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Franklin County, North Carolina
Brandi Smith Brinson, Register of Deeds

State of North Carolina

Franklin County

Stormwater Facility/BMP

Operation and Maintenance Agreement

Bartlett Manor Subdivision

Husketh Road, LLC
1151 Tarboro Road
Youngsville, NC 27596

NORTH CAROLINA
FRANKLIN COUNTY

STORMWATER FACILITY/ BMP
OPERATION AND MAINTENANCE
AGREEMENT

THIS AGREEMENT, made and entered into this 17 day of MAY, 2023
by and between Husketh Road LLC, herein "Permittee" and Franklin County, a political
Municipality of North Carolina (the "County");

WITNESSETH:

WHEREAS, the County has adopted through the County Zoning Ordinance certain
stormwater management regulations applicable to the property of Permittee located in the Franklin
County, North Carolina and known as Bartlett Manor Phase 1 (formerly known as Westra Phase
1) ("the Property"), recorded in Plat Book _____ and Page ____, Franklin County Registry;

WHEREAS, such regulations, including but not limited to the Franklin County
Stormwater Ordinance require the Permittee to operate and maintain an engineered stormwater
Best Management Practice (BMP) to provide storage and/or treatment of stormwater runoff as part
of the development of the Property; and

WHEREAS, Permittee has constructed an on-site stormwater control structure or series
of engineered stormwater controls (the "Facility") to satisfy the requirements of such regulations,
the boundaries and general description of such Facility being described in Exhibit A attached
hereto and incorporated herein by reference; and

WHEREAS, Permittee is, or upon completion thereof shall become, the Owner of the
Facility; and

WHEREAS, as a condition of the development of the Property, Permittee is required to
operate and maintain the Facility in perpetuity in a manner that accomplishes the stormwater
control and treatment intended, including but not limited to ongoing nutrient reduction and/or
peak flow attenuation, and to enter into an agreement with the County securing that
commitment;

NOW, THEREFORE, for and in consideration of the premises and the approval by the
County of the development activities on the Property, the Permittee does hereby covenant and
agree with the County that the Property and Facility shall be held, operated, maintained, and
encumbered pursuant to the covenants and conditions hereinafter set forth;

1. No conveyance of Facility without new Agreement. Permittee covenants and agrees that it will not convey, transfer, assign, lease or otherwise release or relinquish ownership or control of the Facility, in whole or in part, unless and until the proposed new owner of the Facility, or any interest therein, has entered into a BMP Operation and Maintenance Agreement with the County containing substantially the same terms and conditions as this Agreement.

2. Property Obligated. A legal description of all the property which is obligated to maintain the Facility is attached hereto as Exhibit B. All owners of each lot or parcel therein (or the sole owner if there is but one parcel) at the time the obligation hereunder arises shall be ultimately responsible for compliance by the Permittee with the terms, conditions and obligations of the Agreement.

3. Operation and Maintenance. Permittee shall operate, maintain, repair, and, if necessary, reconstruct the Facility in accordance with the provisions below:

- a. Maintenance of the Facility shall be at least in accordance with instructions for the specific type of BMPs, as described in Stormwater Best Management Practices ("Manual"), NC Department of Environment and Natural Resources (NCDENR), Division of Water Quality, Water Quality Section, 1999, including any and all subsequent revisions. At minimum, maintenance activities shall conform to the guidelines contained therein, and shall maintain the Facility as designed for optimal functioning. For the project named herein, the specific BMP(s) is/are described in Exhibit A.
- b. An *Annual BMP Certification* shall be submitted by the Permittee and approved by the County, according to County regulations. Annually, on or before August 15, the Permittee shall submit to the County a certification, sealed by a registered Professional Engineer, that the Facility is functioning as intended, plus a certification by the person or entity responsible for maintenance that (1) the specific maintenance activities have occurred, (2) all nonroutine maintenance has been listed and (3) that the *Operation and Maintenance Plan* is adequate to ensure optimal functioning or that changes are recommended.
- c. A notarized *Operation and Maintenance Plan* shall be signed by the responsible party and submitted to the County prior to approval of this agreement. Changes to the *Operation and Maintenance Plan* shall be submitted with the *BMP Certification*, if required to maintain optimal functioning of the BMP or to remain in compliance with the *maintenance recommendations of the Manual*. *Proposed changes to the Operation and Maintenance Plan* are subject to approval by the County. Additional information may be required for reporting purposes, as directed by the County Planning Director or designee.
- d. Landscaping of the area around the Facility shall not reduce the County or hinder operation and maintenance of the Facility. Landscaping shall be maintained to ensure that landscape materials live and prosper. Re-vegetation and stabilization of areas may be required by the County Planning Director or designee.
- e. The Facility shall be maintained in a manner so as to control insects, odors and algae as determined necessary by the County Planning Director or designee.
- f. Any fencing or other security measures shall be maintained in good condition. If no fencing or security measures are included with the original construction, they shall be

added at the Permittee's expense at such time as the County Planning Director or designee determines that unauthorized persons are disturbing the Facility and that security measures will help prevent such unauthorized activity.

- g. Necessary non-routine maintenance actions shall be performed in a timely manner so as to ensure continuous performance of the Facility. All non-routine maintenance activities shall be noted in the next yearly report.

4. Right of Inspection by County. The Permittee hereby grants the County the right, privilege and easement over, upon and across the Property lying between any public street or right of way and the Facility for the purpose of inspecting, correcting, repairing, replacing or maintaining the Facility as provided in this Agreement. This right, privilege and easement is appurtenant to and shall run with the Property and Facility.

5. Remedies for Violations of this Agreement.

- a. If the Permittee shall fail to satisfactorily maintain or repair the Facility as set forth herein, or otherwise violates this Agreement, the County may order the Permittee to undertake necessary actions to correct such violation. If the Permittee fails to comply with such order within (30) days from the date thereof, the County, in its sole discretion may enter the Property and perform all necessary work to place the Facility in proper working condition. The full cost of performing the work shall be a lien on the property as provided in G.S. 160A-193. In such event, the County shall assess against Permittee all of its related costs and expenses (including but not limited to employee time, materials and supplies, vehicle and equipment use, administrative expenses, plus all contract costs, if required for repairs, design or inspection) and the Permittee hereby agrees to timely pay the same. Where the Permittee is the sole owner of the development, if this total amount is not paid in full within three (3) months of the assessment, then such amount shall be a continuing lien on the Property. Where there is more than one owner of record of the Property, and if the total amount is not paid in full to the County within three (3) months of the assessment, then each owner of record shall become personally liable for such owner's proportionate share of the assessment. If the proportionate share of the assessment is not paid in full by each such owner within thirty (30) days following receipt of notice thereof from the County, then such amount shall be a continuing lien on the property owned by each owner, such owner's heirs, devisees, personal representatives, successors and/or assigns.
- b. The County shall have the right to bring an action against the Permittee and/or each individual owner to recover all sums due, including its expenses, damages and its reasonable attorney fees, seek injunctive and equitable relief, and/or such other and further relief as may be just and appropriate.
- c. The remedies provided by this paragraph are cumulative and are in addition to any other remedies provided by law.

5. No Waiver of Breach. In the event of a breach of any term of this Agreement, any delay or failure on the part of the County to exercise any rights, powers, or remedies herein provided shall not be construed as a waiver thereof or acquiescence of such breach or any future breach.

6. Amendments. This Agreement may be amended, revised or modified only by a written document signed by the parties.

7. Binding Effect. The conditions and restrictions set forth herein with regard to the Facility shall run with the land and shall bind the Permittee and its heirs, successors and assigns and all

parties claiming by, through, or under them shall be taken to hold, agree, and covenant with the County, its successors and assigns, and with each of them to conform to, comply with and observe said conditions and restrictions. The County shall be deemed a beneficiary of the conditions and restrictions set forth herein and such conditions and restrictions shall run with the land in favor of the County.

8. Warranties of Title. The Permittee covenants and warrants that it is lawfully seized and possessed of the Facility and real estate described in Exhibit A, that it has good right and lawful authority to enter into this Agreement for the purposes herein expressed, and that no consent or waiver by the holder of any mortgage, deed of trust, or other security instrument, or any other person, firm, or corporation is required prior to entering into this Agreement.

9. Interpretation. Use of the masculine gender herein includes the feminine and neuter, and the singular number used herein shall equally include the plural. The captions preceding the various provisions of this Agreement are for the convenience of reference only, and shall not be used as an aid in interpretation or construction of this Agreement. The laws of North Carolina shall govern this agreement.

10. Severability. Invalidation of any one of these covenants or conditions by judgment or order of any court shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this the day and year first above written.

Property Owner:

Husketh Road LLC

By: 

Title/Office Manager

Address: 1151 Tobacco Rd
Youngville NC
27596

Franklin County

Planning and Inspections
Jason Rogers

By: 

Title: Assistant Planning Director

~~215 East Nash Street~~ 127 S Bickett Blvd
Louisburg, NC 27549

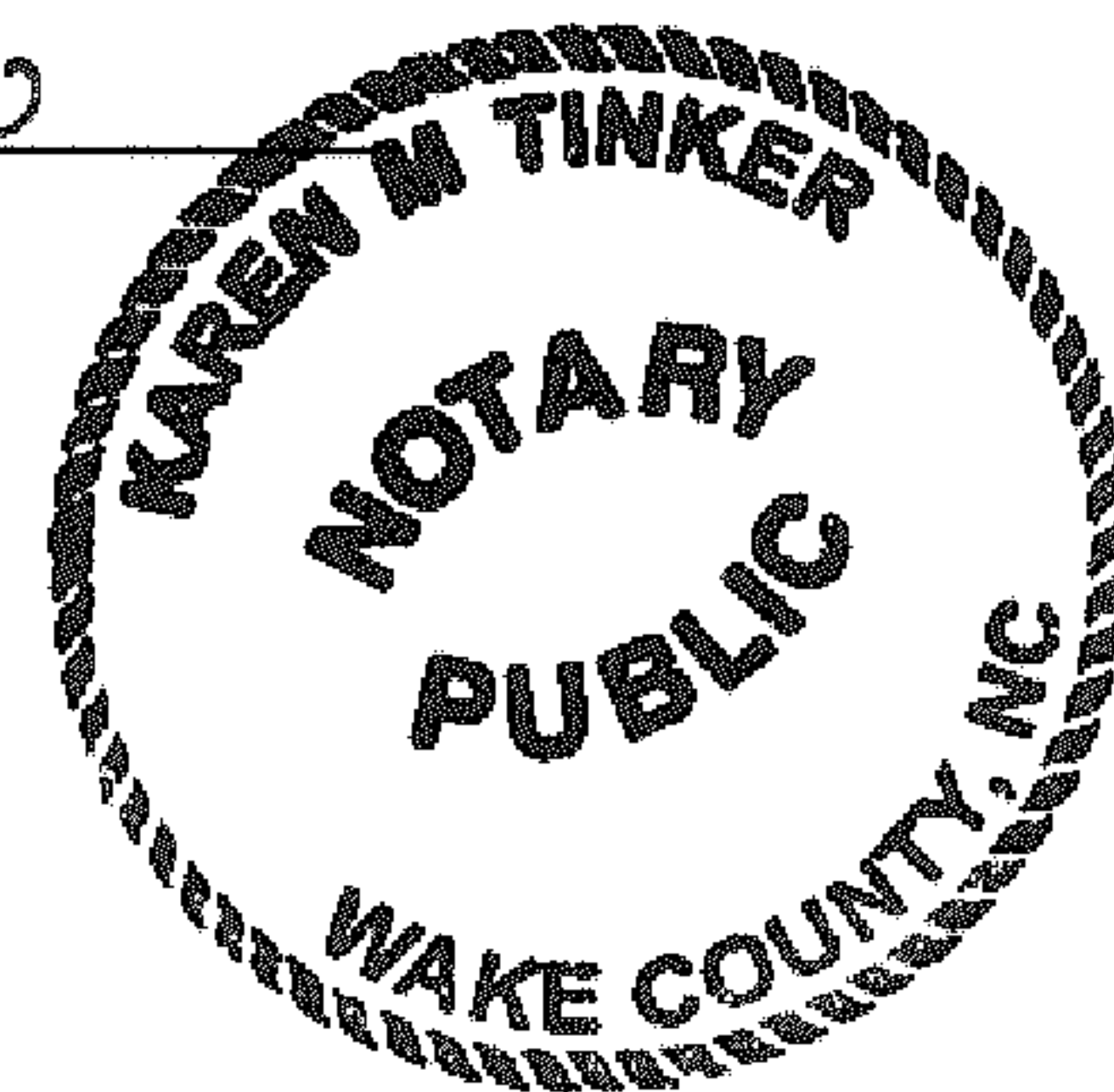
STATE OF North Carolina
COUNTY OF Wake

I, Karen M. Tinker, a notary public in and for said county and state, certify that David Cyrus personally appeared before me this date and acknowledged that he (or she) is Manager (title) of Husketh Road, LLC (corporation), a corporation, and that he (or she) as Manager (title), being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 17th day of May, 2023.

Karen M. Tinker
Notary Public

My Commission Expires: 3/12/2024



STATE OF NORTH CAROLINA
COUNTY OF FRANKLIN

I, Holly Renee Heston, a notary public in and for said county and state, certify that Jason Rogers (Name) personally appeared before me this day, stated that he or she is the Assistant Planning Director (Title) of the County of Franklin a political Countyship in the State of North Carolina, and that by authority duly given may act on behalf of the County.

This the 19th day of December, 2023.

Holly Renee Heston
Notary Public

My Commission Expires: 11/7/2027

(SEAL)

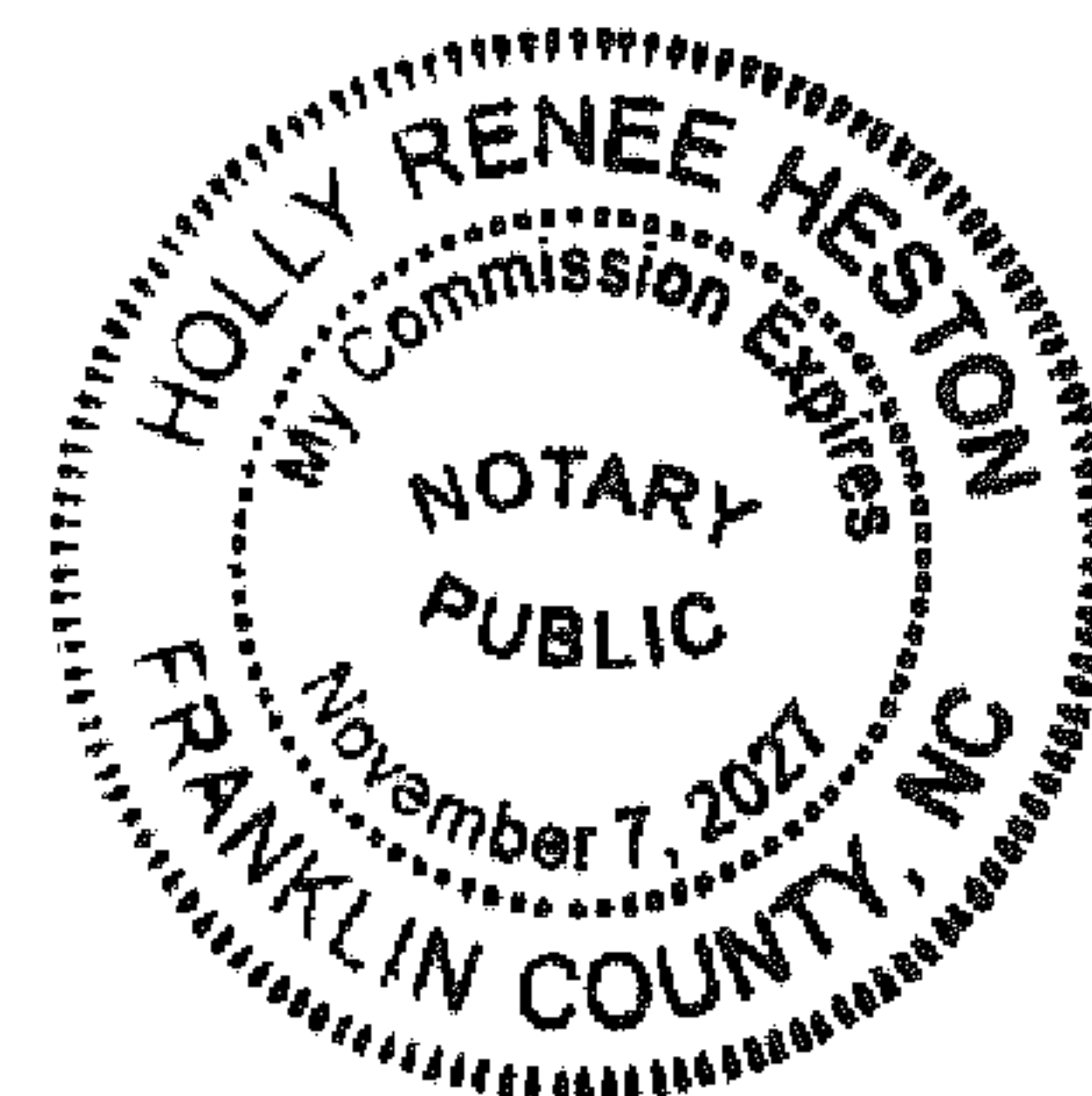


Exhibit A –
Description of Facility (BMPs) and Property Description

Best Management Practices providing stormwater nutrient removal for the subject Property identified as Bartlett Manor Phase 1 (formerly known as Westra Phase 1), approved by the County on January 8, 2019 (date), are more particularly identified as:

BMP #1 – Stormwater Wetland #1; within open space beside Lot #23

Exhibit B –
Description of Property Obligated to Maintain Facility

Being all of the Property known as Bartlett Manor Phase 1 (formerly known as Westra Phase 1),
recorded in Book _____ Page _____, Franklin County Registry.

From Recorded Deed in Book _ Page _.

Operation & Maintenance Agreement

Project Name: BARTLETT MANOR SUBDIVISION PHASE 1
Project Location: Husketh Rd, Franklin Co, NC

Cover Page

Maintenance records shall be kept on the following BMP(s). This maintenance record shall be kept in a log in a known set location. Any deficient BMP elements noted in the inspection will be corrected, repaired, or replaced immediately.

The BMP(s) on this project include (check all that apply & corresponding O&M tables will be added automatically):

Table with 3 columns: BMP Name, Quantity, Location(s). Rows include Bioretention Cell, Dry Detention Basin, Grassed Swale, Green Roof, Infiltration Basin, Infiltration Trench, Level Spreader/VFS, Permeable Pavement, Proprietary System, Rainwater Harvesting, Sand Filter, Stormwater Wetland, Wet Detention Basin, Disconnected Impervious Area, User Defined BMP.

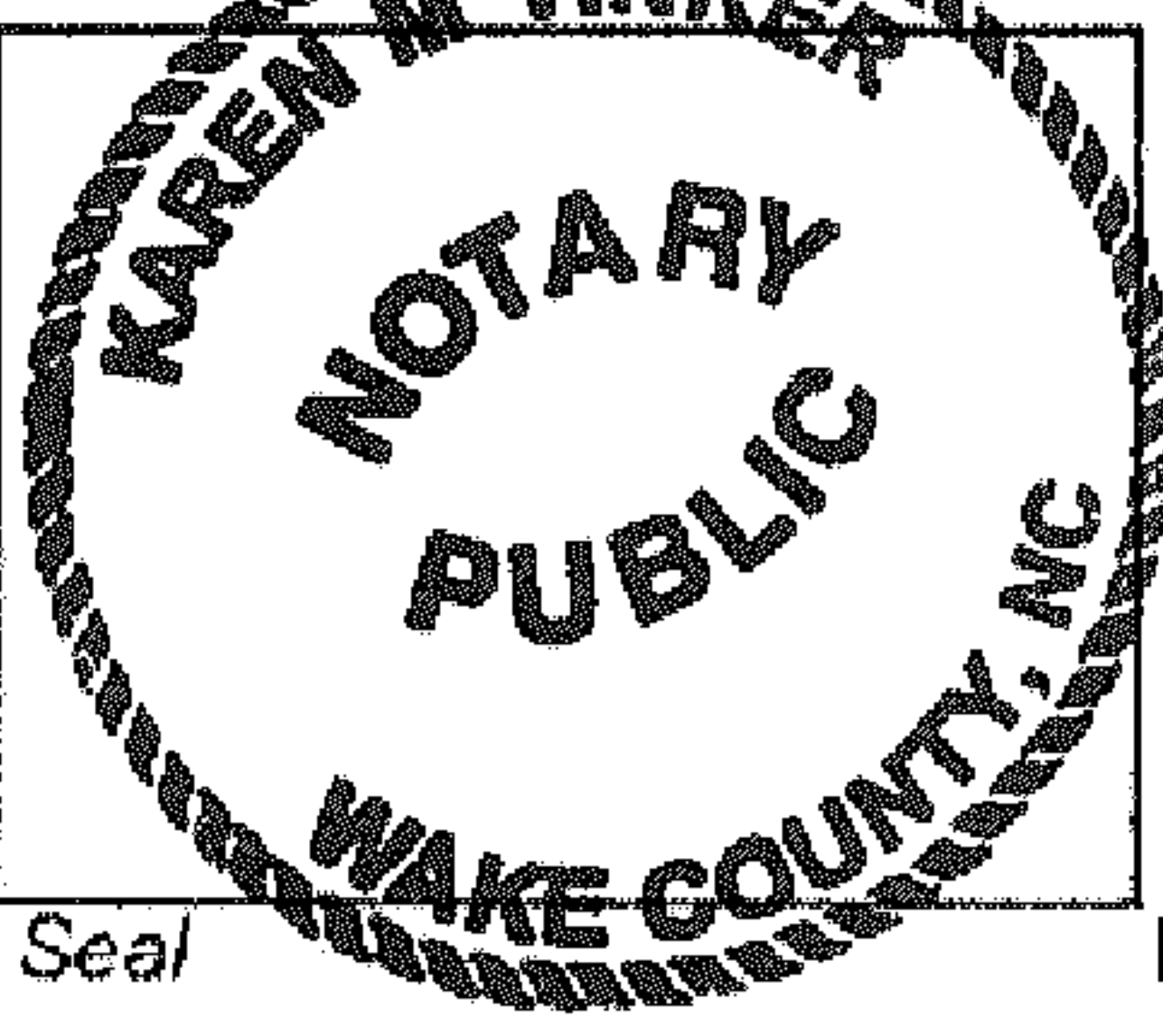
I acknowledge and agree by my signature below that I am responsible for the performance of the maintenance procedures listed for each BMP above, and attached O&M tables. I agree to notify NCDENR of any problems with the system or prior to any changes to the system or responsible party.

* Responsible Party: Husketh Road LLC
Title & Organization: Dennis Cyrus, Manager
Street address: 1151 Tarboro Rd
City, state, zip: Youngsville, NC 27596
Phone number(s): 919.669.5933
Email: dennis@grandemanorhomes.com

Signature: [Handwritten Signature] MANAGER Date: 5-17-2023

I, Karen M. Tinker, a Notary Public for the State of North Carolina, County of Wake, do hereby certify that Dennis Cyrus, Manager personally appeared before me this 17th day of May, 2023 and acknowledge the due execution of the Operations and Maintenance Agreement.

Witness my hand and official seal, Karen M. Tinker



My commission expires 3/12/2024

Stormwater Wetland Maintenance Requirements

Important maintenance procedures:

- Immediately following construction of the stormwater wetland, bi-weekly inspections will be conducted and wetland plants will be watered bi-weekly until vegetation becomes established (commonly six weeks).
- No portion of the stormwater wetland will be fertilized after the first initial fertilization that is required to establish the wetland plants.
- Stable groundcover will be maintained in the drainage area to reduce the sediment load to the wetland.
- Once a year, a dam safety expert should inspect the embankment.

After the stormwater wetland is established, it shall be inspected **monthly and within 24 hours after every storm event greater than 1.0 inches (or 1.5 inches if in a Coastal County)**. Records of operation and maintenance will be kept in a known set location and will be available upon request.

Inspection activities shall be performed as follows. Any problems that are found shall be repaired immediately.

BMP element:	Potential problem:	How I will remediate the problem:
Entire BMP	Trash/debris is present.	Remove the trash/debris.
The perimeter of the BMP	Areas of bare soil and/or erosive gullies have formed.	Regrade the soil if necessary to remove the gully, and then plant a ground cover and water until it is established. Provide lime and a one-time fertilizer application.
	Vegetation is too short or too long.	Maintain vegetation at a height of approximately six inches.
Forebay	Sediment has accumulated in the forebay to a depth that inhibits the forebay from	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.
	Erosion has occurred.	Provide additional erosion protection such as reinforced turf matting or riprap if needed to prevent future erosion problems.
	Weeds are present.	Remove the weeds, preferably by hand. If a pesticide is used, wipe it on the plants rather than spraying.
The inlet device	The pipe is clogged.	Unclog the pipe. Dispose of the sediment off-site.
	The pipe is cracked or otherwise damaged.	Replace the pipe.
	Erosion is occurring in the swale.	Regrade the swale if necessary to smooth it over and provide erosion control devices such as reinforced turf matting or riprap to avoid future problems with erosion.
	Stone verge is clogged or covered in sediment (if applicable).	Remove sediment and replace with clean stone.

Stormwater Wetland Maintenance Requirements (Continued)

Deep pool, shallow water and shallow land areas	Algal growth covers over 50% of the deep pool and shallow water areas.	Consult a professional to remove and control the algal growth.
	Cattails, phragmites or other invasive plants cover 50% of the deep pool and shallow	Remove invasives by physical removal or by wiping them with pesticide (do not spray) – consult a professional.
	Shallow land remains flooded more than 5 days after a storm event.	Unclog the outlet device immediately.
	Plants are dead, diseased or dying.	Determine the source of the problem: soils, hydrology, disease, etc. Remedy the problem and replace plants. Provide a one-time fertilizer application to establish the ground cover if necessary.
	Best professional practices show that pruning is needed to maintain optimal plant	Prune according to best professional practices.
	Sediment has accumulated and reduced the depth to 75% of the original design depth of	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.
Embankment	A tree has started to grow on the embankment.	Consult a dam safety specialist to remove the tree.
	An annual inspection by appropriate professional shows that the embankment	Make all needed repairs.
	Evidence of muskrat or beaver activity is present.	Consult a professional to remove muskrats or beavers.
Micropool	Sediment has accumulated and reduced the depth to 75% of the original design depth.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.
The outlet device	Clogging has occurred.	Clean out the outlet device. Dispose of the sediment off-site.
	The outlet device is damaged	Repair or replace the outlet device.
The receiving water	Erosion or other signs of damage have occurred at the outlet.	Contact the local NC Department of Environment and Natural Resources Regional Office.