

OPERATIONS AND MAINTENANCE
RELATED TO STORMWATER MANAGEMENT

Prepared by: _____
Return to: County of Buncombe County
Stormwater Administrator
46 Valley Street
Asheville, North Carolina 28801

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

Project Name: _____
Project Number _____

THIS OPERATIONS AND MAINTENANCE AGREEMENT RELATED TO STORMWATER MANAGEMENT (the "DECLARATION") is made this _____ day of _____, 2____, between the COUNTY OF BUNCOMBE, North Carolina, a body politic ("County"), and _____ ("Owner"), and all parties hereafter acquiring any of the described property.

RECITALS

1. Owner is the fee simple owner of a tract of real property located in the County of Buncombe, State of North Carolina, described in a deed recorded in Deed Book _____ at Page _____ Buncombe County Registry (the "Property").
2. Owner desires, in order to comply with Article VII of Chapter 26 of the Code of Ordinances, Buncombe County, North Carolina, to declare a restriction on the Property to ensure that future development and redevelopment of the Property maintains the Property consistent with County's stormwater management requirements.

TERMS

NOW, THEREFORE, Owner does hereby declare that all of the Property described in a deed recorded in Book _____ at Page _____, Buncombe County Registry, shall be held, sold and conveyed subject to the following restrictions, which shall run with the Property and be binding on all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, for the term of these covenants as set forth below, and shall inure to the benefit of each holder thereof.

1. PURPOSE: The purpose of this Declaration is to ensure that future development and redevelopment of the Property maintains the Property consistent with the County's stormwater management requirements.
2. STORMWATER PLAN: There is an approved stormwater management plan for the property **attached as an exhibit**. Owner agrees to comply with the provisions of the Plan.
3. OPERATION AND MAINTENANCE MANUAL: There is an approved operation and maintenance manual for the on site stormwater system **attached as an exhibit**.
4. FUTURE ACTIVITY: Any activity not already approved in the Plan, including without limitation any change in use of the Property, any development or redevelopment of the Property, or any increase in the impervious surface on the Property, shall require an amendment to the Plan consistent with the requirements of Article VII of Chapter 26 of the Code of Ordinances, Buncombe County, North Carolina, applicable to such new activity, and the issuance of a new stormwater permit prior to undertaking such new activity.
5. ACCESS: Owner hereby gives to County permission to access the Property at reasonable times for inspection by County and/or its agent or representatives.
6. DEFAULT: If an order directing the correction, repair replacement or maintenance of the facility or any portion thereof is not satisfactorily complied with by the owner within the time period specified in the notice, County, or its designee, may after notice to owner, enter the Property and perform all necessary work to place the Facility in proper working condition, and may assess the Owner with the cost of said work which cost shall be a lien on such property and may be collected as provided in N.C. Gen. Stat. § 153A-140. Notice shall be provided five (5) business days prior to entry and performance of necessary work by the County. Notice shall be in writing and shall be delivered to Owner by hand delivery; certified mail, return receipt requested: or by any means allowed by Rule 4 of the North Carolina Rules of Civil Procedures. Owner shall be responsible to County for any costs incurred by County pursuant to this agreement, and the property shall be subject to the imposition of liens if owner does not reimburse the County for all such costs incurred by the County, if

Owner does not pay such costs to County within thirty (30) days of Owner's receipt of a statement for all such costs incurred.

7. NOTICES: All notices required herein shall be delivered by personal delivery to be evidenced by a signed receipt, or by certified mail, return receipt requested to the addresses set forth below

If to the County:

Stormwater Administrator
County of Buncombe
46 Valley Street
Asheville, NC 28801

If to the owner:

8. BINDING AGREEMENT: The restrictions set forth herein shall run with the land and shall be binding upon Owner, its successors and assigns, and all other persons whomsoever claiming under or through Owner.
9. Owner shall submit at least every three years an inspection report on the operation and maintenance of the stormwater management system to the Buncombe County Stormwater Administrator on a form or forms designated by the Stormwater Administrator. The inspection will be performed by a licensed engineer, surveyor or a landscape architect.

Approved:

County of Buncombe

By: _____
Stormwater Administrator

IN TESTIMONY WHEREOF, the Owner, or a duly authorized agent thereof, has caused this instrument to be executed as of the day and year first above written.

_____ Owner

_____ Title

I, _____ a Notary Public for _____, do hereby certify that _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the ____ day of _____.

Printed Name: _____

My commission expires: _____