

**EXHIBIT "A"**

**NORTH CAROLINA  
GASTON COUNTY**

**INTERLOCAL AGREEMENT FOR ENFORCEMENT SERVICES OF GASTON  
COUNTY SOIL EROSION AND SEDIMENT CONTROL 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, hereafter 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 enforcement services within the corporate boundaries of the Municipality for the Gaston County Soil Erosion and Sedimentation Control Ordinance; and,

**WHEREAS**, pursuant to N.C. Gen Stat. Chapter 160A, Article 20 upon official request of the governing body of any municipality within the County, the Gaston County Board of Commissioners may by 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 service to the Municipality.

**WHEREAS**, the, \_\_\_\_\_, City Council upon approval of a resolution, and with written notice, may withdraw the offering of the service 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 enforcement services for Gaston County Soil Erosion and Sedimentation Control 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 enforcement services for Gaston County Soil Erosion and Sedimentation Control 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 hereafter for successive one-year terms unless terminated as provided herein.

**3. Responsibilities.**

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

- (1) adopt County Fee Schedule with regards to Erosion and Sedimentation Control items;
- (2) allow the County to retain any fees or fines collected in accordance with the adopted schedule and in accordance with the law;
- (3) perform a preliminary submittal review before allowing plans to be submitted to County. Preliminary review will be to ensure items of concern to the Municipality or otherwise regulated by Municipal Ordinance (example: Driveway, tree save, etc.) are addressed prior to issuance of permit.
- (4) any erosion 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 Soil Erosion and Sediment Control Ordinance will be the sole responsibility of the Municipality to enforce and maintain.
- (5) defend all claims against it and its employees for incidents related to the enforcement activities to be conducted pursuant to this Agreement that occur prior to the date of this Agreement and indemnify and hold the County harmless from any judgments 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 judgments against the Municipality resulting therefrom, unless the claims or liability arise solely from the actions of the Municipality;

B. **County.** The County through the 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 Soil Erosion and Sediment Control Ordinance for compliance therewith and issue permits for those plans found to be in compliance.
- (3) ensure that all construction activities disturbing one acre or more and are subject to the scope of the Gaston County Soil Erosion and Sediment Control Ordinance, obtain an NCDEQ required NCG01 Permit for the construction activity. During scheduled erosion control inspections, monitor project site for NCG01 Permit compliance and report reoccurring non-compliance issues to NCDEQ and Municipality.
- (4) provide adequate enforcement staff to be able to effectively enforce the Gaston County Soil Erosion and Sedimentation Control Ordinance within the Municipality's corporate limits; this includes responding to citizen and municipal complaints within a 48-hour window of time from the receipt of the complaint;
- (5) seek civil and criminal enforcement of the law when necessary in the County's discretion.

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 enforce the Gaston County Soil Erosion and Sedimentation Control 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 and 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:

Sandra Luper  
Clerk

File: IntlocAgreeSoilEros&SedContOrd.mw

