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Fee Amt: \$29.00 Page 1 of 6  
Craven, NC  
Sherri B. Richard Register of Deeds  
BK **2778** PG **350**

✓ Prepared by and return to: Howard, Stallings, From & Hutson, P.A., P.O. Box 975, New Bern, NC 28563

**Declaration of Covenants  
For Storm and Surface Water Facility Maintenance**

THIS DECLARATION OF COVENANTS, made this 19<sup>th</sup> day of December, 2008, by RAM OF EASTERN NORTH CAROLINA, LLC, a North Carolina limited liability company, hereinafter referred to as the "Covenantor" to and for the benefit of the City of New Bern, North Carolina and its successors and assigns hereinafter referred to as the "City." These Covenants are consented to by FIRST SOUTH BANK and THOMAS A. VANN, TRUSTEE.

WITNESSETH:

WHEREAS, the City is authorized and required to regulate and control the disposition of storm and surface waters within the City's jurisdiction as set forth in The City of New Bern's Stormwater Ordinance: and

WHEREAS, Covenantor is the owner of a certain tract or parcel of land more particularly described as:

See Exhibit A affixed hereto and incorporated herein by reference.

Being all or part of the land which it acquired by deed dated November 17, 2003 from Weyerhaeuser Real Estate Development Company, grantor, and recorded in the Registry of the County of Craven, North Carolina, in Book 2129 at Page 799 such property being hereinafter referred to as "the property"; and

WHEREAS, the Covenantor desires to construct certain improvements on its property that will alter the extent of storm and surface water flow conditions on both the property and adjacent lands: and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Covenantor desires to build and maintain at its expense, a storm and surface water management facility and system more particularly described and shown on plans titled Taberna Townes and further identified under Permit Number SW7060321; and

WHEREAS, the City has reviewed and approved these plans subject to the execution of this agreement.

*DM*

NOW THEREFORE, in consideration of the benefits received by the Covenantor, as a result of the City's approval of his plans. Covenantor, with full authority to execute deeds, mortgages, other covenants, and all rights, title and interest in the property described above do hereby covenant with the City as follows:

1. Covenantor shall construct and perpetually maintain, at its sole expense, the above-referenced storm and surface water management facility and system in strict accordance with the plan approval granted by the City.

2. Covenantor shall, at its sole expense, make such changes or modifications to the storm and surface water management facility and system as may, at the City's discretion, be determined necessary to insure that the facility and system is properly maintained and continues to operate as designed and approved.

3. The City, its agents, employees and contractors shall have the perpetual right of ingress and egress over the property of the Covenantor and the right to inspect at reasonable times and in reasonable manner, the storm and surface water facility and system in order to insure that the system is being properly maintained and is continuing to perform in an adequate manner.

4. The Covenantor agrees that should it fail to correct any defects in the above-described facility and system within ten (10) days from the issuance of written notice, or shall fail to maintain the facility in accordance with the approved design standards and with the law and applicable executive regulation or, in the event of an emergency as determined by the City in its sole discretion, the City is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City deems necessary. The City shall then assess the Covenantor and/or all landowners served by the facility for the cost of the work, both direct and indirect, and applicable penalties. Said assessment shall be a lien against all properties served by the facility and may be placed on the property tax bills of said properties and collected as ordinary taxes by the City.

5. Covenantor shall indemnify, save harmless and defend the City from and against any and all claims, demands, suits, liabilities, losses, damages and payments including attorney fees claimed or made by persons not parties to this Declaration against the City that are alleged or proven to result or arise from the Covenantor's construction, operation, or maintenance of the storm and surface water facility and system that is the subject of this Covenant.

6. The covenants contained herein shall run with the land and the Covenantor further agrees that whenever the property shall be held, sold and conveyed, it shall be subject to the covenants, stipulations, agreements and provisions of this Declaration, which shall apply to, bind and be obligatory upon the Covenantor hereto, its heirs, successors and assigns and shall bind all present and subsequent owners of the property served by the facility.

7. The Covenantor shall promptly notify the City when the Covenantor legally transfers any of the Covenantor's responsibilities for the facility. The Covenantor shall supply the City with a copy of any document or transfer, executed by both parties.

8. The provisions of this Declaration shall be severable and if any phrase, clause, sentence or provision is declared unconstitutional, or the applicability thereof to the Covenantor is held invalid, the remainder of this Covenant shall not be affected thereby.



9. The Declaration shall be recorded among the land records of the Craven County Registry at the Covenantor's expense.

10. In the event that the City shall determine at its sole discretion at future time that the facility is no longer required, then the City shall at the request of the Covenantor execute a release of this Declaration of Covenants which the Covenantor shall record at its expense.

RAM OF EASTERN NORTH CAROLINA, LLC (SEAL)

BY: Robin L. Strickland  
Robin L. Strickland, Manager

Subjecting of the property to these covenants is consented to by:

FIRST SOUTH BANK

BY: \_\_\_\_\_  
Title: \_\_\_\_\_

(CORPORATE SEAL)

\_\_\_\_\_  
THOMAS A. VANN, TRUSTEE (SEAL)

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Robin L. Strickland.

Date: 12/17/2008

Deborah D. Travis  
NOTARY PUBLIC

Deborah D. Travis, Notary Public

*Notary's typed or printed name*

My Commission Expires:

10/22/2009

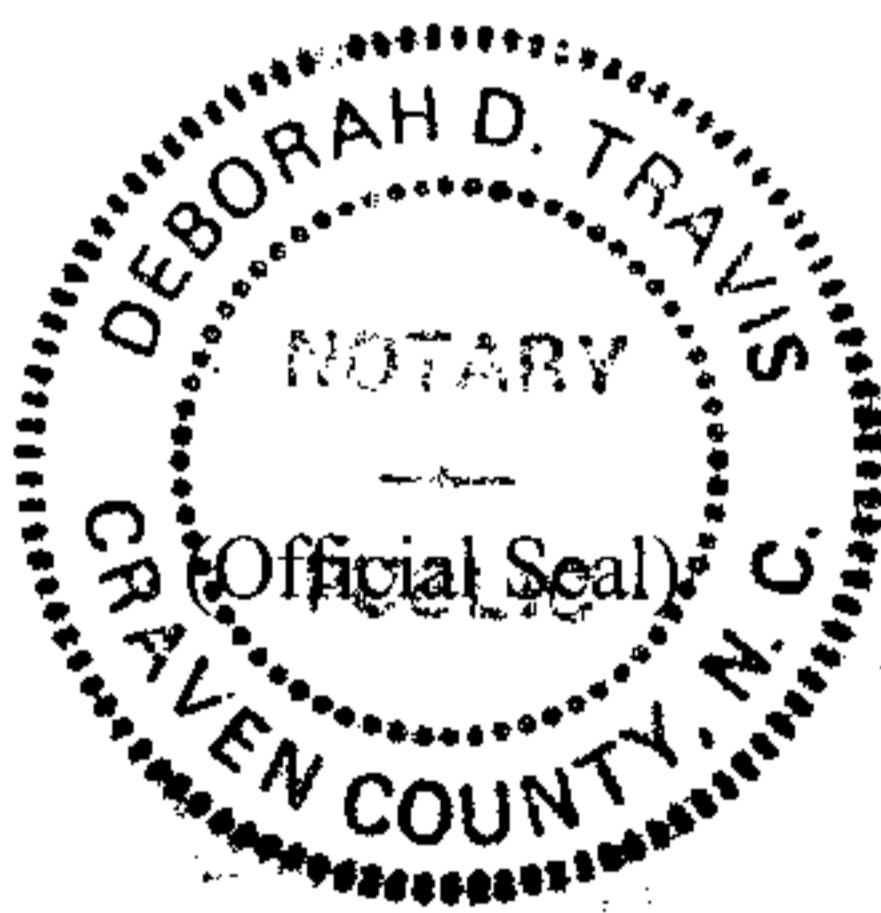


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9. The Declaration shall be recorded among the land records of the Craven County Registry at the Covenantor's expense.

10. In the event that the City shall determine at its sole discretion at future time that the facility is no longer required, then the City shall at the request of the Covenantor execute a release of this Declaration of Covenants which the Covenantor shall record at its expense.

RAM OF EASTERN NORTH CAROLINA, LLC (SEAL)

BY: \_\_\_\_\_  
Robin L. Strickland, Manager

Subjecting of the property to these covenants is consented to by:

FIRST SOUTH BANK

BY: Anne R. Gray, SVP  
Title: Sr Vice President



Thomas A. Vann (SEAL)  
THOMAS A. VANN, TRUSTEE

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:  
Robin L. Strickland.

Date: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_, Notary Public

\_\_\_\_\_  
Notary's typed or printed name

My Commission Expires:  
\_\_\_\_\_

(Official Seal)



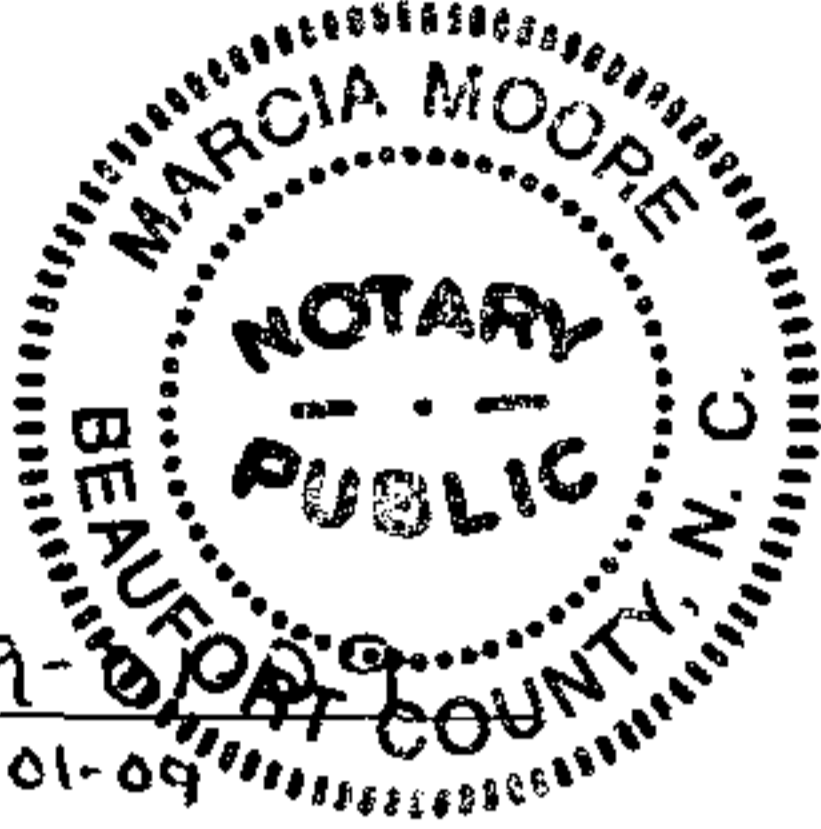
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STATE OF North Carolina  
COUNTY OF Beaufort

I, Marcia Moore, certify that Anne R Currey personally came before me this day and acknowledged that she is SA Vice President of FIRST SOUTH BANK, a corporation, and that she, as SA Vice President being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 18<sup>th</sup> day of December, 2008.



(Official seal)

Marcia Moore  
NOTARY PUBLIC  
MARCIA MOORE  
Notary's Typed or Printed Name

My commission expires: 09-01-09

STATE OF NORTH CAROLINA  
COUNTY OF Beaufort

I certify that the following person personally appeared before me this day, acknowledging to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Thomas A. Vann.

Date: December 18, 2008



(Official Seal)

Marcia Moore  
NOTARY PUBLIC  
MARCIA MOORE, Notary Public  
Notary's typed or printed name  
My Commission Expires:  
09-01-09



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EXHIBIT A

BEING all of PARCEL 1 containing 7.58 acres more or less as the same is shown on that map prepared by Joe L. Riddick, Jr., Professional Land Surveyor, dated September 26, 2003, and identified by the following legend: "FINAL PLAN OF THE RECOMBINATION OF PROPERTIES OWNED BY THE WEYERHAEUSER COMPANY PRIOR TO THE CONVEYANCE TO THE CIVIL WAR TRUST AND WEYERHAEUSER REAL ESTATE COMPANY". This map is duly of record in Plat Cabinet G, Slides 175-A and 175-B, Craven County Registry, and further reference is made to said map for a more complete and accurate description of this property by metes and bounds.