Resolution # 18-2024

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF MAIDENCREEK, BERKS COUNTY, PENNSYLVANIA ENTERING INTO A MEMORANDUM OF UNDERSTANDING WITH THE BERKS COUNTY CONSERVATION DISTRICT.

WHEREAS, the Berks County Conservation District (BCCD) administers the Erosion and Sediment Control Program for the Pennsylvania Department of Environmental Protection; and

WHEREAS, the Township desires to control accelerated erosion and to prevent sediment pollution to the Waters of the Commonwealth from earth disturbance activities; and

WHEREAS, the Township of Maidencreek (Township) previously had a Memorandum of Understanding with the BCCD dated December 2002, August 9, 2012, and February 9, 2017; and

WHEREAS, new Federal and State regulations require the revision of the existing Memorandum of Understanding.

NOW, THEREFORE, be it RESOLVED by the Board of Supervisors of the Township of Maidencreek, Berks County, Pennsylvania and it is hereby resolved by the authority of the same to enter into a Memorandum of Understanding with the Berks County Conservation District and adopt the agreement attached as Exhibit A.

All other resolutions or parts of resolutions inconsistent with this Resolution are hereby repealed insofar, but only insofar as the same are inconsistent herewith.

RESOLVED AND ADOPTED by the Board of Supervisors of the Township of Maidencreek, Berks County, Pennsylvania, in lawful session duly assembled this 13th day of June, 2024.

Board of Supervisors
Maidencreek Township
Berks County, Pennsylvania

David Franke

Joshua Meck

Attest:

Christina Hafer

Eric Bauman

EXHIBIT A

MEMORANDUM OF UNDERSTANDING

Between the

BERKS COUNTY CONSERVATION DISTRICT

and

Maidencreek Township

This Memorandum has been prepared jointly and agreed upon by each party for the following purposes:

To serve as a joint commitment by the signatory parties to control accelerated erosion and to prevent sediment pollution to the Waters of the Commonwealth which may result from the conduct of earth disturbance activities in Maidencreek Township ("Municipality").

I. In carrying out the intent of this Memorandum, the Berks County Conservation District ("District") shall:

1. Provide the Municipality with District electronic project application forms, when requested, and promptly notify Municipality of any changes in the plan review fee schedule.

2. Receive and review all Erosion and Sedimentation Control Plans ("E&S Plan" or "Plan") for earth disturbance activities 5,000 square feet or greater, which are required to be written in accordance with Chapter 102.4 of the PA Code. (Less than 1 acre & Small Projects E&S Applications).

3. Within ten (10) working days of completion of review, notify the consultant, the applicant, the Municipality, and the municipal engineer of all E&S Plan/NPDES Permit approvals, deficiencies, and all determinations including all project inspection reports and valid complaint inspection reports. Providing this information supports the Municipality with respect to Municipality's MS4 reporting requirements as required to satisfy Minimum Control Measures #4 and #5 related to services provided under this Memorandum.

4. Notify the consultant, the applicant, and the Municipality that a Plan submission has been withdrawn based on either the lack of response within the specified time period or the lack of the development of a complete Plan in compliance with PA Department of Environmental Protection (PA DEP) Chapter 102 Erosion and Sediment Control Rules and Regulations.

5. Upon request, provide all applicants with electronic copies of the PA DEP Erosion and Sediment Pollution Control Program Manual and related forms, worksheets, checklists, etc., necessary to successfully prepare a Plan.

6. Upon the filing of a complaint by the Municipality and/or a third party, the following will occur:
   a. The District will inspect the complaint within (10) ten calendar days of its receipt.
   b. If warranted, the District will provide documentation of the associated findings. The source of the complaint shall remain anonymous in accordance with PA DEP policy.
   c. Stormwater discharge complaints directly associated with earth disturbance activities (NPDES sites or Sites with an approved E&S plan) should be directed to the District. All other stormwater complaints should be handled under municipal ordinance.

7. Serve as the repository for all Plans, complaints, Earth Disturbance Inspection Reports, correspondence, etc., within the limitations stated by PA DEP, that involve earth disturbance activities within the said Municipality. All such information, except the complaint forms, shall be contained in a filing system which shall be available for inspection by Municipal officials upon receipt of a formal written request.

8. When requested by the landowner or agricultural operator, provide technical assistance in the development of needed Agricultural E&S Plans and Manure Management Plans.

9. The District will be available to provide assistance for municipalities with meeting Minimum Control Measures #1, #2, #3, #4 & #5. Technical engineering assistance is available for an additional fee.

In carrying out the intent of this Memorandum, the Municipality shall:

1. Retain electronic copies of the District's project application forms and provide such forms or website links to all parties for projects that require a review. The Municipality shall provide instructions to have the Plans (residential, commercial, industrial, agricultural expansion construction, etc.) for earth disturbance activities greater than or equal to 5,000 square feet, which are required to be written in accordance with Chapter 102.4 of the PA Code, submitted to the District for review per Chapter 102 of the PA Code.

2. Notify the District within (5) five days of receipt of an application for a project disturbing greater than or equal to (1) one acre, pursuant to Chapter 102.42.

3. Pursuant to Chapter 102.43, **the Municipality** shall not issue building or other permit or approval to those proposing or conducting earth disturbance activities requiring a PA DEP permit until the PA DEP or District has issued the E&S or individual NPDES Permit or approved coverage under the general NPDES Permit for Stormwater Discharges Associated with Construction Activities under Chapter 102.5.

4. Forward all questions pertaining to the preparation of Plans and applications to the District.

5. Forward all complaints about ongoing earth disturbance activities to the District for its inspection.

6. Not issue final close-out, or grant final release of improvement/E&S escrow until the applicant has submitted a Notice of Termination (NOT) for all NPDES Permitted activates and received Permit termination correspondence from the District.

7. Forward to the District, any agricultural complaint relating to: nutrient pollution and sediment pollution.

8. The District highly recommends that the Municipality assists the District in educating landowners and agricultural operators regarding the development of written Agricultural E&S Plans, which are required under Chapter 102.4 for agricultural plowing or tilling activities and animal heavy use areas disturbing 5,000 square feet or greater of land, as well as necessitate the development of Manure Management Plans. Manure Management Plans are also required under 25 PA. Code Section 91.36 (b) for all farming operations that land apply manure or agricultural process wastewater, whether they generate the manure or import it from another operation. All farming operations that include an Animal Concentration Area (ACA) or pasture must also have a written Manure Management Plan. The District requests assistance in providing this information before any building/zoning permits for agricultural operations are approved. In addition, the Municipality should not issue a building permit, or other permit or approval, to those proposing to construct a liquid or semi-solid waste storage facility unless they have a design that has been approved and stamped by a professional engineer.

II. This Memorandum of Understanding shall become effective immediately. It shall be reviewed as the need arises by either or both parties, and may be amended by mutual consent of both parties. This Memorandum of Understanding may be terminated at any time, by either party, following a thirty (30) day written notice to the other party.

FOR Maidencreek Township (municipality)

By: Diane Dallenbach Date: June 13, 2024

Attest: _____

FOR THE BERKS COUNTY CONSERVATION DISTRICT

_____ 6-26-24

CHAIR DATE