

## APPENDIX E

### STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICES (SWM BMPs) OPERATION AND MAINTENANCE (O&M) AGREEMENT

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_\_, by and between \_\_\_\_\_, (hereinafter the  
"Landowner"), and \_\_\_\_\_, Lycoming County,  
Pennsylvania; (hereinafter "Municipality");

#### **WITNESSETH**

**WHEREAS**, the Landowner is the owner of certain real property as recorded by  
deed in the land records of \_\_\_\_\_ County, Pennsylvania, Deed Book  
\_\_\_\_\_ at Page \_\_\_\_\_, (hereinafter "Property").

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

**WHEREAS**, the SWM BMP Operation and Maintenance Plan approved by  
the Municipality (hereinafter referred to as the "O&M Plan") for the property identified  
herein, which is attached hereto as Appendix A and made part hereof, as approved by  
the Municipality, provides for management of stormwater within the confines of the  
Property through the use of BMPs; and

**WHEREAS**, the Municipality, and the Landowner, his successors and assigns,  
agree that the health, safety, and welfare of the residents of the Municipality and the  
protection and maintenance of water quality require that on-site SWM BMPs be  
constructed and maintained on the Property; and

**WHEREAS**, for the purposes of this agreement, the following definitions  
shall apply:

BMP — "Best Management Practice," activities, facilities, designs, measures or  
procedures used to manage stormwater impacts from land development, to protect  
and maintain water quality and groundwater recharge and to otherwise meet the  
purposes of the Municipal Stormwater Management Ordinance, including but not  
limited to infiltration trenches, seepage pits, filter strips, bio-retention, wet ponds,  
permeable paving, rain gardens, grassed swales, forested buffers, sand filters and

detention basins.

**Infiltration Trench** —A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,

**Seepage Pit** —An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer;

**Rain Garden** — A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer; and

**WHEREAS**, the Municipality requires, through the implementation of the SWM Site Plan, that SWM BMPs as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, his 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 BMP(s) in accordance with the plans and specifications identified in the SWM Site Plan.
2. The Landowner shall operate and maintain the BMP(s) as shown on the SWM Site Plan in good working order acceptable to the Municipality and in accordance with the specific operation and maintenance requirements noted on the approved O&M Plan.
3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper credentials, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to operate and maintain the BMP(s) per paragraph 2, the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Municipality to erect any permanent structure on the land of the Landowner. 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.

5. 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, the Landowner shall reimburse the Municipality for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the Municipality.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMP(s) 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.
7. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality 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 BMP(s) by the Landowner or Municipality. In the event that a claim is asserted against the Municipality, its designated representatives or employees, the Municipality shall promptly notify the Landowner and the Landowner shall defend, at his own expense, any suit based on the claim. If any judgment or claims against the Municipality's employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.
8. The Municipality shall inspect the BMP(s) 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 Lycoming 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.

(SEAL)

For the Municipality

ATTEST: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(SEAL)

For the Landowner

ATTEST: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**COMMONWEALTH OF PENNSYLVANIA**

**ss:**

**COUNTY OF** \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_, before me a notary public the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they, executed the same for the purposes therein contained.

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

My commission expires:

\_\_\_\_\_

**COMMONWEALTH OF PENNSYLVANIA**

**ss:**

**COUNTY OF** \_\_\_\_\_

On this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_, before me a Notary Public the undersigned officer, personally appeared \_\_\_\_\_ known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

My commission expires: \_\_\_\_\_

**COMMONWEALTH OF PENNSYLVANIA**

**ss:**

**COUNTY OF LYCOMING**

RECORDED on this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, in the Recorder's Office of the said County, in Record Book, No. \_\_\_\_\_ Page \_\_\_\_\_.

Given under my hand and the seal of the said office, the day and year aforesaid.

\_\_\_\_\_  
Recorder