

RETURN TO:
GAWTHROP GREENWOOD PC
17 East Gay Street, Suite 100
P.O. Box 562
West Chester, PA 19381-0562

UPI Nos. _____

STORMWATER BEST MANAGEMENT PRACTICES
OPERATIONS AND MAINTENANCE AGREEMENT

("Owner")

and

TREDYFFRIN TOWNSHIP
("Township")

**STORMWATER BEST MANAGEMENT PRACTICES
OPERATIONS AND MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____, 20__, by and between _____ having a physical address of _____, Pennsylvania (hereinafter the "Owner"), and **TREDYFFRIN TOWNSHIP** with an address of 1100 DuPortail Road, Berwyn, Pennsylvania 19312 (hereinafter the "Township").

WITNESSETH

WHEREAS, the Owner is the owner of certain real property identified on a plan entitled “_____” for the construction of _____ (the “Project”) prepared by _____, dated _____, as last revised on _____, and consisting of __ sheets, situate in Tredyffrin Township, Chester County, Pennsylvania and identified by UPI Nos. _____ (as hereinafter "Property"); and

WHEREAS, the Owner is proceeding to build and develop the Property with residential uses; and

WHEREAS, the Stormwater Operations and Maintenance Plan for the Property (hereinafter referred to as the "Plan") is set forth in a narrative entitled Post Construction Stormwater Management Operations & Maintenance Manual, which is attached hereto as **Exhibit “A”** and made a part hereof (hereinafter referred to as the “Manual”), provides for management of stormwater within the confines of the Property through the use of Best Management Practices ("BMPs"); and

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

Best Management Practice (BMP) – Activities, facilities, designs, measures or procedures used to manage stormwater impacts from Regulated Activities, to meet State Water Quality Requirements, to promote groundwater recharge, to prevent or reduce surface runoff and water pollution, and to otherwise meet the purpose of this chapter. Stormwater BMPs are commonly grouped into one of three broad categories or measures: “structural”, “non-structural”, and “operation and maintenance procedures.” In this chapter, non-structural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture, treat and reduce stormwater runoff. Non-Structural BMPs include, but are not limited to, a variety of practices, from low-impact planning and design, reduction of impervious surfaces, protection of existing vegetated cover, and minimization of earth disturbances. Structural BMPs include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands, to smaller scale underground treatment systems, seepage beds and trenches, infiltration facilities, vegetated swales and filter strips, low impact design, bioretention (rain gardens), wet ponds,

permeable paving combined with underground seepage beds, detention basins, manufactured devices, and operation and maintenance procedures. Structural Stormwater BMPs are permanent appurtenances to the project site.

Infiltration Structure – A structure designed to direct runoff into the underground water (e.g., infiltration beds or trenches, dry wells, French drains, seepage pits, or trenches, bio-infiltration areas (rain gardens), porous pavement with underground infiltration beds, etc.).

Bioretention System (also known as rain garden) – A stormwater retention area that utilizes woody and herbaceous plants and soils to remove pollutants before infiltration occurs.

Green Roof (also known as vegetated roofs or eco roofs) - Alternative roof surfaces that typically consist of waterproofing and drainage materials and an engineered growth media that is designed to support plant growth. Green Roofs capture and temporarily store stormwater runoff in the engineered growth media before it is conveyed to the storm system. A portion of the captured stormwater evaporates or it is taken up by plants, which helps reduce runoff volumes, peak runoff rates, and pollutant loads on development sites.

Retention Basin/Pond – A structure in which stormwater is stored and not released during the storm event. A retention basin/pond is designed to retain a permanent pool of water during dry weather and potentially detain waters from a specific drainage area, or designed for infiltration purposes and do not have an outlet. The retention basin/pond designed for infiltration purposes must infiltrate stored water in three (3) days or less.

Seepage Pit/Seepage Trench – An area of the earth excavated, having an uncompacted bottom, completely wrapped with geotextile material and filled with loose clean stone or similar coarse material into which surface water is directed for infiltration into the underground water.

Detention Basin – An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely shortly after any given rainfall event and are dry until the next rainfall event.

And other relevant Stormwater Management Ordinance (Ch. 174) definitions as found in Ordinance No. HR-375, Ch. 174, Article II (Definitions), Section 5 and 6, in effect at the time of execution of this Agreement; and

WHEREAS, the Township requires, through the implementation of the Plan, that stormwater management BMPs as required by said Plan and Manual and the Tredyffrin Township Stormwater Management Ordinance, be constructed and adequately operated and maintained by the Owner, its successors and assigns; and

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained here, and the following terms and conditions, the parties hereto agree as follows:

1. The BMPs shall be constructed by the Owner in accordance with the specifications identified on the Plan and Manual.
2. The Owner shall operate and maintain the BMPs as shown on the Plan in good working order acceptable to the Township and in accordance with the specific maintenance requirements noted on the Plan and Manual.
3. The Owner hereby grants permission to the Township, its authorized agents and employees, to enter upon the Property, at reasonable times and upon presentation of proper identification, to inspect the BMPs whenever it deems necessary. Whenever possible, the Township shall notify the Owner prior to entering the Property.
4. In the event the Owner fails to operate and maintain the BMPs as shown on the Plan and Manual in good working order acceptable to the Township, the Township shall send written notice to the Owner specifying the areas of noncompliance and the steps that must be taken to cure the noncompliance. In the event that the Owner does not cure the noncompliance within thirty (30) days of the date thereof, or diligently pursue compliance in circumstances where compliance is not possible within thirty (30) days due to weather conditions, or whether otherwise determined in the sole discretion of the Township in an emergency situation that notice is not practical or expedient, the Township or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMPs. This provision shall not be construed to allow the Township to erect any permanent structure on the Property. It is expressly understood and agreed that the Township 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 Township.
5. In the event the Township, pursuant to this Agreement, performs construction or maintenance work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner shall reimburse the Township for all reasonable expenses (direct and indirect, specifically including, without limitation, the reasonable expenses of consulting professionals engaged in connection with such work) incurred within thirty (30) days of receipt of invoice from the Township. In the event the Owner (or its successors or assigns) shall fail to pay the Township for such reasonable costs or expenses, then the Township may collect the same as provided by law, including the right to sue the said Owner in assumpsit for reimbursement of its costs, and shall have the right to cause a lien to be placed on the Property in the amount of said expense, together with interest thereon plus the reasonable costs of enforcement of its rights hereunder.

6. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMPs by the Owner, 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 Owner, its executors, administrators, assigns, and other successors in interests, shall release the Township's employees and designated representatives 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 BMPs by the Owner or Township. In the event that a claim is asserted against the Township, its designated representatives or employees, the Township shall promptly notify the Owner and the Owner shall defend, at its own expense, any suit based on the claim. If any judgment or claims against the Township's employees or designated representatives shall be allowed, the Owner shall pay all costs and expenses regarding said judgment or claim. The foregoing shall not apply where said claim or judgment results from the negligence or willful misconduct of the Township, its employees or designated representatives.
8. At a minimum of once per year following completion of the construction of the BMP's as required herein and the inspection and approval thereof by the Township, the Owner shall have the BMPs inspected by a Professional Engineer and following such inspection, Owner shall submit an inspection report to the Township for its review and records by April 1st of each year.
9. Updated contact information for the Owner shall be provided to the Township, Attn: Township Engineer, at the address noted above by January 1st of each year.

This Agreement shall be recorded in the Office of the Recorder of Deeds in and for Chester County, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, and shall be binding on the Owner, its administrators, executors, assigns, and any other successors in interests, until such time that the Township may approve a different development scheme for the Property or different BMPs than those depicted on the Plan or Manual. In the event of such approval, this Agreement shall be deemed to have been extinguished and terminated without need for further written documentation evidencing same.

Signature page follows.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers and representatives on the date first indicated hereinabove.

ATTEST/WITNESS:

_____, Member

BY: _____
Name: _____
Title: _____

ATTEST:

TREDYFFRIN TOWNSHIP

BY: _____
Name: _____
Title: _____

COMMONWEALTH OF PENNSYLVANIA :
 : ss
COUNTY OF _____ :

On this, the ____ day of _____, 20__, before me, a Notary Public, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be the OWNER of _____, and that as such, is authorized to executed the foregoing instrument for the purposes therein contained.

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

NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA :
 : ss
COUNTY OF CHESTER :

On this, the ____ day of _____, 20__, before me, a Notary Public, the undersigned officer, personally appeared _____, who acknowledged himself/herself to be _____ of the **TOWNSHIP OF TREDYFFRIN**, a body corporate and politic, and that s/he, as such, being authorized to do so, executed the foregoing instrument for the purposes therein.

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

NOTARY PUBLIC

EXHIBIT “A”

STORMWATER OPERATION AND MAINTENANCE MANUAL