

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

**THIS AGREEMENT AND DECLARATION OF EASEMENT** made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, of \_\_\_\_\_ (hereinafter referred to as the "Grantor"); and the **TOWNSHIP OF WEST EARL**, Lancaster County, Pennsylvania, a second class township duly organized under the laws of the Commonwealth of Pennsylvania, with its municipal offices located at 157 West Metzler Road, P. O. Box 787, Brownstown, Pennsylvania (hereinafter referred to as the "Township").

**BACKGROUND.**

Grantor is the legal and/or beneficial owner of premises located at \_\_\_\_\_, in the Township of West Earl, Lancaster County, Pennsylvania, as more specifically described in a deed recorded in 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 \_\_\_\_\_, prepared by \_\_\_\_\_, Drawing No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_\_\_, last revised \_\_\_\_\_, 20\_\_\_\_, (hereinafter referred to as the "Premises").

Prior to the commencement of any development, Grantor is required under the West Earl Township Storm Water Management Ordinance (the "Ordinance"), to submit a storm water management plan to the Township for approval. Section 403 and Article VI of the Ordinance, codified as Sections 149-16 and 149-26 through 149-31 require that the Grantor make provision for 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, its successors and assigns, and upon successor owners of the Premises.

NOW, THEREFORE, intending to be legally bound hereby and in consideration of receiving approval of its Storm Water Management Plan (hereinafter referred to as the "Plan") from the Board of Supervisors of West Earl Township, and in consideration of receiving permits from the Township to develop the Premises, Grantor, for Grantor and the assigns and successors of Grantor, covenants and declares as follows:

1. The storm water facilities will be owned by Grantor, its 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, its successors and assigns, in a first-class condition in conformance with the Plan, as approved by the Board of Supervisors of West Earl Township, and in a manner sufficient to meet or exceed the design standards and specifications set forth on the Plan. These responsibilities shall include, but not be limited to, the following:

- (1) 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 Resources or such similar accepted standard.

- (2) Reestablishment of vegetation by seeding, mulching and use of erosion matting or sodding of scoured areas or areas where vegetation has not been successfully established.

- (3) 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.

(4) 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.

(5) Regular inspection of the areas in question to assure proper maintenance and care, including but not limited to proper implementation of BMPs.

(6) All pipes, swales and detention facilities shall be kept free of any debris or other obstruction.

Grantor, its successors and assigns, shall be responsible for performing the foregoing maintenance and for implementing and maintaining BMP facilities as required by the Ordinance.

3. Grantor, for itself, its 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 the Plan shall constitute a nuisance and shall be abatable by the Township as such.

4. Grantor, for itself, its 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.

5. The Township may require that Grantor, its successors or 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 the Board of Supervisors of West Earl Township.

6. Upon the failure of the owner or occupier of the Premises to comply with the terms of this Storm Water Management Agreement or to take corrective measures following thirty (30) days' 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, 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, its successors or assigns, or any owner of the Premises and, in default of such payment, may cause a municipal lien to be imposed upon the Premises or any part thereof.

7. If ownership or maintenance responsibility of the storm water management facilities is assigned to a homeowners' association, condominium unit owners' association, or similar entity, the Township shall be notified. In the event such an association or entity has already been formed, the association or entity shall consent to and join in this Agreement. If such association or entity fails to properly maintain the storm water management facilities, the Township shall have the same rights granted to municipalities with reference to maintenance of common open space under Section 705 of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247, or any future amendment thereof, to maintain the storm water management facilities. Any association or entity hereinafter formed shall enter into an agreement with the Township recognizing its duties and the Township's rights under this Agreement.

8. Grantor hereby imposes upon the Premises for the benefit of all present and future owners of the Premises or any part of the Premises, the Township and all other property owners affected by the storm water management facilities, the perpetual nonexclusive 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 management facilities.

9. Grantor shall include a specific reference to this Storm Water Management Agreement and Declaration of Easement in any deed of conveyance for the Premises or any part thereof.

10. Grantor agrees to indemnify the Township and all of its elected and appointed officials, agents and employees (hereinafter 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 management facilities.

11. 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 Earl Township Storm Water Management Ordinance and this Agreement.

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 West Earl Township Storm Water Management Ordinance, the West Earl Township Subdivision and Land Development 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. This Agreement and Declaration of Easement shall be binding upon 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, or any part thereof, of their duties and responsibilities with respect to the storm water management facilities.

15. 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.

16. When the sense so requires, words of any gender used in this Storm Water Management Agreement and Declaration of Easement shall be held to include any other gender, and 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.

TOWNSHIP OF WEST EARL

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

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

[TOWNSHIP SEAL]

(Individual or husband and wife Developer)

Witness:

\_\_\_\_\_  
(Signature of Individual) \_\_\_\_\_(SEAL)

\_\_\_\_\_  
(Signature of Individual) \_\_\_\_\_(SEAL)

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]









**JOINDER BY MORTGAGEE**

\_\_\_\_\_ ("Mortgagee")  
as holder of a certain mortgage on the within-described Premises, which mortgage, in the amount of \$ \_\_\_\_\_, is dated \_\_\_\_\_, 20\_\_, and is recorded or is about to be recorded 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]



