

APPENDIX B

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

THIS AGREEMENT, made and entered into this day of _____, 20_____, by and between _____ (hereinafter the “Landowner”), and the Borough of Franklin Park, Allegheny County, Pennsylvania (hereinafter “Borough”);

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 _____, and currently identified as Block and Lot No. _____, with a street address of _____ (hereinafter “Property”).

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

WHEREAS, the SWM BMP Operation and Maintenance (O&M) Plan approved by the Borough (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 Borough, provides for management of stormwater within the confines of the Property through the use of BMPs; and

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

WHEREAS, the Borough requires, through the implementation of the SWM Site Plan, that SWM BMPs as required by said SWM Site Plan and Chapter 178 of the Borough’s Code of Ordinances, Stormwater Management, as amended, be constructed and adequately operated and maintained by the Landowner, 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 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 SWM Site Plan in good working order in accordance with the specific operation and maintenance requirements noted on the approved O&M Plan.
3. The Landowner agrees to inspect each BMP in accordance with the schedule set forth in Section 178-802 of Chapter 178 of the Borough’s Code of Ordinance, Stormwater Management 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 Borough. All such results shall be submitted on the certified inspection form made available by the Borough. The Borough 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 Borough harmless from any such claims.

3. The Landowner hereby grants permission to the Borough, 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 Borough 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 Borough or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). It is expressly understood and agreed that the Borough 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 Borough.
5. In the event the Borough, 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 Borough for all expenses (direct and indirect) incurred, plus 10% for administrative overhead, within 10 days of receipt of invoice from the Borough.
6. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMPs by the Landowner; provided, however, that this Agreement shall not be deemed to create 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 Borough 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 Borough.
8. The Borough may inspect the BMPs at a minimum of once every three years to ensure their continued functioning.

This Agreement shall be recorded at the Allegheny County Department of Real Estate 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:

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____.

Notary Public

[SEAL]

Appendix A

SWM BMP Operation and Maintenance (O&M) Plan
