

WATER

26 Attachment 16

Township of Plumstead  
Attachment C

**Prepared By: Jonathan J. Reiss, Esquire**  
**GRIM, BIEHN & THATCHER**  
**104 South 6th Street, P.O. Box 215**  
**Perkasie, PA 18944**

**Return To: Jonathan J. Reiss, Esquire**  
**GRIM, BIEHN & THATCHER**  
**104 South 6th Street, P.O. Box 215**  
**Perkasie, PA 18944**

**CPN#**

---

**DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS**  
**WELL GUARANTEE AGREEMENT**

**AND NOW** this \_\_\_\_\_ day of 20\_\_\_\_;

**WHEREAS**, \_\_\_\_\_, of \_\_\_\_\_, (hereinafter collectively referred to as the "Declarant") is the owner in fee of certain real estate in Plumstead Township, Bucks County, Pennsylvania, bounded and described as follows:

**BEING** all those certain parcels of land, situate in Plumstead Township, Bucks County, Pennsylvania, being known as the \_\_\_\_\_, Tax Map Parcel Nos. \_\_\_\_\_, and more specifically described in a plan recorded in the Office of the Recorder of Deeds in and for Bucks County, Pennsylvania, in Plan Book \_\_\_\_ Page \_\_\_\_, on \_\_\_\_, 200\_ (hereinafter referred to as the "**Plan**").

**WHEREAS**, it is the intention of the Declarant, for itself, its successors and assigns, to impress certain terms, covenants, conditions, easements, benefits, burdens and servitudes on the aforementioned lands for the benefit of Declarant, and at the specific request of Plumstead Township for the benefit of property owners in the vicinity of the \_\_\_\_\_ development or property.

**NOW, THEREFORE**, Declarant, intending to be legally bound hereby, applies to the whole of the above-mentioned lands, the following:

1. The provisions herein contained shall be construed to be binding upon the Declarant, and shall constitute covenants running with the land.

2. Any and all of the provisions herein contained shall be enforceable by Declarant, its successors, administrators or assigns, or by Plumstead Township, or by any of the affected property owners.

## PLUMSTEAD CODE

3. Should any notes on the Plan, if any, conflict with the provisions herein, the provisions of this document shall supersede and control.

4. The Declarant shall furnish to the Township, or its designee, financial security in a form satisfactory to the Township in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to provide a source of water for any resident, within 1,000 feet of the \_\_\_\_\_ development or property, whose well is adversely affected (that is depleted to such an extent that the supply is no longer adequate for its owner's needs that is defined as adversely affected by a draw down and decrease in water supply, a problem of quality of water, a problem of the odor or turbidity of water and/or any other related problem which results in impairment of the supply or quality of water from the said wells for domestic or agricultural use) by the wells serving lots in the \_\_\_\_\_ development or property. The Declarant will be required to maintain the financial security set forth in this paragraph for a period of 10 years from the date the last original occupancy permit is issued for a lot in the \_\_\_\_\_ development or after peak usage is reached for a non-residential development or after peak usage is reached for the intended use of the well. Thereafter, the Declarant may discontinue the financial security and will no longer be bound by the provisions of this paragraph. Any funds remaining in escrow at that time shall be returned to Declarant.

Declarant agrees that if, as a result of the pumping or operation of wells in the \_\_\_\_\_ development or the property, the water supply of any resident is adversely affected by a draw down and decrease in water supply, a problem of quality of water, a problem of the odor or turbidity of water and/or any other related problem which results in impairment of the supply or quality of water from the said wells for domestic or agricultural use, then, and in that event, the Declarant agrees that it will either alleviate the existing problem or problems by increasing the depth of the affected well or by taking any other steps necessary to alleviate the problem, all at no expense to such property owners, so as to furnish reasonable quantity and quality of water for domestic or agricultural use. Any expense associated with providing the affected property owner with a potable water supply shall be borne by the applicant, and approved by the Plumstead Township Hydrogeologist.

At the sole discretion and direction of the Plumstead Township, the applicant shall either deepen the depleted well, drill a new well or connect the affected property to a public water supply, so as to provide an adequate supply of potable water as defined by PaDEP to the affected property owner, except where the adverse affect is determined to be the presence of hazardous materials that cannot be remedied by deepening the well, in which case the Declarant shall connect the property owner's house to a public water supply. The initial determination will be made by the Township Hydrogeologist.

In the event that any area resident makes claim against Declarant with respect to a draw down of water level or pollution of water quality as referenced hereinabove, Declarant shall have 10 days from receipt of written notice from any such property owner within which to evaluate any such claim and advise the claimant or claimants and Plumstead Township of Declarant's position in writing.

## WATER

In the event that the Plumstead Township water engineer determines that Declarant is responsible to undertake corrective measures with regard to any affected well or wells, Declarant shall undertake and complete such corrective work immediately. In the event Declarant does not do so within five days, or notify the Township of its intention to commence work on corrective measures immediately, Plumstead Township may draw down the financial security and take whatever action which it, in its sole discretion, deems necessary to cure the problem. In the event that the financial security is not sufficient to cure the problem, Declarant shall be responsible for any additional expenses or costs, including legal, engineering and administrative, which are incurred in curing the problem. Declarant shall supply potable water to the property owners until the corrective work is completed. Declarant shall, in the event the financial security is reduced below \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), immediately restore such financial security to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), or the Township may withhold building and occupancy permits for lots in the \_\_\_\_\_ development until such financial security is restored to \_\_\_\_\_ Dollars (\$ \_\_\_\_\_). Nothing in this Agreement shall be construed as a waiver of Declarant's right to challenge Township's determination of responsibility.

5. The Declarant shall conduct preconstruction monitoring of any wells likely to be impacted, provided that the owner of such well provides appropriate written authorization to the Declarant so as to permit Declarant to enter upon the owner's property for such preconstruction monitoring.

6. It is understood and agreed by the Declarant that nothing contained herein shall be construed to impose any responsibility on Plumstead Township, or its successors or assigns, for the construction, repair or maintenance of any well provided for by the terms of this Agreement or of any liability hereunder to the Declarant or any other party benefited by this Agreement in excess of the balance, from time to time, of the escrow fund established hereinabove, it being the express understanding of the parties hereto that the limit of the interest of Plumstead Township is that of a stake holder and that nothing contained in this Declaration shall obligate or otherwise make Plumstead Township responsible for any performance or lack of performance by the Declarant of its obligations hereunder. The Declarant expressly agrees to protect, indemnify, defend and hold Plumstead Township harmless from and against all and any liability, expense or damage of any kind or nature (including reasonable attorneys' fees) and from any and all suits, claims or demands arising out of this Declaration or in connection therewith.

7. The provisions of this instrument shall be severable. If any provision of this instrument is found to be invalid, unenforceable, unconstitutional or void, the remaining provisions of this instrument shall, nevertheless, remain valid and binding.

8. Any dispute concerning the responsibility or cause of well depletion shall be determined by an arbitration panel consisting of a qualified professional geologist selected by the applicant, a qualified professional geologist selected by the Township and a qualified professional geologist selected by the unanimous agreement with the first two arbitrators. The arbitrators shall render a decision

PLUMSTEAD CODE

within 60 days from the selection of a third arbitrator and the arbitrator shall assess the cost of the arbitration proceeding.

9. A copy of this Agreement is intended to be recorded in the Office of the Recorder of Deeds in and for Bucks County.

**IN WITNESS WHEREOF**, the Declarant hereto, intending to be legally bound, has hereunto set its hand and seal the day and year first above written.

DECLARANT:

By: \_\_\_\_\_

Attest: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF PENNSYLVANIA :

: SS.

COUNTY OF

:

On this \_\_\_\_ day of \_\_\_\_\_, A.D., 200\_\_, before me a Notary Public, appeared \_\_\_\_\_, who acknowledged himself to be the \_\_\_\_\_ of \_\_\_\_\_, and that he as such \_\_\_\_\_, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation by himself/herself as such Officer.

**IN WITNESS WHEREOF**, I hereunto set my hand and Notarial Seal.

\_\_\_\_\_(SEAL)  
Notary Public