

Name of Development
DRAFT Sewer Maintenance Agreement

THIS AGREEMENT, made _____ day of _____, 20____, by and between the SCOTT TOWNSHIP AUTHORITY (hereinafter called Authority), with its office located at 350 Tenny Street, Bloomsburg, PA 17815-3251, Columbia County, Pennsylvania and _____ (hereinafter called Developer).

WITNESSETH: that

WHEREAS, Developer owns approximately _____ acres of land, or the rights to develop and/or subdivide the same, in Scott Township, Columbia County, Pennsylvania, designated as Parcel _____ of _____ County Tax Map PN-_____, which the Developer desires to subdivide and/or develop; and

WHEREAS, the Developer submitted preliminary plans for the subdivision and/or development of its land to the Township for its review on or about _____ (date), which plan were subsequently revised and preliminarily approved by the Township on _____. The plans are titled _____ (name of subdivision plan) and are incorporated herein by reference; and

WHEREAS, the plans submitted provide for the construction of a sanitary sewer collection system, to be constructed as depicted on said plans (hereinafter called Sewer Improvements).

WHEREAS, the Developer has completed construction of the Sewer Improvements to the extent they can be completed and desires to dedicate the sewer lines to the Authority conditioned on the Authority finally inspecting and approving the constructed Sewer Improvements before accepting its dedication to become part of the Authority's sewer system.

NOW, THEREFORE the parties, intending the foregoing paragraphs to be part of this Agreement and to satisfy the mutual desires expressed therein, agree as follows:

1. Upon the completion of the Sewer Improvements, the Developer shall: (a) post financial security with a chartered lending bonding company or Federal or Commonwealth institution chosen by Developer, provided such bonding company or lending institution is authorized to conduct such business in the Commonwealth, in the sum of Twenty percent (20%) of the actual cost of installation of the Sewer Improvements, to secure the structural integrity of said Sewer

Improvements as well as the functioning of said Sewer Improvements in accordance with the design and specifications as depicted on the final plat for a period of two (2) years from the date of acceptance of dedication of the Sewer Improvements by the Authority; and (b) present to the Authority "As-Built" plans of said Sewer Improvements.

2. Developer shall be responsible for all costs of maintenance and repairs required on the said Sewer Improvements from the time of Sewer Improvement dedication until completion of the two (2) year period set forth in 1 above. The Authority shall be the sole determiner of when and how any maintenance or repairs shall be performed, provided that the Authority, except in the case of an emergency, shall notify Developer of the need for maintenance or repair of the Sewer Improvements and shall afford Developer a reasonable opportunity to complete the repairs or maintenance work through a contractor of their choice, and which contractor shall be acceptable to the Authority. The Authority shall be the sole determiner as to what constitutes an emergency. In the event the Developer fails to pay any bill for maintenance and repairs, the Authority may draw down on the security account to pay said invoice for repairs and maintenance.
3. By entering in and performing under this Agreement, the Authority does not assume, nor shall it be deemed to have assumed, any responsibility or liability for the maintenance and repair of the Sewer Improvements or other facilities indicated on the plans, does not accept, nor shall it be deemed to have accepted and approved, any future phases of the subdivision and/or land development noted on the Developer's plans, and does not warrant, represent, or promise nor shall it be deemed to have warranted, represented, or promised, to assume the maintenance and repair responsibilities and liability for the Sewer Improvements or other facilities indicated on the plans, or to accept and approve any future date. Any future phase of subdivision and/or land development noted on the Developer's plans, or any part thereof, must be submitted to and shall be considered by the Authority as a new plan.
4. This Agreement may be amended or modified only by a written instrument signed by both parties. This Agreement may only be terminated upon the written consent of all of the parties.
5. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all prior agreements and negotiations between them. There are no other representations, terms, covenants, conditions, agreements or warranties, express or implied, oral or written, of any nature whatsoever, other than those expressly set forth herein.

6. This Agreement, except as otherwise expressly provided herein, shall be binding on and inure to the benefit of the respective legatees, devisees, heirs, executors, administrators, assigns, and successors in interest of the parties.
7. This Agreement shall be governed by, and shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.
8. If any term, condition, clause or provision of this Agreement shall be determined or declared to be void or invalid in law or otherwise, then only that term, condition, clause or provision shall be stricken from this Agreement and in all other respects this Agreement shall be valid and continue in full force, effect and operation.

The failure of any party to insist upon strict performance of any of the provisions of this Agreement shall in no way affect the right of such party hereafter to enforce the same, nor shall the waiver of any breach of any provisions hereof be construed as a waiver of any subsequent default of the same or similar nature, nor shall it be construed as a waiver of strict performance of any other obligations herein.

9. The consideration for this Agreement and contract is the mutual benefits to be obtained by the parties thereto and the covenants and agreements of each of the parties to the other. The adequacy of the consideration for all agreements herein contained is stipulated, confessed, and admitted by the parties, and the parties intend to be legally bound hereby.
10. It is expressly understood and agreed by and between the parties that this Agreement maybe specifically enforced by any party in a Court of Equity, and the parties hereto agree that if an action to enforce this agreement is brought in Equity, no party will make an objection on the alleged ground of lack of jurisdiction of said court on the basis that there is an adequate remedy at law. The parties do not intend hereby to improperly confer jurisdiction on a court in Equity by their Agreement, but they agree as provided herein for the forum of equity in mutual recognition of the present state of the law in recognition of the general Jurisdiction of Courts of Equity over agreements such as this one.

Anything to the contrary notwithstanding, any party may also proceed with an action at law for enforcement of any of their rights under the terms of this Agreement.

Furthermore, Developer, upon its failure or refusal to perform as required by this Agreement, hereby agrees that the Authority may proceed upon the financial security posted by Developer according to the terms thereof; for costs and expenses it incurs to perform for Developer under this Agreement.

11. In case of a breach or default by any party of any term or provision of this Agreement, the parties further hereby agree that the breaching or defaulting party shall pay and save and hold the other party or parties harmless from any and all attorney's fees, legal costs, legal expenses, and other expenses that the other party or parties may sustain or incur, in any way whatsoever, in consequence of such breach or default. It is the specific agreement and intent of the parties that the breaching or defaulting party shall bear the burden and obligation of any and all costs and expenses and counsel fees incurred by the non-breaching or non-defaulting party or parties in endeavoring to protect and enforce his or its right under this Agreement.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties have set their respective hands and seals on the day and year first above-mentioned.

ATTEST:

SCOTT TOWNSHIP AUTHORITY

Title

BY: _____
Title

WITNESS:

DEVELOPER

