Grinder Pump Agreement with the Authority regarding, among other things, the installation, use and replacement of grinder pumps and the payment of fees for replacement grinder pumps.

Developer hereby agrees that its offer to dedicate the sewerage facilities shall be enforceable by the Authority in an action in equity, and Developer shall be responsible for all court costs and reasonable legal fees incurred by the Authority in the event it becomes necessary to seek such specific performance.

9. Prior to the commencement of any construction or the recording of any plans relating to the Project, Developer shall furnish Authority with an improvement guarantee in the form and the amount required by the Municipality Authorities Act, as amended. Such improvement guarantee must be approved by the Authority's solicitor and engineer. Developer's improvement guarantee shall not be released until all sanitary sewerage facilities and related land rights, including easements, have been properly dedicated to the Authority and until all "as constructed" drawings have been furnished to the Authority.

10. Developer shall guarantee the correction of all defective work and material discovered during a period of eighteen (18) months from the date of acceptance of the sewer lines and appurtenances. All sewer lines shall be tested by Developer under the supervision of the Authority's engineer or employees eighteen (18) months following acceptance, and Developer shall correct any defective work and material discovered during such inspection at its sole expense. Authority may, at its option, require Developer to post financial security to secure the structural integrity and functioning of the sewer lines and appurtenances in accordance with the approved design and specifications and the Authority's rules and regulations during said eighteen (18) month period as a condition to acceptance of said sewer lines.

11. Prior to and as a condition precedent to Authority's final acceptance of the sanitary sewers, Developer shall transfer to the Authority full and absolute ownership, free and clear of all liens and encumbrances, to all sewer lines, manholes, accessories, and appurtenances as required to be constructed in the construction plans and specifications, and title to all easements and rights-of-way through, in or on private property and through, in or on all streets whether or not such streets

are or will be offered for dedication for ingress, egress, maintenance and replacement of the sewerage facilities, all of which shall be subject to the approval of the Authority's solicitor.

12. In further consideration of the Authority's undertakings herein, Developer hereby irrevocably dedicates to the Authority, free of all liens and encumbrances, all necessary rights-of-way, which shall include rights-of-way and easements within all streets whether or not such streets are or will be offered for dedication (as determined in the sole discretion of the Authority's engineer), for the reconstruction, enlargement, repair, inspection, maintenance, removal, relocation and extension of the sanitary sewers on, upon, under and through Developer's tract of land.

Developer shall furnish Authority with legal descriptions for said rights-of-way and easements, if such descriptions are requested by the Authority, together with evidence satisfactory to the Authority's solicitor (either a policy of title insurance or an attorney's certificate of title) that title to the said rights-of-way and easements is good and marketable and free of all liens and encumbrances.

13. It is understood by the parties hereto that title to the aforementioned sewer lines shall be and remain in Developer until such time as said sewer lines are accepted by the Authority and that Developer may not connect to the Authority's sewer system until permission to do so has been obtained from an authorized representative of the Authority.

14. Developer agrees that upon Authority's acceptance of said sewer lines, title to said lines, together with all appurtenances thereto, shall be and remain at all times in the Authority, its successors and assigns.

15. In addition to all other responsibilities of Developer under this Agreement, Developer shall be responsible for all maintenance and repairs to all portions of the sanitary sewerage facilities and any related accessories and appurtenances which are located on or above the surface of the ground until the last of the following to occur:

(i) the Authority officially accepts the sanitary sewerage facilities and the term of the maintenance security posted by the Developer has expired, and:

(ii) if the sanitary sewerage facilities are located within the right-of-way of a street which has been offered for dedication to the Township, until the final wearing course has been installed and the Township has accepted dedication of such street; or

(iii) if the sanitary sewerage facilities are located within a private street or access drive which will not be dedicated to the Township, until the final wearing course has been installed on such private street or access drive and the Authority has been granted all necessary easements for the sanitary sewage facilities.

During such time as Developer is responsible for the maintenance and repair of the sanitary sewerage facilities and any related accessories and appurtenances which are located on or above the

surface of the ground, Developer will repair any damage, or at the option of the Authority will reimburse the Authority for repairs made by employees, agents or contractors of the Authority for any damage, to the sanitary sewerage facilities. Such damage includes but is not limited to damage to facilities caused by the plowing of snow or other maintenance of the streets. The provisions of this Paragraph shall not be interpreted to diminish or affect the rights of the Authority upon acceptance of dedication of the sanitary sewerage facilities.

16. Developer agrees to secure a permit from the Authority and to pay the appropriate prevailing connection fee to the Authority prior to commencing construction of the sewer extension. A copy of the Authority's tapping and connection fee resolution, as amended and as may be amended in the future, is on file at the office of the Authority and is incorporated herein by reference thereto. Developer acknowledges that a tapping fee will be payable to the Authority for each dwelling unit or equivalent dwelling unit in the Project prior to the commencement of the construction of each dwelling unit or nonresidential facility.

17. Developer acknowledges that the extension of the Authority's Sewer System governed by this Agreement is designed and located such that no individual service lines to serve properties not located within the Project can be connected to the extension. Developer specifically acknowledges that no reimbursement under Section 5607(d)(31) of the Municipal Authorities Act, codified as 53 Pa.C.S. §5607(d)(31) shall be due Developer.

18. Developer shall be responsible for compliance with all applicable soil erosion and sedimentation control requirements. All charges, fees and filings in connection with these requirements shall be the Developer's responsibility.

19. Developer will not at any time discharge into the sewer system any effluent other than "domestic sewage" (which term is herein defined to mean "sewage" other than "industrial waste" as those two terms are defined in Chapter 73 of the Rules and Regulations of DEP in effect as of the date of this Agreement) emanating from the Project without the express written consent of the Authority and without complying with such reasonable conditions as the Authority may impose under its rules and regulations.

Should the rules, regulations and orders of any governmental body or agency hereafter come into effect which prohibit the Authority from accepting certain types of sewage from the Project, Developer shall relieve the Authority from any and all responsibility under this Agreement as to the acceptance of such prohibited sewage.

20. Developer agrees to give the Authority ten (10) days' written notice of the Developer's intention to begin construction of the sanitary sewerage facilities so that the construction may be properly inspected by the Authority. Any work which has begun before the expiration of such ten (10) day period without the consent of the Authority will not be approved. In addition, any

improperly constructed work will not be accepted. Inspection by the Authority is solely for the purpose of determining that the sewerage facilities are constructed in accordance with the Authority's specifications. Methods of construction and conformance with all applicable local, state and federal laws and regulations are the responsibility of the Developer. At all times, the sewer contractor shall keep on the construction site, available to the Authority, one (1) copy of the approved plans and specifications, any shop drawings approved by the Authority and the Authority's Developer's Manual.

21. Developer shall hire, employ, and pay its own contractor or contractors to construct the extension according to the aforesaid approved plans and specifications, and the Authority, its servants, agents and/or employees shall have no responsibility or liability for payment of any part of the cost or expenses arising out of or relating to said construction or the labor, materials and equipment used therein or thereon or the acquisition of any rights-of-way. The Authority, its servants, agents and employees, including its engineer, shall have no responsibility or liability whatsoever for any injury or damage to any persons or property occurring upon or associated with the construction of the Project. Developer shall be responsible for any and all safety measures or procedures required by statute, regulation, resolution or good construction practice, and the Authority, its servants, agents and/or employees, including its engineer, shall have no responsibility therefor.

Developer agrees to indemnify and hold harmless the Authority, its engineer, servants, agents and/or employees from any claim for any injury or damage of any nature or kind whatsoever, including costs of investigation and defense and including but not limited to reasonable attorneys' fees, brought by any third party, including Developer's employees or Developer's contractors and their employees, arising from a breach of this Agreement, a breach of the rules and regulations of DEP, the standards of DEP, or from Developer's breach of any other statute, regulation, resolution, ordinance or accepted construction practice, whether relating to the design or installation of the sewer extension.

22. This Agreement relates to the final plan for a _____ lot and _____ unit subdivision or land development to be known as _____, prepared by _____, plan no. _____, dated _____, last revised _____. Any changes or revisions to the plan which in any way relate to the design, specifications, location or construction of the sewer extension must be approved by the Authority prior to recording.

23. It is understood and agreed by the parties hereto that the Authority's undertaking to supply wastewater collection and treatment services to Developer is based upon an Agreement between the Authority and the Borough of Lititz, wherein the Borough of Lititz agreed to provide

wastewater treatment capacity to the Authority subject to certain terms and conditions. Counterparts of that Agreement are on file at the offices of the Authority, and Developer hereby acknowledges having read and familiarized itself with the terms thereof prior to the execution of this Agreement. If for any reason whatsoever the Borough of Lititz ceases to supply the Authority with wastewater treatment capacity or fails or refuses to supply sufficient capacity to meet Developer's needs, it is hereby agreed that the Authority shall be relieved of any liability for any loss or damage which Developer may suffer as a result thereof.

24. This Agreement shall not be modified except by the mutual written consent of the parties hereto.

25. This Agreement shall bind and inure to the benefit of the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed the day and year first above written.

WARWICK TOWNSHIP MUNICIPAL
AUTHORITY

ATTEST: _____
(Assistant) Secretary

By: _____
(Vice) Chairman

[AUTHORITY SEAL]

(Individual or Husband and Wife Developer)

Witness:

_____(SEAL)
(Signature of Individual)

_____(SEAL)
(Signature of Individual)

Trading and doing business as:

(Partnership Developer*)

(Name of Partnership)

Witness:

By: _____(Seal)
Partner

By: _____(Seal)
Partner

By: _____(Seal)
Partner

By: _____(Seal)
Partner

*All Partners must execute this Agreement

(Corporation Developer)

(Name of Corporation)

ATTEST:

By: _____
(Assistant) Secretary

By: _____
(Vice) President

[CORPORATE SEAL]

(Limited Liability Company Developer**)

(Name of Limited Liability Company)

Witnesses:

By: _____
Member

By: _____
Member

By: _____
Member

**All members must sign.