

~SAMPLE~

NOTE: AS PROVIDED HEREIN, CAPACITY ALLOCATED UNDER THIS AGREEMENT IS NOT AN APPURTENANCE TO THE LAND UNTIL SUCH TIME THAT THE SYSTEM DEVELOPMENT FEES ASSOCIATED WITH THE LAND, AS PROVIDED IN FURTHER DETAIL IN THIS AGREEMENT AND THE ORDINANCE, HAVE BEEN PAID. FURTHER, THIS AGREEMENT MAY BE VOIDED, WITH ALL OR A PORTION OF THE ALLOCATED CAPACITY RETURNED TO UNION COUNTY, IF SYSTEM DEVELOPMENT FEES ARE NOT PAID AT THE TIME OF BUILDING PERMIT APPLICATION AS REQUIRED BY THIS AGREEMENT AND THE ORDINANCE. FURTHER, CAPACITY MAY RETURN TO UNION COUNTY UNDER THIS AGREEMENT IF INFRASTRUCTURE IS NOT COMPLETED WITHIN THE TIME PERIOD PRESCRIBED HEREIN AND IN THE ORDINANCE.

State of North Carolina

Ret: County of Union

STANDARD WATER AND SEWER SERVICES EXTENSION AGREEMENT

This Agreement is made and entered into this the _____ day of _____, 20___, by and between Union County, North Carolina, by and through its department, Union County Water (“UCW” or “County”), _____, (“Developer”) and _____, (“Owner”).

WHEREAS, Owner is the record title owner of the real property described in Exhibit A, attached hereto, and incorporated herein by reference (the “Development Phase”), and

WHEREAS, Developer desires to develop the Development Phase by erecting thereon improvements for commercial, industrial, institutional and/or residential purposes which will require water and/or sewer service in accordance with engineered drawings, signed and sealed by the Developer’s Engineer of Record, and

WHEREAS, such drawings as are necessary for the Development Phase Project, including drawings for off-site improvements identified in the Conditional Sketch Plan Comment Letter or as otherwise required by UCW, (the “Development Phase Plans”) have been provided to County in addition to the Water and Sewer Plans for the Development, and such Development Phase Plans, incorporated herein by reference, have been approved by UCW on the [REDACTED] day of [REDACTED], 20[REDACTED] and are on file at the offices of UCW, and

WHEREAS, Developer desires for UCW to provide water and/or sewer service to the Development Phase, when the Development Phase Project is completed; and

WHEREAS, UCW has submitted the Water and Sewer Plans to the North Carolina Department of Environmental Quality (“NCDEQ”), which has issued construction permits, identified by Permit # (s) [REDACTED], to UCW for the construction of water and/or sewer infrastructure, and

WHEREAS, Developer has agreed to construct the infrastructure relative to the Development Phase Project in accordance with the Development Phase Plans, construction permits, all Applicable Law, and in accordance with the Union County Water and Sewer Extension Ordinance, as amended and in effect as of the date of this Agreement (the “Ordinance”), and

WHEREAS, Developer has agreed to convey title to the water and/or sewer infrastructure relative to the Development Phase Project to County upon completion of construction and acceptance thereof by UCW; and

(CHECK THIS BOX IF THIS PARAGRAPH APPLIES: [N/A]), WHEREAS a portion of the Development Phase Project is for the construction of improvements located outside of the Development Phase, and Developer has not been able to obtain all easements and other property interests necessary for the construction of such improvements, which necessitates the signing of a Reimbursement Agreement to this agreement by Developer and County; and

WHEREAS, Owner has agreed to convey title to Union County of all easements and other interests in the Development Phase that are necessary for the

conveyance of water or sewer and the maintenance and repair of the related infrastructure to be located thereon; and

WHEREAS, UCW has agreed to allow Developer to construct the infrastructure relative to the Development Phase Project in accordance with the construction permits issued to UCW by NCDEQ, to cause County to accept title to said infrastructure and interests in property, to thereafter maintain said infrastructure, to provide water and/or sewer services in accordance with the terms of this Agreement and the Ordinance, and to thereafter operate such facilities so that the occupants of each residence or commercial improvement constructed in the Development Phase will receive water supply and/or sewer collection service from UCW, all pursuant to the terms of this Agreement and the Ordinance; and

WHEREAS, Developer desires that UCW reserve water and/or sewer treatment capacity, as specified and conditioned herein, so that when the Development Phase Project has been completed in accordance with this Agreement, treatment capacity will be available to serve the improvements that have been constructed in the Development Phase, subject to the conditions set forth herein; and

WHEREAS, Developer and Owner acknowledge that this Agreement does not entitle Developer or Owner to develop the Development Phase with densities which are inconsistent with those allowed under the density provisions of Applicable Law, which law includes the zoning ordinance of the local government having jurisdiction.

NOW, THEREFORE, for and in consideration of these premises, the mutual undertakings and agreements herein contained and assumed, Developer, Owner and UCW hereby covenant and agree as follows:

1. Interpretation of Agreement:

This Agreement is governed by all Applicable Law, including the terms of the Union County Water and Sewer Extension Ordinance as amended and in effect as of the date of this Agreement, which Ordinance is incorporated herein by reference (as codified in the Union County Code). Developer, Owner, and UCW are bound by and shall comply in all respects with the policies, procedures, requirements and terms of the Ordinance in performing their obligations under this Agreement. All policies, procedures, requirements and terms of the Ordinance shall be a part of this Agreement, even though not expressly set forth herein. Developer and Owner understand and agree that execution of this Agreement in no way vests any Development for zoning purposes, whether the Development is located within Union County's zoning jurisdiction or within the zoning jurisdiction of one of the municipalities within which County provides water and/or sewer service.

2. Definitions:

All capitalized terms contained in this Agreement shall have the same meaning as those defined terms contained in the Ordinance.

3. Legal Description of Easements and Other Property Interests:

Developer shall ensure that the plat required by the Appropriate Planning Agency contains a legal description of all easements and other property interests in the Development Phase to be conveyed to Union County, within which water and/or sewer infrastructure is to be built. Neither Developer nor Owner shall record the plat in the Register of Deeds' office until it has been approved by UCW.

4. Development, Ownership and Control of the on-site and off-site water distribution and sewage collections systems:

Developer shall construct the infrastructure relative to the Development Phase Project (whether located within or without the boundaries of the Development Phase) as delineated in the Development Phase Plans, and in accordance with the Ordinance and other Applicable Law. Upon completion of the construction and acceptance by UCW, Developer shall sign such documentation as UCW may require in order to transfer title of the infrastructure to County.

**5. CHECK THIS BOX IF THIS PARAGRAPH APPLIES: [N/A]
Acquisition of off-site easements and other property interests:**

Developer and County have signed a document of even date herewith, entitled "Reimbursement Agreement", incorporated herein by reference and on file in the offices of UCW, which the parties agree is a part of this Agreement. County will not issue the Letter of Final Acceptance as set forth in the Ordinance until Developer has complied in all respects with the Reimbursement Agreement, including the payment to County of all of the costs and expenses due under the Reimbursement Agreement.

6. Owner's obligations:

Upon notification that County is prepared to accept the completed infrastructure, Owner shall execute all easements and convey to County all interests in the easements and other property interests shown on the approved Development Phase Plans that are necessary for the conveyance of water or sewer and the maintenance and repair of the related infrastructure located thereon. In the event that Developer is the record titleholder of the Development Phase, the Developer shall have all responsibilities of Owner under this Agreement and the Ordinance in addition to the responsibilities of Developer.

7. Reservation of Allocated Capacity:

Developer and UCW agree that the Development Phase will require Allocated Capacity (i) in the amounts indicated below for non-residential development, and (ii) in such amounts as will serve the number of Equivalent Residential Units (“ERUs”) shown below for residential development. For purposes of this Agreement, ERU will be defined as the amount of water used or wastewater generated, measured in gallons per day, by a typical single family residence in Union County.

With respect to Water:

128 ERUs for the residential portion of the Development Phase
N/A Gallons/Day for the non-residential portion of the Development Phase

With respect to Sewer:

128 ERUs for the residential portion of the Development Phase
N/A Gallons/Day for the non-residential portion of the Development Phase.

UCW hereby allocates and reserves the Allocated Capacity for a period of five (5) years from the date of this Agreement for the benefit of the Development Phase in accordance with the terms of the Ordinance and this Agreement. If the infrastructure relative to the Development Phase Project that Developer has agreed to construct under this Agreement, as delineated on the Development Phase Plans, has not been completed and accepted by County within five (5) years from the date of this Agreement, the Allocated Capacity shall return to UCW in accordance with the terms of the Ordinance. Failure to pay System Development Fees within the time required by the Agreement and Ordinance may result in voiding of the Agreement, which would also result in the return of all, or a portion, of the Allocated Capacity to UCW, in accordance with the terms of this Agreement and the Ordinance.

8. Payments under Agreement:

A. Payment of System Development Fees:

Owner agrees to pay the System Development Fees for treatment and transmission of water and sewer based upon such fee amount that is set by the applicable rate/fee schedule adopted by the Union County Board of Commissioners in effect at the time such System Development Fee payment is due in accordance with the Ordinance. Owner is responsible for such System Development Fee payment if Owner is the owner of the Development Phase, or portion thereof, when System Development Fee payment for the Development Phase, or portion thereof, is due. System Development Fees associated with the Development Phase, or portion thereof, are due at the time of building permit application associated with the Development Phase, or portion thereof (which may

be on a per Lot basis). If the Developer or Owner intends to transfer title of property associated with the Development Phase, or any portion thereof (such as a Lot), prior to payment of the System Development Fees associated with such property (or portion thereof), the Developer agrees that it shall do all of the following prior to the date of such property transfer:

- (i) Provide the transferee of such property notice of the unpaid System Development Fees associated with the property and certain terms of this Agreement and the Ordinance, which notice shall be acknowledged by the transferee, and shall include at a minimum, the following:
 - a. A statement of transferee's obligation to pay UCW the unpaid System Development Fees associated with the property to be transferred at the time of building permit application;
 - b. A statement providing the date of execution of this Agreement;
 - c. A statement providing that Allocated Capacity is reserved for the property to be transferred, as part of the Development Phase, for a period of five (5) years measured from the date of execution of this Agreement;
 - d. A statement providing where the transferee may obtain a copy of this Agreement;
 - e. A statement providing that if either:
 - i. The Developer fails to complete the Development Phase Project such that all infrastructure described in this Agreement has not been completed and accepted by County within the five-year period; or
 - ii. System Development Fees associated with the property have not been paid within the five-year period, or any extended time period allowed by UCW in accordance with the Ordinance,

then the Allocated Capacity associated with such property shall be subject to return to UCW and any System Development Fees paid for Allocated Capacity associated with the unaccepted infrastructure shall be retained by UCW as liquidated damages compensating UCW for reservation of capacity for five (5) years without receiving revenue. It shall also be provided that County shall have no further obligation to accept any additional infrastructure associated with the Development Phase or Development Phase Project and shall have no obligation to provide water and/or sewer services to the prospective customers that might connect to such additional infrastructure.

- (ii) Provide notice to UCW of the transfer, including providing UCW the transferee's acknowledgment of the required notice as set forth in Section 8(A)(i) above and the Ordinance, within fifteen (15) days of the property transfer date.

However, notwithstanding anything herein to the contrary, if ownership of the Development Phase, or a portion thereof, is transferred after the date of execution of this Agreement, but prior to payment of associated System Development Fees for the transferred property, and the notice required by this section and the Ordinance is not properly given to the transferee, the Developer agrees and understands that it shall be responsible for payment of the System Development Fees associated with such transferred property.

If the required System Development Fees for the Development Phase, or portion thereof, are not paid at the time of building permit application for the property associated with the building permit, and the System Development Fees continue to not be paid within ten (10) days of such building permit application, such failure shall constitute a material breach of this Agreement, which shall become voidable and subject to termination at the discretion of UCW. Upon termination by UCW in such event, the Development Phase will be considered terminated by UCW and Allocated Capacity for the Development Phase shall return to UCW for the Development Phase, or any portion thereof, for which System Development Fees have not been paid.

UCW has agreed to reserve the Allocated Capacity for the benefit of the Development Phase for a period of five (5) years from the date of this Agreement, and will not receive revenue for the use of such Allocated Capacity until the Development Phase has been completed and occupants of the Development Phase begin to use UCW water and/or sewer services. In the event that the Allocated Capacity returns to UCW because the infrastructure relative to the Development Phase Project has not been completed and accepted within five (5) years from the date of this Agreement, then the System Development Fees paid pursuant to this Agreement, if any, shall be retained by UCW as liquidated damages for reserving capacity for five (5) years without receiving revenue.

However, if all System Development Fees associated with the entire Development Phase have not been paid within the five (5) year period set forth herein and in the Ordinance, the Agreement will be eligible for an additional three (3) year extension if (i) all infrastructure associated with the Development Phase Project described in this Agreement has been completed and accepted by County within the five-year period, and (ii) System Development Fees associated with at least fifty percent (50%) of the lots in the Development Phase have been paid. The Developer must submit a request for such extension at least sixty (60) days prior to the expiration of the five-year period measured from the date of execution of this Agreement. Such request must include any documentation necessary to establish that the Developer meets the requirements for such extension set forth herein and in the

Ordinance. If such requirements are met, UCW shall grant such extension through an amendment to this Agreement.

If such an extension is granted, if System Development Fees are paid for at least fifty (50%) of the lots which had not been paid at the time of the expiration of the initial five-year period by the end of the three-year extension period, then capacity shall be considered allocated for the remainder of the Development Phase, with outstanding System Development Fees still remaining due at the time of building permit application for all lots for which System Development Fees had not been paid. However, if at the end of the extension period such milestone is not reached, the Allocated Capacity for any portion of the Development Phase for which associated System Development Fees have not been paid shall be subject to return to UCW.

B. Payment of Pro Rata Share of Off-site Sewer Improvements:

(CHECK THIS BOX IF THIS PARAGRAPH APPLIES: [N/A] UCW has agreed to allow Developer to construct interim alternative off-site sewer improvements under the March 18, 2013 amendment to Section 2.3(d) of the Ordinance, as subsequently amended and codified as Union County Code Section 34-337(d). Under the Ordinance requirements, Developer has paid a non-refundable payment-in-aid of construction of the off-site sewer improvements that would have been constructed to serve the development if the infrastructure had been constructed in accordance with the Union County Water and Sewer Master Plan in the sum of \$____, and UCW acknowledges receipt of said payment, and agrees to use the funds received in accordance with the Ordinance.

9. Change of Development:

Developer agrees that the plan of the Development Phase will not be changed in such a fashion that results in a change of the Development Phase Plans or the Allocated Capacity unless UCW consents to the change in writing in accordance with the terms of the Ordinance. No change in the plan of the Development Phase that increases or decreases the Allocated Capacity of either water or sewer by more than 5% shall be effective unless a written amendment to this Agreement has been signed by UCW, Owner, and Developer and recorded in the Register of Deeds' office.

10. Transfer of Allocated Capacity:

The Allocated Capacity shall become an appurtenance to the Development Phase, or portion thereof, only upon payment of the required System Development Fees associated with the platted Development Phase, or portion thereof, and, as such, will pass with the title to the Development Phase, or portion thereof, only upon payment of applicable System Development Fees. The Allocated Capacity cannot be assigned, sold, transferred, leased, encumbered, or disposed of in any manner

by Owner or Developer other than by sale or encumbrance of the Development Phase, or portion thereof. The Allocated Capacity cannot be used in connection with the development of any real property other than the Development Phase. In the event of transfer of the Development Phase or any portion thereof, the person who acquires title shall have the Allocated Capacity attributable to such property, if the required System Development Fees for such property have been paid and subject to the terms of the Ordinance and this Agreement.

11. Oversizing of Water or Sewer Infrastructure:

In the event that UCW requires Developer, as a condition of approval of the Water and Sewer Plans, to install improvements (whether located within or without the boundaries of the Development Phase) with a greater capacity than required to serve the Development Phase in order for UCW to serve future developments or to meet future service needs of UCW, UCW shall reimburse Developer in accordance with the terms of Exhibit B, attached hereto, and incorporated herein by reference.

12. Notices:

Unless otherwise provided herein, all notices and other communications which may be or are required to be given or made by any party to any other party in connection with this Agreement shall be in writing and shall be deemed to have been properly given and received on the date delivered in person or deposited in the United States mail, to the addresses set forth below (or at such other addresses as specified by written notice delivered in accordance herewith):

To County: Water Administrator
 Union County, North Carolina
 500 N. Main St., Suite 500
 Monroe, NC 28112

To Developer:

To Owner:

13. Authorization:

Each party warrants that it has the corporate or other organizational power and authority to execute, deliver and perform this Agreement. Each party further warrants that the execution, delivery and performance by it of the Agreement has

been duly authorized and approved by all requisite action of the party's management and appropriate governing body.

14. Entire Agreement:

This Agreement shall inure to the benefit of and be binding upon the parties hereto, their assigns and successors in interest. This Agreement (and the Development Phase Plans, the Reimbursement Agreement signed in accordance with Paragraph 5, above, if applicable, and any other documents that are specifically referred to herein as being incorporated by reference) contains the complete agreement of the parties regarding the terms and conditions of the Agreement, and there are no oral or other written conditions, terms, warranties, understandings or agreements pertaining thereto which have not been incorporated herein. This Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.

15. Severability:

The provisions hereof are severable, and should any provision be determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction, the other provisions shall remain in full force and effect and shall not thereby be affected unless such ruling shall make further performance hereunder impossible or impose an unconscionable burden upon one of the parties. The parties shall endeavor in good faith to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as practicable to that of the invalid, illegal or unenforceable provisions. The foregoing notwithstanding, should any System Development Fees or payment-in-aid of construction payable or paid pursuant to Section 8 be determined to be invalid, unlawful or otherwise null and void by any court of competent jurisdiction in a manner requiring repayment, disgorgement or damages for same, all consideration given in exchange therefor, including any reservation of Allocated Capacity, shall be null and void to like extent.

16. Selection of Law:

This Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Exclusive venue for any disputes arising hereunder is conferred upon the General Courts of Justice of the State of North Carolina sitting in Union County, North Carolina.

17. E-Verify:

E-Verify is the federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program, used to verify the work authorization of newly hired employees pursuant

to federal law. Developer agrees to ensure that Developer and any subcontractor performing work under this Agreement: (i) uses E-Verify if required to do so by North Carolina law; and (ii) otherwise complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. A breach of this provision by Developer will be considered a breach of this Agreement, which entitles County to terminate this Agreement, without penalty, upon notice to Developer.

18. Iran Divestment Act:

Pursuant to Article 6E of Chapter 147 of the North Carolina General Statutes, County must require most entities with which it contracts, which would include Developer under this Agreement, to certify that the entity is not identified on a list created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"). This requirement is related to ensuring that entities with which local governments contract are not involved in investment activities in Iran. Developer certifies that: (i) it is not listed on the Final Divestment List, and (ii) it will not utilize any subcontractor performing work under this Agreement which is listed on the Final Divestment List.

In witness whereof, the parties have set their hands and seals this the day and year first above written

[Remainder of page intentionally left blank. Signatures follow on the next page.]

[Signature Page]

County

Union County, North Carolina

By: _____

Brian W. Matthews
Title: **County Manager**

ATTEST :

By: _____

Lynn G. West
Title: **Clerk to the Board**

SEAL-STAMP State of North Carolina – County of Union

On this the ____ day of _____, 20____, Lynn G. West personally appeared before me, a Notary Public in this jurisdiction, and having been duly sworn did state that she knows the common seal of Union County, and is acquainted with Brian W. Matthews, who is the County Manager of Union County; and did further state that she is the duly appointed or designated Clerk to the Board of County Commissioners of Union County, and saw the County Manager sign the foregoing instrument, and that Lynn G. West, as Clerk to the Board of County Commissioners of Union County, affixed the common seal of Union County to the instrument, and that Lynn G. West as Clerk to the Board of County Commissioners of Union County, signed her name in attestation of the execution of the instrument in the presence of the County Manager, and that they both acknowledged the due execution of the same. Witness my hand and official seal or stamp.

My commission expires:_____

Notary Public:_____

[Signature Page]

Developer

Individual Developer:

Sign: _____ (SEAL)

Print Name: _____

Sign: _____ (SEAL)

Print Name: _____

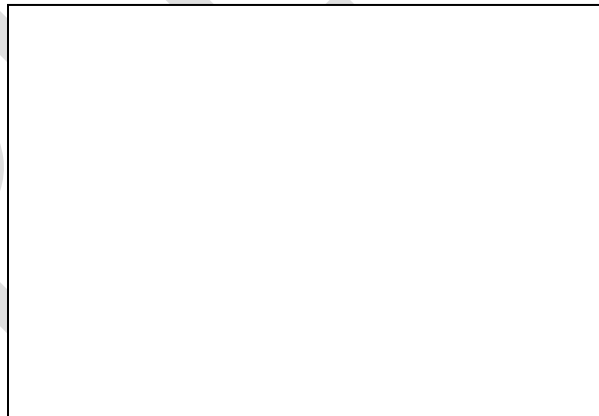
LLC/Corporate Developer:

Sign Name: _____

Entity Name: _____

Print Name: _____

Title: _____



LLC/Corporate seal

Partnership:

Partnership Name

Name: _____ (SEAL)

_____, General Partner

NOTARY ACKNOWLEDGMENT
(Developer)

Individual Acknowledgment

State of _____

County of _____

I, _____, Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this ____ day of _____, 20_____.

_____(SEAL)

My Comm. Expires:

Notary: _____

Corporate/LLC Acknowledgment

State of _____

County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is/are the _____ of _____ a _____ (type of Entity), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this ____ day of _____, 20_____

_____(SEAL)

My Comm. Expires:

Notary: _____

Partnership Acknowledgment

State of _____

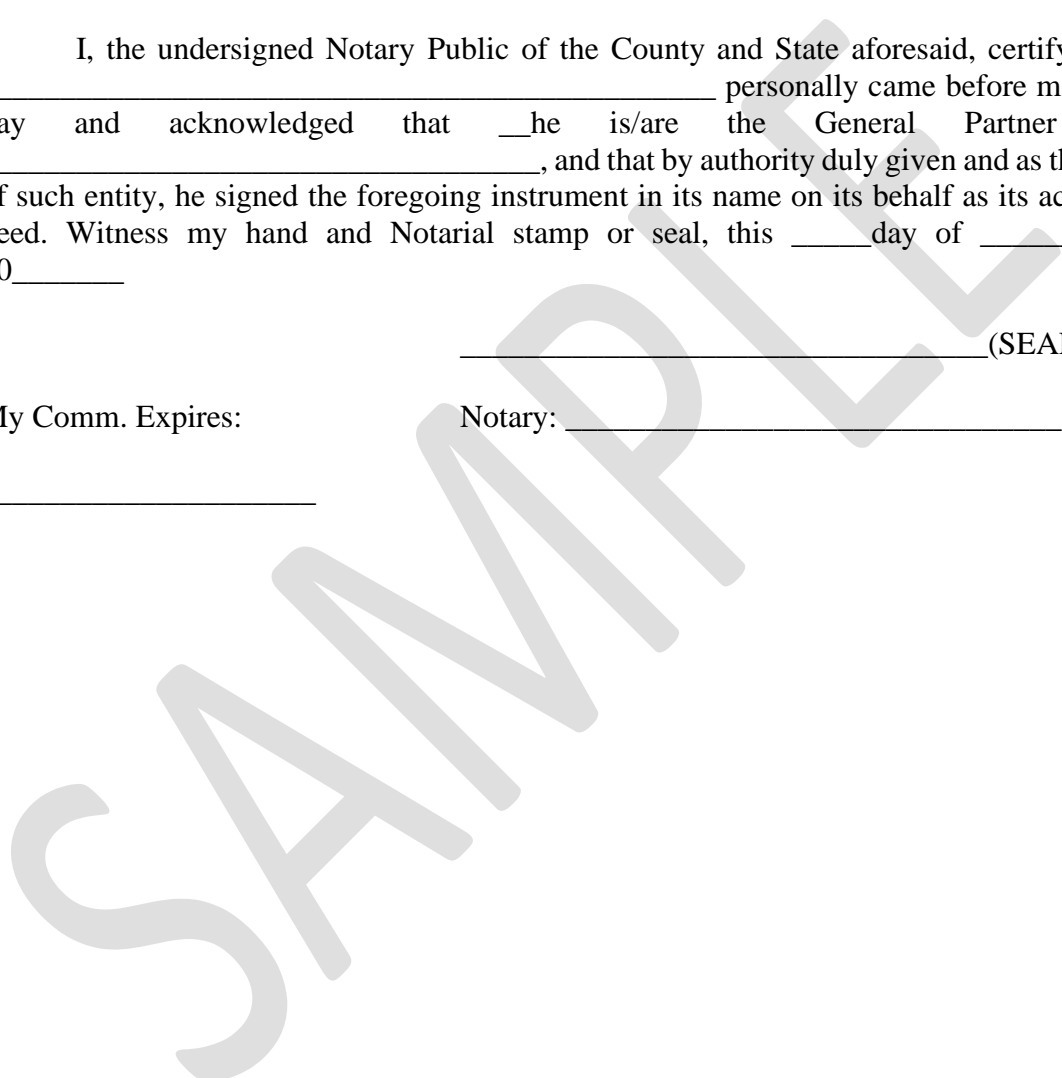
County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that ___he is/are the General Partner of _____, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this ____ day of _____, 20_____

(SEAL)

My Comm. Expires:

Notary: _____



[Signature Page]

Owner

Individual Owner:

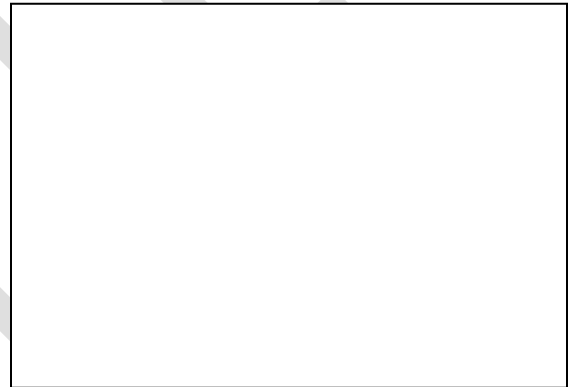
Sign: _____ (SEAL)
Print Name: _____

Sign: _____ (SEAL)
Sign Name: _____

LLC/Corporate Owner:

Sign Name: _____
Entity Name: _____

Print Name: _____
Title: _____



LLC/Corporate Seal

Partnership:

Partnership Name

Name: _____, General Partner (SEAL)

NOTARY ACKNOWLEDGMENT
(Owner)

Individual Acknowledgment

State of _____

County of _____

I, _____, Notary Public of the County
and _____ State aforesaid, certify that
_____ personally
appeared before me this day and acknowledged the due execution of the foregoing
instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal
this ____ day of _____, 20_____.

_____(SEAL)

My Comm. Expires:

Notary: _____

Corporate/LLC Acknowledgment

State of _____

County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that
_____ personally came before me this
day and acknowledged that they are the _____ of
_____ a _____ (type
of Entity), and that by authority duly given and as the act of such entity, he signed the
foregoing instrument in its name on its behalf as its act and deed. Witness my hand and
Notarial stamp or seal, this ____ day of _____, 20_____

_____(SEAL)

My Comm. Expires:

Notary: _____

Partnership Acknowledgment

State of _____

County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that they are the General Partner of _____, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this ____ day of _____, 20_____

_____(SEAL)

My Comm. Expires:

Notary: _____

SAMPLE