

**LONG-TERM STORMWATER MANAGEMENT FACILITY  
MAINTENANCE AGREEMENT**

VSMP/Stormwater Permit #: \_\_\_\_\_

TAX PARCEL NUMBER: \_\_\_\_\_

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, \_\_\_\_\_, Grantor, hereinafter called the "Owner," whose legal address is \_\_\_\_\_, and the City of Galax, Virginia, a political subdivision of the Commonwealth of Virginia, acting by and through its City Council, Grantee, hereinafter called the "City of Galax," whose legal address is 111 E. Grayson Street, Galax, VA 24333.

**WITNESSETH:**

**WHEREAS**, \_\_\_\_\_ is the Owner of that certain parcel of land lying and being in the \_\_\_\_\_ City of Galax, Virginia, identified as Tax Parcel # \_\_\_\_\_, being of record in the Clerk's Office of the Circuit County of the County of [Carroll/Grayson], in Deed Book \_\_\_\_ at Page \_\_\_\_ or Deed Instrument No. \_\_\_\_\_, referred to herein as the "Property," which Property is briefly described as follows:

\_\_\_\_\_  
\_\_\_\_\_;

**WHEREAS**, Owner desires the approval of an Erosion and Sediment Control and Stormwater Management Plan (Plan File # \_\_\_\_\_), referred to as the "Plan," for erosion and sediment control and stormwater management measures and facilities, as required by the City of Galax a copy of which Plan is attached hereto and which is expressly incorporated by reference herein; and

**WHEREAS**, the Plan provides for a stormwater management facility(ies) and other drainage conveyance channels or permanent erosion and sediment control measures and improvements within the confines of the Property, referred to as the "Facilities"; and

**WHEREAS**, the City of Galax and the Owner agree that the health, safety, and general welfare of the residents of the City of Galax, Virginia require that on-site stormwater management Facilities as shown on the Plan be constructed on the Property by the Owner and adequately maintained by the Owner;

**NOW, THEREFORE**, in consideration of the foregoing Property, the mutual benefits and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The on-site stormwater management Facilities shall be constructed by the Owner in accordance with the attached Plan and specifications, and, upon completion of construction of such Facilities Owner shall provide a construction record drawing as required by §62.1-44.15 of the Code of Virginia.
2. The Owner shall maintain the Facilities in accordance with the maintenance procedures shown on the attached Plan to assure good working order acceptable to the City of Galax. Such maintenance procedures shall meet or exceed those maintenance requirements set forth in the Stormwater Management Ordinance of the City of Galax.
3.
  - a. The Owner identifies \_\_\_\_\_ as the person responsible *for performing* the required maintenance of the Facilities. The street address and telephone number where such person may be contacted are:  
\_\_\_\_\_ ; (\_\_\_\_) \_\_\_\_-\_\_\_\_.
  - b. Owner hereby acknowledges that identification of such person shall not be deemed to relieve Owner, its administrators, executors, assigns, heirs, and any other successors in interest of its/their ultimate responsibilities under the provisions of this Agreement or under the pertinent provisions of the City of Galax Stormwater Management Ordinance or applicable statutes or regulations.
  - c. Owner further agrees to provide written notification to the City of Galax of the name, address, and telephone number of any person whom Owner may identify subsequently as the person *responsible for performing* required maintenance.
4. The Owner shall inspect the Facilities in accordance with and within the timeframes provided in the requirements set forth in the Stormwater Management Ordinance of the City of Galax. The Owner shall provide a copy of the inspection report in accordance to the inspection schedule to the City of Galax within 30 calendar days of the required inspection date.
5. The Owner hereby grants permission to the City of Galax, its authorized agents and employees to enter upon the Property and to inspect the Facilities upon providing Owner ten (10) calendar days written notice by first class mail. Such notice requirement may be waived or modified by agreement between the Owner and the City of Galax.

Such right of access will *allow* the City of Galax to inspect the facility, but the City of Galax is under no obligation to conduct periodic inspections. Defects or deficiencies discovered during any such inspection shall be documented and specific measures to be taken to remedy such defect or deficiency shall be described in writing, a copy of which shall be provided to Owner. Owner agrees to perform promptly all needed maintenance and correct defects and/or deficiencies reported to it by City of Galax. Such defects and/or deficiencies shall be corrected within a reasonable period of time as determined between Owner and the City of Galax, but such period shall not exceed fifteen (15) calendar days.

6. Owner further agrees to waive the notice requirement specified in Paragraph 5 above when the City of Galax determines that an immediate inspection of the Facilities is necessary due to threat of imminent danger to life or property or other emergency. The City of Galax, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency. The City of Galax shall notify the Owner of such entrance as soon as possible but in no event later than twenty-four (24) hours after such entry. Alternatively, the City of Galax may notify the Owner by telephone to take necessary action within a specified time period. Should Owner fail to respond, or should Owner inform City of Galax that it does not intend to act with the specified time period, then City of Galax, or its agents, may enter immediately upon the Property and take whatever reasonable steps it deems necessary to mitigate the danger or emergency.
  
7. In the event of notice being required under Paragraph 5 above or any other provision of this Agreement, such notice shall be deemed to have been given when put in writing and deposited in the U. S. Mail (first class mail with postage prepaid) to the following:

**If to the Owner:**

Name of person: \_\_\_\_\_ OR

Name of entity if a corporation, partnership, etc.: \_\_\_\_\_

Name of officer AND title if a corporation, partnership, etc.: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**If to the** City of Galax:

Engineering Department

City of Galax

111 E. Grayson Street, Galax, VA 24333

**Owner further agrees to notify City of Galax in writing** at the above address immediately upon any change in legal status, address, or telephone number of Owner.

8. In the event the Owner fails to maintain the Facilities, as shown on the attached Plan, in good working order acceptable to the City of Galax, or to promptly correct defects and/or deficiencies reported to it by City of Galax within the prescribed time period, the City of Galax may enter upon the Property after notice as required in Paragraph 5 above and take whatever steps it deems necessary to maintain said Facilities. This provision shall not be construed to allow the City of Galax to erect any structure of a permanent nature on the land of the Owner without first obtaining written approval of the Owner. It is expressly understood and agreed that the City of Galax is under no obligation to maintain or repair said Facilities, and in no event shall this Agreement be construed to impose any such obligations on the City of Galax.
9. In the event the City of Galax, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner, its administrators, executors, assigns, heirs, and any other successors in interest shall reimburse the City of Galax upon demand, within thirty (30) calendar days of receipt thereof for all costs incurred by the City of Galax hereunder.
10. Notwithstanding the above-mentioned remedies, Owner and City of Galax acknowledge that the City of Galax may take such other additional enforcement actions as are set forth in the City of Galax Stormwater Management Ordinance and City Code.
11. It is the intent of this Agreement to ensure the proper maintenance of onsite Facilities by the Owner; provided, however, that this Agreement 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 damage.

12. The Owner, its executors, administrators, assigns, heirs, and other successors of interest shall indemnify and hold the City of Galax and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against the City of Galax from the construction and/or maintenance of the described onsite Facilities by the Owner or the City of Galax.

In the event a claim is asserted against the City of Galax, its agents or employees, the City of Galax shall promptly notify the Owner and the Owner shall defend, at its own expense, any suit based on such claim. If any judgment or claim against the City of Galax, its agents or employees shall be allowed, the Owner shall pay all costs and expenses in connection therewith.

13. The City of Galax shall not pay any compensation to Owner, its administrators, executors, assigns, heirs, or any other successors in interest at any time for its use of the Property in any way necessary for the inspection and maintenance of the Facilities, including access to the Facilities.

14. This Agreement shall be governed by the laws of the Commonwealth of Virginia.

15. Plans and specifications for stormwater management facilities and measures to be undertaken on the subject property shall be attached hereto and are hereby incorporated by reference as a part of this Agreement.

16. This Agreement shall be recorded among the land records in the Clerk's Office of the County of [Carroll/Grayson] County, Virginia, and shall constitute a covenant running with the land, and shall be binding on the Owner, its administrators, executors, assigns, heirs, and any other successors in interest.

17. Such covenant running with the land shall be described in full or incorporated by reference into each deed of conveyance out of the described Property, and such covenant shall be noted on any subsequently recorded plat of subdivision or re-subdivision of Property.

**IN WITNESS WHEREOF**, \_\_\_\_\_, Owner, has affixed his signature and seal; **OR IN WITNESS WHEREOF**, \_\_\_\_\_, a Virginia Corporation, pursuant to a Resolution duly adopted on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has caused this instrument to be executed by \_\_\_\_\_, its \_\_\_\_\_, on behalf of the Corporation; and

IN FURTHER WITNESS WHEREOF, the CITY COUNCIL of the City of Galax, VIRGINIA, has caused this instrument to be executed by Keith Barker, Clerk of Council, on behalf of the City Council, of Galax, VIRGINIA.

[Signature] \_\_\_\_\_(SEAL)

[Print Name] \_\_\_\_\_

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_, Owner.

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

My commission expires: \_\_\_\_\_.

**OR**

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by \_\_\_\_\_ [name of officer], \_\_\_\_\_ [name of office held] of  
\_\_\_\_\_ [name of corporation], a Virginia corporation, on behalf of  
the Corporation, **Owner**.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

COMMONWEALTH OF VIRGINIA,  
City of Galax, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
by Keith Barker, Clerk of Council for the City of Galax, Virginia, on behalf of the CITY COUNCIL of  
GALAX, VIRGINIA.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

**[A resolution, or a certified copy thereof, authorizing a designated officer of the corporation or other entity to execute this Agreement on behalf of the corporation or other entity shall be attached to this Agreement and recorded with said Agreement in the Clerk's Office of the Circuit Court of [Carroll/Grayson], Virginia.]**

**RESOLUTION**

I, \_\_\_\_\_, the duly elected and qualified Secretary of \_\_\_\_\_, a Virginia Corporation duly organized, validly existing and in good standing under the laws of Virginia, hereby certify that at a legally convened meeting of the Board of Directors of \_\_\_\_\_, duly called and held on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, the following Resolution was duly adopted in accordance with the articles of incorporation and bylaws of \_\_\_\_\_, and is now in full force and effect:

BE IT RESOLVED by the Board of Directors of \_\_\_\_\_, a Virginia Corporation, that the \_\_\_\_\_ [specify office], \_\_\_\_\_ [name of officer], of this Corporation is authorized to execute, acknowledge, and deliver on behalf of the Corporation any deed or other instrument conveying or encumbering land, or interest therein, including but not limited to a Stormwater Management Facility Maintenance Agreement by and between the Corporation and the City of Galax, Virginia, or granting any easement or right-of-way over land owned by the Corporation.

BE IT FURTHER RESOLVED that the Secretary of the Corporation shall attach to such deed or other instrument a copy of this Resolution by the Board of Directors authorizing the above-named officer of the Corporation to execute, acknowledge, and deliver such deed or instrument on behalf of the Corporation.

I further certify that \_\_\_\_\_ is the duly elected and acting \_\_\_\_\_ [specify office] of the Corporation and, as such, has the authority to perform the powers listed above.

IN WITNESS WHEREOF, I have hereunto subscribed my name hereto as Secretary of \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[Name of Corporation] \_\_\_\_\_

[Signature of Corporate Secretary] \_\_\_\_\_ (SEAL)

[Print name of Secretary] \_\_\_\_\_, Secretary