

APPENDIX R

STORMWATER MANAGEMENT FACILITIES MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 20___, by and between **Harry A. Knight**, (hereinafter the “Landowner”), Box 20, Mifflinburg, Union County, Pennsylvania, 17844;

AND

Hartley Township, (hereinafter the “Municipality”) Union County, Pennsylvania, P.O. Box 128, Laurelton, Union County, Pennsylvania, 17835.

WITNESSETH

WHEREAS, the Landowner is the fee simple owner of a certain tract of real property as recorded and vested by deed in the land records of Union County, Pennsylvania, Recorder of Deeds Office Deed Book 15 at Page 59, and identified by Tax Parcel Identification Number(s) 011-024-56-(hereinafter “Property”);

WHEREAS, the Landowner intends to build and develop this Property by constructing permanent improvements as more fully shown upon a plan prepared by XYZ Engineering Corp. entitled “Final Land Development Plan of Hartley Acres” (hereinafter “Plan”) dated February 2, 2002, which is expressly made a part hereof as approved by the Union County Planning Commission;

WHEREAS, the “Plan” for Hartley Acres provides for the detention, retention, infiltration, and/or conveyance of stormwater within the confines of the Property; and

WHEREAS, the Municipality and the Landowner and his heirs, successors and assigns, including an homeowners or other association of owners, agree that the health, safety, and welfare of the residents of the Municipality require that on-site stormwater management facilities be constructed and maintained on the Property; and

WHEREAS, the Union County Planning Commission requires, through the implementation of the Union County Subdivision and Land Development Ordinance, that stormwater management facilities as shown on the Plan be constructed and adequately maintained by the Landowner, his heirs, successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intended to be legally bound hereby, agree as follows:

1. The on-site stormwater management facilities shall be constructed by the Landowner, his heirs, successors and assigns, in accordance with the terms, conditions and specifications identified on the Plan.
2. The Landowner, his heirs, successors, and assigns do hereby establish a permanent easement for stormwater management facilities and access to said facilities as more fully shown upon the Plan. The stormwater management facility easement shall run with and bind the land and fee simple owners, their heirs, executors, administrators, successors and assigns.
3. The Landowner, his heirs, successors and assigns, shall maintain the stormwater management facilities in good working condition, acceptable to the Municipality so that they are performing their design functions. This includes maintenance of all pipes, channels, swales and other structures built to convey stormwater to the facility as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater.
4. The Landowner, his heirs, successors and assigns shall inspect the stormwater management facilities and submit an inspection report annually. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection report shall cover the entire facility including berms, outlet structure, pond areas, access roads, etc. Deficiencies shall be noted in the inspection report. At a minimum, maintenance inspections shall be performed in accordance with the following schedule:
 - Annually for the first 5 years after the construction of the stormwater facilities,
 - Once every 2 years thereafter, or
 - During or immediately upon the cessation of a 100 year or greater precipitation event.
5. The Landowner, his heirs, successors and assigns, hereby grant permission to the Municipality, its authorized agents and employees upon presentation of proper identification, to enter upon the Property at reasonable times, and to inspect the stormwater management facilities whenever the

Municipality deems necessary. The purpose of the inspection is to assure safe and proper functioning of the facilities. The inspection shall cover the entire facilities, berms, outlet structures, pond areas, access roads, etc. When inspections are conducted, the Municipality shall give the Landowner, his heirs, successors and assigns copies of the inspection report with findings and evaluations.

6. All reasonable costs for said inspections shall be born by the Landowner, his heirs, successors and assigns and payable to the Municipality.
7. In the event the Landowner, his heirs, successors and assigns, fails to maintain the stormwater management facilities in good working condition acceptable to the Municipality, the Municipality may enter upon the Property and take such necessary and prudent action to maintain said stormwater management facilities and to charge the costs of the maintenance and/or repairs to the Landowner, his heirs, successors and assigns. This provision shall not be construed as to allow the Municipality to erect any structure of a permanent nature on the land of the Landowner, outside of any easement belonging to the Municipality. 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.
8. The Landowner, his heirs, successors and assigns, will perform maintenance in accordance with the maintenance schedule for the stormwater management facilities including sediment removal as outlined on the Maintenance Plan and schedule described in Exhibit A, attached hereto.
9. 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 on account of the Landowner, his heirs, successors and assigns failure to perform such work, the Landowner, his heirs, successors and assigns, shall reimburse the Municipality upon demand, within 30 days of receipt of invoice thereof, for all costs incurred by the Municipality hereunder. If not paid within said 30-day period, the Municipality may enter a lien against the Property in the amount of such costs, or may proceed to recover its costs through proceedings in equity or at law as authorized under the provisions of the Municipal Lien Law.

10. The Landowner, his heirs, successors and assigns, shall indemnify the Municipality and its agents and employees against any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the Municipality for the construction, presence, existence or maintenance of the stormwater management facilities by the Landowner, his heirs, successors and assigns.
11. In the event a claim is asserted against the Municipality, its agents or employees, the Municipality shall promptly notify the Landowner, his heirs, successors and assigns, and they shall defend, at their own expense, any suit based on such claim. If any judgment or claims against the Municipality, its agents or employees shall be allowed, the Landowner, his heirs, successors and assigns shall pay all costs and expenses in connection therewith.
12. In the advent of an emergency or the occurrence of special or unusual circumstances or situations, the Municipality may enter the Property, if the Landowner, his heirs, successors and assigns are not immediately available, without notification or identification, to inspect and perform necessary maintenance and repairs, if needed, when the health, safety or welfare of the citizens is at jeopardy. However, the Municipality shall notify the landowner, his heirs, successors and assigns of any inspection, maintenance, or repair undertaken within 5 business days of the activity. The Landowner, his heirs, successors and assigns shall reimburse the Municipality for its costs.
13. No structures may be placed within or on the Stormwater Management Facilities and easement and no landscaping or grading is permitted within said easement which would impede stormwater flow or alter the course of the flow within said easement, nor impede the functioning of stormwater inlets, outlet structures, infiltration beds, or any other element of the stormwater management facility.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto have set their hands and seals the day and year first above written

EXHIBIT A

STORMWATER MANAGEMENT FACILITIES MAINTENANCE SCHEDULE

The Landowner, his heirs, successors and assigns shall maintain all stormwater management and permanent erosion and sediment pollution control facilities that are proposed as part of the Plan.

The Landowner, his heirs, successors and assigns shall complete a visual inspection of all stormwater management and permanent erosion and sediment pollution control facilities at least once every six months and immediately after significant storm events during the first year and in all subsequent years until all lots within the said development are sold. The visual inspection shall include:

- (1) An examination of the stormwater collection, conveyance, detention and infiltration facilities for debris deposition (such debris may include, but is not limited to, aggregate material, leaves, grass clippings, and soil material); and
- (2) An examination of the stormwater facilities for settlement, sinkholes, structural cracking, excessive vegetation, erosion, etc.

The Landowner, his heirs, successors and assigns shall immediately repair any damage to the stormwater management and permanent erosion and sedimentation pollution control facilities. The Landowner, his heirs, successors and assigns shall place topsoil on all areas that experience minor erosion and shall seed and mulch such areas immediately. The Landowner, his heirs, successors and assigns repair damage to riprap areas using material that meets or exceeds the riprap gradation size specified on the construction detail sheets of the Plan.

The Landowner, his heirs, successors and assigns shall notify the Hartley Township Supervisors, Union County Conservation District and the Union County Planning Commission prior to initiating any major repair activities.