OFFICIAL COPY W-1230 SUB 1
W-1300 SUB 9
Volume 3

SCHEDULE 11

Agreements with are Encumbrances

(See attached)

FILED
NOV 07 2014
Clerk's Office
N.C. Utilities Commission

STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

EASEMENT PURCHASE AGREEMENT

THIS EASEMENT PURCHASE AGREEMENT (the "Agreement"), made and entered into this 11th day of JUNE, 2008, by and between NNP BRIAR CHAPEL, LLC, a North Carolina limited liability company ("Buyer"), and JAMES FEARRINGTON, CATHERINE FEARRINGTON, CLARA DANIELS, ANITA PRATHER HARVELL, HEIR OF DRUSCILLA PRATHER, MARION CLARK, JOHNNIE CLARK and WALTER CLARK, HEIR OF KATHLEEN CLARK (collectively, the "Sellers");

WITNESSETH:

WHEREAS, Sellers own a tract of land located in Chatham County, North Carolina lying on Taylor Road known as Chatham GIS 9775-21-7974 being more particularly described in the deed of record in Deed Book 276, Page 489, Chatham County Registry (the "Master Tract"); and

WHEREAS, Buyer is the owner of those certain tracts of land (the "Adjoining Tracts") lying to the west of Master Tract known as Briar Chapel.

WHEREAS, Buyer desires to purchase an sewer pump station easement across a portions of the Master Tract, the locations of which are shown as a hatched area on Exhibit A attached hereto and incorporated herein by reference (the "Easement Areas"), and Seller desires to sell to Buyer an easement over the Easement Area in the form attached as Exhibit B.;

NOW, THEREFORE, in consideration of the sum of Sixteen Thousand Dollars ($16,000.00) paid by Buyer to the Sellers, the receipt of which is hereby acknowledged, Sellers do hereby contract and agrees to sell and convey, and Buyer does hereby agree to purchase at the price and upon the terms and conditions hereinafter set forth, the Easement across, over and through the portion of the Master Tract as shown on Exhibit A all pursuant to the terms and conditions hereinafter more specifically set forth:

1. Closing. Closing hereunder shall occur no later than JULY 15, 2008 (the "Closing Date") at the offices of Kennon, Craver, Belo, Craig & McKee, PLLC, 4011 University Drive, Suite 300, Durham, North Carolina 27707. The Closing Date and place may be changed by written agreement signed by the parties. Sellers shall deliver possession of the Easement to Buyer on the Closing Date. Prior to closing, all risk of loss shall be borne by Sellers.

2. Development of Master Tract. In consideration of the grant of the Easement, Buyer shall, within one (1) year of the Closing Date construct four (4) service stubs which contain sewer lines adequate to serve four (4) residential lots to be constructed by Sellers on the Master Tract.

3. Closing Documentation. At closing, Sellers shall execute and deliver to Buyer the following:

(a) The Easement in the form attached as Exhibit B. The title to the Easement shall be marketable and insurable (at regular title insurance rates), free and clear of all liens, charges and encumbrances except general utility easements. The Easement shall be assignable by Buyer.

(b) An owners and contractors affidavit on a form sufficient for use by Buyer in obtaining title insurance on the Easement free and clear of any mechanics' or materialmen's lien exception.

(c) An affidavit affirming that on the Closing Date there are no outstanding and unsatisfied judgments, tax liens, or bankruptcies against or involving the Seller and that there are no unrecorded interests in the Master Tract of any kind.

(d) A statement from Sellers certifying that all of the representations and warranties contained in paragraph 8 hereof, to the best of Sellers knowledge, are true and correct as of the Closing Date.

(e) Such other documentation as may be reasonably requested by Buyer.

4. Closing Costs. Buyer shall pay all costs to record the Easement. Each party shall be responsible for its own attorney's fees.

5. Ad Valorem Taxes. Buyer shall have no liability for City-County ad valorem taxes on the Property at closing or in the future; and, Sellers acknowledge and agree that it and its successors or assigns will remain liable for City-County ad valorem taxes on the Property, if any.

6. Title Examination. At any time prior to fifteen (15) days before closing, Buyer shall cause its attorney to examine the title to the Master Tract and advise Seller in writing of any objections to said title (which objection shall not include the lien of City-County ad valorem taxes for the year in which closing occurs and general utility easements), and Seller shall have a period of seven (7) days from the date of notice of said objections within which to remedy said objections to the reasonable satisfaction of Buyer and its attorney. In the event said objections are not cured or remedied within said seven (7) day period, the Buyer, at its election, shall have the right to either (a) accept such title subject to the objections or (b) terminate this Agreement. Sellers agree to cause any liens on the Master Tract to be subordinated to the Easement prior to or at Closing.

7. Survey. Prior to closing, Buyer shall cause a North Carolina licensed surveyor or engineer to prepare an accurate survey of the Master Tract and the Easement Area. The parties agree that the legal description of the Easement Area conveyed in the Easement shall be drawn from said survey.

8. Representation and Warranties by Seller. Seller represents and warrants to Buyer that:

(a) Sellers have all requisite power and authority to execute this Agreement, the closing instruments listed in paragraph 4 hereof, and all other instruments required to be delivered by Sellers under the terms of this Agreement.

(b) The conveyance of the Easement pursuant to this Agreement will not violate any private restriction or agreement or, to the best of the knowledge of Sellers, any applicable statute, ordinance, governmental restriction or regulation.

(c) To the best of Sellers' knowledge there are no liens, easements or other encumbrances which encumber the Easement Area, other lien of City-County ad valorem taxes for the year in which closing occurs and general utility easements.

(d) Sellers have received no notice of any action, litigation, pending or threatened condemnation or other proceeding of any kind pending against Sellers which relates to or affects the Easement Area or the access to the Easement Area over the Master Tract.

(e) Sellers, on the Closing Date, will have complied with all of its obligations required to be performed by that date, unless such compliance has been waived in writing by Buyer, and all warranties made hereunder shall be true and correct on the Closing Date.

(f) Sellers warrant to Buyer that, to the best of Sellers' knowledge: (1) the environmental and ecological condition of the Master Tract as of the closing date will be such that the Master Tract will not be in violation of any federal, state or local law, ordinance, notice requirement, rule or regulation applicable thereto; (2) Sellers neither knows of, nor has been advised of, any legal or administrative proceedings, claims or alleged claims, violations or alleged violations, infractions or alleged infractions of any federal, state or local laws, rules or regulations relating to the condition of the Master Tract; (3) the soil, surface water and groundwater of, on, under or about the Master Tract are free from solid waste, hazardous waste, petroleum or petroleum derived products, or other toxic or hazardous substances or contaminants, as those terms are defined under all applicable federal, state or local environmental laws, rules, regulations or ordinances; and (4) the Master Tract has not been used for the treatment, storage or disposal of any solid or hazardous waste materials or other toxic, hazardous or petroleum substances, as those terms are defined under all applicable federal, state or local environmental laws,

rules, regulations or ordinances, and no such hazardous or toxic waste materials or substances are known to be present on or to have been buried on, or released to, the Master Tract.

Sellers hereby agree that the truthfulness of each of said representations and warranties and of all other representations and warranties herein made is a condition precedent to the performance by Buyer of its obligations hereunder, and all of said representations and warranties shall be deemed to be repeated at each closing. Upon the material breach of any thereof, or in the event any of the conditions precedent to closing as described herein have not been satisfied or waived as of each Closing Date, or upon the material breach by Seller of any representation, warranty, condition or provision hereof, Buyer may, prior to the Closing Date, terminate this Agreement. The foregoing remedy is not intended to be an exclusive remedy of Buyer.

9. Broker's Commission. Sellers and Buyer represent each to the other that no broker's or real estate commissions are due as a result of the closing of this transaction. Sellers agree to indemnify Buyer against any cost and expense (including reasonable attorneys' fees) incurred by Buyer as a result of the untruth of the foregoing representation by Sellers. Buyer agrees to indemnify the Sellers against any cost and expense (including reasonable attorneys' fees) incurred by Sellers as a result of the untruth of the foregoing representation by Buyer.

10. Assignment. The Buyer may assign its rights, duties and obligations hereunder to any entity affiliated with Buyer without the consent of the Sellers. The Sellers may not assign its rights, duties and obligations hereunder without the written consent of Buyer.

11. Survival. All of the terms, covenants, conditions, representations, warranties, and agreements of this Agreement shall survive and continue in full force and effect and shall be enforceable after the Closing Date.

12. Notices. All notice or election required or permitted to be given or served by any party hereto upon any other party shall be deemed given or served in accordance with the provisions of this Easement Purchase Agreement, if said notice or election is directed to Sellers by delivering it personally to James Fearrington, Clara Daniels, Druscula Parker, Marion Clark and Kathleen Clark or if said notice or election is directed to Buyer, by delivering it personally to Mitch Barron, or if mailed in a sealed wrapper by United States registered or certified mail, return receipt requested, postage prepaid, properly addressed as follows:

if to Buyer:	NNP Briar Chapel, LLC Attn: Mitch Barron 5850 Fayetteville Rd., Ste. 201 Durham, NC 27713
with a copy to:	William T. Hutchins, Jr. Kennon, Craver, Belo, Craig & McKee, PLLC

4011 University Dr., Ste. 300
Durham, NC 27707

if to Sellers: James Fearrington
Catherine Fearrington
302 BROAD ST
CARRBORO, NC 27510

Clara Daniels
110 BEECH WOOD DR.
CARRBORO, NC 27510

Anita Prather Harvell, Heir of Druscilla Prather
210 S. BROAD STREET
SACKETS HARBOR, NY 13685

Marion Clark
Johnnie Clark
2600 BOLTON BOONE DR, BLDG 2, APT. 216
DESOTO, TX 75115

Walter Clark, Heir of Kathleen Clark
2618 COUNCIL ST
LITHONIA, GA

Each such mailed notice or communication shall be deemed to have been given to, or served upon, the party to which addressed on the date as the same is deposited in the United States registered or certified mail, return receipt requested, postage prepaid, properly addressed in the manner above provided. Each such delivered notice or communication shall be deemed to have been given to, or served upon the party to whom delivered, upon the delivery thereof in the manner above provided. Any party hereto may change its address for the service of notice hereunder by delivering written notice of said change to the other party hereunder, in the manner above specified ten (10) days prior to the effective date of such change.

13. Captions. Paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement.

14. Entire Agreement, Modification. This Agreement constitutes the entire and complete agreement between the parties hereto and supersedes any prior or oral written agreements between the parties with respect to the contemplated purchase and sale. It is expressly agreed that there are no verbal understandings or agreements which in any way change the terms, covenants and

conditions herein set forth, and that no modification of this Agreement and no waiver of any of its terms or conditions shall be effective unless made in writing and duly executed by the parties hereto.

15. Binding Effect. All covenants, agreements, warranties and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

16. Controlling Law. This Agreement has been made and entered into under the laws of the State of North Carolina, and said laws should control the interpretation hereof.

17. Construction of Terms. Where appropriate, any word denoting the singular shall be deemed to denote the plural, and vice versa. Where appropriate, any word denoting or referring to one gender shall be deemed to include the other gender.

18. Memorandum of Agreement. Upon request by Buyer, Sellers shall execute a memorandum of this Agreement suitable for recording in the public records. Buyer shall bear the cost of preparing and recording this instrument.

19. Condemnation. Should all or any part of the Subject Property be condemned by any governmental or quasi-governmental body at or prior to closing, Buyer shall have any of the following options:

(a) Terminate this Agreement; or

(b) Close on all of the Easement not condemned, adjusting the purchase price pro-rata based on acreage, in which case Seller shall retain the condemnation award.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Easement Purchase Agreement to be executed as of the day and year first above written.

BUYER:

NNP BRIAR CHAPEL, LLC

By: _____

MITCH BARRON

ASST V.P.

SELLERS:

_____ (SEAL)
James Fearrington

_____ (SEAL)
Catherine Fearrington

STATE OF NORTH CAROLINA

COUNTY OF Orange

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

James Fearrington Catherine Fearrington

[INSERT NAME(S) OF INDIVIDUAL(S) SIGNING IN BLANK ABOVE]

Date: 6-3-08

_____
Notary Public

Print Name: Napoleon Saca

My commission expires: Feb. 17 2013

[Official Seal]
NAPOLEON SACA
Notary Public
Orange County, NC
My Commission Expires Feb. 17, 2013

Clara Daniels (SEAL)
Clara Daniels

STATE OF NORTH CAROLINA

COUNTY OF Orange

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Clara Daniels.
[INSERT NAME(S) OF INDIVIDUAL(S) SIGNING IN BLANK ABOVE]

Date: 4/2/08

Laurie Terrell
Notary Public

Print Name: Laurie Terrell

[Official Seal]

My commission expires: 3/4/12

LAURIE TERRELL
NOTARY PUBLIC
ORANGE COUNTY, N.C.
My Commission Expires 3-4-2012.

_____ (SEAL)
Anita Prather Harvell, Heir of Druscilla Prather

STATE OF ~~NORTH CAROLINA~~ New York

COUNTY OF Jefferson

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Anita D Prather Harvel
[INSERT NAME(S) OF INDIVIDUALS SIGNING IN BLANK ABOVE]

Date: 6/26/10

Amanda L. Kilbourn
Notary Public

Print Name: Amanda L. Kilbourn

[Official Seal]

My commission expires: 6/26/10

AMANDA L. KILBOURN
NOTARY PUBLIC - STATE OF NEW YORK
LEWIS COUNTY
MY COMM EXPIRES: 6/26/10
COMMISSION NO. 01KI6148868

Marion Clark (SEAL)
Marion Clark

Johnnie Clark (SEAL)
Johnnie Clark

STATE OF NORTH CAROLINA

COUNTY OF Dallas

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Marion Clark & Johnnie Clark.
[INSERT NAME(S) OF INDIVIDUAL(S) SIGNING IN BLANK ABOVE]

Date: 6-4-08.

Carolyn Ann R. Robinson
Notary Public

Print Name: Carolyn Ann Robinson

My commission expires: April 20, 2009

[Official Seal]

CAROLYN ANN ROBINSON
Notary Public, State of Texas
My Commission Expires
April 20, 2009

Walter Clark (SEAL)
Walter Clark, Heir of Kathleen Clark

STATE OF ~~NORTH CAROLINA~~ Georgia

COUNTY OF Dekalb

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Walter Clark

[INSERT NAME(S) OF INDIVIDUAL(S) **SIGNING IN BLANK ABOVE**]

Date: 6-4-08

Lynn M. Colquitt
Notary Public

Print Name: Lynn M. Colquitt

My commission expires: 4/2/2012

[Official Seal]

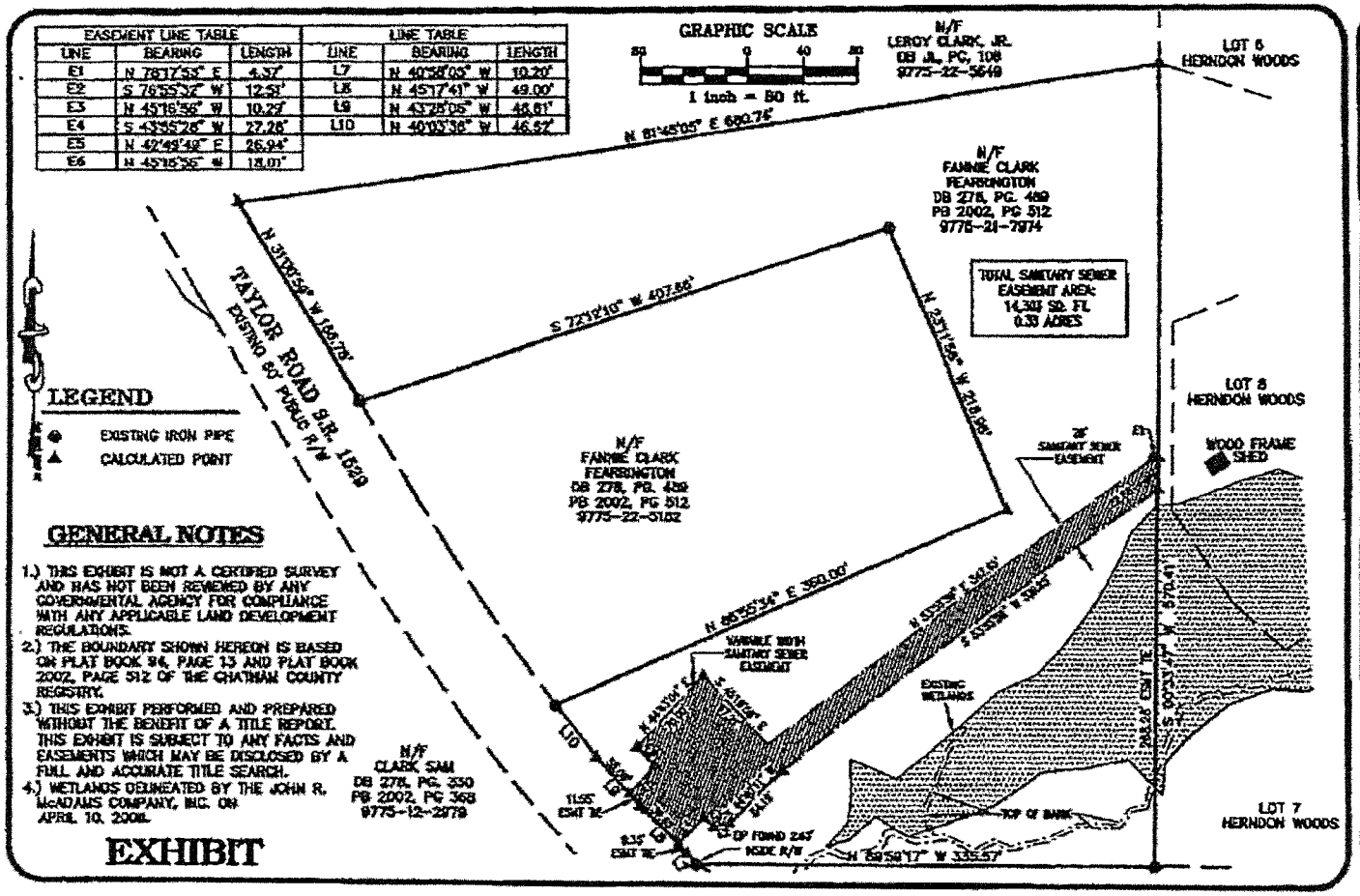
LYNN M. COLQUITT
NOTARY
PUBLIC
Exp. Apr. 02, 2012
NEWTON COUNTY, GA

KCBCM: 245001.2

EXHIBIT A

[See attached diagram of easement]

EASEMENT LINE TABLE			LINE TABLE		
LINE	BEARING	LENGTH	LINE	BEARING	LENGTH
E1	N 78°17'55" E	4.37'	L7	N 40°58'05" W	10.20'
E2	S 76°55'32" W	12.51'	L8	N 45°17'41" W	49.00'
E3	N 45°15'56" W	10.23'	L9	N 43°25'05" W	48.81'
E4	S 43°55'28" W	27.28'	L10	N 40°03'36" W	46.52'
E5	N 42°49'42" E	26.94'			
E6	N 45°15'56" W	18.01'			



GENERAL NOTES

1.) THIS EXHIBIT IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY ANY GOVERNMENTAL AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

2.) THE BOUNDARY SHOWN HEREON IS BASED ON PLAT BOOK 94, PAGE 13 AND PLAT BOOK 2002, PAGE 512 OF THE CHATHAM COUNTY REGISTRY.

3.) THIS EXHIBIT PERFORMED AND PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THIS EXHIBIT IS SUBJECT TO ANY FACTS AND EASEMENTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH.

4.) WETLANDS DELINEATED BY THE JOHN R. McADAMS COMPANY, INC. ON APRIL 10, 2008.

EXHIBIT

THE JOHN R. McADAMS COMPANY, INC.

FANNIE CLARK FEARRINGTON

PROPOSED SANITARY SEWER EASEMENT EXHIBIT

CHATHAM COUNTY, NORTH CAROLINA

PROJECT NO. NEW-05003

DRAWN WORDSOFT-R3

SCALE 1"=80'

DATE 05-13-2008

McADAMS

NORTH CAROLINA

AMENDED AND RESTATED
AGREEMENT OF EASEMENT

CHATHAM COUNTY

THIS AMENDED AND RESTATED AGREEMENT OF EASEMENT, is made and entered into this 19th day of ~~June~~ OCTOBER, 2009, by and between KEITH ALLEN and wife, _____, and EDDIE M. WILLIAMS and wife, _____ (collectively the "Owners") and NNP BRIAR CHAPEL, LLC (the "Developer").

WITNESSETH:

WHEREAS, Bobby L. Arrington and wife, Virgie H. Arrington entered into that certain Agreement (the "Agreement") with Developer dated September 11, 2007, a memorandum of which is of record at Book 1370, Page 782, Chatham County Registry; and

WHEREAS, the Agreement provides that the Developer will (a) provide sanitary sewer capacity to serve solely the one (1) acre Arrington parcel as described in the Agreement but no other parcel of land which may be owned by Arrington upon the terms set forth therein; and (b) in the future on the date to be determined by Developer grant to Arrington an easement for a sanitary sewer connection to the sanitation sewer system of Developer upon the terms described in the Agreement;

WHEREAS, the Owners are the successors in interest to the Arringtons;

WHEREAS, the Agreement was unclear as to the time frame or requirements for the sanitary sewer connection;

WHEREAS, the parties wish to amend the Agreement with the following:

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) and the mutual covenants contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Developer agrees to provide sanitary sewer capacity to serve the Arrington Parcel which Arrington Parcel is depicted on Exhibit A attached hereto and incorporated herein by reference. The maximum capacity of the sewer service shall be based on the current zoning and acreage of the Arrington parcel which is commercial zoning classification for the one acre parcel.

2. The location for the sanitary sewer connection (the "Sewer Connection") shall be upon the Briar Chapel property at a location to be selected by Developer in its sole discretion provided that Developer agrees that such sewer connection shall be located generally on the portion of the Developer's property within the crosshatch area shown on Exhibit A which location is on the western side of U.S. Highway 15-501 across the highway from the Arrington parcel. At such time

as Developer determines the exact location of the sewer connection, Developer shall memorialize such by granting an easement in favor of the Owners and substantially the form of Sewer Connection Easement attached hereto as Exhibit B and incorporated herein by reference. Notwithstanding the foregoing, the parties agree that in neither the Sewer Connection nor any appurtenance thereto shall encroach upon the thirty foot (30') buffer surrounding the gravesite (the "Gravesite") identified as Gravesite # 31CH806 by the cultural resource study dated August 2006 prepared for Newland Communities by Environmental Services, Inc. and entitled, "An Intensive Cultural Resource Investigation: Briar Chapel, Chatham County, North Carolina", the content of which is incorporated herein by reference.

3. The sewer will be provided and connected as soon as available to the site.

4. The Owners acknowledge that their sewer connection will be a pumped sewer connection with the pump station located upon the Owner's parcel. The Owners further acknowledge that all waste water disposed into the sewer system shall be consistent with Developer's waste water permit #WQ0028552 as issued by N.C.D.E.N.R.

5. At such time as the Owner desires to construct the sewer connection, the Owners will provide a construction sequencing plan which includes, without limitation, the location of the Gravesite, to the Developer which is subject to the Developer's reasonable approval. The Owners acknowledge that there will be only one (1) manhole and flow meter (to be installed by Developer at its sole cost and expense) located upon the easement and that the rest of the sewer facility including without limitation the bore pit and pump station shall be located upon the easement or the Owner's parcel. The Owners further acknowledge that prior to making the sewer connection, the Owners must have an account with Briar Chapel Utilities, LLC, or the operator of the Briar Chapel sewer system at the time the connection is made, and shall pay approved monthly fees for actual usage.

6. The Owners agree to assume all responsibility including payment of any costs or expenses for securing permission to install, including any necessary easements from any state of local agencies as well as all permits necessary to bore under the highway and to construct the conveyance pipe to the point of the sewer connection including construction of the actual sewer connection itself and to pay all costs associated with the foregoing including, without limitation, the design, permitting, boring, utility location, and repair to the easement.

7. Following the installation of the construction of the sewer connection, the easement shall be restored to its condition as existed prior to the start of construction. The Owners agree to indemnify and hold Developer harmless for any and all costs or damage incurred as a result of the exercise of its rights under this Agreement.

8. This Agreement shall be binding upon the parties and their successors and assigns. The Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

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

OWNERS:

_____(SEAL)
Keith Allen

_____(SEAL)

Eddie M. Williams (SEAL)
Eddie M. Williams

_____(SEAL)

DEVELOPER:

NNP-BRIAR CHAPEL, LLC

By: _____

Title: Vice President

STATE OF NORTH CAROLINA
COUNTY OF Alamance

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Keith Allen.
[insert name(s) of person(s) in blank].

Date: October 5 2009

Notary Public

Print Name: Ellen C. Sorrells

[Official Seal]

My commission expires: December 25, 2011

STATE OF NORTH CAROLINA
COUNTY OF Alamance

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Eddie M Williams.
[insert name(s) of person(s) in blank].

Date: October 5, 2009

Notary Public

Print Name: A.H. Patterson, Jr.

[Official Seal]

My commission expires: December 4, 2009

STATE OF NORTH CAROLINA
COUNTY OF Mecklenburg

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Keith Hurand.
[insert name(s) of person(s) in blank].

Date: October 19, 2009

Notary Public

Print Name: Georgia W. Anderson

[Official Seal]

My commission expires: 3-18-2012

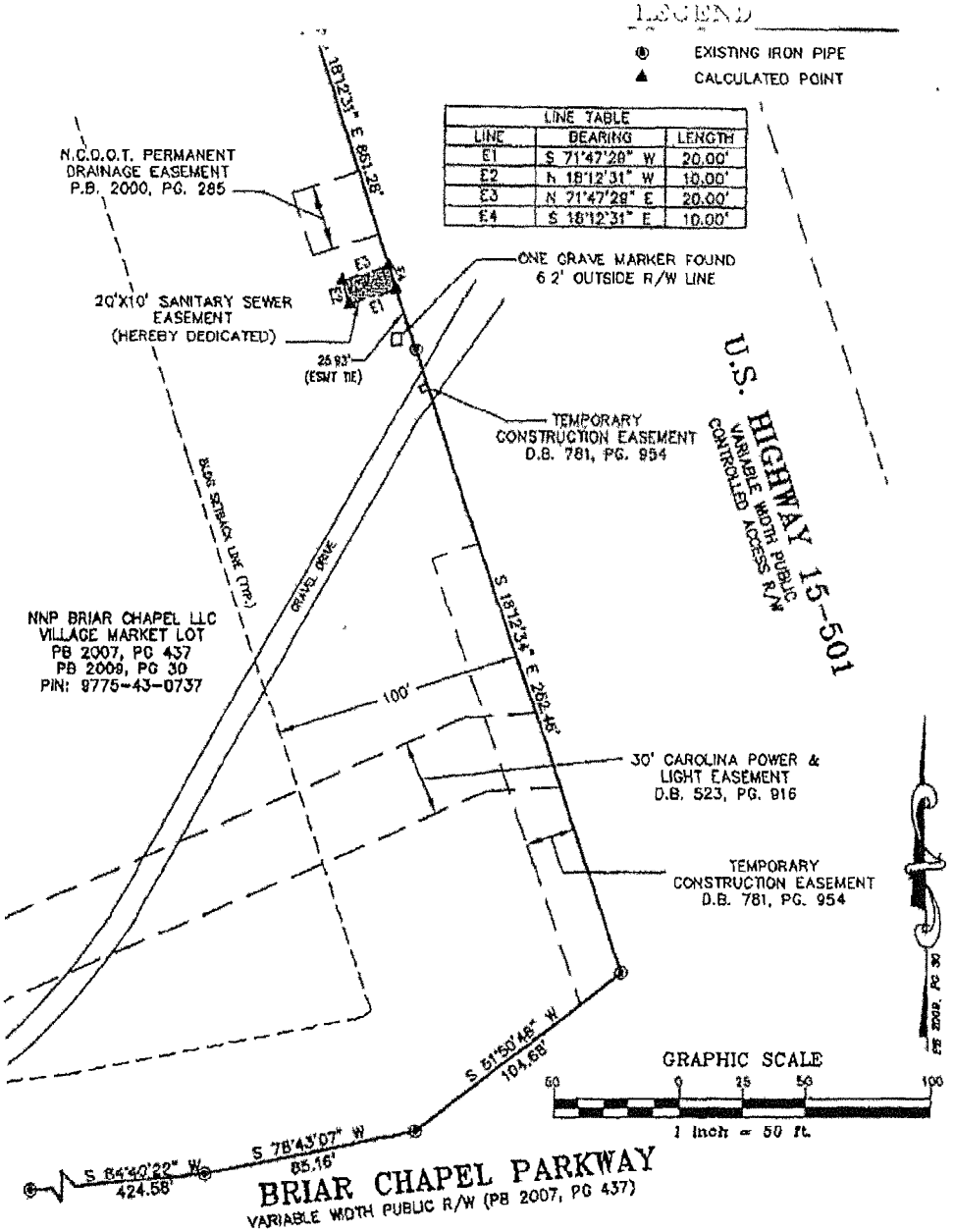
GENERAL NOTES

1.) THIS EXHIBIT IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY ANY GOVERNMENTAL AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

2.) THE BOUNDARY SHOWN HEREON IS BASED ON PLAT BOOK 2008, PAGE 30 OF THE CHATHAM COUNTY REGISTRY.

3.) [illegible] PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THIS EXHIBIT IS [illegible] FULL AND ACCURATE TITLE [illegible]

4. [illegible]



LINE TABLE		
LINE	BEARING	LENGTH
E1	S 71°47'28" W	20.00'
E2	N 18°12'31" W	10.00'
E3	N 71°47'28" E	20.00'
E4	S 18°12'31" E	10.00'

EXHIBIT C

PROJECT NO.	NEW-05000
FILENAME	NEW05000-QZ9
SCALE	1"=50'
DATE	09-21-2009

WILLIAMS-ALLEN
PROPOSED SANITARY SEWER EASEMENT EXHIBIT
CHATHAM COUNTY, NORTH CAROLINA

THE JOHN R. McADAMS COMPANY, INC.
ENGINEERS/PLANNERS/SURVEYORS
RESEARCH TRIANGLE PARK, NC
P.O. BOX 14006 ZIP 27709-4006
(919) 861-5000

FILED
CHATHAM COUNTY NC
TREVA B. SEAGROVES
REGISTER OF DEEDS

FILED	Oct 27, 2008
AT	08:45:07 am
BOOK	01428
START PAGE	0443
END PAGE	0448
INSTRUMENT #	12037
EXCISE TAX	(None)

BOOK 1428 PAGE 443

Excise Tax: $None
Mail after recording to: GRANTEE
This instrument was prepared by: Paul S. Messick, Jr., Attorney at Law, Pittsboro, NC
Parcel No. 9765-62-1645

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS DEED, made this 16th day of October, 2008 between NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company, 16 Windy Knoll Circle, Chapel Hill, NC 27516, hereinafter referred to as GRANTOR; and the COUNTY OF CHATHAM, P.O. Box 1809, Pittsboro, NC 27312, hereinafter referred to as GRANTEE. The designation Grantor and Grantee as used herein shall include parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH

The Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Chatham County, North Carolina and more particularly described as follows (the "Property"):

See Exhibit A attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever claiming by or through Grantor, except for the exceptions hereinafter stated; provided, Grantor does not warrant the area of such parcels described above to be accurate. Title to the Property is conveyed subject to the following exceptions:

1. Any valid and enforceable covenants, conditions, easements and restrictions of record and those matters that would be revealed by a current and accurate survey of the Property;

2. Ad valorem property taxes not yet due and payable; and

3. All matters shown by plat of survey prepared by The John R. McAdams Company, Inc. dated September 30, 2008 and sealed October 3, 2008 and entitled, "Briar Chapel – Chatham County Middle School Tract Easement Re-Alignment Plat".

4. The Grantor and the Grantee covenant that the Property shall be used for purposes of a school serving any combination of grades K-5 through 8 and related functions and uses, the architectural plans, materials, signage, landscape plans and site plan of which have been approved in writing by the Grantor. The Grantee agrees that this conveyance satisfies condition 14(b) of Grantor's Conditional Use Permit for the development of Briar Chapel.

5. The Grantee accepts the Property "as is, where is" and agrees to be responsible for all improvements necessary to allow for the construction of improvements upon the Property including without limitation any utility "tap on" or availability fees, any fees associated with building permits, driveway encroachments, and water and sewer charges and other utility costs. Notwithstanding the foregoing, Grantor will (i) pave the roads to at least the base coat of asphalt as necessary to serve the Property prior to August 1, 2010, and (ii) provide the Grantee with a gravity sewer connection by constructing a terminal manhole accessible to the Property along with a 8" water main pipe stub to the Property line in a location determined by the Grantee in order to provide sufficient potable water and adequate fire protection service prior to February 1, 2010, and (iii) The Grantor is responsible for perimeter road maintenance, including, but not limited to pothole repair and dust control, at no cost to Grantee until the road maintenance is accepted by NCDOT, and (iv)

Grantor will construct the spray irrigation system through the Property as well as design and construct the irrigation system designated for the school site on the Property at no cost to the Grantee. Grantor will repair and replace any damage to the Property due to its construction of the irrigation system at no cost to the Grantee and indemnify it from any damage on account thereof. The Grantor will coordinate any construction activity by Grantor's contractor with Grantee and (v) Grantor will be responsible for coordinating excavation, grading, fill and compaction with the Grantee. Work will be performed at a time suitable to the Grantee.

6. The Grantee agrees to indemnify and hold the Grantor harmless for any and all costs associated with any damages (i) to any improvements (including without limitation roads, storm drains, and sewer lines) comprising any part of the Briar Chapel Project caused by Grantee, Grantee's agents and invitees using the Property; and (ii) for any violation of U.S. Army Corp. of Engineers and North Carolina Department of Water Quality, rules or regulations regarding jurisdictional streams and wetlands, and Chatham County and NCDWQ erosion control rules by Grantee, its agents, invitees, guests on the property. Grantor shall indemnify and hold Grantee harmless from any loss, cost or damage to the Property caused by Grantor, its agents and invitees using the property.

7. The Grantee shall keep and maintain all portions of the Property in a neat, orderly and well kept manner. Such maintenance shall include, but is not limited to, the following:

a) Prompt removal of all litter, trash, refuse, and wastes;
b) Lawn mowing on a regular basis;
c) Tree and shrub pruning;
d) Watering by means of lawn sprinkler system or hand watering as needed;
e) Keeping exterior lighting and mechanical facilities in working order;
f) Keeping lawn and garden areas alive;
g) Removing and replacing any dead plant material;
h) Keeping vacant land well maintained and free of trash and weeds;
i) Keeping parking areas and driveways in good repair;
j) Complying with all governmental health and police requirements;
k) Repainting of improvements; and
l) Repair of exterior damage to improvements.

8. The Grantee shall discharge no more than 12,000 gallons of sewage per day into the sewage system serving the Property without the written consent of the Grantor. The Grantor retains the right to install monitoring equipment to monitor such discharge and reserves such easements as may be reasonably necessary for the installation and for the maintenance of such monitoring equipment. Such equipment shall be furnished at the sole cost and expense of Grantor.

9. The Grantor hereunder reserves a non-exclusive permanent easement in favor of the Grantor over, across and under the Property for the purpose of the spray irrigation of reclamated wastewater and for the installation, operation, maintenance and repair of any equipment necessary for spray irrigation of reclamated wastewater from the Briar Chapel project subject to the following limitations: (i) except with the written consent of Grantee, irrigation shall only take place within the irrigation areas depicted on Exhibit "C" hereto; and (ii) irrigation shall only take place from 4:00 a.m. through 7:00 a.m. The Grantor shall design, construct (after coordinating with Grantee) and maintain the irrigation system but shall retain the right to sell or assign the system. The Grantor agrees to be responsible for any damage to the Property caused by the negligence of the Grantor or Grantor's contractors. Notwithstanding the foregoing, any damage to the Property resulting from normal use of the irrigation system will be the Grantee's responsibility; provided, however, that all such wastewater discharged shall meet applicable standards for all governmental agencies with jurisdiction.

10. Grantor hereby conveys, transfers, sets over and assigns to Grantee all of Grantor's rights, title and interest in and under (I) the Clean Water Act Section 404 Permit, Action ID #200121252 issued by the U.S. Army Corps of Engineers ("USACE") on September 25, 2006 as amended on December 5, 2007 (the "404 Permit") and (2) the Section 40 I Water Quality Certification, DWQ #2005-0732 issued by the Division of Water Quality ("DWQ") on January 11, 2008 (the "401 Certification")(collectively, the "*404/401* Permits") that relate to the Property, except that Grantor does not assign and shall remain obligated to provide mitigation pursuant to (i) Conditions 13, 14, and 15 of the 404 Permit and (ii) Condition 8 of the 401 Certification (the "Mitigation Requirements") for the impacts on the Property permitted by the *4041401* Permits and retains all rights and obligations under the *404/401* Permits that do not relate to the Property. Grantee hereby assumes all obligations of Grantor that relate to the Property except that Grantee does not assume the Mitigation Requirements. Notwithstanding Grantor's obligations regarding the Mitigation Requirements, Grantor shall not be obligated to provide any more mitigation than that required by the Mitigation Requirements if Grantee requests a modification of the *404/401* Permits DWQ and USACE requires additional mitigation for such modified impacts. In the event that a permit modification for impacts to the Property requires additional mitigation, Grantee shall provide such additional mitigation.

Pursuant to the 401 Certification, Grantee shall request that the 401 Certification for impacts related to the Property be issued in Grantee's name. Further, Grantor and Grantee shall jointly notify the USACE in a letter acceptable to both Grantor and Grantee of the transfer of the Property from Grantor to Grantee and of this assignment and assumption of the *404/401* Permits.

IN WITNESS WHEREOF, the Grantor has hereunto caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

NNP-BRIAR CHAPEL, LLC, a
Delaware limited liability company

By: _____
Name: MITCH BARRON
Title: ASST. V.P.

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I, a Notary Public of Durham County County and State aforesaid, certify that Mitch Barron* of NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 16th day of October, 2008.

My Commission Expires: Jan 2, 2012

_____
Name: Kendall Owen
Notary Public

* Assistant Vice President of
NNP-Briar Chapel, LLC

KENDALL OWEN
Notary Public
Durham County
State of North Carolina
My Commission Expires Jan 2, 2012

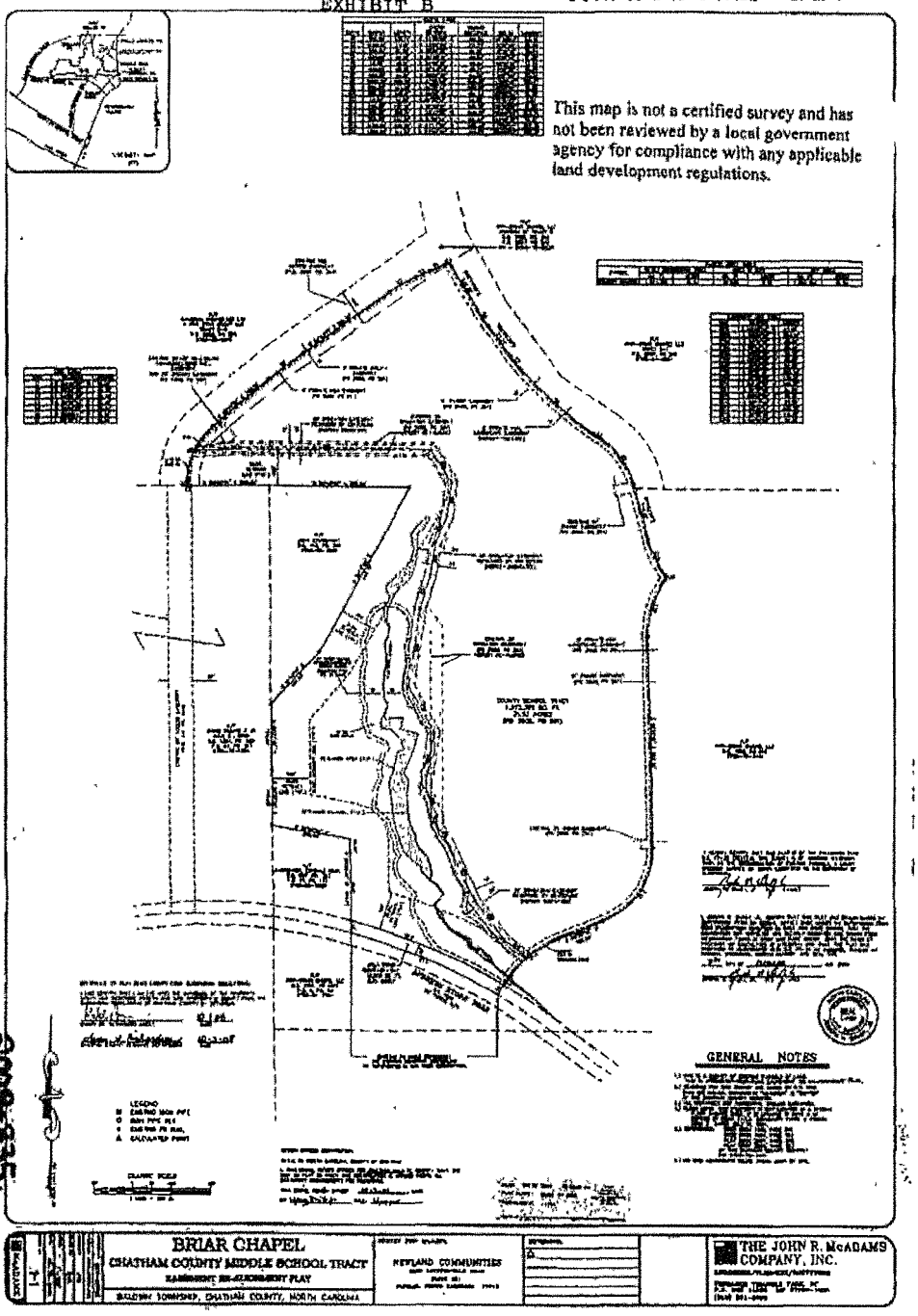
EXHIBIT A

COUNTY SCHOOL PROPERTY DESCRIPTION

Being all that certain tract of land containing 31.53 acres, located in Baldwin Township, Chatham County, North Carolina, and being more particularly described as follows:

Commencing at an existing PK nail in the centerline of Andrews Store Road - S.R. 1526 (a public 60' R/W); thence North 00°26'41" West, a distance of 31.01 feet to an existing iron pipe on the northern right-of-way of Andrews Store Road - S.R. 1526, said iron marking the southeast corner of lands owned by Lendale Keck Carpenter (Deed Book 667, Page 793) and being the Point of BEGINNING; thence along with the property line of Lendale Keck Carpenter, North 00°26'41" West, a distance of 178.21 feet to an existing iron pipe; thence North 00°26'41" West, a distance of 36.56 feet to an existing iron pipe; thence North 79°28'28" West, a distance of 208.86 feet to an existing iron pipe on the eastern property line of lands owned by William R. Davis Jr. and Julie C. Etux (Deed Book 1304, Page 530); thence along with the property line of William R. Davis Jr. and Julie C. Etux, North 00°27'42" West, a distance of 146.08 feet to an existing iron pipe; thence North 00°27'42" West, a distance of 174.80 feet to an iron pipe set, marking the southwest corner of lands owned by John Studivart (Deed Book 413, Page 705); thence along with the property line of John Studivart, North 41°47'11" East, a distance of 186.98 feet to an iron pipe set; thence North 29°12'48" East, a distance of 493.37 feet to an iron pipe set; thence North 89°48'09" West, a distance of 370.00 feet to an iron pipe set, marking the northeast corner of aforementioned William R. Davis Jr. and Julie C. Etux; thence South 89°59'21" West, a distance of 200.06 feet to an iron pipe set; thence South 89°57'24" West, a distance of 10.01 feet to an iron pipe set, marking the southeast corner of Lands owned by Cameron Properties Ltd and Five Star Group, LLC., (Tract B-2 Plat Book 2005, Page 262); thence North 00°25'32" West, a distance of 16.23 feet to an iron pipe set; thence along a curve to the right having a radius of 180.00 feet, an arc length of 156.19 feet and a chord bearing and distance of North 24°26'00" East, 151.34 feet to an iron pipe set; thence North 49°17'32" East, a distance of 190.79 feet to an iron pipe set; thence along a curve to the right having a radius of 1,180.00 feet, an arc length of 111.81 feet and a chord bearing and distance of North 52°00'25" East, 111.77 feet to an iron pipe set; thence North 54°43'17" East, a distance of 281.35 feet to an iron pipe set; thence along a curve to the right having a radius of 380.00 feet, an arc length of 81.37 feet and a chord bearing and distance of North 60°51'22" East, 81.22 feet to an iron pipe set; thence North 66°59'28" East, a distance of 40.39 feet to an iron pipe set; thence along a curve to the left having a radius of 370.00 feet, an arc length of 42.86 feet and a chord bearing and distance of North 63°40'21" East, 42.84 feet to an iron pipe set; thence along a curve to the right having a radius of 12.00 feet, an arc length of 18.91 feet and a chord bearing and distance of South 74°29'37" East, 17.02 feet to an iron pipe set; thence South 29°20'28" East, a distance of 132.01 feet to an iron pipe set; thence along a curve to the left having a radius of 455.00 feet, an arc length of 48.73 feet and a chord bearing and distance of South 32°24'34" East, 48.71 feet to an iron pipe set; thence South 35°28'39" East, a distance of 97.74 feet to an iron pipe set; thence along a curve to the left having a radius of 495.00 feet, an arc length of 44.34 feet and a chord bearing and distance of South 38°02'38" East, 44.33 feet to an iron pipe set; thence along a curve to the left having a radius of 1,025.00 feet, an arc length of 250.09 feet and a chord bearing and distance of South 47°36'00" East, 249.47 feet to an iron pipe set; thence South 54°35'23" East, a distance of 28.49 feet to an iron pipe set; thence along a curve to the right having a radius of 205.00 feet, an arc length of 143.88 feet and a chord bearing and distance of South 34°28'57" East, 140.95 feet to an iron pipe set; thence South 14°22'31" East, a distance of 146.66 feet to an iron pipe set; thence along a curve to the left having a radius of 255.00 feet, an arc length of 102.11 feet and a chord bearing and distance of South 25°50'49" East, 101.43 feet to an iron pipe set; thence along a curve to the right having a radius of 12.00 feet, an arc length of 14.98 feet and a chord bearing and distance of South 01°33'14" East, 14.03 feet to an iron pipe set; thence along a curve to the left having a radius of 255.00 feet, an arc length of 157.76 feet and a chord bearing and distance of South 16°29'11" West, 155.26 feet to an iron pipe set; thence South 01°14'15" East, a distance of 562.02 feet to an iron pipe set; thence along a curve to the right having a radius of 205.00 feet, an arc length of 250.71 feet and a chord bearing and distance of South 33°47'55" West, 235.38 feet to an iron pipe set; thence South 68°50'05" West, a distance of 119.34 feet to an iron pipe set; thence along a curve to the left having a radius of 255.00 feet, an arc length of 154.26 feet and a chord bearing and distance of South 51°30'14" West, 151.92 feet to an iron pipe set; thence South 34°10'23" West, a distance of 32.62 feet to an iron pipe set on the northern right-of-way of Andrews Store Road - S.R. 1526; thence along a curve to the left having a radius of 1,420.00 feet, an arc length of 430.07 feet and a chord bearing and distance of North 67°17'37" West, 428.43 feet to the Point of BEGINNING containing 1,373,382 square feet or 31.53 acres, more or less.

EXHIBIT B



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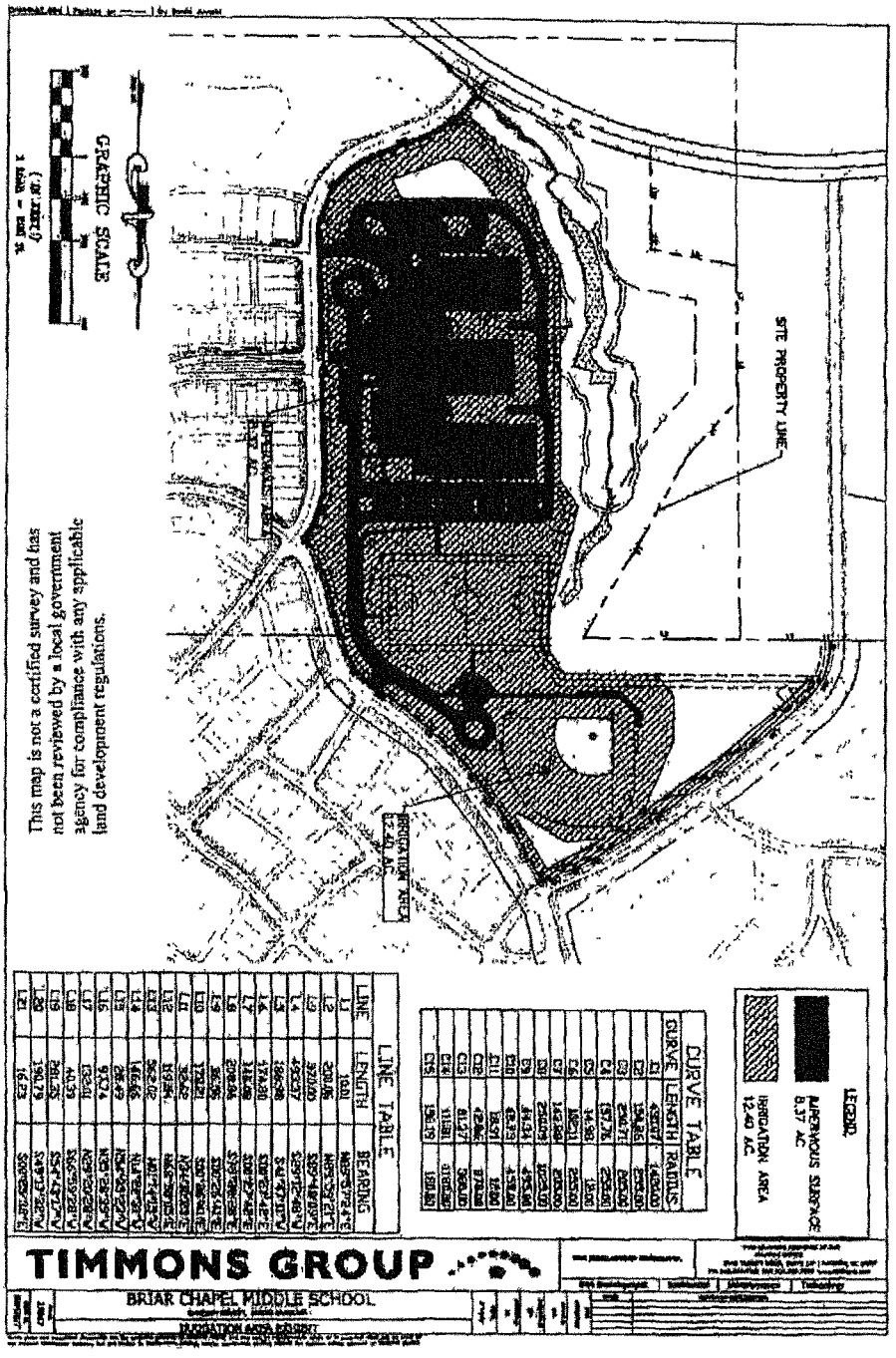

This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.
GRAPHIC SCALE
SITE PROPERTY LINE
IRRIGATION AREA 12.40 AC
LEGEND
IMPERVIOUS SURFACE 8.37 AC
IRRIGATION AREA 12.40 AC
LINE TABLE
CURVE TABLE
TIMMONS GROUP
BRIAR CHAPEL MIDDLE SCHOOL
IRRIGATION AREA EXHIBIT

1323
1039

FILED
CHATHAM COUNTY
REBA G. THOMAS
REGISTER OF DEEDS

FILED	Mar 26, 2007
AT	10:15:04 am
BOOK	01323
START PAGE	1039
END PAGE	1048
INSTRUMENT #	03795

BOOK 1323 PAGE 1039

PREPARED BY: William T. Hutchins, Jr., Atty., P.O. Box 51579, Durham, NC 27717
RETURN TO: Grantee
w/ Review
NORTH CAROLINA

CHATHAM COUNTY

NORTH CAROLINA SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made and entered into this the 23 day of March, 2007, by and between NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company ("Grantor"), to WOODS CHARTER SCHOOL, a North Carolina Nonprofit Corporation ("Grantee"), whose mailing address is: P.O. Box 5008, Chapel Hill, NC 27517.

WITNESSETH:

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land (the "Property") situated in Chatham County, North Carolina, and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN

This conveyance is subject to the following:

1. The Grantor hereunder reserves for itself, and its employees, contractors, consultants, invitees and representatives, (i) a temporary easement to expire five (5) years from the date hereof, under, through and across the permanent easement area described in (ii) below for the purposes of ingress and egress and for construction traffic related to the construction and/or development of Briar Chapel; (ii) a permanent easement over, under, through and across the permanent easement area for the purposes of the construction, operation, repair, maintenance, replacement and dedication to public use of a road not to exceed 60 feet in width, to be located within the area depicted on **Exhibit "B"** hereto (the "permanent easement area") at the discretion of Grantor, together with storm, sewer and all accompanying utilities; (iii) a permanent easement over, under, through and across the Parker-Herndon extension area as depicted on **Exhibit "C"** hereto for the purpose of the construction, operation, repair, maintenance, replacement and dedication to public use of an extension of Parker-Herndon Road north to the northern boundary of the Property not to exceed 60 feet in width, to be located within the Parker-Herndon extension area at the discretion of Grantor, to include construction of such storm water facilities as necessary to handle stormwater from said road; and (iv) a

permanent easement over, under, through and across the Property of the construction, operation, repair, maintenance, replacement and dedication to public use of a pedestrian trail not to exceed 20 feet in width located at the discretion of Grantor on the west side of wetlands as shown on the plat of record at Plat Slide 2007 Page 118, Chatham County Registry.

2. The Grantee agrees to be responsible for the construction, operation and maintenance of a permanent sediment control basin on the Property in the area described in **Exhibit "D"** for the purpose of collecting and holding storm water originating on the Property but east of the wetlands area which shall be of sufficient size and design to collect and hold storm water runoff from any road or pedestrian trail constructed by Grantor upon the Property. It shall be the responsibility of Grantor to pay for, construct and maintain stormwater collection pipes, drains and all associated structures necessary to deliver stormwater from the road and trail to the basin.

3. This conveyance is subject to the divestment with title revesting in the Grantor if Grantee does not commence construction of a charter school on or before June 30, 2009, the architectural plans, materials, signage, landscape plans and site plan of which have been approved in writing by the Grantor. Grantee and its successors and assigns agree to take such action and record such documentation as may be reasonably necessary in order to clarify the status of title to the Property in the event this condition has not been met.

4. Grantee does hereby give, grant and convey unto the Grantor a right of first refusal to purchase the Property upon the following terms and conditions:

a. In the event Grantee receives a bona fide, arms length offer for all or a part of the Property, which it intends to accept (the "Proposed Offer"), Grantee shall deliver to Grantor a complete copy of said offer whereupon Grantor shall have until 5:00 p.m. on the thirtieth (30th) day from the date of actual receipt of the Proposed Offer to indicate in writing to Grantee that Grantor will purchase the portion of the Property covered under the Proposed Offer under the same terms and conditions as said Proposed Offer. In the event that Grantor does not notify Grantee upon actual receipt of the Proposed Offer within five (5) business days of Grantee's sending of the Proposed Offer, the date of actual receipt of the Proposed Offer shall be deemed to be five (5) business days after Grantee's sending of the Proposed Offer to Grantor.

b. In the event Grantor fails to so act before 5:00 p.m. on the thirtieth (30th) day after actual receipt of a complete copy of the Proposed Offer, Grantor's rights with respect to that Proposed Offer shall be deemed to expire. Provided, however, in the event such Proposed Offer is amended or altered in any fashion whatsoever (the "Amended Proposed Offer"), Grantor's rights shall continue to exist with regard to said Amended Proposed Offer.

c. In the event Grantor declines a Proposed Offer and the Proposed Offer is accepted by Grantee but not closed, Grantor's rights of first refusal shall remain as to the entirety of the Property.

d. In the event that Grantee receives a bona fide arms length offer for the Property in which the Property, or a portion thereof, is to be purchased with other properties owned by Grantee or Grantee's affiliates in a "package" of properties, or in the event that Grantee receives a bona fide arms length offer for the Property, or a portion thereof, in the form of a property swap where some or all of the proposed purchase price is an in-kind exchange of real estate, then Grantor shall have the right to purchase the Property, or the applicable portion thereof, at fair market value as determined by an appraiser acceptable to both parties. In the event the parties cannot agree on an appraiser, each party, at its cost, shall retain its own appraiser and the fair market value of the Property, or the applicable portion thereof, shall be deemed to be the average of the two appraisals. Grantor's rights under this paragraph must be exercised according to the procedures set forth

above except that the thirty (30) day period in which Grantor is required to notify Grantee shall begin to run upon Grantor's receipt of the appraisal(s).

e. In the event that Grantor closes on a portion of the Property, but not all the Property, pursuant to this right of first refusal or pursuant to a separate contract, Grantor's rights as to the balance of the Property not purchased by Grantor shall remain in effect.

f. Grantor's rights hereunder shall expire twenty (20) years from the date hereof.

5. The Grantor and the Grantee covenant that the Property shall be used solely for purposes of a school serving grades pre-K-12 and related functions and uses.

6. The Grantee accepts the Property "as is, where is" and agrees to be responsible for all improvements necessary to allow for the construction of improvements upon the Property including without limitation any sewer pump stations, any utility "tap on" or availability fees, any fees associated with building permits, driveway encroachments, and water and sewer charges and other utility costs.

7. The Grantee agrees to indemnify and hold the Grantor harmless for any and all costs associated with any damages to the road located upon the Property or to any improvements (including without limitation roads, storm drains, and sewer lines) comprising any part of the Briar Chapel Project if such damage is caused by traffic related to the improvement of the Property or related to the use of such roads by Grantee, Grantee's agents, invitees, students, parents of such students, guests or others using the Property.

8. The Grantee shall at all times maintain, at all times until that date which is ten (10) years following the date of the recording of the deed, at its sole cost and expense, a policy of commercial general liability insurance issued by a company or companies from time to time approved by the Grantor, which companies shall be authorized to transact business in North Carolina. Such policies shall name the Grantor and the Grantor's lender(s) as an additional insured(s). Coverage shall be in a limit amount of not less than $1,000,000.00 per occurrence and $2,000,000.00 in the aggregate. The Grantee shall also, at its sole cost and expense, provide and maintain in force and effect all risk property damage and hazard casualty insurance with extended coverage insuring against loss of damage to the improvements to be located upon the Property in an amount not less than the full replacement value of such improvements.

9. The Grantee shall keep and maintain all portions of the Property in a neat, orderly and well kept manner. Such maintenance shall include, but is not limited to, the following:

(1) Prompt removal of all litter, trash, refuse and wastes;
(2) Lawn mowing on a regular basis;
(3) Tree and shrub pruning;
(4) Watering by means of a lawn sprinkler system or hand watering as needed;
(5) Keeping exterior lighting and mechanical facilities in working order;
(6) Keeping lawn and garden areas alive;
(7) Removing and replacing any dead plant material;
(8) Keeping vacant land well maintained and free of trash and weeds;
(9) Keeping parking areas and driveways in good repair;
(10) Complying with all governmental health and police requirements;
(11) Repainting of improvements; and
(12) Repair of exterior damage to improvements.

In the event the Grantee fails to so maintain the Property, after thirty (30) days written notice to Grantee and a failure by Grantee to cure, the Grantor and the agents shall have the right, in addition to all other rights and remedies, to enter onto the Property for the purpose of correcting such conditions. Grantee shall be entitled to reimbursement from the Grantor of all costs of correcting such conditions plus an administrative fee equal to ten (10%) percent of such costs.

10. The Grantee shall discharge no more than 9000 gallons of sewage per day into the sewage system serving the Property without the written consent of the Grantor. The Grantor retains the right to install monitoring equipment to monitor such discharge and reserves such easements as may be reasonably necessary for the installation and for the maintenance of such monitoring equipment.

11. The Grantor hereunder reserves a non-exclusive permanent easement in favor of the Grantor for the purpose of the spray irrigation of reclamated wastewater and for the operation, maintenance and repair of any equipment necessary for spray irrigation of reclamated wastewater from the Briar Chapel project subject to the following limitations: (i) except with the written consent of Grantee, irrigation shall only take place within the irrigation areas depicted on **Exhibit "E"** hereto; and (ii) irrigation shall only take place from 4:00 a.m. through 7:00 a.m.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Grantor has set its hand and seal the day and year first above written.

NNP BRIAR CHAPEL, LLC
a Delaware limited liability company

By: _____
Its: ASST V.P.

STATE OF ~~CALIFORNIA~~ NORTH CAROLINA

COUNTY OF DURHAM

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Mitch Barron

[INSERT NAME(S) OF INDIVIDUAL(S) SIGNING IN BLANK ABOVE]

Date: 3/23/2007

_____
Notary Public

Print Name: William Thomas Hutchins, Sr.

[Official Seal]

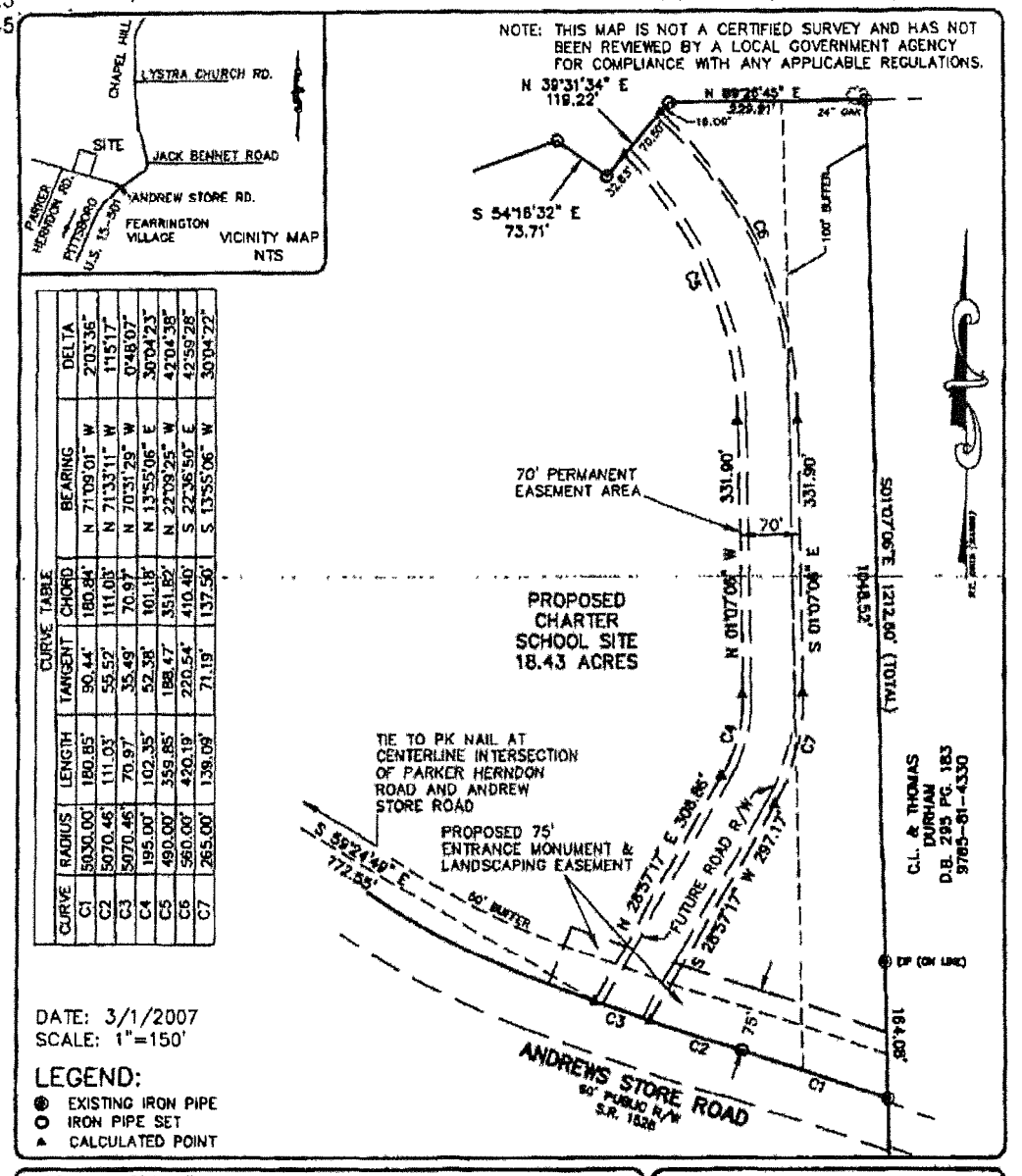
My commission expires: 9/4/2010

KCBCM: 223158

EXHIBIT "A"
LEGAL DESCRIPTION

Being that proposed parcel of land lying in Baldwin Township, Chatham County, North Carolina north of Andrew Store Road, containing 18.53 acres, more or less, as shown on map entitled, "Briar Chapel – Map 9: Charter School Recombination Plat", last revised 1/29/2007 and being more particularly described as follows:

Beginning at an iron pipe on the northern right of way line of Andrew Store Road, a 60-foot public right of way, said point being the southeastern corner of Sandra Tripp, recorded in Deed Book 880, Page 419; thence leaving said right of way and following the said line of Tripp North 32° 21' 50" East 411.29 feet to an iron pipe on the southern line of NNP-Briar Chapel ; thence along a new line the following eight (8) calls: (1) North 00° 02' 51" East 100.01 feet; (2) South 89° 57' 09" East 179.14 feet; (3) North 19° 26' 37" East 26.44 feet; (4) North 39° 35' 28" East 57.12 feet; (5) North 50° 22' 10" East 91.44 feet; (6) North 70° 15' 23" East 111.79 feet; (7) South 54° 16' 32" East 73.71 feet; and (8) North 39° 31' 34" East 119.22 feet to a point on the existing line of the aforementioned NNP-Briar Chapel, LLC; thence along NNP-Briar Chapel, LLC North 89° 26' 45" East 229.91 feet to an iron pipe at the northwest corner of C.L. & Thomas Durham, recorded in Deed Book 295, Page 183; thence along said line of Durham South 01° 07' 06" East 1,212.60 feet to an iron pipe on the northern right of way line of the aforementioned Andrews Store Road; thence along said right of way of Andrew Store Road the following eleven (11) calls: (1) along the arc of a curve to the left having a radius of 5,030.00 feet, an arc length of 180.85 feet and a chord of North 71° 09' 01" West 180.84 feet to a new iron; (2) along the arc of a curve to the right having a radius of 5,070.46 feet, an arc length of 121.18 feet and a chord of North 71° 29' 44" West 121.17 feet to a new iron; (3) along the arc of a curve to the right having a radius of 5,070.46 feet, an arc length of 50.69 feet and a chord of North 70° 31' 29" West 50.69 feet to a new iron; (4) along the arc of a curve to the right having a radius of 5,070.46 feet, an arc length of 69.85 feet and a chord of North 69° 50' 37" West 69.85 feet to a point; (5) along the arc of a curve to the right having a radius of 5,070.46 feet, an arc length of 13.81 feet and a chord of North 69° 22' 15" West 13.81 feet to a new iron; (6) along the arc of a curve to the right having a radius of 940.00 feet, and arc length of 228.63 feet and a chord of North 62° 19' 30" West 228.07 feet to a point; (7) North 55° 21' 26" West 79.52 feet; (8) along the arc of a curve to the right having a radius of 970.00 feet, an arc length of 54.96 feet and a chord of North 53° 44' 02" West 54.95 feet to a point; (9) North 52° 06' 39" West 239.42 feet; (10) North 51° 48' 11" West 98.09 feet; and (11) North 52° 33' 54" West 24.48 feet to the POINT OF BEGINNING, containing 18.53 acres, more or less.

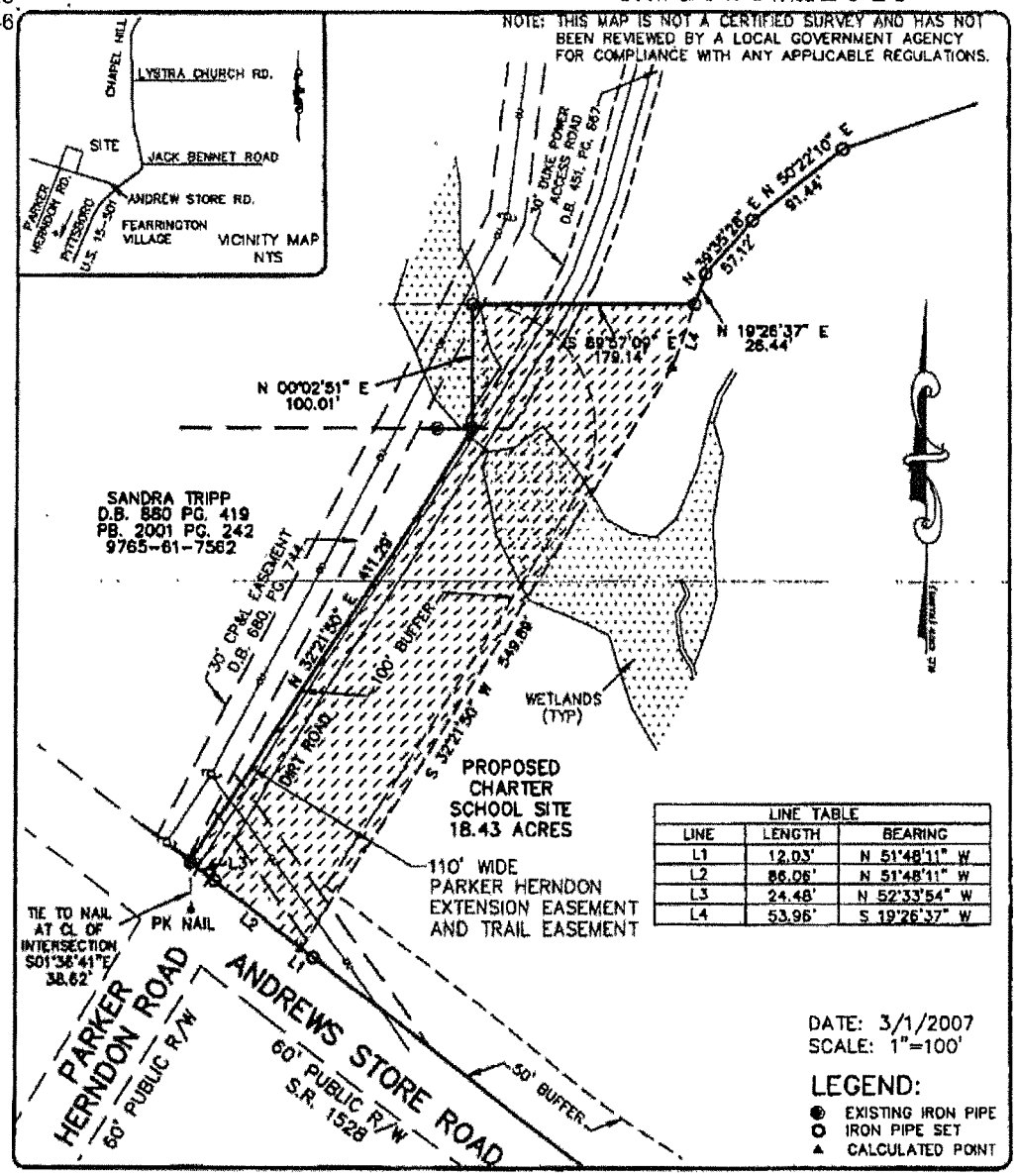


CURVE TABLE					
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	5030.00'	180.85'	90.44'	180.84'	N 71°09'01" W	2°03'36"
C2	5070.46'	111.03'	55.52'	111.03'	N 71°33'11" W	1°15'17"
C3	5070.46'	70.97'	35.49'	70.97'	N 70°31'29" W	0°48'07"
C4	195.00'	102.35'	52.38'	101.18'	N 13°55'06" E	30°04'23"
C5	490.00'	359.85'	188.47'	351.82'	N 22°09'25" W	42°04'38"
C6	560.00'	420.19'	220.54'	410.40'	S 22°36'50" E	42°59'28"
C7	265.00'	139.09'	71.19'	137.50'	S 13°55'06" W	30°04'22"

EASEMENT EXHIBIT FOR:
FUTURE CHARTER SCHOOL SITE
ANDREW STORE ROAD
PITTSBORO, CHAHTAM COUNTY, NORTH CAROLINA

THE JOHN R. McADAMS COMPANY, INC.
CIVIL ENGINEERING • LAND PLANNING • SURVEYING
5311 SEVENTY SEVEN CENTER DRIVE, SUITE 66
CHARLOTTE, NORTH CAROLINA 28217
(704) 527-0800 • FAX (704) 527-2003

EXHIBIT B



LINE TABLE		
LINE	LENGTH	BEARING
L1	12.03'	N 51°48'11" W
L2	86.06'	N 51°48'11" W
L3	24.48'	N 52°33'54" W
L4	53.96'	S 19°26'37" W

EASEMENT EXHIBIT FOR:
FUTURE CHARTER SCHOOL SITE
ANDREW STORE ROAD
PITTSBORO, CHAHTAM COUNTY, NORTH CAROLINA

THE JOHN R. McADAMS COMPANY, INC.
CIVIL ENGINEERING • LAND PLANNING • SURVEYING
5311 SEVENTY SEVEN CENTER DRIVE, SUITE 88
CHARLOTTE, NORTH CAROLINA 28217
(704) 527-0600 • FAX (704) 527-2003

EXHIBIT C

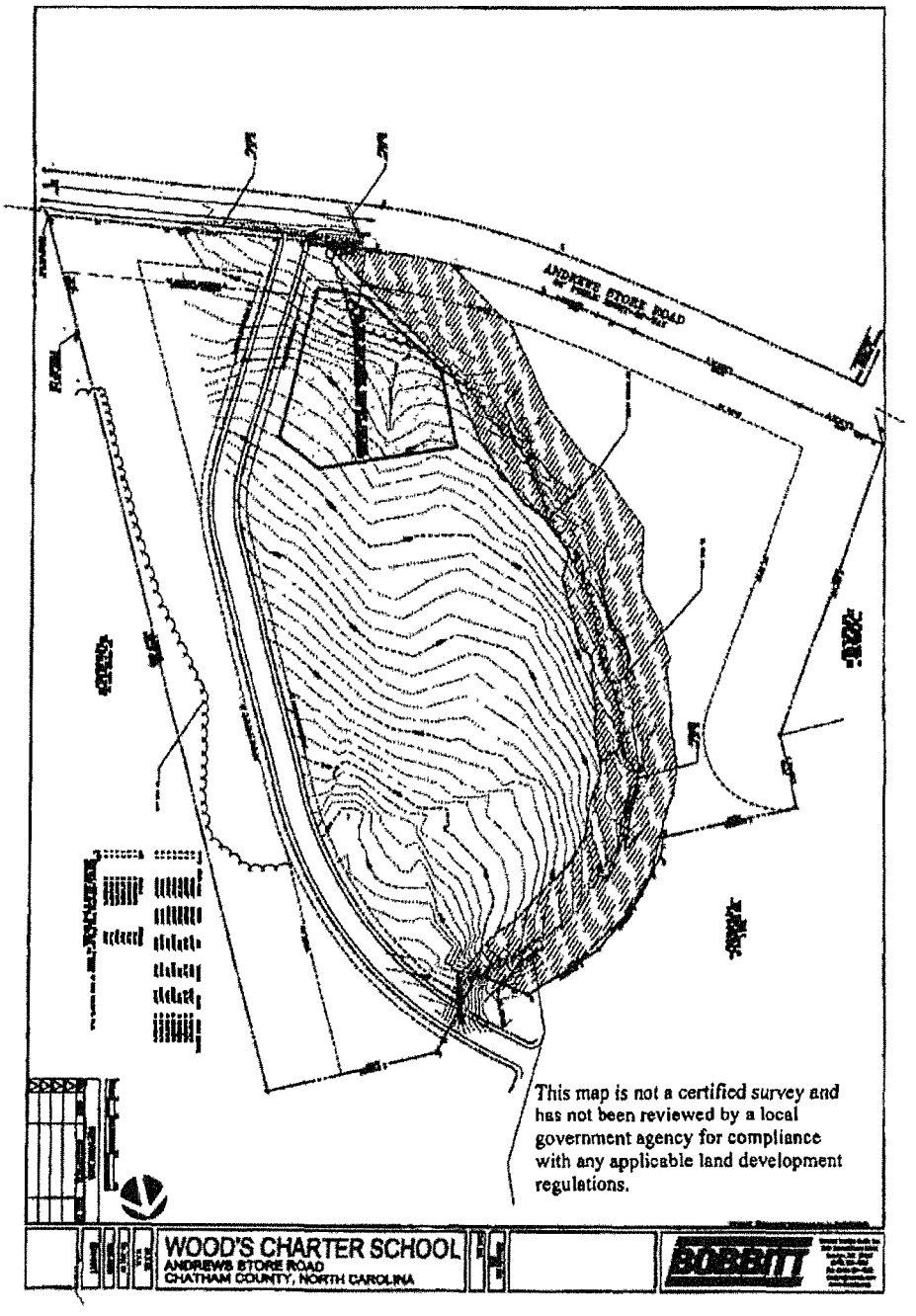
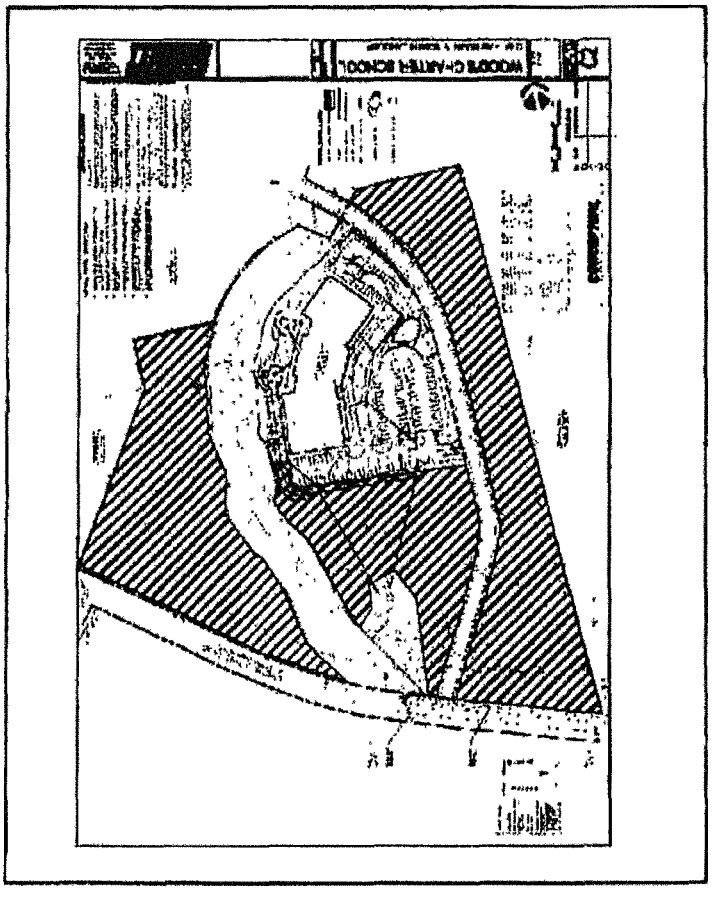

ANDREWS STORE ROAD
This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.
WOOD'S CHARTER SCHOOL
ANDREWS STORE ROAD
CHATHAM COUNTY, NORTH CAROLINA
BOBBITT

EXHIBIT D



Legend

designated potential spray

This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

EXHIBIT E

SETTLEMENT AGREEMENT AND GENERAL RELEASE AND AMENDMENT OF CONTRACT

PARTIES

This Settlement Agreement and General Release and Amendment of Contract (the "Agreement") is made and entered into as of the last date indicated on the signature page below (the "Effective Date") by and between NNP-BRIAR CHAPEL, LLC ("NNP"), NEWLAND NATIONAL PARTNERS, LP ("Newland") and WILLIAM AARON CRUTCHFIELD and wife, JEAN A. CRUTCHFIELD (the "Crutchfields") (collectively, the "Parties").

BACKGROUND

WHEREAS, Newland and the Crutchfields entered into that certain Purchase and Sale Agreement dated August 23, 2001 which agreement, as amended from time to time, shall be hereinafter referred to as the "Contract"; and

WHEREAS, the terms of the Contract provided for the sale by the Crutchfields to Newland of that certain real property (the "NNP Property") located in Chatham County, North Carolina; and

WHEREAS, the transaction contemplated by the Contract was consummated as evidenced by the General Warranty Deed (the "Deed") from the Crutchfields to Newland Communities, LLC, a Delaware limited liability company now known as Newland Real Estate Group, LLC ("NREG") dated January 17, 2002 and of record at Book 910 Page 333, Chatham County Registry; and

WHEREAS, both the Contract and the Deed provided that the Crutchfields would reserve access to the Remaining Grantors' Tract (as defined in the Deed) at not less than three (3) locations as more particularly described in the Deed; and

WHEREAS, both the Contract and the Deed also provide that the Remaining Grantors' Tract would have public or community water and sanitary sewer service sufficient for fifteen (15) residential connections with a maximum estimated demand of 3,250 gallons per day made available to it by Newland as more particularly described in the Deed; and

WHEREAS, NNP is the successor in title to NREG pursuant to the deed dated June 18, 2002 and of record at Book 941 Page 640, Chatham County Registry; and

WHEREAS, NNP has previously granted an easement (the "Roadway Easement") to William Crutchfield by virtue of that Roadway Easement dated October 16, 2008 and of record at Book 1428 Page 31, Chatham County Registry; and

WHEREAS, the parties have previously agreed to a partial resolution of outstanding issues related to the Contract, the Deed and the Roadway Easement as evidenced by a letter

(the "Letter") from Jeff Scouten on behalf of NNP to William Crutchfield dated November 6, 2007; and

WHEREAS, NNP has constructed and the Crutchfields have accepted the driveway located upon the 0.46 acre easternmost sixty (60) foot strip of land shown on Exhibit C of the Roadway Easement; and

WHEREAS, the parties have agreed to amend the terms of the Contract and the Deed and the Roadway Easement to alter the number and location of the access to the Remaining Grantors' Tract and to alter the provisions regarding the water and sanitary sewer provisions; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties expressly agree to amend the Contract and the Deed and the Roadway Easement as follows:

1. Consideration Provided by NNP. In consideration for the releases and other covenants set forth in this Agreement, NNP agrees to provide the Crutchfields with the following consideration ("Consideration"):

(a) Payment of the sum of $95,000.00 to the Crutchfields in the form of a wire transfer within five (5) business days of the date of the execution of this instrument by all of the parties hereto to the law firm trust account of Kennon Craver, PLLC followed by a trust account check payable to the Crutchfields.

(b) The Crutchfields shall be permitted at any time to construct, at the expense of the Crutchfields, sewer line infrastructure for up to ten (10) sewer connections serving the Remaining Grantors' Tract, and hook such infrastructure up to the sewer system controlled by NNP, without payment to NNP of any tap fees. The Crutchfields will be responsible for all other fees and costs associated with such infrastructure, including without limitation all water line tap fees and permitting payable to Chatham County and all monthly service charges for water and sewer service.

(c) At the written request of the Crutchfields, NNP shall provide to the Crutchfields such water and sewer easements, in form and locations reasonably acceptable to the Parties, over lands owned by NNP to allow the Crutchfields, at Crutchfields' sole cost and expense, to install and maintain water and sewer lines reasonably necessary to serve the Remaining Grantors' Tract.

(d) The Crutchfields acknowledge and accept the construction of the driveway upon the eastern sixty (60) foot easement granted in the Roadway Easement. The Crutchfields shall retain both of the two (2) driveway easements granted in the Roadway Easement but shall be responsible for the construction of any driveway to be located upon the western sixty (60) foot easement and for all future costs of the driveways including without limitation any North Carolina Department of Transportation applications needed for driveway permits.

2. Release of Claims. In return for the foregoing Consideration, the Crutchfields, for and on behalf of themselves and all of their past, present and future heirs, successors, assigns, managers, employees, agents, servants, attorneys, assigns, insurers, representatives, employers, partners, divisions, predecessors and successors in interest and/or any succeeding bankruptcy estates, and all other persons, entities, associations, partnerships and corporations with whom any of the former have been, are now or may hereafter be affiliated, do hereby irrevocably, unconditionally, fully, finally and forever release, discharge, indemnify and defend Newland and NNP and NREG and each of their successors, agents, servants, employees, affiliates, divisions, parents, subsidiaries, predecessors, successors, insurers, and assigns, of, from and against any and all claims, demands, actions, causes of actions, rights, damages, injuries, costs, obligations liabilities, losses, harms, expenses, fees (including attorneys' fees) and compensation of every kind or nature whatsoever, whether based in tort, contract or any other theory of recovery, in law or in equity, whether for compensatory or punitive damages, whether known or unknown and whether foreseen or unforeseen, which the Crutchfields has ever had or claimed to have, arising out of, emanating from, relating to, or in any way connected with the Contract, the Deed, the Roadway Easement, the Letter, the Remaining Grantors' Tract or the NNP Property, or any real property development performed by Newland or NNP from the beginning of the world to the Effective Date. Notwithstanding the foregoing, this Agreement does not apply to claims that arise from a breach of this Agreement and to the enforcement of the terms of this Agreement.

3. Release of Easement. At the time of the execution of this instrument, the Crutchfields shall execute and deliver a Termination and Release of Easement and Obligations (the "Release of Easement") in the form attached hereto as Exhibit A. Also, at the request of NNP, the Crutchfields agree to execute and deliver to NNP any other Quitclaim Deed necessary to release any and all claims to the NNP Property (save and except the two (2) driveway easements shown in the Roadway Easement, the restriction contained in Book 910 Page 333 that provides "no portion of the property conveyed hereby nor of Tract 3 according to the plat recorded in Plat Slide 2000-285 shall be used for residential dwellings located south of any roadway constructed thereon", and any rights granted herein) in a form suitable for recording at the Chatham County Registry.

4. Entire Agreement. This Agreement contains the entire, complete and integrated statement of each and every term and provision agreed to by and among the Parties. It contains the entire agreement and understanding between the parties relating to the Contract and the Deed, superseding any prior oral or written agreements with respect to the Contract or the Deed. This Agreement also supersedes any oral discussions between the Parties relating to the Contract or the Deed. No other promises, representations or other inducements have been made to any of the Parties in exchange for this Agreement.

5. Modification. No provision of this Agreement may be waived, altered, amended, or modified in any respect or particular whatsoever except by written agreement duly executed by each of the Parties.

6. Severability. If any provision of this Agreement is held to be invalid, void or unenforceable, the balance of this Agreement will, nevertheless, remain in full force and effect and will in no way be affected, impaired or invalidated.

7. Full Authority. The undersigned Parties represent that they have full authority to enter into this Agreement.

8. Terms Read and Understood. Each Party hereto represents that it has carefully read and fully understands the terms, conditions, meaning and intent of this Agreement, and that each Party has had an opportunity to discuss the terms, conditions and provisions of this Agreement with legal counsel prior to the execution hereof. Each Party specifically hereby acknowledges receipt of a copy of this Agreement before signing it and understands that each and every provision of this Agreement is legally binding and not mere recitals.

9. No Duress. Each Party acknowledges that it is executing this Agreement after having received, from independent legal counsel of its own choosing, advice as to its rights hereunder and the legal effect thereof, to the extent each Party deemed appropriate. Each Party agrees to sign this Agreement as his or her or its own voluntary act and deed, and represents that such execution was not the result of any duress, coercion or undue influence.

10. No Admissions; Non-Disparagement. The Parties agree that neither this Agreement, nor any action taken by the Parties hereto, either previously or in connection with the compromise reflected in this Agreement, shall be deemed or construed to be an admission of the truth or falsity of any matter, claim, demand or cause of action, or evidence of any liability or wrongdoing by any party, or any acknowledgment by them of any fault or liability to any Party to this Agreement or to any other person or entity. The Parties agree that neither shall make any unfavorable, disparaging or derogatory comment about the other party.

11. Confidentiality. The Parties, on behalf of themselves and their agents, agree to keep the terms of this Agreement, and all correspondence, pleadings, allegations, exhibits, outlines, drafts or proposals leading up to or concerning this Agreement, and all negotiations leading up to or concerning this Agreement, strictly confidential, and agree not to disclose the terms of this Agreement to anyone not a Party; provided, however, that this paragraph shall not prohibit disclosures:

(a) with the express advance written consent of the other Parties or their counsel;

(b) in any action to enforce this Agreement;

(c) to the Parties' respective accountants and attorneys (provided that such accountants and attorneys shall also be directed to maintain the confidentiality of this Agreement and its terms);

(d) in response to a subpoena, court order, discovery request or where otherwise required by law or

(e) the instruments to be recorded (including the Release of Easement)_ pursuant to the terms hereof

In the event of the service of a subpoena, receipt of a discovery request, the entry of a court order, or if disclosure is otherwise deemed necessary in order to comply with law, the Party that is to make disclosure shall notify the other Party of the receipt of the subpoena, request or order (and/or of other circumstances that may require disclosure). Such notification shall be made as soon as practicable and within sufficient time to permit objection to be made to the disclosure or to take such other and further action as may be deemed to be necessary or appropriate, and in no event more than three (3) business days following the receipt of the subpoena, request or order, or any determination that disclosure may be required in order to comply with law.

12. Successors and Assigns. The provisions of this Agreement shall be binding on and inure to the benefit of each of the Parties and their respective successors and assigns.

13. Attorneys' Fees and Costs. Each of the Parties shall bear its own attorneys' fees, expenses, and costs incurred in connection with the preparation, execution and consummation of this Agreement; provided, however, that NNP shall pay to the firm of Bagwell, Holt, Smith, Jones & Crowson, P.A., on behalf of the Crutchfields, the sum of $2,560.00.

14. Governing Law. This Agreement, as well as the Parties' rights and obligations hereunder, shall be in all respects interpreted, enforced and governed by and under the laws of the State of North Carolina.

15. Construction of Agreement. Neither Party shall be considered the drafter of this Agreement for purposes of construction of the Agreement. On the contrary, this Agreement has been negotiated, reviewed and accepted by both Parties and their legal counsel. This Agreement shall not be construed or interpreted against either Party, whether under any rule of construction or otherwise. Instead, this Agreement shall be construed and interpreted according to the ordinary meaning of the words contained herein, so as to accomplish the purposes and intentions of the Parties hereto.

16. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE TO SETTLEMENT AGREEMENT AND GENERAL RELEASE]

IN WITNESS WHEREOF, the Parties to this Agreement, by their duly authorized agents, have executed this Agreement as of the date and year written above.

Dated: 12/14/11

NNP-BRIAR CHAPEL, LLC (SEAL)

By: _____

Name: KEITH HURAND

Title: VICE PRESIDENT

Dated: _____

NEWLAND NATIONAL

PARTNERS, L.P. (SEAL)

By:: American Newland, LLC

a Delaware limited liability company

Its: General Partner

By: _____

Name: _____

Title: _____

Dated: 12/14/11

_____ (SEAL)
William Aaron Crutchfield

Dated December 14, 2011

_____ (SEAL)
Jean A. Crutchfield

STATE OF NORTH CAROLINA

COUNTY OF Orange

I certify that the following person personally appeared before me this day, acknowledging to me that (s)he signed the foregoing document: William A. Crutchfield

Date: 12/14/11

Notary Public

Print Name: Mary M Hill

[Official Seal]

Mary M. Hill
Notary Public
Orange County, NC

My commission expires: March 3, 2016

STATE OF NORTH CAROLINA

COUNTY OF Orange

I certify that the following person personally appeared before me this day, acknowledging to me that (s)he signed the foregoing document: Jean Crutchfield

Date: 12/14/11

Notary Public

Print Name: Mary M Hill

[Official Seal]

Mary M. Hill
Notary Public
Orange County, NC

My commission expires: March 3, 2016

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that (s)he signed the foregoing document:

Date: _____

_____
Notary Public

Print Name:

[Official Seal]

My commission expires:

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that (s)he signed the foregoing document:

Date: _____

_____
Notary Public

Print Name:

[Official Seal]

My commission expires:

EXHIBIT A

Prepared by/ return to: William T. Hutchins, Jr, 4011 University Drive, Suite 300, Durham. NC 27707

STATE OF NORTH CAROLINA

CHATHAM COUNTY

TERMINATION AND RELEASE OF EASEMENT AND OBLIGATIONS

THIS TERMINATION AND RELEASE OF EASEMENT AND OBLIGATIONS is made and entered into this _____ day of _____, 2011, by and between WILLIAM A. CRUTCHFIELD and wife, JEAN CRUTCHFIELD ("Grantors"), and NNP-BRIAR CHAPEL, LLC (the "Grantee").

WITNESSETH:

WHEREAS, Grantee is the owner of that certain real property located in Chatham County, North Carolina, and being described in the deed of record at Book 941 Page 640, Chatham County Registry (the "NNP Tract"); and

WHEREAS, Grantors reserved certain rights over the NNP Tract in that certain General Warranty Deed (the "Deed") from the Grantors to Newland Communities, LLC. a Delaware limited liability company now known as Newland Real Estate Group, LLC ("Newland") dated January 17, 2002 and of record at Book 910 Page 333, Chatham County Registry, which NNP Tract was conveyed by Newland to Grantee pursuant to that Special Warranty Deed dated June 18, 2002, and of record at Book 941, Page 640, Chatham County Registry; and

WHEREAS, the Grantors also have certain rights pursuant to that Roadway Easement (the "Roadway Easement") from the Grantee to William Crutchfield dated October 16, 2008 and of record at Book 1428 Page 31, Chatham County Registry; and

WHEREAS, the Grantors and the Grantee and other parties have reached an agreement modifying the terms of the Deed and the Roadway Easement; and

WHEREAS, Grantors now desire to (i) quitclaim all of its right, title and interest in and to the NNP Tract for purposes of extinguishing the rights reserved in the Deed; and (ii) release Grantee and Newland, and each of their affiliates, from all agreements in the Deed and the Roadway Easement

related to the installation of water and sewer services to the Remaining Grantors' Tract (as defined in the above-described Deed) and from Grantee's obligation to construct any additional driveways:

NOW, THEREFORE, for One and 00/100 Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantors do hereby (a) terminate the Roadway Easement and remise, release, convey, and forever quitclaim unto Grantee and Grantee's successors and assigns, all right, title, claim and interest of Grantors in and to the NNP Tract, and (b) release Grantee and Newland, and each of their affiliates, from any and all agreements in the Deed and the Roadway Easement related to the installation of water and sewer services to the Remaining Grantors' Tract (as defined in the above-described Deed) and from Grantee's obligation to construct any further driveways, except as set forth in a separate Settlement Agreement and General Release and Amendment of Contract dated of even date herewith.

Notwithstanding the foregoing: (i) the Grantor shall retain the right to use and maintain the two (2) 60' private access easements as provided in the Roadway Easement; and (ii) the restriction contained in Book 910 Page 333 that provides "no portion of the property conveyed hereby nor of Tract 3 according to the plat recorded in Plat Slide 2000-285 shall be used for residential dwellings located south of any roadway constructed thereon" shall remain in full force and effect. The rights in this paragraph shall run with the Remaining Grantors' Tract and shall inure to the Grantor's heirs, successors and assigns.

TO HAVE AND HOLD the NNP Tract and all privileges thereunto belonging to Grantee, Grantee's its successors and assigns, free and discharged from all right, title, claim or interest of Grantors or anyone claiming by, through or under Grantors.

IN WITNESS WHEREOF, Grantors have caused this instrument to be executed under seal as of the day and year first above written.

Grantors:

_____ (SEAL)
William A. Crutchfield

_____ (SEAL)
Jean Crutchfield

WAKE COUNTY, NORTH CAROLINA

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that the he or she signed the foregoing document: William A. Crutchfield and Jean Crutchfield

Date 12/14/11

(Official Seal)

Mary M. Hill
Notary Public
Orange County, NC

_____
Notary Public

Printed Name: Mary M Hill

My commission expires: March 3, 2016

1627
0664

FILED
CHATHAM COUNTY NC
TREVA B. SEAGROVES
REGISTER OF DEEDS

FILED	Jun 26, 2012
AT	01:31:14 pm
BOOK	01627
START PAGE	0664
END PAGE	0672
INSTRUMENT #	06607
EXCISE TAX	$1.00

BOOK 1627 PAGE 0664

Excise Tax: ~~$None~~ $1.00
Mail after recording to: GRANTEE
This instrument was prepared by: Bradshaw & Robinson, LLP, P.O. Box 607, Pittsboro, NC 27312
Parcel No.

NORTH CAROLINA LIMITED WARRANTY DEED

THIS DEED, made this 21st day of June, 2012 between NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company, 16 Windy Knoll Circle, No. 201 Chapel Hill, 27516, hereinafter referred to as GRANTOR; and the COUNTY OF CHATHAM, P.O. Box 1809, Pittsboro, NC 27312, hereinafter referred to as GRANTEE. The designation Grantor and Grantee as used herein shall include the parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter, as required by context.

WITNESSETH

The Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in Chatham County, North Carolina and more particularly described as follows (the "Property"):

See Exhibit A attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to impair such title as Grantor received, and that Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated. Title to the Property is conveyed subject to the following easements, exceptions, covenants and conditions:

1. All matters shown by plat of survey prepared by The John R. McAdams Company, Inc. dated September 29, 2009, as revised on February 2, 2010, February 18, 2010 and August 3, 2010, entitled, "Park Tract Boundary Survey" and recorded at Plat Slide 2010-168, Chatham County Registry.
2.. Rights of upper and lower riparian owners in and to the waters of streams, creeks or branches crossing or adjoining the Property, and the natural flow thereof, free from diminution or pollution; and
3. Ad valorem property taxes not yet due and payable.
4. Any valid and enforceable covenants, conditions, easements and restrictions of record and those matters revealed by the survey of the Property referenced above;
5. The covenants, restrictions and easements set forth in Exhibit "B" attached hereto and incorporated by reference, as they may be amended from time to time in accordance with their terms.

All covenants, restrictions and easements stated or referenced in this Deed touch, concern and run with the land.

IN WITNESS WHEREOF, the Grantor has hereunto caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed, the day and year first above written.

NNP-BRIAR CHAPEL, LLC, a
Delaware limited liability company

By: [signature]
Name: Kevin C. Graham
Title: Asst Vice President

1790883

STATE OF NORTH CAROLINA
COUNTY OF Chatham

I, a Notary Public of Chatham County and State aforesaid, certify that Kevin C. Graham, _____ of NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 21 day of June, 2012.

My Commission Expires: 3-3-2016

Amy M. Meacham
Name: Amy M. Meacham
Notary Public

[SEAL]

AMY M. MEACHAM
NOTARY
PUBLIC
CHATHAM COUNTY, N.C.

ACCEPTANCE BY GRANTEE

By its execution below, Grantee accepts this conveyance in complete satisfaction of Grantor's obligation to donate suitable recreational facilities pursuant to paragraph 14(e) of the Conditional Use Permit for Briar Chapel (Resolution 2005-15) adopted by Grantee on or about February 15, 2005 and signed on March 21, as the same has been, is or may be amended from time to time. Grantee accepts the Property "as is, where is" and assumes all rights duties and obligations incident to ownership of the Property as provided for in the Recreation Land Transfer Agreement dated March 30, 2010, between Grantor, Grantee and Briar Chapel Utilities, LLC (the "Transfer Agreement.")

CHATHAM COUNTY

By: Charlie Horne
Name: Charlie Horne
Title: County Manager
Date: June 21, 2012

STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

I, a Notary Public for Wake County and State of North Carolina, do hereby certify that Sandra B. Sublett personally appeared before me this day and acknowledged that she is the CLERK OF CHATHAM COUNTY, a North Carolina body politic and corporate, and that by authority duly given and as the act of CHATHAM COUNTY, the foregoing instrument was signed in its name by its COUNTY MANAGER, Charlie Horne, sealed with its corporate seal and attested by herself as its clerk, and the said Sandra B. Sublett is personally known to me.

Witness my hand and official seal or stamp, this 20th day of JUNE, 2012.

My commission expires: May 4, 2013

Lisa M. Gentri
Name: LISA M. GENTRI
Notary Public

[SEAL]

LISA M GENTRI
NOTARY PUBLIC
WAKE COUNTY, NC

Attest: Sandra B. Sublett

CHATHAM COUNTY NORTH CAROLINA
OFFICIAL SEAL
FOUNDED 1771

1790883

EXHIBIT A TO LIMITED WARRANTY DEED

Property Description

BEGINNING at an existing right-of-way monument at the intersection of the eastern right-of-way of Parker Herndon Road (a 60' Public R/W) and the southern right-of-way of Andrews Store Road (a 60' Public R/W); thence with the southern right-of-way of Andrews Store Road (a 60' Public R/W), South 52°15'28" East, a distance of 242.98 feet to an iron pipe set; thence along a curve to the left having a radius of 1,030.00 feet, an arc length of 58.36 feet, and a chord bearing and distance of South 53°44'02" East, 58.35 feet to an iron pipe set; thence South 55°21'26" East, a distance of 79.52 feet to an iron pipe set; thence along a curve to the left having a radius of 1,000.00 feet, an arc length of 243.23 feet, and a chord bearing and distance of South 62°19'30" East, 242.63 feet to an iron pipe set; thence along a curve to the left having a radius of 5,130.46 feet, an arc length of 258.55, and a chord bearing and distance of South 70°44'12" East, 258.53 feet to an iron pipe set; thence along a curve to the right having a radius of 4,970.00 feet, an arc length of 201.74 feet, and a chord bearing and distance of South 71°01'03" East, 201.73 feet to an iron pipe set on the western property line of lands owned by C L and Thomas Durham (DB 295, PG 183); thence with the western line of C L and Thomas Durham (DB 295, PG 183), South 01°07'06" East, a distance of 768.96 feet to an existing iron pipe; thence South 00°31'08" East, a distance of 804.26 feet to a calculated point on the northern property line of lands owned by Jesse O & Jesse Jr. & Willa Anne Fearrington Trustees (DB 1235, PG 662); thence South 86°22'54" West, a distance of 8.08 feet to an iron pipe set; thence North 57°00'18" West, a distance of 349.66 feet to a 48" poplar tree on the northern line of lands owned by G B Parker Heirs; thence North 89°01'05" West, a distance of 1,864.64 feet to an existing iron pipe; thence North 00°58'55" East, a distance of 29.72 feet to an existing iron pipe; thence North 81°57'32" West, a distance of 231.18 feet to an iron pipe set; thence North 35°17'07" West, a distance of 25.92 feet to a calculated point on the western right-of-way of Parker Herndon Road (a Public 60' R/W); thence with the western right-of-way of Parker Herndon Road (a Public 60' R/W), along a curve to the left having a radius of 2,510.00 feet, an arc length of 261.50 feet, and a chord bearing and distance of North 45°08'35" East, 261.38 feet to a calculated point; thence North 42°09'30" East, a distance of 462.56 feet to a calculated point; thence North 42°21'18" East, a distance of 119.10 feet to a calculated point; thence along a curve to the left having a radius of 1,949.35 feet, an arc length of 242.19 feet, and a chord bearing and distance of North 38°47'45" East, 242.04 feet to a calculated point; thence North 35°14'11" East, a distance of 110.18 feet to a calculated point; thence North 34°25'50" East, a distance of 98.04 feet to a calculated point; thence North 34°25'50" East, a distance of 14.10 feet to a calculated point; thence North 34°01'55" East, a distance of 160.86 feet to a calculated point; thence North 33°59'13" East, a distance of 292.85 feet to a calculated point; thence along a curve to the left having a radius of 6,030.00 feet, an arc length of 210.99 feet, and a chord bearing and distance of North 32°59'04" East, 210.98 feet to a calculated point; thence North 31°58'56" East, a distance of 241.48 feet to a calculated point; thence North 79°05'12" East, a distance of 82.89 feet to the POINT OF BEGINNING, containing 66.17 acres, more or less.

Further described as that certain property depicted on that certain Plat prepared by The John R. McAdams Company, Inc. dated September 29, 2009, as revised on February 2, 2010, February 18, 2010 and August 3, 2010, entitled, "Park Tract Boundary Survey" and recorded at Plat Slide 2010-168, Chatham County Registry.

SAVE AND EXCEPT the portions of the above-described property which were dedicated to the North Carolina Department of Transportation pursuant to a deed recorded in Book 1570, Page 398, Chatham County Registry, which portions are more particularly depicted and described in detail on that certain survey entitled, "Briar Chapel, Andrews Store Road & Parker Herndon Road," prepared by The John R. McAdams Company, Inc., dated January 21, 2011 and recorded at Plat Slide 2011-87, Chatham County Registry as the following parcels: (1) that certain right-of-way tract of 0.02 acres, more or less, and denominated as "Right of Way to be Dedicated 0.02 Acres" located at the southeastern intersection of Parker Herndon Road and Andrews Store Road and (2) that certain right-of-way tract of 0.37 acres, more or less, and denominated as "Right of Way to be Dedicated 0.37 Acres" adjoining the southern right-of-way of Andrews Store Road just west of the entryway to the Chatham County Park.

CAD
KCH

EXHIBIT "B" TO LIMITED WARRANTY DEED

Declaration of Covenants, Conditions, Restrictions and Easements

From and after the date of this conveyance, the Property shall be held, conveyed, encumbered, used, occupied and improved subject to the following covenants, restrictions, and easements, (this "Declaration") which shall encumber the title to the Property and shall be binding upon Grantee and its successors-in-title to the Property and all other persons now having or hereafter acquiring any right, title, or any interest in any of the Property, their respective heirs, legal representatives, successors, successors-in-title, and assigns, and shall inure to the benefit of Grantor, Briar Chapel Community Association, Inc., a North Carolina nonprofit corporation (the "**Association**"), and Briar Chapel Utilities, LLC, a North Carolina limited liability company ("**BCU**"), and their respective successors and assigns.

1. The Property shall be used for public park, recreational and open space purposes consistent with the site plan attached hereto as Exhibit B-1 and incorporated fully herein by reference.

2. Grantee shall be responsible for maintaining, repairing, replacing, insuring, and operating all existing and future improvements upon the Property (except the Spray Irrigation Facilities as defined in the Effluent Easement and Irrigation Agreement) and paying any sewer utility connection and service fees, any fees associated with building permits, driveway encroachments, and ongoing water and sewer charges and other utility costs. Pursuant to the Certificate of Public Convenience and Necessity granted to BCU, the connection fee for the Park will be $12,600 based on reserved capacity of 2,100 gallons of effluent per day. The connection fee will be due and payable by the County to BCU upon written notice of the County's intent to connect to the sewer collection system, which written notice shall be delivered to BCU no less than thirty (30) days prior to the date the County intends to connect to the sewer collection system. The County shall have five (5) years from the date of recordation of this Deed within which to connect to the sewer system. If the County has not connected to the sewer system within five (5) years of the date of recordation of this Deed, the reserved allocation of 2,100 gallons per day shall automatically and immediately be deemed canceled and shall expire. Grantor and BCU agree the $12,600 connection fee and the monthly sewer charge, service fee, or other charge related to providing sewer service to the Property (as provided in the Effluent Easement and Irrigation Agreement) may be paid to BCU with use of recreation fees paid by or collected from or on account of Grantor. Grantee hereby releases Grantor from any and all claims regarding the Property and concerning the condition of the Property as of the date of Grantor's conveyance of the Property to Grantee, save and except any claims Grantee may have against Grantor as to obligations set forth in the Recreation Land Transfer Post-Closing Agreement, the Effluent Easement and Irrigation Agreement, and the Transfer Agreement.

3. Grantor hereby reserves and Grantee grants unto Grantor and BCU, their respective successors and assigns, a twenty-five foot (25') non-exclusive, perpetual utility and landscape easement and an additional, temporary ten foot (10') construction easement, all as shown on Exhibit B-2. Said easements shall be for the purpose of installation, maintenance, repair and removal of utilities and landscaping. In addition, Grantor hereby reserves and Grantee grants unto Grantor and BCU, their respective successors and assigns a twenty-foot (20') non-exclusive, perpetual utility easement and an additional ten-foot (10') temporary construction easement for the irrigation main to be installed on the Property, in the location shown on Exhibit B-2. The twenty-foot (20') permanent easement shall be centered on the line location as shown in Exhibit B-2 or as-built, once it is constructed. The additional ten-foot (10') temporary construction easement shall be allocated on either side of the permanent easement as necessary for construction in the discretion of Grantor and BCU. Said easement shall be for the purpose of installation, maintenance, repair and removal of irrigation main and landscaping. Upon completion of construction, repairs, maintenance, or other work in the easement areas the disturbed areas shall be restored to the condition existing immediately prior to commencement of such work and to the reasonable satisfaction of Grantee. Except for emergency repairs of facilities, no construction, disturbance, or other work shall take place in the easement areas without thirty (30) days prior written notice to Grantee and mutual agreement between Grantor and Grantee as to the time frame of construction. During said thirty (30) day period, BCU shall provide Grantee with a copy of the construction plans and shall meet with Grantee and discuss the construction methods that will occasion the least disturbance to the Property. The construction methods selected by BCU shall be consistent with generally accepted construction practices. In addition, Grantor and BCU agree that, in utilizing said easements described in this paragraph they will make good faith efforts not to interfere with Grantee's reasonable use of the Property.

4. Grantee shall discharge no more than 2,100 gallons of sewage per day into the sewage system serving the Property without the advance written consent of the Grantor, its successors and assigns. Grantor hereby reserves to itself and BCU, and their respective successors and assigns the right to install monitoring equipment at the sewer stub-out to monitor the County's sewer discharge, including the right of access to maintain and read the monitoring equipment.

5. Grantee agrees and covenants to use all recreation fees, collected from or on account of Grantor to date in accordance with the provisions of Section 6.5(A)(2) of the Chatham County Subdivision Regulations (adopted June 25, 1980 and last revised on June 19, 2006) and in the Conditional Use Permit for Briar Chapel (Resolution 2005-15) adopted by Grantee on or about February 15, 2005 and signed on March 21, 2005, as it may be amended , as well as all such recreation fees, if any, collected from or on behalf of Grantor in the future, to provide additional improvements to the Property or as otherwise allowed herein for payment of the connection fee and the monthly service fee. Such future improvements shall be constructed at such time and in such manner as shall be deemed necessary or desirable by Grantee in its discretion and which may include, without limitation, the following:

(a) Accessory improvements to one (1) baseball field with a 200 foot radius;
(b) Accessory improvements to one (1) baseball field with a 250 foot radius;
(c) Accessory improvements to one (1) standard sized football field;
(d) Accessory improvements to one (1) soccer field 200 feet by 300 feet, to be divided into three smaller soccer fields
(e) One (1) general purpose athletic field or facility and accessory improvements thereto;
(f) Three (3) concession stands/restroom buildings/picnic shelters and supporting utilities, including restrooms;
(g) Adequate parking for the use of the park facilities;
(h) Appropriate signage for the Property, to be determined in Grantee's discretion, in compliance with all codes and restrictions applicable to the Property;
(i) Playground
(j) Walking trails
(k) Accessory improvements included, without limitation, fencing, lighting, and bleachers.

In accordance with Exhibit B-3, attached hereto and incorporated herein by reference, the Property is hereby allocated a maximum of three (3) acres of impervious surface for park improvements, including those already installed at the time of conveyance.

6. All executory obligations of the Transfer Agreement shall survive closing and delivery, acceptance and recordation of the Deed. All terms of the Deed and all surviving executory obligations are binding on Grantee, Grantor and BCU to the same extent as under the Transfer Agreement, as well as to their respective successors and assigns.

7. This Declaration shall burden the Property for the benefit of all of the real property now or hereafter submitted to the provisions of the Declaration of Covenants, Conditions and Restrictions for Briar Chapel recorded in the Public Records on November 16, 2007 in Deed Book 1370, Page 1020, *et seq.*, re-recorded November 28, 2007 in Deed Book 1372, Page 884, *et seq.* (as it may be amended and supplemented, the "Community Declaration") and shall be enforceable by Grantor, the Association, and BCU, and their respective successors or assigns who have any rights, interest, or obligations under the Community Declaration or any right, title, or interest in any property subject to the Community Declaration. The Property is not subject to the Community Declaration and neither the County nor the Property is or shall be subject to any Homeowners' Association dues, fees, assessments, or other charges, or any rules, regulations, or other obligations, or any covenant, restrictions, or easement unless expressly set out in the Deed or this Declaration.

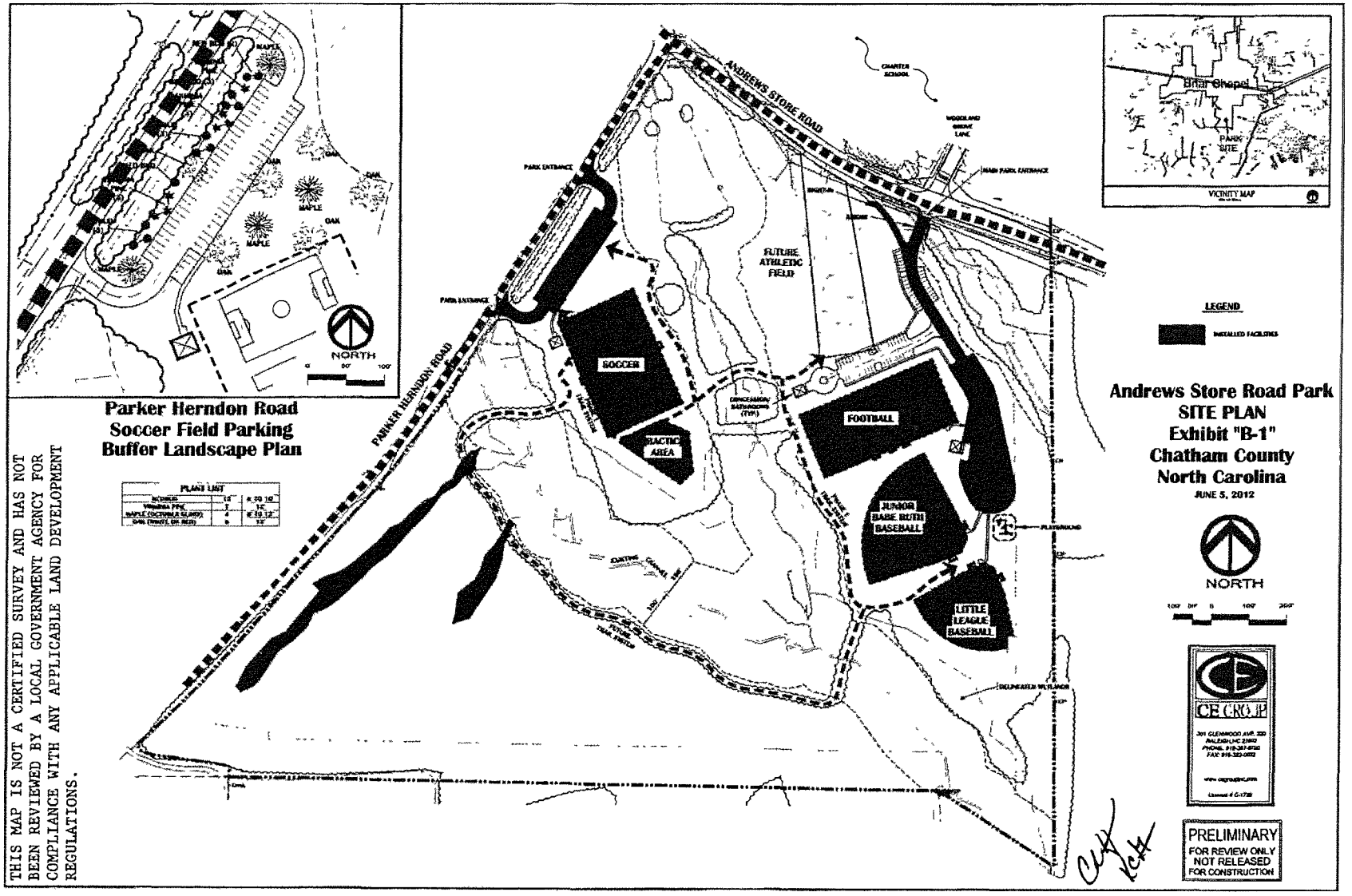
8. Subject to amendment or termination as provided herein, this Declaration is intended to have perpetual duration. However, if any provision of this Declaration would be unlawful, void, or voidable by reason of any North Carolina law prohibiting such provisions from extending more than 21 years beyond the death of a person identified in such provision who is living at the time such provision is made, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Notwithstanding the foregoing, if the Property becomes subject to the Community Declaration, then this Declaration shall automatically terminate and be of no further force and effect and thereafter use and development of the Property shall be subject to the terms of the Community Declaration and the other governing documents referenced therein.

9. Invalidation of any one of these covenants by judgment or other court order shall in no way affect any other provisions, which shall remain in full force and effect except as to any terms and provisions which are invalidated.

10. This Declaration may be amended or terminated only by a written instrument referencing this Declaration which is signed by Grantor and Grantee (or any subsequent record owner of the Property if Grantee conveys the Property) and recorded in the Office of the Register of Deeds for Chatham County, North Carolina.

KCH

EXHIBIT "B-1" TO LIMITED WARRANTY DEED



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

EXHIBIT "B-2" TO LIMITED WARRANTY DEED

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

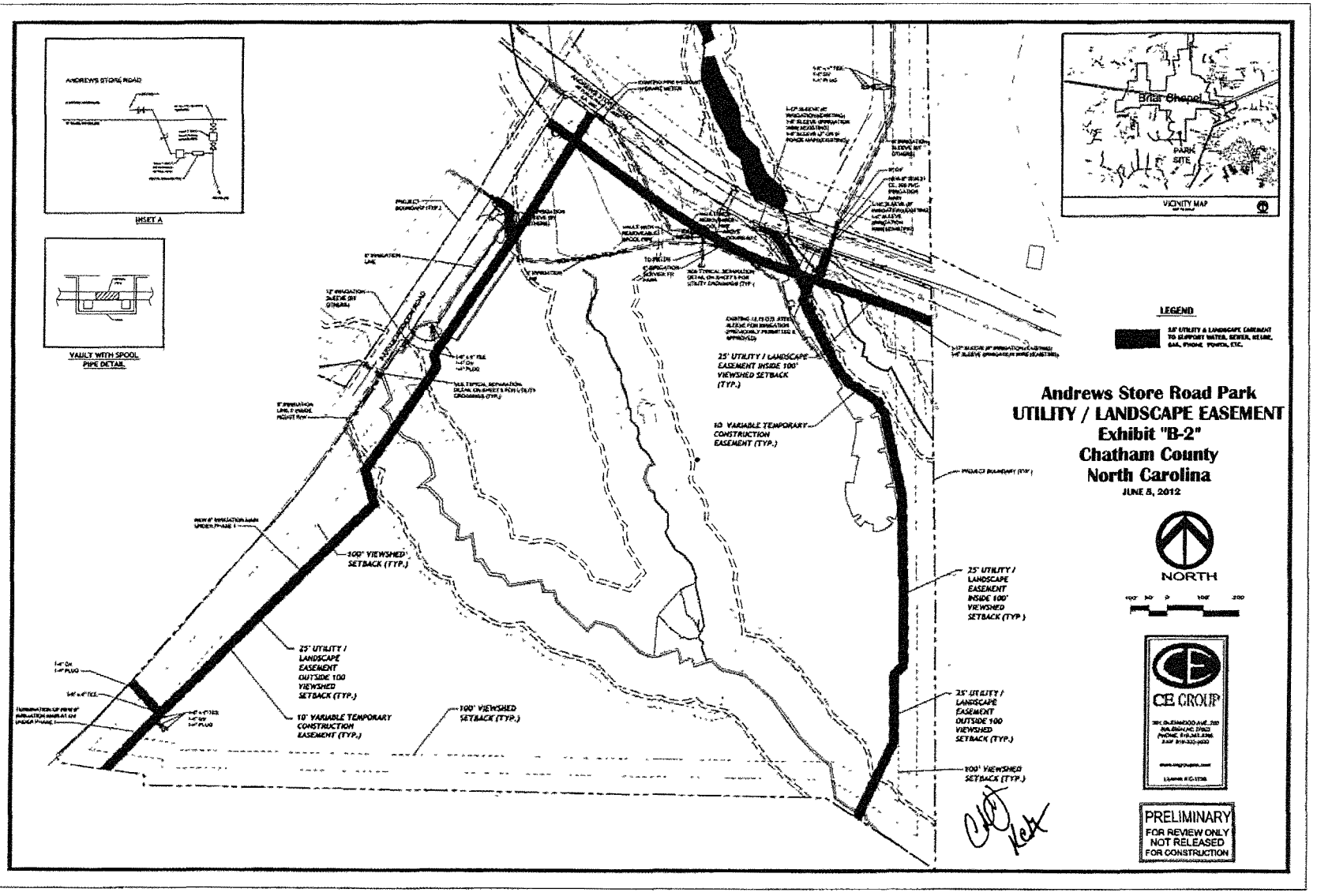
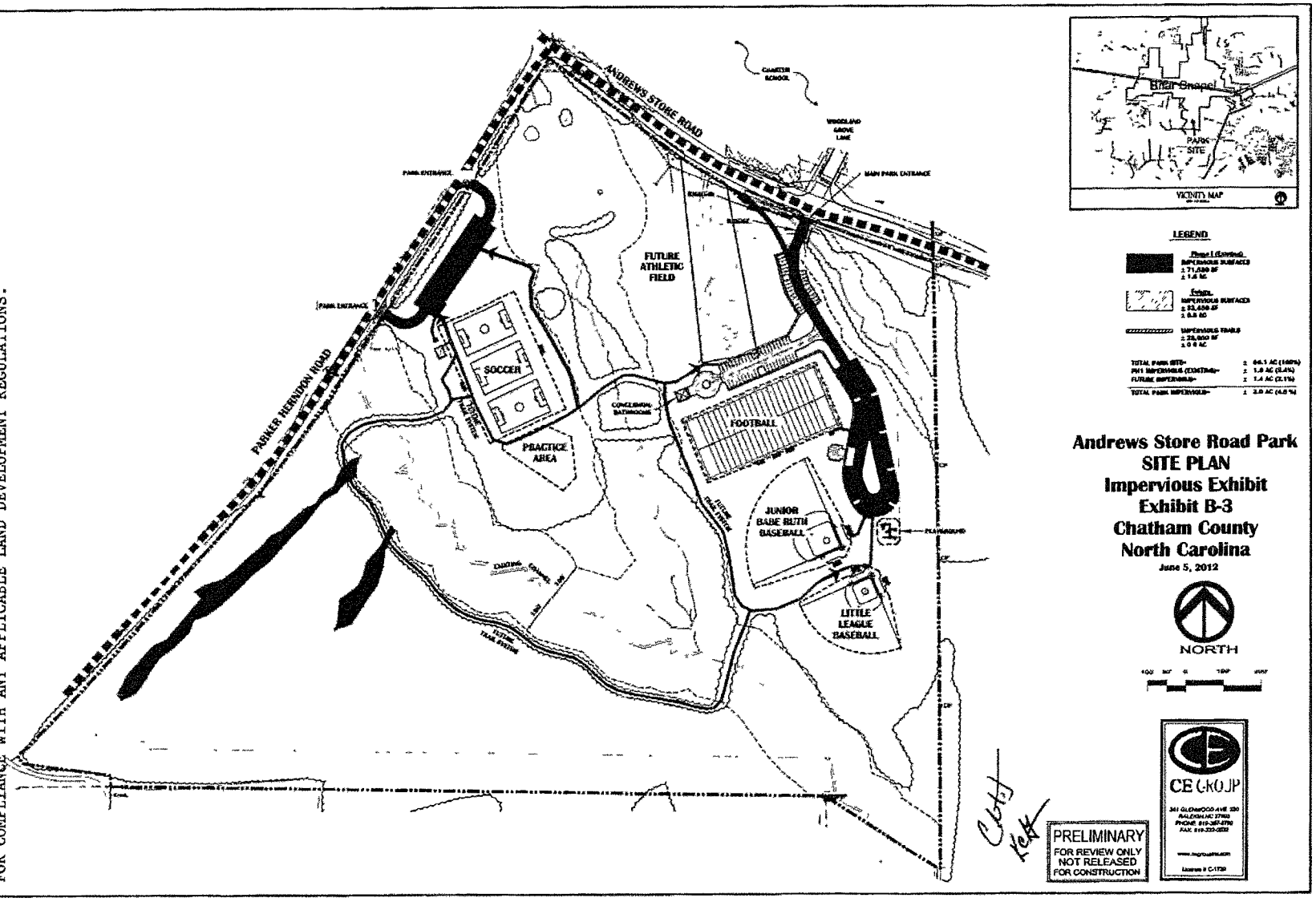


EXHIBIT "B-3" TO LIMITED WARRANTY DEED

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



SCHEDULE 12

Prepaid Tap Fees and Cash CIAC

SCHEDULE 13

North Carolina Department of Transportation and Public Road Encroachment Agreements

(See attached)

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

DIVISION OF HIGHWAYS

EUGENE A. CONTI, JR.
SECRETARY

May 12, 2009

Mr. William Mumford
16 Windy Knoll Circle
Chapel Hill, NC 27516

SUBJECT: ENCROACHMENT AGREEMENT (19-3760)
Steel Encasements for Irrigation and Sewer Lines Under SR 1528
Chatham County

Dear Mr. Terry:

Attached is a properly executed copy of a Right of Way Encroachment Agreement which covers the following:

Installation of 6" and 12" steel encasements for sewer forcemain and irrigation lines along SR 1528 in Chatham County.

This agreement is approved subject to the Special Provisions and redlined plans which are attached to and made a part of the Encroachment Agreement.

Sincerely,

Timothy Johnson, P.E.
Division Engineer

Attachments

cc: Robert Memory, State Utility Agent, Utility Coordination Unit (w/orig.)
R. E. Blakley, P.E., District Engineer
Benny Sloan, County Maintenance Engineer
Matt West, P.E., Kimley-Horn and Associates, Inc.
File (19-3760)

P. O. BOX 1067, ABERDEEN, NC 28315 PHONE (910) 944-2344 FAX (910) 944-5623

ENC# 19.3760

ROUTE SR 1528/SR 1526 PROJECT Brair Chapel COUNTY OF Chatham STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION

-AND-

NNP-Briar Chapel, LLC

RIGHT OF WAY ENCROACHMENT AGREEMENT FOR NON-UTILITY ENCROACHMENTS ON PRIMARY AND SECONDARY HIGHWAYS

THIS AGREEMENT, made and entered into this the 12th day of MAY, 20 10, by and between the Department of Transportation, party of the first part; and NNP-Briar Chapel, LLC party of the second part,

WITNESSETH

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route(s) 1) SR 1528 (Andrews Store Road) and 2) SR 1526 (Parker Herndon Road), located 5 locations as shown on the attached plans with the construction and/or erection of: conduit sleeves

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such facilities, within the highway rights of way limits, in carrying out its construction and maintenance operations.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

R/W (161A) : Party of the Second Part certifies that this agreement is true and accurate copy of the form R/W (161A) incorporating all revisions to date.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: [signature]

~~Asst. Manager of Right of Way~~

DIVISION ENGINEER

ATTEST OR WITNESS:

[signature]

KEVIN C GRAHAM

[signature]

WILLIAM S MUMFORD NNP-BEACHAPEL, LLC

AUTHORIZED AGENT

Second Party

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered city official, unless a waiver of corporate seal and attestation by the secretary or by the empowered City official is on file in the Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the proposed encroachment.
4. Length and type of encroachment.
5. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office.)
6. Drainage structures or bridges if affected by encroachment.
7. Typical section indicating the pavement design and width, and the slopes, widths and details for either a curb and gutter or a shoulder and ditch section, whichever is applicable.
8. Horizontal alignment indicating general curve data, where applicable.
9. Vertical alignment indicated by percent grade, P.I. station and vertical curve length, where applicable.
10. Amount of material to be removed and/or placed on NCDOT right of way, if applicable.
11. Cross-sections of all grading operations, indicating slope ratio and reference by station where applicable.
12. All pertinent drainage structures proposed. Include all hydraulic data, pipe sizes, structure details and other related information.
13. Erosion and sediment control.
14. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
15. The Department's Division Engineer should be given notice by the applicant prior to actual starting of installation included in this agreement.
16. Method of handling traffic during construction where applicable.
17. Scale of plans, north arrow, etc.

ENCROACHMENT SPECIAL PROVISIONS
NNP Briar Chapel, LLC
19.3760 (CHATHAM COUNTY)

Approval of the encroachment agreement is made subject to the following Special Provisions:

1. Changes noted in red on the plans shall be incorporated into and made a part of the encroachment agreement. An executed copy of the encroachment agreement shall be available at the construction site at all times. NCDOT reserves the right to stop all work unless evidence of approval can be shown.

2. Notify the following prior to beginning work:

   - ***Benny Sloan, County Maintenance Engineer***
     1404 E. Raleigh St.
     Siler City, NC 27344
     (919) 742-3431

3. The Encroaching Party shall comply with all applicable federal, state and local environmental regulations, and shall obtain all necessary federal, state and local environmental permits, including but not limited to, those related to sediment control, stormwater, wetland, streams, endangered species, and historical sites.

4. All materials and construction shall be in accordance with NCDOT standards and specifications, including but not limited to the **NCDOT Standard Specifications for Roads and Structures 2006**, the **NCDOT Roadway Standards Drawings**, and **NCDOT Policies and Procedures for Accommodating Utilities on Highway Rights of Way.**

5. It shall be the responsibility of the Encroacher to determine the location of other utilities within the encroachment area in accordance with General Statute 87-102. The Encroacher shall be responsible for notifying other utility owners and providing protection and safeguards to prevent damage or interruption to existing facilities and to maintain accessibility to existing utilities. Costs to repair, restore, or relocate existing utilities due to this encroachment shall be the responsibility of the encroaching party.

6. NCDOT does not guarantee the Right of Way on this road, nor will it be responsible for any claim for damages brought by any property owner by reason of this encroachment. All Right of Way and easements necessary for construction and maintenance shall be dedicated to NCDOT with the proof of dedication furnished to the District Engineer prior to beginning work. Encroachment within the Right of Way does not imply approval for encroachment onto adjacent property. The Encroacher shall be responsible for securing any easement, permit, permission, or approval for encroachment or other use of property outside the state maintained right of way. Right of Way monuments disturbed during construction shall be referenced by a Professional Land Surveyor and reset immediately after construction.

7. The encroaching Party shall take whatever measures are necessary to minimize soil erosion and siltation, water pollution, and air pollution. It shall be the responsibility of the Encroaching Party to keep fully informed to comply with the applicable regulations of all legally constituted authorities relating to pollution prevention and control. In the event of conflict between regulations, specifications, or requirements, the more restrictive requirement shall apply. All erosion and pollution control devices and measures shall be constructed, installed, maintained and removed by the encroaching party in accordance with all applicable Federal, State and Local laws, regulations, ordinances, and policies. No construction shall begin until all erosion control devices have been installed to the satisfaction of the District Engineer. Failure to comply with this provision shall be grounds for immediate suspension of all activities within the Right of Way.

8. The North Carolina Department of Transportation is in the process of developing a Work Zone Traffic Control Qualification and Training program that will begin its implementation in 2010. This program will require qualified and trained Work Zone Flaggers in every flagging operation (July 2010), qualified and trained Work Zone Traffic Control Installers on every traffic control installation (January 2011) and qualified and trained Work Zone Traffic Control Supervisors on Significant Projects (July 2011). It is intended for the program to include anyone working within NCDOT Right of Way including work associated with NCDOT construction and encroachment agreements as well as all NCDOT operations.

   Training for this certification will be provided by NCDOT approved training sources and/or private entitiesthat have been per-approved to train themselves. Additional information will be provided as this program

progresses. If you have questions, visit our web site at www. ncdot.org/wzte, or contact Stuart Bourne, P.E., with NCDOT Work Zone Traffic Control Unit at (919) 250-4159 or sbourne@ncdot.gov.

9. The encroaching party shall provide an inspector acceptable to the District Engineer for the work to be performed under this agreement. All costs and expenses for inspection shall be the responsibility of the encroaching party. The inspector's name, telephone and qualifications shall be provided in writing to the District Engineer prior to beginning construction.

10. A pre-construction conference between NCDOT, the Encroaching Party or the Encroaching Party's designated representative, and the contractor(s) is required prior to commencing any work within the Right of Way.

11. Storage of materials or equipment within the Right of Way is prohibited. During non-working hours, equipment shall be parked as close to the right of way line as possible and shall be properly barricaded so that no equipment obstruction shall be within the Clear Recovery Area.

12. Construction equipment or vehicles shall not be parked on the pavement or roadway shoulder.

13. Construction is authorized to be performed on Monday through Friday during the hours between sunrise and sunset.

14. Lane closures or constrictions shall not impede school traffic during normal local school peak hours.

15. The encroaching party may delegate the performance of certain provisions of this agreement to contractors or other parties. However, this shall not in any way release the encroaching party from its obligations to the terms and provisions of the encroachment.

16. The Encroaching Party shall provide certification signed by a licensed Professional Engineer verifying that construction meets NCDOT design requirements. Certification shall include the following:

    - Subgrade density
    - Core and test locations

17. The Encroaching Party shall provide the District Engineer with "as-built" plans upon completion of the installation.

18. Written notification shall be provided to the District Engineer upon completion of the work proposed under this agreement. Materials test frequencies and methods shall be in conformance with the NCDOT Materials and Tests guidelines, or as directed by NCDOT. A letter of approval, or recommendations for compliance, will be provided upon receipt and review of test reports.

19. The encroaching party or the contractor(s) for the encroaching party may request a written letter stating that the encroachment has been satisfactorily completed by making a request in writing to the appropriate County Maintenance Engineer. The letter of completion does not relieve the encroaching party from any obligations or responsibilities under the terms and provisions of the encroachment or from obligations or responsibilities for making repairs needed for a reasonable time period.

20. The traveling public shall be warned of construction with complete and proper signing and traffic control devices in accordance with the current **Manual on Uniform Traffic Control Devices (MUTCD)**. No work shall be performed in the Right of Way unless this requirement is satisfied. NCDOT reserves the right to require a written traffic control plan for encroachment operations. Traffic control devices and operations shall include, but are not limited to the following:

    - Adequate and appropriate advance warning signs for any and all work zones/closed or obstructed areas.
    - "End Construction" signage beyond the end of all work zones.
    - Adequate and appropriate delineation and control devices for all work zone areas including but not limited to lane closures, disturbed areas, and active work sites.
    - Properly trained and equipped flagmen/women.

21. Proper maintenance of all traffic control devices, including but not limited to proper signage and controls during periods of inactivity and removal of inappropriate traffic control signage and/or devicesThe Encroacher agrees to provide traffic control devices, lane closures, road closures, positive protection and/or any other warning or positive protection devices necessary for the safety of road users during construction and any subsequent

maintenance. This shall be performed in conformance with the latest NCDOT Roadway Standard Drawing and Standard Specifications for Roads and Structures and Amendments or Supplements thereto. When there is no guidance provided in the Roadway Standard Drawings or Specifications, comply with the Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplement thereto. Information as to the above rules and regulations may be obtained from the Division Engineer.

22. Traffic shall not be detoured or rerouted without the prior written approval of the Division Engineer.

23. All detour routes, signage and traffic control devices will be installed and maintained by NCDOT Traffic Services forces during the period permitted by NCDOT. The encroaching party shall reimburse the Department of Transportation for all costs incurred in the installation and maintenance of the detour. Full payment from the encroaching party shall due upon completion of the detour.

24. In the event work is completed in less time than permitted, the normal traffic pattern shall be restored as soon as the work has been completed.

25. All traffic control devices and signage are the responsibility of the encroaching party and shall be installed in accordance with current NCDOT standards. **Traffic control plans shall be submitted to and approved by the Division Traffic Engineer at (910)947-3930, at 150 DOT Drive, Carthage, NC 28327.** Plans should be submitted as soon as possible to allow adequate time for review.

26. Access to the site covered under this agreement shall remain closed (i.e. barricaded) to traffic until all requirements relating to traffic control and signalization have been satisfied.

27. Ingress and egress shall be maintained to businesses and dwellings. Driveways altered during construction shall be restored to a condition equal to that prior to beginning construction.

28. Excavated material shall not be placed on the paved roadway surface at any time unless specifically approved by the District Engineer. Drainage structures shall not be blocked with excavated material at any time.

29. Trenches/excavations/bore pits shall not remain open longer than a 24 hour period. No trench/excavation/bore pit shall be left open overnight except in the event of emergency, in which case the encroacher shall notify the District Engineer and inform him as to the nature and anticipated duration of the emergency. Any excavation left open overnight due to emergency shall be protected and delineated with complete, adequate and appropriate safety and traffic control devices.

30. All backfill shall meet the Statewide Borrow Criteria and shall be placed in accordance with section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006**. Backfill material shall be free from rocks and debris placed in six inch loose layers and compacted to at least 95% of standard density as determined by AASHTO Method T-99 as modified by NCDOT, except that backfill material placed within eight (8) inches of the pavement subgrade shall be compacted to 100% of standard density. (Copies of these testing procedures are available on request from the NCDOT Materials and Tests Unit.) Each layer must be fully compacted by an approved mechanical tamp before the next layer is placed.

31. Excavated areas adjacent to pavement having more than a 2 inch drop shall be backfilled and made safe with a 6:1 or flatter slope and shall be designated by appropriate delineation during periods of construction inactivity including, but not limited to, night and weekend hours.

32. When burying around the end of a pipe, culvert, or bridge, the utility shall be located a minimum of five (5) feet from the nearest part of the pipe, culvert, or bridge, and buried to a minimum depth of five (5) feet below the stream bed. At points where the utility is placed under existing storm drains by trenching, the trench shall be backfilled with Class M concrete up to the outside diameter of the existing pipe.

33. All excavations inside the theoretical 1:1 slope from the existing edge of pavement to the bottom of the nearest trench wall shall be made in accordance with the following conditions:

    - Traffic shall be moved to a travel lane outside the limits of a theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface.
    - Active excavation shoring such as sheet piling shall be installed. The design of the shoring shall include the effects of traffic loads. The design shall be designed and sealed by an engineer registered in North Carolina. Shoring plans and design calculations shall be submitted to the Division Engineer for review prior to construction. **Trench boxes shall not be accepted as positive shoring.**

- The trench backfill shall meet the Statewide Borrow Criteria. The trench shall be backfilled in accordance with Section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006.**
- At the first sign of trench failure, the trench shall be immediately backfilled with materials consisting of A-1, A-3, A-2-4 soils or A-4 soils having a maximum of 45% passing a No. 200 sieve and a maximum P.I. of 6. All work shall cease and the Division Engineer shall be contacted. The Encroaching party or contractor shall repair any damage to the pavement caused by the excavation.
- All trench excavation inside the limits of the theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface shall be completely backfilled and compacted at the end of each construction day. No portion of the trench shall be left open overnight.
- The length of parallel excavation shall be limited to the length necessary to install and backfill on joint of pipe at a time, not to exceed twenty five (25) feet.

34. If fill material is to be hauled to the site by means other than legally loaded trucks, the encroacher shall first notify the District Engineer of the method of hauling and provide a description of the haul route detailing all state maintained roads upon which material will be transported. The District Engineer shall determine any measures or precautions which shall be required to preserve and protect the integrity of the roadway and the safety of the traveling public.

35. Drainage structures and systems shall be preserved and protected. Any structure which is disturbed or damaged during construction shall be immediately restored to its original condition at no expense to the Department of Transportation. All utility installations shall be designed and constructed so as not to hinder, disrupt or interfere with existing storm drainage. All facilities shall pass over or under highway drainage facilities.

36. The dry bore method of boring shall be utilized and made perpendicular to the roadway. Any bore exceeding 6 inches shall be encased. Encasements shall extend from ditch line to ditch line in cut sections, 5 feet beyond toe of slope in fill sections, and 3 feet behind curb sections. When the directional boring method is used an overbore shall not be more than two (2") inches greater than the diameter of the pipe encasement. An overbore exceeding two (2") inches greater than the diameter of the pipe or encasement will be considered if the encroachment agreement includes a statement signed and sealed by a North Carolina Registered Professional Engineer indicating that an overbore in excess of two (2") inches of the pipe or encasement will arch and no damage will be done to the pavement or subgrade.

37. At points where the utility is placed under existing storm drains the trench shall be backfilled with Class B concrete up to the outside diameter of the existing pipe.

38. The grade of top of pipe or casing, including services, shall provide the following minimum bury:

- Crossing under roadways - 3 feet from pavement surface
- Longitudinal installations - 3 feet from finished grade
- Crossing under ditches - 2 feet from ditch line
- Within 2 feet from proposed guardrail - 4 feet from finished grade

39. Where an installation is by open cut, the pavement shall be neatly sawed or cut perpendicular to the surface. The replacement base and surface shall extend a minimum of one foot beyond the excavated opening on each side and shall be equivalent to the pavement design as stated in the Andrews Store Road improvement plans approved via NCDOT Encroachment # 76.3741.

40. Pavement cuts shall be repaired with bituminous material before the road is opened to traffic, or the Encroaching party shall place a temporary bituminous patch at the close of each day's operations, and place the permanent repair immediately upon completion of the open cut operations. Concrete or aggregate repairs are prohibited for cuts in bituminous pavement surfaces. Pavement repairs shall be full depth asphalt with the minimum design as per Andrews Store Road improvement plans approved via Encroachment # 76.3741.

41. All disturbed soil areas shall be promptly seeded and mulched. The encroaching party shall obtain the District Engineer's approval of ditch and shoulder grading prior to seeding and mulching.

42. All earth areas shall be regraded, seeded and mulched in accordance with Section 1660 of the **NCDOT Standard Specifications for Roads and Structures 2006**. Final determination of soil type shall be made by the Engineer. The following rates in pounds per acre apply:

- *YEAR ROUND MIXTURE (Sandy Soils)*

KY 31 Tall Fescue or Alta Tall Fescue – 50 pounds
Pensacola Bahiagrass – 50 pounds
Centipede – 5 pounds
Fertilizer (10-20-20 analysis) – 500 pounds
Limestone – 4000 pounds

- *YEAR ROUND MIXTURE (Clay Soils)*
  KY 31 Tall Fescue or Alta Tall Fescue – 100 pounds
  Kenblue Bluegrass – 15 pounds
  Fertilizer (10-20-20 analysis) – 500 pounds
  Limestone – 4000 pounds
- Add 10 pounds of Kobe or Korean Lespedeza and 10 pounds of Millet to the above mixture from May 1 to August 31.
- On cut and fill slopes 2:1 or steeper, add 30# Sericea Lespedeza from January 1 to December 31.
- Fertilizer shall be 10-20-20 analysis. Upon written approval of the Engineer, a different analysis may be used provided the 1-2-2 ratio is maintained and the rate of application is adjusted to provide the same amount of plant food as a 10-20-20 analysis.

43. The encroaching party or any agent acting on behalf of the encroaching party shall exercise care and provide any and all necessary measures and precautions to preserve and protect existing landscaping and roadside plantings within the right of way. Existing landscaping and landscape plantings shall not be disturbed unless approved by the NCDOT Division 8 Roadside Environmental Engineer. All costs associated with restoration or replacement of landscaping or landscape plantings damaged or destroyed by the encroaching party or its agents shall be the responsibility of the encroaching party.

44. In the event it is determined that there is a conflict between the existing landscaping or landscape plantings and the proposed utility installation, the encroaching party or any agent acting on behalf of the encroaching party shall not proceed until the Division 8 Roadside Environmental Engineer has been notified and the conflict has been resolved to his satisfaction.

45. Upon completion of the work authorized under this agreement, the encroaching party shall notify the Division 8 Roadside Environmental Engineer for inspection of the work to verify that landscaping and landscape plantings are acceptable. No bonds shall be released until this requirement has been satisfied.

46. The Division 8 Roadside Environmental Engineer can be contacted as follows:

Roadside Environmental Engineer
902 N. Sandhills Boulevard
P. O. Box 1067Aberdeen, NC 28315
(910-944-2344)

47. The encroaching party shall assume all responsibility, obligation, and liability for maintenance of the structure permitted under this encroachment agreement. This condition shall be conveyed in any future buy, lease, sell or rental agreement. In the event that the encroaching party or any future responsible party should fail to satisfy this condition, NCDOT reserves the right close or remove the structure.

48. All activities or operations approved under this agreement which fall within the project limits or contract period of any active NCDOT project shall require a waiver from the prime Contractor for the NCDOT project, granting the encroaching party access within the project and releasing NCDOT from claims against NCDOT by the prime Contractor resulting from the encroaching party's operations or activities. The NCDOT project shall have precedence and priority over all others.

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE
GOVERNOR

DIVISION OF HIGHWAYS

EUGENE A. CONTI, JR.
SECRETARY

October 27, 2011

Briar Chapel, LLC
c/o Mr. Bill Mumford
16 Windy Knoll Circle
Chapel Hill, North Carolina 27516

SUBJECT: ENCROACHMENT AGREEMENT (19.3863)
Install 60' of 6" Irrigation Main with 12" Steel Casing
SR 1526
Chatham County

Dear Mr. Mumford:

Attached is a properly executed copy of a Right of Way Encroachment Agreement which covers the following:

Install 60' of 6" irrigation main with 12" steel casing in __X__ County, and any associated pre-construction work.

This agreement is approved subject to the Special Provisions and plans which are attached to and made a part of the Encroachment Agreement. Any work associated with the subject project permitted under an NCDOT approved Driveway Permit shall be completed in accordance with this Encroachment Agreement.

Sincerely,

JTR

Timothy Johnson, P.E.
Division Engineer

Attachments
cc: Robert Memory, State Utility Agent, Utility Coordination Unit (without plans)
Reuben E. Blakley, P.E., District Engineer (with original)
Justin Bullock, P.E., Chatham County Maintenance Engineer
Mark Ashness, P.E., CE Group
File (19.3863)

P. O. BOX 1067, ABERDEEN, NC 28315 PHONE (910) 944-2344 FAX (910) 944-5623

ENCROACHMENT SPECIAL PROVISIONS

Briar Chapel Utilities, LLC
19.3863 (Chatham County)

Approval of the encroachment agreement is made subject to the following Special Provisions:

1. Changes noted in red on the plans shall be incorporated into and made a part of the encroachment agreement. An executed copy of the encroachment agreement shall be available at the construction site at all times. NCDOT reserves the right to stop all work unless evidence of approval can be shown.

2. Notify the following prior to beginning work:

   - ***Justin Bullock, P.E., Maintenance Engineer***
     1404 E Raleigh St.
     Siler City, NC 27344
     (919)724-3431

3. The Encroaching Party shall comply with all applicable federal, state and local environmental regulations, and shall obtain all necessary federal, state and local environmental permits, including but not limited to, those related to sediment control, stormwater, wetland, streams, endangered species, and historical sites.

4. All materials and construction shall be in accordance with NCDOT standards and specifications, including but not limited to the **NCDOT Standard Specifications for Roads and Structures 2006**, the **NCDOT Roadway Standards Drawings**, and **NCDOT Policies and Procedures for Accommodating Utilities on Highway Rights of Way.**

5. It shall be the responsibility of the Encroacher to determine the location of other utilities within the encroachment area in accordance with General Statute 87-102. The Encroacher shall be responsible for notifying other utility owners and providing protection and safeguards to prevent damage or interruption to existing facilities and to maintain accessibility to existing utilities. Costs to repair, restore, or relocate existing utilities due to this encroachment shall be the responsibility of the encroaching party.

6. NCDOT does not guarantee the Right of Way on this road, nor will it be responsible for any claim for damages brought by any property owner by reason of this encroachment. All Right of Way and easements necessary for construction and maintenance shall be dedicated to NCDOT with the proof of dedication furnished to the District Engineer prior to beginning work. Encroachment within the Right of Way does not imply approval for encroachment onto adjacent property. The Encroacher shall be responsible for securing any easement, permit, permission, or approval for encroachment or other use of property outside the state maintained right of way. Right of Way monuments disturbed during construction shall be referenced by a Professional Land Surveyor and reset immediately after construction.

7. The encroaching Party shall take whatever measures are necessary to minimize soil erosion and siltation, water pollution, and air pollution. It shall be the responsibility of the Encroaching Party to keep fully informed to comply with the applicable regulations of all legally constituted authorities relating to pollution prevention and control. In the event of conflict between regulations, specifications, or requirements, the more restrictive requirement shall apply. All erosion and pollution control devices and measures shall be constructed, installed, maintained and removed by the encroaching party in accordance with all applicable Federal, State and Local laws, regulations, ordinances, and policies. No construction shall begin until all erosion control devices have been installed to the satisfaction of the District Engineer. Failure to comply with this provision shall be grounds for immediate suspension of all activities within the Right of Way.

8. **NCDOT WORK ZONE TRAFFIC CONTROL QUALIFICATIONS AND TRAINING PROGRAM:**
   Effective July 1, 2010, all flagging operations within NCDOT Right of Way require qualified and trained Work Zone Flaggers. Qualified and trained Work Zone Traffic Control Supervisors will be required on Significant Projects.
   Training for this certification is provided by NCDOT approved training sources and by private entities that have been pre-approved to train themselves. If you have questions, contact our web site at http://www.ncdot.org/doh/preconstruct/wzte/WZTCTrainingProgram/default.html, or contact Stuart Bourne, P.E. with NCDOT Work Zone Traffic Control Unit at (919) 662-4338 or sbourne@ncdot.gov.

9. The encroaching party shall provide an inspector acceptable to the District Engineer for the work to be performed under this agreement. All costs and expenses for inspection shall be the responsibility of the

encroaching party. The inspector's name, telephone and qualifications shall be provided in writing to the District Engineer prior to beginning construction.

10. Storage of materials or equipment within the Right of Way is prohibited. During non-working hours, equipment shall be parked as close to the right of way line as possible and shall be properly barricaded so that no equipment obstruction shall be within the Clear Recovery Area.

11. Construction equipment or vehicles shall not be parked on the pavement or roadway shoulder.

12. Construction is authorized to be performed on Monday through Friday during the hours between sunrise and sunset.

13. No lane(s) of traffic shall be closed or alteration of the traffic flow will be allowed on or during holidays, holiday weekends, special events, and/or any other time when traffic is unusually heavy. Holidays and holiday weekends shall include, but not be limited to Easter, Memorial Day, Independence Day, and Labor Day.

14. The encroaching party may delegate the performance of certain provisions of this agreement to contractors or other parties. However, this shall not in any way release the encroaching party from its obligations to the terms and provisions of the encroachment.

15. The Encroaching Party shall provide the District Engineer with "as-built" plans upon completion of the installation.

16. The encroaching party or the contractor(s) for the encroaching party may request a written letter stating that the encroachment has been satisfactorily completed by making a request in writing to the appropriate County Maintenance Engineer. The letter of completion does not relieve the encroaching party from any obligations or responsibilities under the terms and provisions of the encroachment or from obligations or responsibilities for making repairs needed for a reasonable time period.

17. The traveling public shall be warned of construction with complete and proper signing and traffic control devices in accordance with the current **Manual on Uniform Traffic Control Devices (MUTCD)**. No work shall be performed in the Right of Way unless this requirement is satisfied. NCDOT reserves the right to require a written traffic control plan for encroachment operations. Traffic control devices and operations shall include, but are not limited to the following:

    - Adequate and appropriate advance warning signs for any and all work zones/closed or obstructed areas.
    - "End Construction" signage beyond the end of all work zones.
    - Adequate and appropriate delineation and control devices for all work zone areas including but not limited to lane closures, disturbed areas, and active work sites.
    - Properly trained and equipped flagmen/women.
    - Proper maintenance of all traffic control devices, including but not limited to proper signage and controls during periods of inactivity and removal of inappropriate traffic control signage and/or devices.

18. The Encroacher agrees to provide traffic control devices, lane closures, road closures, positive protection and/or any other warning or positive protection devices necessary for the safety of road users during construction and any subsequent maintenance. This shall be performed in conformance with the latest NCDOT Roadway Standard Drawing and Standard Specifications for Roads and Structures and Amendments or Supplements thereto. When there is no guidance provided in the Roadway Standard Drawings or Specifications, comply with the Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplement thereto. Information as to the above rules and regulations may be obtained from the Division Engineer.

19. Traffic shall not be detoured or rerouted without the prior written approval of the Division Engineer. Two-way traffic shall be maintained at all times.

20. In the event work is completed in less time than permitted, the normal traffic pattern shall be restored as soon as the work has been completed.

21. The Traffic Services Supervisor shall be notified at (910) 947-3930 in Carthage, NC, prior to beginning work on the Right of Way if there are existing NCDOT signs, traffic signals, or signal equipment in or near the

proposed work zone. Costs to relocate, replace, or repair NCDOT signs, signals, or associated equipment shall be the responsibility of the Encroacher.

22. Access to the site covered under this agreement shall remain closed (i.e. barricaded) to traffic until all requirements relating to traffic control and signalization have been satisfied.

23. Curb cuts and ramps for handicapped persons shall be constructed in accordance with the current NCDOT "Standard for Wheelchair Ramp Curb Cuts" and the Americans With Disabilities (ADA) Accessibility Guidelines for Buildings and Facilities.

24. Ingress and egress shall be maintained to businesses and dwellings. Driveways altered during construction shall be restored to a condition equal to that prior to beginning construction.

25. Excavated material shall not be placed on the paved roadway surface at any time unless specifically approved by the District Engineer. Drainage structures shall not be blocked with excavated material at any time.

26. Trenches/excavations/bore pits shall not remain open longer than a 24 hour period. No trench/excavation/bore pit shall be left open overnight except in the event of emergency, in which case the encroacher shall notify the District Engineer and inform him as to the nature and anticipated duration of the emergency. Any excavation left open overnight due to emergency shall be protected and delineated with complete, adequate and appropriate safety and traffic control devices.

27. All backfill shall meet the Statewide Borrow Criteria and shall be placed in accordance with section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006**. Backfill material shall be free from rocks and debris placed in six inch loose layers and compacted to at least 95% of standard density as determined by AASHTO Method T-99 as modified by NCDOT, except that backfill material placed within eight (8) inches of the pavement subgrade shall be compacted to 100% of standard density. (Copies of these testing procedures are available on request from the NCDOT Materials and Tests Unit.) Each layer must be fully compacted by an approved mechanical tamp before the next layer is placed.

28. Excavated areas adjacent to pavement having more than a 2 inch drop shall be backfilled and made safe with a 6:1 or flatter slope and shall be designated by appropriate delineation during periods of construction inactivity including, but not limited to, night and weekend hours.

29. When burying around the end of a pipe, culvert, or bridge, the utility shall be located a minimum of five (5) feet from the nearest part of the pipe, culvert, or bridge, and buried to a minimum depth of five (5) feet below the stream bed. At points where the utility is placed under existing storm drains by trenching, the trench shall be backfilled with Class M concrete up to the outside diameter of the existing pipe.

30. All excavations inside the theoretical 1:1 slope from the existing edge of pavement to the bottom of the nearest trench wall shall be made in accordance with the following conditions:

- Traffic shall be moved to a travel lane outside the limits of a theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface.
- Active excavation shoring such as sheet piling shall be installed. The design of the shoring shall include the effects of traffic loads. The design shall be designed and sealed by an engineer registered in North Carolina. Shoring plans and design calculations shall be submitted to the Division Engineer for review prior to construction. **Trench boxes shall not be accepted as positive shoring.**
- The trench backfill shall meet the Statewide Borrow Criteria. The trench shall be backfilled in accordance with Section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006.**
- At the first sign of trench failure, the trench shall be immediately backfilled with materials consisting of A-1, A-3, A-2-4 soils or A-4 soils having a maximum of 45% passing a No. 200 sieve and a maximum P.I. of 6. All work shall cease and the Division Engineer shall be contacted. The Encroaching party or contractor shall repair any damage to the pavement caused by the excavation.
- All trench excavation inside the limits of the theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface shall be completely backfilled and compacted at the end of each construction day. No portion of the trench shall be left open overnight.
- The length of parallel excavation shall be limited to the length necessary to install and backfill on joint of pipe at a time, not to exceed twenty five (25) feet.

31. Drainage structures and systems shall be preserved and protected. Any structure which is disturbed or damaged during construction shall be immediately restored to its original condition at no expense to the Department of Transportation. All utility installations shall be designed and constructed so as not to hinder, disrupt or interfere with existing storm drainage. All facilities shall pass over or under highway drainage facilities.

32. The dry bore method of boring shall be utilized and made perpendicular to the roadway. Any bore exceeding 6 inches shall be encased. Encasements shall extend from ditch line to ditch line in cut sections, 5 feet beyond toe of slope in fill sections, and 3 feet behind curb sections. When the directional boring method is used an overbore shall not be more than two (2") inches greater than the diameter of the pipe encasement. An overbore exceeding two (2") inches greater than the diameter of the pipe or encasement will be considered if the encroachment agreement includes a statement signed and sealed by a North Carolina Registered Professional Engineer indicating that an overbore in excess of two (2") inches of the pipe or encasement will arch and no damage will be done to the pavement or subgrade.

33. At points where the utility is placed under existing storm drains the trench shall be backfilled with Class B concrete up to the outside diameter of the existing pipe.

34. The grade of top of pipe or casing, including services, shall provide the following minimum bury:

- Crossing under roadways - 3 feet from pavement surface
- Longitudinal installations - 3 feet from finished grade
- Crossing under ditches - 2 feet from ditch line

35. All service connections shall be bored unless construction is of ductile iron or equal quality material with satisfactory leakproof joints.

36. All blow-off valves, vaults, manholes and other appurtenances within the NCDOT right of way shall be located behind the ditch and at the right of way line. Manholes and/or vaults shall not be placed in the ditch line, side slopes of ditches or in the pavement.

37. All manholes and/or vaults shall be of an NCDOT pre-approved design. Manholes or vaults shall be designed for HS-20 live loads and conform to the **NCDOT Standard Specifications for Roads and Structures 2006**, the **NCDOT Roadway Standards Drawings**. Any proposed structure which is not of a design pre-approved by NCDOT shall be submitted to NCDOT with details and design calculations sealed by a Professional Engineer for approval prior to construction. A list of approved structures may be obtained from NCDOT Design Services at 919-250-4128.

38. Locating tape or detection wire shall be installed with non-ferrous pipelines.

39. The encroaching party shall contact Justin Bullock, P.E., County Maintenance Engineer at (919) 724-3431 for inspection of forms or grade line prior to placing concrete for curb and gutter. A minimum of 24 hours notice is required for inspections.

40. All disturbed soil areas shall be promptly seeded and mulched. The encroaching party shall obtain the District Engineer's approval of ditch and shoulder grading prior to seeding and mulching.

41. All earth areas shall be regraded, seeded and mulched in accordance with Section 1660 of the **NCDOT Standard Specifications for Roads and Structures 2006**. Final determination of soil type shall be made by the Engineer. The following rates in pounds per acre apply:

- *YEAR ROUND MIXTURE (Sandy Soils)*
  KY 31 Tall Fescue or Alta Tall Fescue – 50 pounds
  Pensacola Bahiagrass – 50 pounds
  Centipede – 5 pounds
  Fertilizer (10-20-20 analysis) – 500 pounds
  Limestone – 4000 pounds

- *YEAR ROUND MIXTURE (Clay Soils)*
  KY 31 Tall Fescue or Alta Tall Fescue – 100 pounds
  Kenblue Bluegrass – 15 pounds
  Fertilizer (10-20-20 analysis) – 500 pounds
  Limestone – 4000 pounds

- Add 10 pounds of Kobe or Korean Lespedeza and 10 pounds of Millet to the above mixture from May 1 to August 31.
- On cut and fill slopes 2:1 or steeper, add 30# Sericea Lespedeza from January 1 to December 31.
- Fertilizer shall be 10-20-20 analysis. Upon written approval of the Engineer, a different analysis may be used provided the 1-2-2 ratio is maintained and the rate of application is adjusted to provide the same amount of plant food as a 10-20-20 analysis.

42. The encroaching party or any agent acting on behalf of the encroaching party shall exercise care and provide any and all necessary measures and precautions to preserve and protect existing landscaping and roadside plantings within the right of way. Existing landscaping and landscape plantings shall not be disturbed unless approved by the NCDOT Division 8 Roadside Environmental Engineer. All costs associated with restoration or replacement of landscaping or landscape plantings damaged or destroyed by the encroaching party or its agents shall be the responsibility of the encroaching party.

43. In the event it is determined that there is a conflict between the existing landscaping or landscape plantings and the proposed utility installation, the encroaching party or any agent acting on behalf of the encroaching party shall not proceed until the Division 8 Roadside Environmental Engineer has been notified and the conflict has been resolved to his satisfaction.

44. The Division 8 Roadside Environmental Engineer can be contacted as follows:

Roadside Environmental Engineer
902 N. Sandhills Boulevard
P. O. Box 1067Aberdeen, NC 28315
(910-944-2344)

45. The encroaching party shall assume all responsibility, obligation, and liability for maintenance of the structure permitted under this encroachment agreement. This condition shall be conveyed in any future buy, lease, sell or rental agreement. In the event that the encroaching party or any future responsible party should fail to satisfy this condition, NCDOT reserves the right close or remove the structure.

46. The utility proposed under this agreement shall be placed at or near the existing right of way line at a location acceptable to the District Engineer.

47. The following minimum dimensions shall apply where the method of installation is directional drilling or boring:

- Depth below ground surface for parallel installations -4'
- Depth below any ditch line -5'
- Depth under Interstate and Controlled Access Facilities -15'
- Depth under all other roadways -10'

48. Notify **Justin Bullock, P.E., County Maintenance Engineer, 1404 E Raleigh St, Siler City, NC 27344 (919) 724-3431,** prior to beginning work. The encroaching party shall provide the District Engineer with the following information at least 3 working days prior to commencing operations:

- Proposed schedule of operations
- The name(s) and phone number(s) of project contact person(s).
- Tentative locations where directional bores will commence and terminate.

49. All activities or operations approved under this agreement which fall within the project limits or contract period of any active NCDOT project shall require a waiver from the prime Contractor for the NCDOT project, granting the encroaching party access within the project and releasing NCDOT from claims against NCDOT by the prime Contractor resulting from the encroaching party's operations or activities. The NCDOT project shall have precedence and priority over all others.

50. The proposed utility shall be placed at a minimum depth of 2 feet below the adjacent pavement elevation and shall not be closer than 3 feet from the edge of pavement.

ROUTE SR 1526 PROJECT Briar Chapel Reuse Main COUNTY OF Chatham STATE OF NORTH CAROLINA

ENL# 19.3863

DEPARTMENT OF TRANSPORTATION

-AND-

Briar Chapel Utilities, LLC
16 Windy Knoll Circle, Chapel Hill NC 27516

RIGHT OF WAY ENCROACHMENT AGREEMENT
PRIMARY AND SECONDARY HIGHWAYS

THIS AGREEMENT, made and entered into this the 27 day of October 2011, by and between the Department of Transportation, party of the first part; and Briar Chapel Utilities, LLC party of the second part.

WITNESSETH

THAT WHERAS, the party of the second part desires to encroach on the right of way of the public road designated as Route SR 1526, located 0.10 miles south of intersection of SR 1526/SR 1528 Intersection with the construction and/or erection of: 60 lf of 6" Irrigation Main within a 12" Steel Casing and Appurtenances.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment with in the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Division Engineer or State Utility Agent of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Division Engineer of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the round surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

During the performance of this contract, the second party, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

a. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U. S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

b. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

c. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the

contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d Information and Reports The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

(1) withholding of payments to the contractor under the contract until the contractor complies, and/or
(2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and ar first above written.

DEPARTMENT OF TRANSPORTATION
BY: [signature]
DIVISION ENGINEER STR

TEST OR WITNESS:

ıar Chapel Utilities, LLC

I Mumford [signature] ASST SECRETARY

Windy Knoll Circle, Chapel Hill NC 27516

[signature]
KEITH HUBAND
VICE PRESIDENT
Second Party

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered city official, unless a waiver of corporate seal and attestation by the secretary or by the empowered City official is on file in the Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

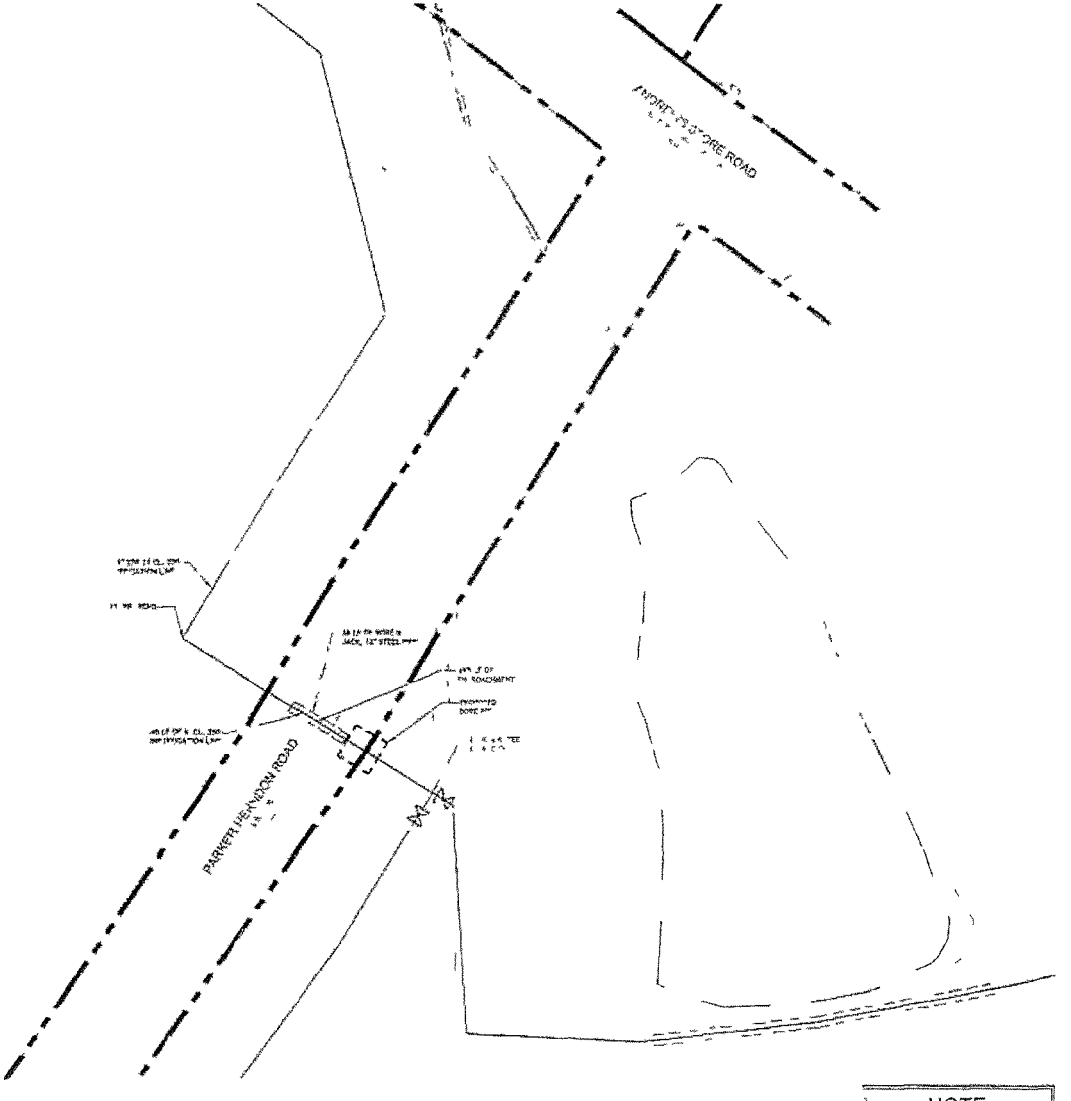
This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

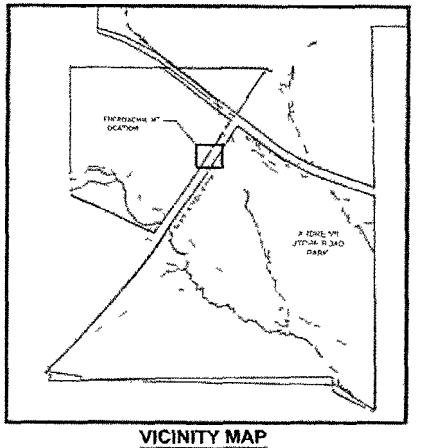
1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the existing and/or proposed encroachment.
4. Length, size and type of encroachment.
5. Method of installation.
6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, etc.
7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office.)
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure).
9. Method of attachment to drainage structures or bridges.
10. Manhole design.
11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
14. Location of vents

GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Head of Structure Design in Raleigh prior to submission of encroachment agreement to the Division Engineer.
2. All crossings should be as near as possible normal to the centerline of the highway
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Department
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Department.
7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
8. The Department's Division Engineer should be given notice by the applicant prior to actual starting of installation included in this agreement.

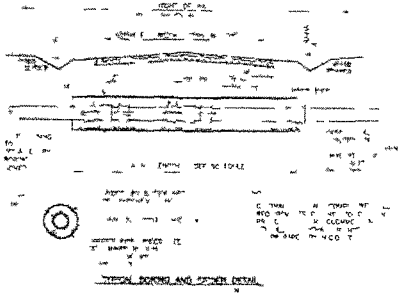
R/W (161) : Party of the Second Part certifies that this agreement is true and accurate copy of the form R/W (161) incorporating all revisions to date.





VICINITY MAP

NTS



TYPICAL BORING AND PITCHER DETAIL

GENERAL CONSTRUCTION NOTES

EXISTING UNDERGROUND STRUCTURE AND UTILITIES SHOWN ARE BASED ON FIELD SURVEY, SANITARY SEWER AVAILABLE RECORD DRAWINGS. THE CONTRACTOR IS ALL FIELD VERIFY CONDITIONS INCLUDING THE HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES PRIOR TO STARTING CONSTRUCTION AND NOTIFY THE ENGINEER OF ANY DISCREPANCIES.

2. THE CONTRACTOR SHALL CONTACT NORTH CAROLINA ONE CALL AT 1-800-632-4949 AND CHATHAM COUNTY UTILITIES. THE CONTRACTOR SHALL CALL AT LEAST 48 HOURS PRIOR TO ANY DIGGING.

3. ALL WORK WITHIN THE N.C.D.O.T. RIGHT-OF-WAY SHALL CONFORM TO STANDARDS AND SPECIFICATIONS.

4. ALL [illegible] SHALL BE [illegible]

FINAL DRAWINGS
NOT RELEASED
FOR CONSTRUCTION

NOTE

All irrigation pipe shall be laid to the inside of the house irrigation system.

The header is "Hydrolite" with Storm Drain and Erosion Control and Rainbird Sewer protection system have been designed by others.

NORTH

SCALE 1"=30'

STOP!
BEFORE YOU DIG CALL
THE NC ONE CALL CENTER
1 800 632 4949
IT'S THE LAW!

CE GROUP

BRIAR CHAPEL
ENCROACHMENT EXHIBIT
FALL 2011 IRRIGATION IMPROVEMENTS
PARKER HERNDON ROAD
CHATHAM COUNTY, NORTH CAROLINA

OCTOBER 2011

1

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

NEW-10010
O'Daniel, Deane

BEVERLY EAVES PERDUE
GOVERNOR

DIVISION OF HIGHWAYS

EUGENE A. CONTI, JR.
SECRETARY

March 8, 2011

NNP Briar Chapel, LLC
c/o Mr. Bill Mumford
16 Windy Knoll Circle
Chapel Hill, North Carolina 27516

SUBJECT: ENCROACHMENT AGREEMENT (19.3806)
Installation of 3" PVC Force Main
SR 1526
Chatham County

Dear Mr. Mumford:

Attached is a properly executed copy of a Right of Way Encroachment Agreement which covers the following:

Installation of 3" force main on SR 1526 in Chatham County, and any associated pre-construction work.

This agreement is approved subject to the Special Provisions and plans which are attached to and made a part of the Encroachment Agreement. Any work associated with the subject project permitted under an NCDOT approved Driveway Permit shall be completed in accordance with this Encroachment Agreement.

Sincerely,

Timothy Johnson, P.E.
Division Engineer

JTR

Attachments
cc: Robert Memory, State Utility Agent, Utility Coordination Unit (w/orig.)
Reuben E. Blakley, P.E., District Engineer
Benny Sloan, E.I., Chatham County Maintenance Engineer
Todd O'Daniel, P.E, The John R. McAdams Company, INC
Charlie Horne, Chatham County Manager
File (19.3806)

P. O. BOX 1067, ABERDEEN, NC 28315 PHONE (910) 944-2344 FAX (910) 944-5623

ROUTE SR 1526 PROJECT ENC# 19.3806 COUNTY OF Chatham

STATE OF NORTH CAROLINA

DEPARTMENT OF TRANSPORTATION

-AND-

NNP-Briar Chapel, LLC

RIGHT OF WAY ENCROACHMENT AGREEMENT
PRIMARY AND SECONDARY HIGHWAYS

THIS AGREEMENT, made and entered into this the 8 day of MARCH 20 11 by and between the Department of Transportation, party of the first part; and NNP-Briar Chapel, LLC party of the second part,

WITNESSETH

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route(s) Andrews Store Road - S. R. 1526, located Approximately 1.1 miles west of US15-501/Andrews Store Road Intersection

with the construction and/or erection of: 109 total LF of 3" PVC Force Main across Andrews Store Road including approximately 63 LF of 3" PVC Force Main through an existing 8" steel encasement pipe.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest POLICIES AND PROCEDURES FOR ACCOMMODATING UTILITIES ON HIGHWAY RIGHTS-OF-WAY, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Division Engineer or State Utility Agent of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

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That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

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and leases of equipment The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

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d Information and Reports. The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information

e. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to,

(1) withholding of payments to the contractor under the contract until the contractor complies, and/or
(2) cancellation, termination or suspension of the contract, in whole or in part.

f. Incorporation of Provisions: The contractor shall include the provisions of paragraphs "a" through "f" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

R/W (161) : Party of the Second Part certifies that this agreement is true and accurate copy of the form R/W (161) incorporating all revisions to date.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

DEPARTMENT OF TRANSPORTATION

BY: _____
DIVISION ENGINEER JTR

ATTEST OR WITNESS:

_____
G. Lee Bowman, Project Manager

NNP-Briar Chapel, LLC

Bill Mumford _____

Assistant Vice-President
Second Party

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered city official, unless a waiver of corporate seal and attestation by the secretary or by the empowered City official is on file in the Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

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This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the existing and/or proposed encroachment.
4 Length, size and type of encroachment.
5 Method of installation.
6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, etc.
7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office)
8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure)
9 Method of attachment to drainage structures or bridges
10. Manhole design.
11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
12. Length, size and type of encasement where required.
13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
14. Location of vents.

GENERAL REQUIREMENTS

1. Any attachment to a bridge or other drainage structure must be approved by the Head of Structure Design in Raleigh prior to submission of encroachment agreement to the Division Engineer.
2 All crossings should be as near as possible normal to the centerline of the highway.
3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
5. All vents should be extended to the right of way line or as otherwise required by the Department.
6. All pipe encasements as to material and strength shall meet the standards and specifications of the Department.
7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings
8. The Department's Division Engineer should be given notice by the applicant prior to actual starting of installation included in this agreement.

ENCROACHMENT SPECIAL PROVISIONS

NNP Briar Chapel, LLC
19.3806 (Chatham County)

Approval of the encroachment agreement is made subject to the following Special Provisions:

1. Changes noted in red on the plans shall be incorporated into and made a part of the encroachment agreement. An executed copy of the encroachment agreement shall be available at the construction site at all times. NCDOT reserves the right to stop all work unless evidence of approval can be shown.

2. Notify the following prior to beginning work:

   - ***Benny Sloan, Maintenance Engineer***
     1404 E Raleigh St.
     Siler City, NC 27344
     (919)724-3431

3. The Encroaching Party shall comply with all applicable federal, state and local environmental regulations, and shall obtain all necessary federal, state and local environmental permits, including but not limited to, those related to sediment control, stormwater, wetland, streams, endangered species, and historical sites.

4. All materials and construction shall be in accordance with NCDOT standards and specifications, including but not limited to the **NCDOT Standard Specifications for Roads and Structures 2006**, the **NCDOT Roadway Standards Drawings**, and **NCDOT Policies and Procedures for Accommodating Utilities on Highway Rights of Way.**

5. It shall be the responsibility of the Encroacher to determine the location of other utilities within the encroachment area in accordance with General Statute 87-102. The Encroacher shall be responsible for notifying other utility owners and providing protection and safeguards to prevent damage or interruption to existing facilities and to maintain accessibility to existing utilities. Costs to repair, restore, or relocate existing utilities due to this encroachment shall be the responsibility of the encroaching party.

6. NCDOT does not guarantee the Right of Way on this road, nor will it be responsible for any claim for damages brought by any property owner by reason of this encroachment. All Right of Way and easements necessary for construction and maintenance shall be dedicated to NCDOT with the proof of dedication furnished to the District Engineer prior to beginning work. Encroachment within the Right of Way does not imply approval for encroachment onto adjacent property. The Encroacher shall be responsible for securing any easement, permit, permission, or approval for encroachment or other use of property outside the state maintained right of way. Right of Way monuments disturbed during construction shall be referenced by a Professional Land Surveyor and reset immediately after construction.

7. The encroaching Party shall take whatever measures are necessary to minimize soil erosion and siltation, water pollution, and air pollution. It shall be the responsibility of the Encroaching Party to keep fully informed to comply with the applicable regulations of all legally constituted authorities relating to pollution prevention and control. In the event of conflict between regulations, specifications, or requirements, the more restrictive requirement shall apply. All erosion and pollution control devices and measures shall be constructed, installed, maintained and removed by the encroaching party in accordance with all applicable Federal, State and Local laws, regulations, ordinances, and policies. No construction shall begin until all erosion control devices have been installed to the satisfaction of the District Engineer. Failure to comply with this provision shall be grounds for immediate suspension of all activities within the Right of Way.

8. Effective July 1, 2010, all flagging operation within NCDOT Right of Way require qualified and trained Work Zone Flaggers. Effective July 1, 2011, qualified and trained Work Zone Traffic Control Supervisors will be required on Significant Projects. Training for this certification is provided by NCDOT approved training sources and by private entities that have been pre-approved to train themselves. If you have question, contact our web site at http://www.ncdot.org/doh/preconstruct/wztc/WZTCTrainingProgram/default.html , or contact Joseph Ishak, P.E., Central WZTC Engineer with Central WZTC Region (Divisions 5, 7 - 9) at (919) 250-4159 ext. 217 or jishak@ncdot.gov.

9. The encroaching party shall provide an inspector acceptable to the District Engineer for the work to be performed under this agreement. All costs and expenses for inspection shall be the responsibility of the

encroaching party. The inspector's name, telephone and qualifications shall be provided in writing to the District Engineer prior to beginning construction.

10. Storage of materials or equipment within the Right of Way is prohibited. During non-working hours, equipment shall be parked as close to the right of way line as possible and shall be properly barricaded so that no equipment obstruction shall be within the Clear Recovery Area.

11. Construction equipment or vehicles shall not be parked on the pavement or roadway shoulder.

12. Construction is authorized to be performed on Monday through Friday during the hours between sunrise and sunset.

13. No lane(s) of traffic shall be closed or alteration of the traffic flow will be allowed on or during holidays, holiday weekends, special events, and/or any other time when traffic is unusually heavy. Holidays and holiday weekends shall include, but not be limited to Easter, Memorial Day, Independence Day, and Labor Day.

14. The encroaching party may delegate the performance of certain provisions of this agreement to contractors or other parties. However, this shall not in any way release the encroaching party from its obligations to the terms and provisions of the encroachment.

15. The Encroaching Party shall provide certification signed by a licensed Professional Engineer verifying that construction meets NCDOT design requirements. Certification shall include the following:

    - Subgrade density
    - Base and pavement thickness by type
    - Stone Base density
    - Core and test locations

16. The Encroaching Party shall provide the District Engineer with "as-built" plans upon completion of the installation.

17. Written notification shall be provided to the District Engineer upon completion of the work proposed under this agreement. Materials test frequencies and methods shall be in conformance with the NCDOT Materials and Tests guidelines, or as directed by NCDOT. A letter of approval, or recommendations for compliance, will be provided upon receipt and review of test reports.

18. The encroaching party or the contractor(s) for the encroaching party may request a written letter stating that the encroachment has been satisfactorily completed by making a request in writing to the appropriate County Maintenance Engineer. The letter of completion does not relieve the encroaching party from any obligations or responsibilities under the terms and provisions of the encroachment or from obligations or responsibilities for making repairs needed for a reasonable time period.

19. The traveling public shall be warned of construction with complete and proper signing and traffic control devices in accordance with the current **Manual on Uniform Traffic Control Devices (MUTCD)**. No work shall be performed in the Right of Way unless this requirement is satisfied. NCDOT reserves the right to require a written traffic control plan for encroachment operations. Traffic control devices and operations shall include, but are not limited to the following:

    - Adequate and appropriate advance warning signs for any and all work zones/closed or obstructed areas.
    - "End Construction" signage beyond the end of all work zones.
    - Adequate and appropriate delineation and control devices for all work zone areas including but not limited to lane closures, disturbed areas, and active work sites.
    - Properly trained and equipped flagmen/women.
    - Proper maintenance of all traffic control devices, including but not limited to proper signage and controls during periods of inactivity and removal of inappropriate traffic control signage and/or devices.

20. The Encroacher agrees to provide traffic control devices, lane closures, road closures, positive protection and/or any other warning or positive protection devices necessary for the safety of road users during construction and any subsequent maintenance. This shall be performed in conformance with the latest NCDOT Roadway Standard Drawing and Standard Specifications for Roads and Structures and Amendments or Supplements

thereto. When there is no guidance provided in the Roadway Standard Drawings or Specifications, comply with the Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplement thereto. Information as to the above rules and regulations may be obtained from the Division Engineer.

21. Traffic shall not be detoured or rerouted without the prior written approval of the Division Engineer. Two-way traffic shall be maintained at all times.

22. In the event work is completed in less time than permitted, the normal traffic pattern shall be restored as soon as the work has been completed.

23. The Traffic Services Supervisor shall be notified at (910) 947-3930 in Carthage, NC, prior to beginning work on the Right of Way if there are existing NCDOT signs, traffic signals, or signal equipment in or near the proposed work zone. Costs to relocate, replace, or repair NCDOT signs, signals, or associated equipment shall be the responsibility of the Encroacher.

24. Access to the site covered under this agreement shall remain closed (i.e. barricaded) to traffic until all requirements relating to traffic control and signalization have been satisfied.

25. Ingress and egress shall be maintained to businesses and dwellings. Driveways altered during construction shall be restored to a condition equal to that prior to beginning construction.

26. Excavated material shall not be placed on the paved roadway surface at any time unless specifically approved by the District Engineer. Drainage structures shall not be blocked with excavated material at any time.

27. Trenches/excavations/bore pits shall not remain open longer than a 24 hour period. No trench/excavation/bore pit shall be left open overnight except in the event of emergency, in which case the encroacher shall notify the District Engineer and inform him as to the nature and anticipated duration of the emergency. Any excavation left open overnight due to emergency shall be protected and delineated with complete, adequate and appropriate safety and traffic control devices.

28. All backfill shall meet the Statewide Borrow Criteria and shall be placed in accordance with section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006**. Backfill material shall be free from rocks and debris placed in six inch loose layers and compacted to at least 95% of standard density as determined by AASHTO Method T-99 as modified by NCDOT, except that backfill material placed within eight (8) inches of the pavement subgrade shall be compacted to 100% of standard density. (Copies of these testing procedures are available on request from the NCDOT Materials and Tests Unit.) Each layer must be fully compacted by an approved mechanical tamp before the next layer is placed.

29. Excavated areas adjacent to pavement having more than a 2 inch drop shall be backfilled and made safe with a 6:1 or flatter slope and shall be designated by appropriate delineation during periods of construction inactivity including, but not limited to, night and weekend hours.

30. When burying around the end of a pipe, culvert, or bridge, the utility shall be located a minimum of five (5) feet from the nearest part of the pipe, culvert, or bridge, and buried to a minimum depth of five (5) feet below the stream bed. At points where the utility is placed under existing storm drains by trenching, the trench shall be backfilled with Class M concrete up to the outside diameter of the existing pipe.

31. All excavations inside the theoretical 1:1 slope from the existing edge of pavement to the bottom of the nearest trench wall shall be made in accordance with the following conditions:

    - Traffic shall be moved to a travel lane outside the limits of a theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface.
    - Active excavation shoring such as sheet piling shall be installed. The design of the shoring shall include the effects of traffic loads. The design shall be designed and sealed by an engineer registered in North Carolina. Shoring plans and design calculations shall be submitted to the Division Engineer for review prior to construction. **Trench boxes shall not be accepted as positive shoring.**
    - The trench backfill shall meet the Statewide Borrow Criteria. The trench shall be backfilled in accordance with Section 300-6 of **NCDOT Standard Specifications for Roads and Structures 2006.**
    - At the first sign of trench failure, the trench shall be immediately backfilled with materials consisting of A-1, A-3, A-2-4 soils or A-4 soils having a maximum of 45% passing a No. 200 sieve and a maximum P.I. of 6. All work shall cease and the Division Engineer shall be contacted. The Encroaching party or contractor shall repair any damage to the pavement caused by the excavation.

- All trench excavation inside the limits of the theoretical 1:1 slope from the bottom of the nearest trench wall to the pavement surface shall be completely backfilled and compacted at the end of each construction day. No portion of the trench shall be left open overnight.
- The length of parallel excavation shall be limited to the length necessary to install and backfill on joint of pipe at a time, not to exceed twenty five (25) feet.

32. Drainage structures and systems shall be preserved and protected. Any structure which is disturbed or damaged during construction shall be immediately restored to its original condition at no expense to the Department of Transportation. All utility installations shall be designed and constructed so as not to hinder, disrupt or interfere with existing storm drainage. All facilities shall pass over or under highway drainage facilities.

33. The dry bore method of boring shall be utilized and made perpendicular to the roadway. Any bore exceeding 6 inches shall be encased. Encasements shall extend from ditch line to ditch line in cut sections, 5 feet beyond toe of slope in fill sections, and 3 feet behind curb sections. When the directional boring method is used an overbore shall not be more than two (2") inches greater than the diameter of the pipe encasement. An overbore exceeding two (2") inches greater than the diameter of the pipe or encasement will be considered if the encroachment agreement includes a statement signed and sealed by a North Carolina Registered Professional Engineer indicating that an overbore in excess of two (2") inches of the pipe or encasement will arch and no damage will be done to the pavement or subgrade.

34. At points where the utility is placed under existing storm drains the trench shall be backfilled with Class B concrete up to the outside diameter of the existing pipe.

35. The grade of top of pipe or casing, including services, shall provide the following minimum bury:

- Crossing under roadways - 3 feet from pavement surface
- Longitudinal installations - 3 feet from finished grade
- Crossing under ditches - 2 feet from ditch line

36. All service connections shall be bored unless construction is of ductile iron or equal quality material with satisfactory leakproof joints.

37. All blow-off valves, vaults, manholes and other appurtenances within the NCDOT right of way shall be located behind the ditch and at the right of way line. Manholes and/or vaults shall not be placed in the ditch line, side slopes of ditches or in the pavement.

38. All manholes and/or vaults shall be of an NCDOT pre-approved design. Manholes or vaults shall be designed for HS-20 live loads and conform to the **NCDOT Standard Specifications for Roads and Structures 2006**, the **NCDOT Roadway Standards Drawings**. Any proposed structure which is not of a design pre-approved by NCDOT shall be submitted to NCDOT with details and design calculations sealed by a Professional Engineer for approval prior to construction. A list of approved structures may be obtained from NCDOT Design Services at 919-250-4128.

39. Manhole rings and covers and valve covers shall be a traffic bearing type designed for HS-20 loading and approved for use within NCDOT right of ways. All such appurtenances shall be installed flush to or below the surface of the ground in such a manner that they do not pose obstacles or obstructions to pedestrians, vehicles, equipment, or roadway maintenance operations.

40. All vaults, manholes and other appurtenances within the NCDOT right of way shall be located behind the ditch and at the right of way line. Manholes and/or vaults shall not be placed in the ditch line, side slopes of ditches or in the pavement.

41. Locating tape or detection wire shall be installed with non-ferrous pipelines.

42. The encroaching party shall contact Benny Sloan, County Maintenance Engineer at (919) 724-3431 for inspection of forms or grade line prior to placing concrete for curb and gutter. A minimum of 24 hours notice is required for inspections.

43. All disturbed soil areas shall be promptly seeded and mulched. The encroaching party shall obtain the District Engineer's approval of ditch and shoulder grading prior to seeding and mulching.

44. All earth areas shall be regraded, seeded and mulched in accordance with Section 1660 of the **NCDOT Standard Specifications for Roads and Structures 2006**. Final determination of soil type shall be made by the Engineer. The following rates in pounds per acre apply:

- *YEAR ROUND MIXTURE (Sandy Soils)*
  KY 31 Tall Fescue or Alta Tall Fescue – 50 pounds
  Pensacola Bahiagrass – 50 pounds
  Centipede – 5 pounds
  Fertilizer (10-20-20 analysis) – 500 pounds
  Limestone – 4000 pounds

- *YEAR ROUND MIXTURE (Clay Soils)*
  KY 31 Tall Fescue or Alta Tall Fescue – 100 pounds
  Kenblue Bluegrass – 15 pounds
  Fertilizer (10-20-20 analysis) – 500 pounds
  Limestone – 4000 pounds

- Add 10 pounds of Kobe or Korean Lespedeza and 10 pounds of Millet to the above mixture from May 1 to August 31.

- On cut and fill slopes 2:1 or steeper, add 30# Sericea Lespedeza from January 1 to December 31.

- Fertilizer shall be 10-20-20 analysis. Upon written approval of the Engineer, a different analysis may be used provided the 1-2-2 ratio is maintained and the rate of application is adjusted to provide the same amount of plant food as a 10-20-20 analysis.

45. The encroaching party or any agent acting on behalf of the encroaching party shall exercise care and provide any and all necessary measures and precautions to preserve and protect existing landscaping and roadside plantings within the right of way. Existing landscaping and landscape plantings shall not be disturbed unless approved by the NCDOT Division 8 Roadside Environmental Engineer. All costs associated with restoration or replacement of landscaping or landscape plantings damaged or destroyed by the encroaching party or its agents shall be the responsibility of the encroaching party.

46. In the event it is determined that there is a conflict between the existing landscaping or landscape plantings and the proposed utility installation, the encroaching party or any agent acting on behalf of the encroaching party shall not proceed until the Division 8 Roadside Environmental Engineer has been notified and the conflict has been resolved to his satisfaction.

47. Upon completion of the work authorized under this agreement, the encroaching party shall notify the Division 8 Roadside Environmental Engineer for inspection of the work to verify that landscaping and landscape plantings are acceptable. No bonds shall be released until this requirement has been satisfied.

48. The Division 8 Roadside Environmental Engineer can be contacted as follows:

Roadside Environmental Engineer
902 N. Sandhills Boulevard
P. O. Box 1067Aberdeen, NC 28315
(910-944-2344)

49. The encroaching party shall assume all responsibility, obligation, and liability for maintenance of the structure permitted under this encroachment agreement. This condition shall be conveyed in any future buy, lease, sell or rental agreement. In the event that the encroaching party or any future responsible party should fail to satisfy this condition, NCDOT reserves the right close or remove the structure.

50. The utility proposed under this agreement shall be placed at or near the existing right of way line at a location acceptable to the District Engineer.

51. Notify **Benny Sloan, County Maintenance Engineer, 1404 E Raleigh St, Siler City, NC 27344 (919) 724-3431,** prior to beginning work. The encroaching party shall provide the District Engineer with the following information at least 3 working days prior to commencing operations:

- Proposed schedule of operations
- The name(s) and phone number(s) of project contact person(s).
- Tentative locations where directional bores will commence and terminate.

52. All activities or operations approved under this agreement which fall within the project limits or contract period of any active NCDOT project shall require a waiver from the prime Contractor for the NCDOT project, granting the encroaching party access within the project and releasing NCDOT from claims against NCDOT by the

prime Contractor resulting from the encroaching party's operations or activities. The NCDOT project shall have precedence and priority over all others

SCHEDULE 14

Notices of Termination, Defaults, or Claims

(See attached)

SCHEDULE 15

Wastewater Covenants and Restrictions

(See attached)

FILED
CHATHAM COUNTY NC
TREVA B. SEAGROVES
REGISTER OF DEEDS

FILED	Nov 13, 2012
AT	02:43:26 pm
BOOK	01652
START PAGE	0182
END PAGE	0195
INSTRUMENT #	12113
EXCISE TAX	(None)

BOOK 1652 PAGE 0182

Prepared by / Upon recording, please return to:
Jo Anne P. Stubblefield
Hyatt & Stubblefield, P.C.
1200 Peachtree Center, South Tower
225 Peachtree Street, N.E.
Atlanta, GA 30303

NOTE TO CLERK: Please Cross-Reference to:
Declaration at Book 1372
Page 884
Community Covenant at Book 1372
Page 996

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND SUPPLEMENT TO THE COMMUNITY COVENANT FOR BRIAR CHAPEL

(PHASE 6 SOUTH)

This Supplemental Declaration of Covenants, Conditions and Restrictions and Supplement to the Community Covenant for Briar Chapel ("**Supplement**") is made this 13 day of November, 2012 by NNP-Briar Chapel, LLC, a Delaware limited liability company (the "**Declarant**").

Background Statement

The Declarant is the developer of the planned community located in Chatham County, North Carolina known as Briar Chapel. The Declarant executed and filed that certain Declaration of Covenants, Conditions, and Restrictions for Briar Chapel recorded November 16, 2007 in Deed Book 1370, Page 1020, *et seq.*, and re-recorded November 28, 2007 in Deed Book 1372, Page 884, *et seq.*, in the Office of the Register of Deeds of Chatham County, North Carolina, which has been amended by those instruments recorded in the Office of the Register of Deeds of Chatham County, North Carolina on June 12, 2009 in Deed Book 1465, Page 482, *et*

seq. ("**First Amendment**"), on June 19, 2009 in Deed Book 1466, Page 675, *et seq.* ("**Second Amendment**"), on August 20, 2010 in Deed Book 1525, Page 464, *et seq.* ("**Third Amendment**"), on January 19, 2011 in Deed Book 1550, Page 121, *et seq.* ("**Fourth Amendment**"), and on June 18, 2012 in Deed Book 1626, Page 53, *et seq.*, ("**Fifth Amendment**") (as now and hereafter amended and supplemented, the "**Declaration**"). The Declarant also executed and filed that certain Community Covenant for Briar Chapel recorded on November 28, 2007 in Deed Book 1372, Page 996, *et seq.*, in the Office of the Register of Deeds of Chatham County, North Carolina, which has been amended by that instrument recorded on November 15, 2010 in Deed Book 1539, Page 660, *et seq.* in the Office of the Register of Deeds of Chatham County, North Carolina (as it may be amended and supplemented, the "**Covenant**")

Pursuant to Sections 9.1 and 9.3 of the Declaration, the Declarant reserved the right to expand the Briar Chapel community by recording one or more Supplemental Declarations submitting to the terms of the Declaration all or any portion of the property described on Exhibit "B" of the Declaration ("**Expansion Property**") and/or to impose on such property additional covenants and easements, with the consent of the owner of such property (if not the Declarant).

Pursuant to the Section 4.1 of the Community Covenant, the Declarant may, with the consent of the owner thereof, submit all or any portion of the Expansion Property described on Exhibit "B" of the Community Covenant to the terms of the Community Covenant and/or impose additional covenants and easements on such property.

The property described on Exhibit "A" to this Supplement (the "**Additional Property**") is a portion of the Expansion Property described on Exhibit "B" to the Declaration and Exhibit "B" to the Community Covenant.

As the owner of the Additional Property, the Declarant desires to submit such the Additional Property to the terms of the Declaration, the Community Covenant, and this Supplement.

NOW, THEREFORE, the Declarant hereby submits the real property described on Exhibit "A" of this Supplement to the provisions of the Declaration, the Community Covenant, and this Supplement, which shall hereafter encumber the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplement shall also be binding upon Briar Chapel Community Association, Inc., a North Carolina nonprofit corporation (the "**Association**") and Briar Chapel Community Council, Inc., a North Carolina nonprofit corporation (the "**Council**"), in accordance with the terms of the Declaration and the Community Covenant.

ARTICLE I
Definitions

The definitions set forth in Article II of the Declaration are incorporated by reference in this Supplement.

ARTICLE II
Designation of Service Areas

Pursuant to Section 7.3 of the Declaration, portions of the Additional Property have been assigned to the Service Area(s) designated on Exhibit "A" to this Supplement.

ARTICLE III
Additional Covenants, Restrictions and Easements

The additional covenants, restrictions and easements, if any, set forth in Exhibit "B" of this Supplement shall apply to the Additional Property and shall be binding upon the owners and occupants of Units within the Additional Property, their guests and invitees, in addition to the terms of the Declaration, except to the extent that applicability is limited by the express terms of Exhibit "B" to Units within a Service Area identified on Exhibit "A".

ARTICLE IV
Amendment

4.1 By the Declarant.

Until termination of the Class "B" Control Period, the Declarant may unilaterally amend this Supplement for any purpose. Thereafter, until termination of the Development and Sale Period, the Declarant may unilaterally amend this Supplement to reflect any revisions or amendments to any plats referenced on Exhibit "A," and, provided the amendment has no material adverse effect upon any right of any Owner without such Owner's consent in writing, for any other purpose.

Notwithstanding this reserved right, a revision or amendment to a plat shall not require an amendment to this Supplement so long as no property is added or excluded from the plat by the revision or amendment thereto. The Declarant reserves the right to record revised, amended, or additional plats that only affect internal boundaries between lots, combine lots, or subdivide lots shown on the original plat and, so long as they do not alter the overall property submitted to the Declaration by this Supplement, such revised, amended or additional plats shall not necessitate an amendment to this Supplement.

4.2. By Owners.

Except as otherwise specifically provided in this Article IV, any amendment to the provisions set forth on Exhibit "B" of this Supplement shall require the affirmative vote or written consent, or any combination thereof, of Owners of at least 67% of the Units within the Service Area to which such provisions apply, and the written consent of the Association, acting through its board of directors. Any other amendment to this Supplement may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of at least 67% of the Units within the Additional Property and the written consent of the Association, acting through its board of directors. In addition, so long as the Declarant owns any Unit within the

Additional Property, the consent of the Declarant shall be required to amend this Supplement in any manner.

4.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or without the written consent of the Declarant (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Supplement, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. No action to challenge the validity of an amendment may be brought more than two years after its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Supplement.

In witness of the foregoing, the Declarant has executed this Supplement on the 13 day of November, 2012.

DECLARANT: **NNP-BRIAR CHAPEL, LLC**, a Delaware limited liability company

By: _____
Name: Kevin C. Graham
Its: Assistant Vice President

STATE OF NORTH CAROLINA)
)
COUNTY OF Chatham)

I, Selina R. Day, a Notary Public in and for Durham County, North Carolina, certify that Kevin C. Graham personally came before me this day and acknowledged that he is Assistant Vice President of NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company, and that by authority duly given and as a fact of said limited liability company, he executed the foregoing instrument on behalf of said limited liability company.

Witness my hand and official stamp or seal, this 13 day of November, 2012.

_____
Notary Public

My Commission Expires:
August 30, 2014

[NOTARY SEAL]

SELINA R. DAY
NOTARY
PUBLIC
DURHAM COUNTY, N.C.

530402/cadocs/ Supp Decl – Ph 6 So/103112/jps

EXHIBIT "A"

Additional Property

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Baldwin Township, Chatham County, North Carolina, and being more particularly described on that certain Subdivision, Easement Dedication and Right-of-Way Dedication Plat of Briar Chapel Phase 6 South recorded on October 10, 2012, in Plat Book 2012, Pages 173-177, as Instrument No.10742, in the office of the Register of Deeds of Chatham County, North Carolina, as such plat may be revised from time to time (the "**Plat**");

Lots 674 through 778, inclusive, shown on such plat being hereby assigned to **Single Family Service Area No. 2.**

EXHIBIT "B"

Additional Covenants, Restrictions, and Easements

1. **Maximum Permitted Building Area**. Pursuant to Section 16.8 of the Declaration, as amended by the Fourth Amendment, Exhibit "F" of the Declaration shall be supplemented to include the following information for Units within the Additional Property:

Maximum Permitted Building Area

Record Plat Slide/Page*	Record Plat Lot No.	Maximum Impervious Area	Water Quality Pond No.
2012/0173	641	3,000	10
"	642	2,400	10
"	643	2,400	10
"	644	2,400	10
"	645	2,400	10
"	646	2,400	10
"	647	2,400	10
"	648	2,400	10
"	649	2,400	10
"	650	2,400	10
"	651	2,400	10
"	652	2,400	10
"	653	2,400	10
"	654	2,400	10
"	655	2,400	10
"	656	2,400	10
"	657	2,400	10
"	658	2,400	10
"	659	3,000	10
"	660	3,000	10
"	661	3,000	10
"	662	3,000	10
"	663	3,000	10
"	664	3,000	10
"	665	3,000	10
"	666	3,000	10
"	667	3,000	10
"	668	3,000	10
"	669	3,000	10
"	670	3,000	10
"	671	3,000	10
"	672	3,000	10
"	673	3,000	10

Record Plat Slide/Page*	Record Plat Lot No.	Maximum Impervious Area	Water Quality Pond No.
2012/0173	674	3,800	10
"	675	3,800	10
"	676	3,800	10
"	677	3,800	10
"	678	3,800	10
"	679	3,800	10
"	680	3,800	10
"	681	3,800	10
"	682	3,800	10
"	683	3,800	10
"	684	3,800	10
"	685	3,800	10
"	686	3,800	10
"	687	3,800	10
"	688	3,800	10
"	689	3,800	10
"	690	3,800	10
"	691	3,800	10
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"	698	3,800	10
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"	700	3,800	10
"	701	3,800	10
"	702	3,800	10
"	703	3,800	10
"	704	3,800	10
"	705	3,800	10
"	706	3,800	10
"	707	3,800	10
"	708	3,800	10
"	709	3,800	10
"	710	3,800	10
"	711	3,800	10
"	712	3,800	10
"	713	3,800	10
"	714	3,800	10
"	715	3,800	10

Record Plat Slide/Page*	Record Plat Lot No.	Maximum Impervious Area	Water Quality Pond No.
2012/0173	716	3,800	10
"	717	3,800	10
"	718	3,800	10
"	719	3,800	10
"	720	3,800	10
"	721	3,800	10
"	722	3,800	10
"	723	3,800	10
"	724	3,800	10
"	725	3,500	10
"	726	3,500	10
"	727	3,500	10
"	728	3,500	10
"	729	3,500	10
"	730	3,500	10
"	731	3,500	10
"	732	3,500	10
"	733	3,500	10
"	734	3,500	10
"	735	3,500	10
"	736	3,500	10
"	737	3,500	10
"	738	3,500	10
"	739	3,500	10
"	740	3,500	10
"	741	3,500	10
"	742	3,500	10
"	743	3,500	10
"	744	3,500	10
"	745	3,500	10
"	746	3,500	10
"	747	3,500	10
"	748	3,500	10
"	749	3,500	10
"	750	3,500	10
"	751	3,500	10
"	752	3,500	10
"	753	3,500	10
"	754	3,500	10
"	755	3,500	10
"	756	3,500	10
"	757	3,500	10

Record Plat Slide/Page*	Record Plat Lot No.	Maximum Impervious Area	Water Quality Pond No.
2012/0173	758	3,500	10
"	759	3,500	10
"	760	3,500	10
"	761	3,500	10
"	762	3,500	10
"	763	3,500	10
"	764	3,500	10
"	765	3,500	10
"	766	3,500	10
"	767	3,500	10
"	768	3,800	10
"	769	3,800	10
"	770	3,800	10
"	771	3,800	10
"	772	3,800	10
"	773	3,800	10
"	774	3,800	10
"	775	3,800	10
"	776	3,800	10
"	777	3,800	10
"	778	3,800	10

**As such plat may be revised or amended*

2. **Association Maintenance within Service Area.**

(a) Pursuant to Sections 7.3(a) and 8.2(c) of the Declaration, the Association shall be responsible for performing, or causing to be performed, on behalf of the Owners of Units within the Service Area identified on Exhibit "A" to this Supplement (hereafter, the "**Service Area**"), the following services on Units within such Service Area and, to the extent that the Owners of such Units would otherwise be responsible for such maintenance pursuant to Section 5.1 of the Declaration, on property adjacent to the Units:

(i) mowing and fertilizing of lawns (including both front and rear yards of the Units), and application of weed control and fertilizer to such lawns on such schedule as the Board deems appropriate to maintain turf in a healthy condition;

(ii) weeding and mulching of planting beds and edging of curbs, walks, and planting beds as Board deems appropriate consistent with the budget for the Service Area;

(iii) removal of fallen leaves from lawns, planting beds, and sidewalks at least twice per year;

(iv) maintenance, repair, replacement, and operation of any centrally-controlled irrigation system or systems installed by the Declarant or its designees to serve multiple Units within the Service Area ("**Irrigation System**"); and

(v) such other maintenance of landscaping and hardscaping on Units as may be funded under the Service Area budget adopted from time to time in accordance with the Declaration.

(b) Each Owner shall clear yards and sidewalks on such Owner's Unit and adjacent rights-of-way of personal property (e.g., chairs, tables, garbage cans, hoses, toys, sports and play equipment, etc.) and obstructions, remove pets, provide gates with at least 48" of clearance to access any fenced area or courtyard, and leave such gates unlocked to permit unfettered access to fenced areas and courtyards, in order to enable maintenance personnel to perform the services to be provided by the Association hereunder. An Owner's failure to comply with this section shall relieve the Association of its responsibility hereunder with respect to such Owner's Unit to the extent that the Association or maintenance personnel determine that such noncompliance interferes with their ability to provide the required services, in which case the Owner shall perform such maintenance and repairs, at such Owner's expense, in a timely manner and in accordance with the Community-Wide Standard, without deduction from or offset against Service Area Assessments due hereunder.

(c) Notwithstanding subsection (a) above, each Owner shall be responsible for any landscaping and improvements installed by the Owners or occupants of any Unit after issuance of a certificate of occupancy for the dwelling on the Unit. Each Owner shall also be responsible for all maintenance of the Unit other than that maintenance which the Association is to provide pursuant to this Section 2(a). If an Owner undertakes to perform maintenance which would otherwise be performed by the Association under this Section, there shall be no reduction or abatement in the Service Area Assessments due on such Unit hereunder by reason of the Owner providing such maintenance. All maintenance on Units shall be performed in a manner and on a schedule consistent with the Community-Wide Standard.

3. Commencement of Association's Maintenance Responsibilities. All maintenance on a Unit within the Service Area shall be the responsibility of the Builder or Owner until such time as the Association's responsibilities commence hereunder. The Association's responsibilities under Section 2 shall commence as to each Unit within the Service Area upon satisfaction of the following requirements:

(a) completion of construction of a dwelling and all related improvements on the Unit in accordance with the plans approved pursuant to Article IV of the Declaration (the "**Approved Plans**"); and

(b) issuance of a certificate of occupancy for such dwelling and related improvements from Chatham County, North Carolina; and

(c) completion of installation of landscaping on the Unit in accordance with the Approved Plans, as verified by a post-construction compliance inspection conducted by the Declarant's or the Association's designee;

provided, nothing herein shall relieve the Builder of responsibility for removing and replacing any landscaping installed on a Unit by the Builder or its subcontractors which dies within one year after the date of the Builder's conveyance to a homeowner, to the extent required under any contract or warranty relating to the Unit.

4. **Service Area Expenses**. The estimated expenses to be incurred by the Association for providing services to the Units within the Service Area pursuant to Section 2 of this Exhibit "B," including any reasonable reserve established pursuant to Section 8.2(c) of the Declaration for repairs and replacements, and a reasonable administrative charge, shall be allocated equally among all Units within the Service Area upon which landscaping has been installed, except that if any maintenance or repair to be performed by the Association hereunder is necessitated by the negligence or willful misconduct of any Owner or occupant of a Unit, or their respective contractors, guests, or invitees, the Association may assess the cost of such maintenance or repair solely against such Unit and the Owner thereof as a Specific Assessment.

Notwithstanding any later commencement date specified in the Declaration, the Owner of each Unit, including any Builder which owns a Unit, shall pay such Service Area Assessments from the date the Association commences maintenance on such Unit under Section 3 above.

5. **Easements over Units**.

(a) Maintenance Easement. The Association shall have a perpetual, non-exclusive easement over the Units for the purpose of performing its maintenance responsibilities hereunder and under the Declaration, which easement may be exercised by the Association, its officers, directors, employees, agents and contractors, and entry upon any Unit for such purpose shall not be deemed a trespass.

(b) Cross-Drainage Easement. Each Unit shall be burdened with a perpetual, non-exclusive easement over that portion of the Unit which is not improved with structures, for the purpose of drainage of stormwater runoff from any other Unit in accordance with the stormwater plan established by the Declarant. No Person shall alter the drainage of stormwater from any Unit in a manner which deviates from the Declarant's stormwater plan or materially increases the drainage of stormwater onto adjacent portions of the Community without the consent of Owner(s) of affected property, the Board, and the Declarant as long as it owns any property subject to the Declaration.

(c) Easement for Utilities; Responsibility for Maintenance and Repair. Each Unit within the Service Area shall be burdened with a perpetual, non-exclusive easement for the benefit of each other Unit within the same Service Area for installation, maintenance, repair, and

replacement of utility lines and meters to serve such other Units, and for inspection of the same, which easement may be exercised by the Association, its agents, and the local utility providers responsible for the respective utilities, and for the Owners of the benefited Units and their contractors. Notwithstanding the location of the utility lines serving a particular Unit, the Owner shall be responsible for maintenance of that portion of any utility line serving only such Owner's Unit, to the extent not maintained by the utility provider. (The foregoing shall not apply to irrigation lines for which the Association is responsible under Sections 2 and 3 above).

(d) Easements for Irrigation System. Declarant hereby reserves for itself, the Association, Briar Chapel Utilities and its successors and assigns ("**BCU**"), and their respective contractors and employees:

(i) a temporary easement over each of the Units within the Service Area for access to install, and for installation of, a centrally-controlled irrigation system or systems to irrigate the landscaping on all Units within the Service Area, including all pipes, lines, pumps, controls, and other components of such system (collectively, the "**Irrigation System**"), except that nothing herein shall permit installation of any portion of the system within the building pad on the Unit prior to construction of a dwelling on the Unit without the consent of the Builder;

(ii) a perpetual, reciprocal easement for the benefit of each other Unit within the Service Area over that portion of the Unit lying within 10 feet of its rear boundary for installation and maintenance of such pipes, lines, pumps, and other components of the Irrigation System as may be necessary or convenient to allow each Unit within the Service Area to be served by such Irrigation System and for the flow of potable water or reuse water through such system to irrigate each other Unit within the Service Area. No person shall excavate or construct or install any fence, wall, or other structure or improvement, or any tree or shrub, within such easement area without the prior written approval of BCU, in addition to such approval as required under Article IV of the Declaration;

(iii) a perpetual, non-exclusive easement over each of the Units within the Service Area for access to inspect, monitor, operate, maintain, repair and replace such Irrigation System or any portion thereof; and

(iv) a perpetual, non-exclusive easement over each of the Units within the Service Area for distribution of potable water or non-potable, reclaimed, "reuse" water through the Irrigation System and application to landscaped portions of the Units in quantities that do not exceed the maximum amount that may be applied without detriment to such landscaping, and for incidental overspray of such water onto other portions of the Unit.

The Irrigation System shall be owned and maintained by the Association as Limited Common Area for the benefit of the Units within the Service Area, subject to the right of the Association to contract with BCU or others for maintenance and operation of the Irrigation System or to convey the Irrigation System to BCU or the Owners of Lots in the Service Area if the Board deems it appropriate to do so. The Association may enter into an effluent easement agreement or similar agreement with BCU relating to the maintenance and use of the Irrigation System and the

schedule and amounts of water that may be applied to the Units pursuant to the foregoing Easement.

The Irrigation System may use non-potable, reclaimed or "reuse" water rather than potable water. Reclaimed or reuse water, while suitable for application to landscaping, is not safe for human or animal consumption or bathing.

No person other than the Declarant, BCU, the Association, or their respective designees shall make or authorize any additions or modifications to any portion of the Irrigation System without the prior written approval of BCU, in addition to such approval as required under Article IV of the Declaration, which approvals may or may not be granted. If granted, such approvals may be conditioned upon the Owner paying all costs of such additions or modifications and use of a contractor designated by the Association or BCU to perform the approved addition or modification.

(e) Easement for Retaining Wall Maintenance and Support. Declarant hereby reserves to itself and grants to the Association a perpetual, nonexclusive easement over any area denoted on the Plat as a "Private Retaining Wall Maintenance Easement," for construction, maintenance, repair, and replacement of a retaining wall (any such retaining wall being a "**Retaining Wall**" hereunder) and for access to inspect and perform maintenance and repairs to, and replacements of, such Retaining Wall, which easement may be exercised by the Association, its officers, directors, employees, agents, and contractors. There shall be appurtenant to each Unit burdened by a Private Retaining Wall Maintenance Easement (a "**Retaining Wall Unit**") a perpetual, reciprocal easement over any adjacent Unit or Common Area upon which any portion of a Retaining Wall is constructed as reasonably necessary for purposes of maintenance and support of the Retaining Wall, for access to inspect the Retaining Wall, and for the exercise of any of the other easement rights granted to the Association hereunder in the event that the Association fails to perform any necessary maintenance or repairs, as provided herein.

Notwithstanding any provision of the Declaration or the Plat referenced in Exhibit "A" which would make the Owners of Retaining Wall Units responsible for maintenance of that portion of any Retaining Wall constructed on their respective Units, the Association shall be responsible for maintaining, insuring, repairing and replacing such Retaining Walls. Any modifications to a Retaining Wall by any person other than the Association or its authorized representatives or contractors shall be subject to prior approval of the Reviewer pursuant to the procedures set forth in Article IV of the Declaration and the Association shall have no liability arising out of any repair work performed by Persons other than the Association or its contractors.

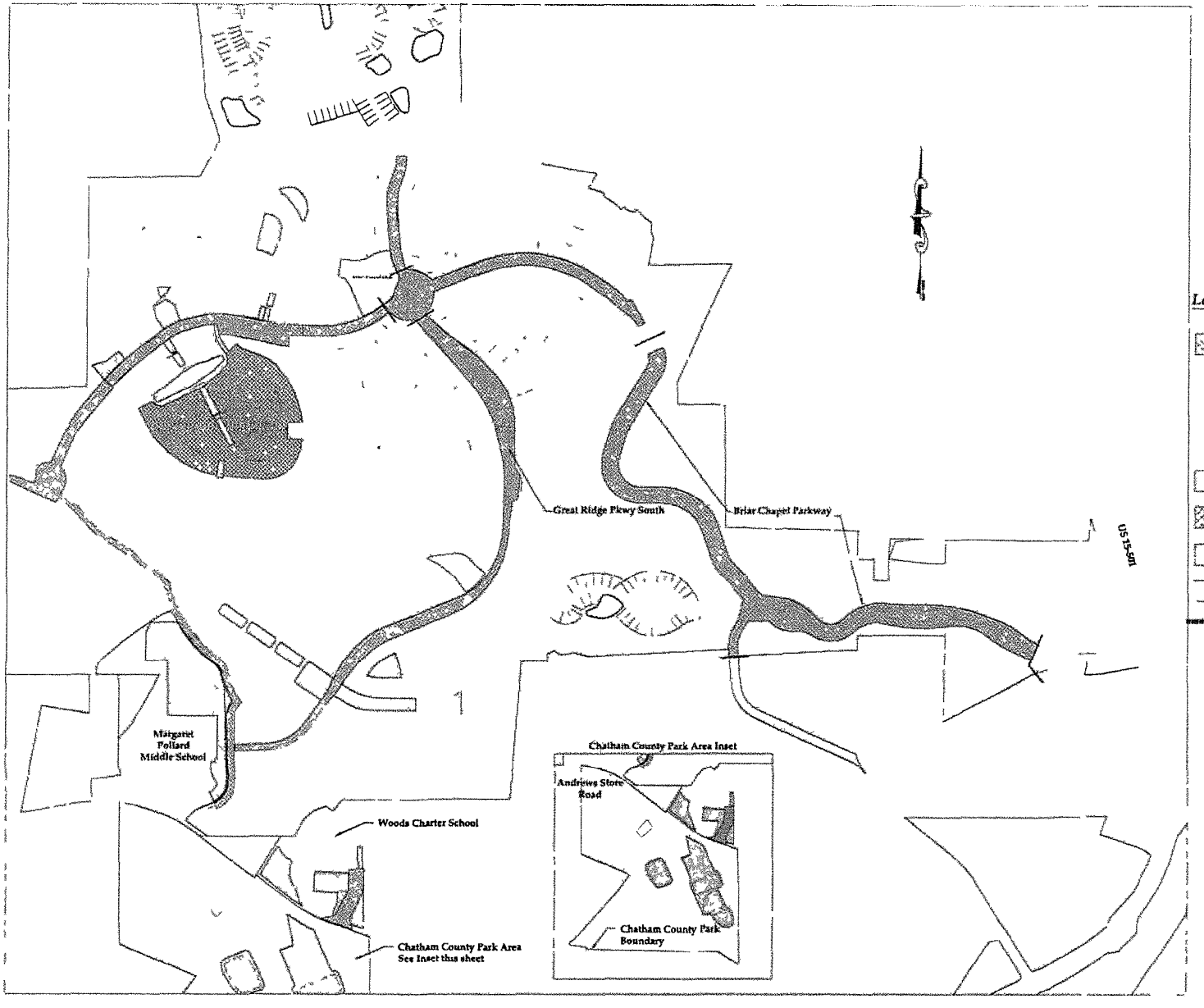
All costs which the Association incurs or expects to incur in maintaining, repairing, replacing, and insuring any Retaining Wall, including any reasonable reserves for such purposes, shall be a Common Expense to be allocated equally among all Units, subject to the right of the Association to recover from the Owner of a Unit, as a Specific Assessment, any costs which the Association incurs in maintaining, repairing or replacing any damaged portion of the retaining wall when such damage has been caused by the negligence or other actions of such Owner or any occupant of such Owner's Unit, or their guests or invitees.

The Association shall have no responsibility for maintenance of any retaining or other wall constructed on a Unit by a Builder, Owner, or other person outside of an area denoted on the Plat as "Private Retaining Wall Maintenance Easement" and any such walls shall be the sole responsibility of the Owner(s) of the Unit(s) upon which they are constructed, subject to the terms of Article XIII of the Declaration, if applicable.

SCHEDULE 16

Spray Areas to be Irrigated in Accordance with Agreement Between Buyer and Developer

(See attached)



BRIAR CHAPEL™

Newland by COMMUNITIES

Schedule 16
Spray Areas to be Irrigated in Accordance with Agreement Between Buyer and Developer

Date: October 29, 2014

Legend

- Parkway Maintenance Areas
  - Briar Chapel Parkway
  - Great Ridge Parkway - North
  - Great Ridge Parkway - South
  - Granite Mill Blvd
  - Woodland Grove Lane
  - Boulder Point Drive
- Briar Chapel HOA - Common Open Space Areas
- Briar Chapel - Family Service Areas
- Briar Chapel - Parking Areas
- Briar Chapel - School and Parks Areas
- Service Area Divider

Map is for illustrative use only and is not to scale

Exhibit 5 – Not Applicable

Exhibit 6 – Developer Agreement

The Developer Agreement is contained within the Asset Purchase Agreement under Schedule 7.

Exhibit 9 – Not Applicable