

# **MAINTENANCE AGREEMENT**

## **CITY OF HIRAM, GEORGIA**

**WHEREAS**, the Property Owner \_\_\_\_\_ recognizes that the structural and non-structural stormwater management facility or facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development called, \_\_\_\_\_, located in Parcel ID \_\_\_\_\_, Land \_\_\_\_\_ Lot(s) \_\_\_\_\_, District(s) \_\_\_\_\_, Section \_\_\_\_\_, of the City of Hiram, Georgia, a political subdivision of the State of Georgia (hereinafter called the "City"), and,

**WHEREAS**, the Property Owner is the owner of real property more particularly described on the attached Exhibit A (hereinafter referred to as "the Property"), and,

**WHEREAS**, The City of Hiram, Georgia, and the Property Owner, or its administrators, executors, successors, heirs, or assigns, agree that on December 5, 2006 (revised February 2, 2021), the Mayor and Council, of the City of Hiram, Georgia, adopted the Ordinance for Post-development Stormwater Management for New Development and Redevelopment to protect public health and safety, protection of public and private property and infrastructure, and environmental protection from post-development stormwater runoff quality and quantity impacts resulting from the permanent alteration of the character and hydrology of the land surface as well as the nonpoint source pollution from land use activities, and,

**WHEREAS**, the Development Regulations, of Paulding County, Georgia, require that the facility, or facilities as shown on the development plans and specifications submitted after December 5, 2006 be constructed and maintained per the technical criteria and standards of the Georgia Stormwater Management Manual and the City of Hiram, Georgia, and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

**NOW, THEREFORE**, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

### **SECTION 1**

The facility or facilities shall be constructed by the Property Owner in accordance with approved plans and specifications for the development.

### **SECTION 2**

The Property Owner, its administrators, executors, successors, heirs, or assigns shall maintain the facility or facilities in good working condition, determined through site inspection by a representative of the City of Hiram, Georgia, or its authorized agents, and employees.

### **SECTION 3**

The Property Owner, its administrators, executors, successors, heirs or assigns hereby grants permission to the City of Hiram, Georgia, its authorized agents, and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The Property Owner shall execute an access easement in favor of the City of Hiram, Georgia, to allow the City, or its agents, and employees, to inspect, observe, maintain, and repair the facility as deemed necessary. A fully executed original easement is attached to this Agreement and by reference made a part hereof.

### **SECTION 4**

In the event the Property Owner, its administrators, executors, successors, heirs, or assigns fails to maintain and/or repair the facility or facilities as shown on the approved plans and specifications in good working order, determined through site inspection, by the City of Hiram, Georgia, its authorized agents, and employees, in accordance with the Georgia Stormwater Management Manual (latest edition), the City, with due notice, may enter the property and take whatever steps it deems necessary to return the facility or facilities to good working order. This provision shall not be construed to allow the City to erect any structure of a permanent nature on the property. It is expressly understood and agreed that the City is under no obligation to maintain or repair the facility or facilities and in no event shall this Agreement be construed to impose any such obligation on the City.

### **SECTION 5**

In the event the City of Hiram, Georgia, pursuant to this Agreement, performs work of any nature, or expends any funds in the performance of said work for labor, use of equipment, supplies, materials, and the like, the Property Owner shall reimburse the City, or shall forfeit any required bond upon demand within thirty (30) days of receipt thereof for all the costs incurred by the City hereunder. If not paid within the prescribed time period, the City shall secure a lien against the real property in the amount of such costs. The actions described in this section are in addition to and not in lieu of any and all legal remedies available to the City as a result of the Property Owner's failure to maintain the facility or facilities.

### **SECTION 6**

It is the intent of this agreement to insure the proper maintenance of the facility or facilities by the Property Owner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or caused by storm water runoff.

### **SECTION 7**

Sediment accumulation resulting from the normal operation of the facility or facilities will be catered for. The Property Owner will make accommodation for the removal and disposal of all accumulated sediments on its own initiative or when requested by the City of Hiram, Georgia. Disposal will be provided onsite in a reserved area(s) or will be removed from the site. Reserved area(s) shall be sufficient to accommodate for a minimum of two dredging cycles.

## **SECTION 8**

At the City's request, the Property Owner shall provide the City of Hiram, Georgia, with a bond, or a letter of credit providing for the maintenance of the facility or facilities pursuant to the Post Development Stormwater Development Ordinance and/or other ordinances/regulations as adopted by the Mayor and Council, of the City of Hiram, Georgia, concerning Maintenance Agreements.

## **SECTION 9**

The Property Owner shall use the standard Best Management Practice (BMP) Operation and Maintenance Inspection Reports in the Georgia Stormwater Management Manual, or similar reports approved by the City of Hiram, Georgia, for the purpose of a minimal annual inspection of the facility or facilities, by a qualified inspector.

## **SECTION 10**

The Property Owner, its administrators, executors, successors, heirs and assigns hereby indemnifies and holds harmless the City of Hiram, Georgia, and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the City from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner, or the City. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim. If any judgment, or claims against the City, its authorized agents, or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith.

## **SECTION 11**

The Property Owner shall submit an annual inspection report. The report must include photographs and completed checklists from Exhibit C, prepared by a qualified inspector, and must include all stormwater management facilities in your system (e.g., detention pond, bioretention areas, proprietary devices, etc.). The report shall demonstrate that all required maintenance and repairs have been completed. This report is to be submitted to the City by December 1st of each year.

## **SECTION 12**

This Agreement shall be recorded among the deed records of the Clerk of Superior Court, of Paulding County, Georgia, and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, heirs, assigns, and any other successors in interest.

## **SECTION 13**

This Agreement may be enforced by proceedings at law, or in equity by or against the parties hereto and their respective successors in interest.

#### **SECTION 14**

Invalidation of any one of the provisions of this Agreement shall in no way effect any other provisions and all other provisions shall remain in full force and effect.

# STORMWATER FACILITY MAINTENANCE AGREEMENT

**SO AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Name of Property Owner: \_\_\_\_\_

Address of Property Owner: \_\_\_\_\_

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

Attest: \_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

Title: \_\_\_\_\_  
(President or Vice President)

Title: \_\_\_\_\_  
(Corporate Secretary or Notary)

(CORPORATE OR NOTARY SEAL)

## THE CITY OF HIRAM, GEORGIA

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Manager

(CITY SEAL)

### Attachments:

Exhibit A. Site Map and Legal Description

Exhibit B. Permanent Water Quality BMP and Access Easement Agreement

Exhibit C. Inspections, Operation and Maintenance Requirements and Inspection Checklist of  
Approved Stormwater Management Control Structure(s)

## **Exhibit A. SITE MAP AND LEGAL DESCRIPTION**

***Remove this sheet and insert 2 sheets with the following information:***

**Sheet # 1:**

**EXHIBIT “A1”  
(Insert Project Name)**

*Site Map (8.5 x 11 size) will depict the property described in Exhibit “A2”. The map will include property boundaries, impervious surfaces (buildings, parking lot, drives, etc.), stormwater management system (pipes, inlets, ditches, control structure(s)), easements and water bodies (streams, lakes, etc.) and north arrow and adjacent street names, if applicable. The map fit on an 8 ½ by 11 page.*

**Sheet # 2:**

**EXHIBIT “A2”  
(Insert Project Name)**

All that tract or parcel of land lying and being in Land Lot(s)\_\_\_\_\_of the\_\_\_\_District of Paulding County, Georgia and being more particularly described as follows:

*(Insert legal description of the subject property)*

**Exhibit B.                    PERMANENT WATER QUALITY BMP  
AND ACCESS EASEMENT AGREEMENT  
THE CITY OF HIRAM, GEORGIA**

THIS EASEMENT granted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

between the property owner \_\_\_\_\_ as party of the first part, hereinafter referred to as Grantor, and the City of Hiram, Georgia, a political subdivision of the State of Georgia, as party of the second part, hereinafter referred to as Grantee.

WITNESSETH THAT: Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00) in hand paid at and before the sealing and delivery of this easement and in consideration of the agreements and covenants contained in this document and the Maintenance Agreement between Grantor and Grantee, hereby grants unto the Grantee an easement in and to that portion of the property shown on Exhibit "A" to the Maintenance Agreement, as shown and identified on the plat attached hereto as Exhibit "1".

The purpose of this easement is to allow Grantee, or its agents, access for maintenance activities to the Water Quality Best Management Practice (BMP) facility, and to prevent development of the property within the easement following issuance of the Certificate of Occupancy, issued by the Department of Community Development, Permits Division, of Paulding County, Georgia, or in the case of a residential subdivision, the approval of the Final Plat, without written permission from Department of Community Development, of Paulding County, Georgia and the City of Hiram, Georgia. This easement is required by the provisions of the Maintenance Agreement executed by and between the Grantor and Grantee.

**PERMANENT WATER QUALITY BMP AND  
ACCESS EASEMENT AGREEMENT**

**SO AGREED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Name of Property Owner: \_\_\_\_\_

Address of Property Owner: \_\_\_\_\_

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

Attest: \_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

Title: \_\_\_\_\_  
(President or Vice President)

Title: \_\_\_\_\_  
(Corporate Secretary or Notary)

(CORPORATE OR NOTARY SEAL)

**THE CITY OF HIRAM, GEORGIA**

Attest: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
City Manager

(CITY SEAL)



**Exhibit C. INSPECTION, OPERATION AND MAINTENANCE  
REQUIREMENTS OF APPROVED STORMWATER CONTROL  
STRUCTURE(S) AND SITE INSPECTION CHECKLIST**

*(To be provided by the Design Engineer based on the GA Stormwater Management  
Design Manual: Appendix E and/or Designers of City-approved Proprietary  
Device)*