

Prepared by: Michael C. Frue, Buncombe County Attorney
Return to: Metropolitan Sewerage District of Buncombe County
Attn: Private Development Coordinator
2028 Riverside Drive
Asheville, NC 28804

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

CONVEYANCE OF SEWER SYSTEM
AND EASEMENT FOR MSD Project

This **Conveyance of Sewer System and Easement** made this the ____ day of August, 2012, from **County of Buncombe**, a body politic and corporate of the State of North Carolina, hereinafter referred to as the Grantor, to the **Metropolitan Sewerage District of Buncombe County, North Carolina**, a public body and body politic and corporate, created and established by the North Carolina State Stream Sanitation Committee by Resolution adopted on January 19, 1962, under the provisions of the North Carolina Metropolitan Sewerage Districts Act, now codified as Chapter 162A, Article 5, of the General Statutes of North Carolina, hereinafter referred to as Grantee (the designations Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine and neuter as required by context).

WITNESSETH:

Whereas, the Grantor has developed property known as the Buncombe County Public Safety Training Center near the intersection of NC 251 ("Riverside Drive") and Canoe Lane in Buncombe County;

Whereas, the Grantor installed sewer lines and sewer related improvements (hereinafter "Sewer Lines and Sewer Related Improvements") in accordance with approved plans and specifications and pursuant to permits issued by the Metropolitan Sewerage District of Buncombe County, North Carolina;

Whereas, said Sewer Lines and Sewer Related Improvements are located as set forth and described in plat recorded in Plat Book 132, Page 34 Buncombe County, North Carolina Registry, reference to which plat is hereby made for a more particular description of the exact location of the Sewer Lines and Sewer Related Improvements;

WHEREAS, the Grantor now desires to convey to the Grantee and the Grantee is willing to accept the Sewer Lines and Sewer Related Improvements together with the easements therefore.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, has given, granted and conveyed, and by these presents does give, grant and convey unto the Grantee, its successors and assigns, the Sewer Lines and

Sewer Related Improvements together with easements therefor, together with the full right of reasonable access to and egress from said permanent easement over and upon the above-referenced Properties or other property of Grantor from the nearest public road to have access to the Sewer Lines and Sewer Related Improvements in order to properly operate and maintain the Sewer Lines and Sewer Related Improvements and to repair and replace the Sewer Lines and Sewer Related Improvements as necessary.

IT IS UNDERSTOOD BY AND BETWEEN THE GRANTOR AND THE GRANTEE:

1. That the Grantee shall have the right, but not the obligation, to clear the permanent easement as shown on the maps and plats and the right, but not the obligation, to keep the permanent easement clear at all times, and the right, but not the obligation, to remove from the permanent easement all brush, trees and other obstructions, and to go upon said easement whenever necessary for the purpose of clearing the same and removing therefrom all brush, trees and other obstructions of any kind.
2. That the Grantor shall at all times, other than while the Sewer Lines and Sewer Related Improvements are under actual construction, have the right to use said permanent easement in the same manner as has been heretofore done; provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the permanent easement by the Grantor include, but are not limited to, the following: the erection of a shed, building, structure or other obstruction within the permanent easement by the Grantor shall not be allowed; the planting of trees within the permanent easement by the Grantor shall not be allowed; additional fill cannot be placed within the permanent easement except after prior written consent from the Grantee; and other utility lines, including but not limited to, electric, gas, telephone, cable, or water lines, cannot be constructed within the permanent easement except after prior written approval by the Grantee.
3. That the Grantee agrees to restore the topography of the easement area after any necessary repair or replacement of the Sewer Lines and Sewer Related Improvements to approximately the same condition as existed prior to the repair or replacement.
4. That the Grantor shall have the rights to pass over and upon said permanent easement with appropriate roadways for the full use of its property, provided, however, that the construction, maintenance and use of said roadways shall in no way interfere with the Sewer Lines and Sewer Related Improvements constructed within said permanent easement. As to paved roads, the Grantee, in future repairs or maintenance of said Sewer Lines and Sewer Related Improvements, shall only be responsible for returning the said paved roads disturbed in connection with any repairs or maintenance to the same or similar condition as found immediately prior to such repairs or maintenance. As to non-paved roads, the Grantee shall only be responsible for regravelling and tamping in connection with any repairs or maintenance.
5. During the time the Grantor owns the property on which the permanent sewer easement is located, the Grantor agrees to indemnify, defend and hold harmless the Grantee from and against any claim for injury to person or property arising out of the use of the easement for walking trails or greenways provided such injury does not proximately result from the negligence, gross negligence or intentional act of the Grantee, its agents or employees. Should a deed conveying the subject walking trail or greenway containing the sewer easement be conveyed to a Property Owner's Association, the Association agrees to indemnify, defend and hold harmless the grantee from and against any claim for injury to person or property arising out of the use of the sewer easement for walking trails or greenways provided such injury does not proximately result from the negligence, gross negligence or intentional act of the Grantee, its agents or employees.

To Have and To Hold said Sewer Line and Sewer Related Improvements together with the easements therefor unto said Grantee, its successors and assigns, forever upon the terms set forth herein.

The Grantor covenants to and with the Grantee, its successors and assigns, that the Grantor is the owner of the Sewer Lines and Sewer Related Improvements and the easements therefor, and that said Sewer Lines and Sewer Related Improvements and the easements therefor are free from any and all liens and encumbrances, and that they will and their successors and assigns shall forever warrant and defend the title to said Sewer Lines and Sewer Related Improvements and easements therefor unto the Grantee, its successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, County of Buncombe has caused this instrument to be executed by its Chairman, attested to by its Clerk, and its seal to be hereunto affixed all by authority duly given by resolution referenced above this the day and year first above written.

[Signature page follows]

COUNTY OF BUNCOMBE

By: _____
David Gantt, Chairman

ATTEST:

Kathy Hughes, Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, _____, Notary Public for said County and State, has personal knowledge of the identity of Kathy Hughes, and hereby certifies that said Kathy Hughes, Clerk to the Board, personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners of County of Buncombe and that David Gantt is the Chairman of the Board of Commissioners of Buncombe County, and that by authority duly given and as the act of the County of Buncombe, the foregoing instrument was signed in its name by said Chairman, sealed with its official seal, and voluntarily attested to by herself as its Clerk as the act and deed of the County of Buncombe, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the ___ day of August, 2012.

[SEAL]

, Notary Public

My Commission Expires: