

ZONING

200 Attachment 5

APPENDIX C

Pervious Pavement Maintenance Agreement

[Added 3-19-2014 by Ord. No. 395]

THIS AGREEMENT, made and entered into this ____ day of _____, 20 ____, by and between _____, (hereinafter the "Landowner") and the Township of Lower Makefield, Bucks County, Pennsylvania (hereinafter "Township").

WHEREAS, the Township has approved the development plan at the following address: _____, (hereinafter "Property") that includes the installation of pervious pavement; and

WHEREAS, the Township, and the Landowner, his successors and assigns, agree that the pervious pavement constructed on the Property must be properly maintained and repaired.

NOW, THEREFORE, in consideration of the foregoing promises, the parties hereto agree to the following terms and conditions regarding maintenance of the pervious pavement:

1. The pervious pavement shall be constructed by or on behalf of the Landowner in accordance with the plan(s) and specification(s) as set forth on the Operation and Maintenance Plan dated the ____ day of _____, copy of which is attached hereto as Exhibit A.
2. The Landowner shall operate, maintain and repair the Pervious Pavement System in accordance with the Operation and Maintenance Plan, and in good working order acceptable to the Township and in accordance with the specific requirements of the Township Zoning Ordinance.
3. At a minimum, the Landowner or Landowner's designee shall conduct semi-annual inspections evaluating the condition and performance of the pervious pavements.
4. Vegetated areas adjacent to the pervious pavement shall be well maintained to prevent soil washout onto the pavement. The discharge of yard debris or grass clipping onto the pervious surface shall be avoided.
5. Vehicle anti-skid materials such as sand or cinders must not be applied on or adjacent to the pervious pavement.
6. The Pervious asphalt or concrete pavement shall be cleaned at a minimum frequency of once every two years. Information on maintaining and cleaning pervious pavement is available at the Township's web page (www.Imt.org/documents.php).
7. Repaving with impervious material or seal coating the pervious pavement surface is prohibited.

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8. The Township will inspect the Pervious Pavement System at a minimum of once every three years to ensure it is properly functioning. Within 30 days following the inspection, the Township shall provide the Landowner with a written report that will detail any required maintenance or repairs.

9. 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 pervious pavement as noted above. The Township shall notify the Landowner prior to entering the property. The property owner shall reimburse the Township for all expenses incurred for the inspection(s) and the written report within 30 days of receipt of an invoice from Lower Makefield Township.

10. If any repair of the Pervious Pavement System is required as a result of the inspection, the Landowner shall have 45 days to address all failed items as noted on the inspection report. The Township will then perform a re-inspection of the areas that required maintenance or repair.

11. In the event the Landowner fails to operate and maintain the Pervious Pavement System in accordance with Operation and Maintenance Plan and in good working order acceptable to the Township, the Township or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said Pervious Pavement System. This provision shall not be construed to allow the Township to erect any permanent structure on the land of the Landowner. 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.

12. In the event the Township, pursuant to this Agreement, performs any inspections or other 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 Township for all expenses (direct and indirect) incurred within 10 days of receipt of invoice from the Township.

13. The Landowner, its executors, administrators, assigns and other successors in interest 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 Pervious Pavement System by the Landowner or Township. In the event that a claim is asserted against the Township, its designated representatives or employees, the Township 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 Township's employees or designated representatives shall be allowed, the Landowner shall pay all costs and expenses regarding said judgment or claim.

14. The intent and purpose of this Agreement is to ensure the proper maintenance of the pervious pavement by the Landowner; provided that this Agreement

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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.

THIS AGREEMENT shall be recorded at the Office of the Recorder of Deeds of Bucks 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 interest, in perpetuity.

[Remainder of page intentionally left blank. Signatures appear on following page]

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WITNESS the following signatures and seals

For the Township:

ATTEST:

**LOWER MAKEFIELD TOWNSHIP
BOARD OF SUPERVISORS**

By: _____

For the Landowner:

ATTEST:

By: _____