

APPENDIX C
STORMWATER MANAGEMENT ORDINANCE

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

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between _____, (hereinafter the “Landowner(s)”), and the BOROUGH OF FRANKLIN PARK, Allegheny County, Pennsylvania, (hereinafter “Municipality”);

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of Allegheny County, Pennsylvania, Deed Book _____ at Page _____, Block and Lot No. _____, (Lot(s) _____ in the _____ Plan of Lots as recorded in Plan Book Volume _____, Page _____,) Street Address _____ (hereinafter “Property”).

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

WHEREAS, the stormwater management BMP Operations and Maintenance Plan approved by the Municipality (hereinafter referred to as the “Plan”) for the Property, 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, 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 stormwater 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, bioretention, wet (retention) 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,
- Bioretention (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 Plan, that stormwater management BMPs as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated, maintained and inspected by the Landowner, his successors and assigns.

NOW, THEREFORE, in consideration of the foregoing and intending to be legally bound, the parties hereto agree as follows:

1. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the SWM Plan.
2. The Landowner shall operate and maintain the BMPs as shown on the Plan in good working order acceptable to the Municipality and in accordance with the specific maintenance requirements noted on the Plan, if any.
3. The Landowner agrees to inspect each BMP in accordance with the schedule set forth in section 2.11 of the Stormwater Management Ordinance and to immediately correct any deficiencies noted during each inspection. It shall be the sole responsibility of the Landowner to provide the results of each inspection to the Municipality. All such results shall be submitted on the certified inspection form made available by the Municipality. The Municipality shall in no way be liable for the acts or omissions of the Landowner pursuant to this paragraph or any other inspection requirements, and the Landowner hereby indemnifies and holds the Municipality harmless from any such claims.
4. 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 identification, to inspect

the BMPs whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.

5. In the event that the Landowner fails to operate and maintain the BMPs as shown on the Plan in good working order acceptable to the Municipality, the Municipality 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 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 or liability on the Municipality.
6. In the event that 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 incurred plus 10% for administrative overhead within 10 days of receipt of invoice from the Municipality.
7. 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.
8. The Landowner, its executors, administrators, assigns, and other successors in interests, shall release the Municipality'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 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.
9. This Agreement shall be recorded at the Department of Real Estate of Allegheny 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.

ATTEST:

BOROUGH OF FRANKLIN PARK:

WITNESS:

LANDOWNER(S):

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) SS:

Before me, the undersigned authority, a Notary Public in and for said County and Commonwealth, personally appeared _____ known to me or satisfactorily proven to be the person whose name _____ subscribed to the within instrument and acknowledged that he executed the same for the purposes therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this _____ day of _____, 20_____.

[SEAL]

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
)
COUNTY OF ALLEGHENY) SS:

Before me, the undersigned authority, a Notary Public in and for said County and Commonwealth, personally appeared _____, President of Borough Council for the BOROUGH OF FRANKLIN PARK, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same on behalf of the Borough of Franklin Park for the purposes therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this _____ day of _____, 20_____.

[SEAL]

Notary Public