

WATER

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City of Saint Marys

Appendix C

**Operation and Maintenance Agreement:
Stormwater Best Management Practices**

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between _____, (hereinafter the “Landowner”), and City of St. Marys, Elk 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 Stormwater Management BMP Operation and Maintenance Plan approved by the municipality (hereinafter referred to as the “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 Best Management Practices (BMPs); and

WHEREAS, the municipality, and the Landowner, agrees that the health, safety, and welfare of the residents of the municipality and the protection and maintenance of water quality require that on-site Stormwater Best Management Practices be constructed and maintained on the Property; and

WHEREAS, the municipality requires, through the implementation of the SWM site plan, that Stormwater Management BMPs as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner.

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 BMPs in accordance with the plans and specifications identified in the SWM site plan.
2. The Landowner shall operate and maintain the BMPs as shown on the Plan in good working order accordance with the specific maintenance requirements noted on the approved SWM site plan.

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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 BMPs whenever 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 BMPs 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 BMPs by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.
7. The Landowner indemnifies and holds harmless the municipality from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City and its employees and representatives from the construction, presence, existence, or maintenance of the BMP(s) by the Landowner or municipality.
8. The municipality shall inspect the BMPs at a minimum of once every three years to ensure their continued functioning.
9. This Agreement shall be recorded at the Office of the Recorder of Deeds of Elk County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Landowner, his personal representatives, executors, administrators, successors and assigns, and any other successors in interests, in perpetuity.
10. The assignment by the Landowner of any interest in the property covered by the Agreement shall not excuse the Landowner from continuing liability under this Agreement.

WATER

ATTEST:

WITNESS the following signatures and seals:

(SEAL)

For the Municipality

(SEAL)

For the Landowner

ATTEST:

_____ (City, Borough, Township)

County of _____, Pennsylvania

I, _____, a Notary Public in and for the County and State aforesaid, whose commission expires on the ____ day of _____, 20__, do hereby certify that _____ whose name(s) is/are signed to the foregoing Agreement bearing date of the ____ day of _____, 20__, has acknowledged the same before me in my said County and State.

GIVEN UNDER MY HAND THIS

____ day of _____, 20__

NOTARY PUBLIC (SEAL)