

EXHIBIT "A"

NORTH CAROLINA GASTON COUNTY

INTERLOCAL AGREEMENT FOR ENFORCEMENT SERVICES OF THE GASTON COUNTY STORMWATER ORDINANCE

This agreement made and entered into on the ____ day of _____, 20__ by and between **GASTON COUNTY**, a corporate and political body and a subdivision of the State of North Carolina, hereinafter referred to as "County", and the _____, a municipal corporation having a charter granted by the State of North Carolina, hereinafter referred to as "Municipality".

WITNESSETH:

WHEREAS, Article 20 of Chapter 160A of the North Carolina General Statutes authorizes the contractual exercise by one unit of local government for one or more other units of any administrative or governmental power, function, public enterprise, right, privilege, or immunity of local government; and

WHEREAS, Article 6 of Chapter 153A of the North Carolina General Statutes authorizes the governing board of any City to permit any ordinance adopted by a County to be applicable within the City; and,

WHEREAS, Pursuant to 40 CFR 122.35, an operator of a regulated MS4 may share the responsibility to implement a minimum control measure with another entity provided certain conditions are met; and,

WHEREAS, the Municipality has requested that the County provide plan review and permitting within the corporate boundaries of the Municipality for the post-construction portion of the Gaston County Stormwater Ordinance; and

WHEREAS, pursuant to N.C. General Statute Chapter 160A, Article 20, upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may through agreement exercise enforcement powers within said municipality and upon such direction may do so until such time as the Municipal governing body officially withdraws its request; and

WHEREAS, the Gaston County Board of Commissioners, upon approval of a resolution, and with written notice, may withdraw the offering of the services to the Municipality.

WHEREAS, the _____, City Council, upon approval of a resolution, and with written notice, may withdraw the offering of the services from the County.

NOW THEREFORE, it is agreed by the parties hereto that the County through the Gaston County Department of Natural Resources will provide plan review and permitting for post-construction stormwater portion of the Gaston County Stormwater Ordinance within the corporate limits of the Municipality for the purpose of fulfilling the requirements outlined in the NPDES Municipal Separate Stormwater Sewer System (MS4) Permit NCS000393 on behalf of the Municipality and on the terms and conditions set forth below:

1. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions for the Municipality to contract with the County for plan review, permitting, and enforcement services for the Gaston County Stormwater Ordinance inside its corporate limits and to confer to the County the necessary geographical and subject matter jurisdiction to carry out the intent of this Agreement.

2. **Term.** The term of this Agreement is _____, 20__ through _____, 20___. This Agreement shall automatically renew each year thereafter for successive one (1) year terms unless terminated as provided herein.

3. **Responsibilities.**

A. **Municipality.** The Municipality agrees to:

- (1) adopt the County Fee Schedule with regards to Stormwater items;
- (2) allow the County to retain any plan review and Permitting fees for Post-Construction Stormwater per the County Fees Schedule;
- (3) defend all claims against it and its employees for incidents that occur prior to the date of this Agreement and indemnify and hold the County harmless from any judgements against it and said employees. The County agrees to defend all claims against the Municipality arising out of like incidents that occur from and after the date of this Agreement and further agrees to indemnify and hold the Municipality harmless from any judgements against the Municipality resulting therefrom, unless the claims or liability arise solely from the actions of the Municipality.
- (4) withhold applicable permits and approvals, including but not limited to zoning permits and final plat approvals, until notified of compliance with the Stormwater Ordinance;
- (5) obtain performance surety bonds on all proposed Stormwater Control Measures. These bonds shall be held until all final documentation for completed Stormwater Control Measures have been received by the County;
- (6) any Stormwater Control measures that are added as part of conditions from a conditional rezoning or are required as part of other Municipal Ordinances or Municipal Land Development Standards, that are outside of the scope of the adopted Gaston County Stormwater Ordinance will be the sole responsibility of the municipality to enforce;
- (7) administer the Municipality's Stormwater Management Program including programs addressing the Six Minimum Measures of the Municipality's NPDES MS4 Permit;
 - a) Public Involvement and Participation,
 - b) Public Education and Outreach,
 - c) Construction Site Runoff: County is responsible for plan review, permitting, inspection, and enforcement of Soil Erosion & Sedimentation Control Ordinance on all land disturbance activities (minor / major subdivisions and single lot permits) via the respective Soil Erosion & Sedimentation Control Ordinance Interlocal Agreement.
 - d) Post-Construction Site Runoff: County is responsible for only the responsibilities listed below in Part 3.B of this Interlocal Agreement. The Municipality is responsible for all remaining NPDES MS4 Permit Post-Construction Runoff requirements.
 - e) Illicit Discharge Detection and Elimination,
 - f) Good Housekeeping Pollution Prevention
 - g) any applicable Total Maximum Daily Load (TMDLs) requirements

B. **County.** The County, through the Gaston County Department of Natural Resources, agrees to:

- (1) Notify Municipality upon receipt of new plan submittals.
- (2) review plans submitted pursuant to the Gaston County Stormwater Ordinance for compliance therewith and issue permits for those plans found to be in compliance;
 - a. coordinate with Municipality on final review of plan submittals to verify acceptance of proposed proprietary Stormwater Control Measure(s) by Municipality.
- (3) inspect construction sites, and monitor Stormwater Control Measure(s) to completion of construction, to determine compliance with approved and permitted stormwater management plans;
- (4) notify Municipality of any violations of the Stormwater Ordinance during, and to the completion of, the construction process and the final design engineer certification;
- (5) collect all final Stormwater Control Measure(s) documentation; As part of this process, Gaston County will coordinate with Municipality for the release of any bonds for such infrastructure;
- (6) convey all final Stormwater Control Measure(s) documentation as outlined in the Gaston County Stormwater Control Measure Close Out Report to Municipality for record keeping and the Municipality's continuing enforcement of the post-construction portion of the Stormwater Management Ordinance per the Municipality's NPDES MS4 Permit;
- (7) Seek Civil and Criminal enforcement of the law in the mutual discretion of the County and the Municipality.

4. **Geographic and Subject Matter Jurisdiction.** To the fullest extent permitted by the laws of the State of North Carolina and the United States, the Municipality hereby grants to the County the authority to perform the herein described services and, to that extent, to enforce the County Stormwater Management Ordinance as it now exists, or may be amended from time to time, and the County accepts the authority herein granted and agrees fully and faithfully to perform the duties and responsibilities implied by the acceptance of this grant subject to the terms and conditions of this agreement.
5. **Amendment.** This Agreement may only be amended in writing upon the signature of both parties. No oral agreements or resolutions shall have any effect.
6. **Entire Agreement.** This Agreement is the only agreement between the parties, contains all the terms agreed upon, and replaces any previous agreements regarding the subject matter. This Agreement has no effect upon enforcement of codes or ordinances not specifically mentioned. If any part of this Agreement is held invalid, such decision shall not render the document invalid.

7. Governing Law & Forum:

This Agreement shall be deemed to have been made in the State of North Carolina, and its validity, construction and effect shall be governed by the laws of the State of North Carolina. The parties hereto agree that any action brought by either party to enforce the terms of this Agreement shall be filed in the Superior Court of Gaston County, State of North Carolina.

Dispute Resolution. In addition to and prior to litigation, the parties shall endeavor to settle disputes first by negotiation between the parties, and, if negotiation is unsuccessful, then by non-binding mediation. Demand for mediation shall be filed in writing with the other party to this Agreement. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of repose or limitations. Each party hereto submits to the exclusive jurisdiction in the state and federal courts having jurisdiction in Gaston County, North Carolina and irrevocably waives any defenses to such venue including any defense based upon the principles of forum non conveniens.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate for themselves for their duly authorized officers of the day and year first above written.

GASTON COUNTY

By: _____
County Manager

ATTEST:

Clerk to the Board

APPROVED AS TO FORM:

County Attorney

(NAME OF MUNICIPALITY)

By: Hayley A. Beatty
Mayor

ATTEST:

Shirley Lynn
Clerk



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