

NORTH CAROLINA

CHATHAM COUNTY

**RECIPROCAL PARKING EASEMENT RELEASE AND WASTEWATER
TREATMENT ALLOCATION AND EASEMENT AGREEMENT**

**THIS RECIPROCAL PARKING EASEMENT RELEASE AND WASTEWATER
TREATMENT ALLOCATION AND EASEMENT AGREEMENT** (this "Agreement"),
made and entered into this ____ day of February, 2019, by and between Chatham County, a body
politic and corporate of the State of North Carolina (the "County") and NNP-Briar Chapel, LLC,
a Delaware limited liability company ("NNP-Briar Chapel")(either the County or NNP-Briar
Chapel may be referred to herein as a "Party" and collectively as the "Parties");

WITNESSETH:

WHEREAS, on or about November 30, 2017 the County purchased a lot (Parcel 6)
within the Briar Chapel Compact Community ("Briar Chapel) commercial area known as "SD-
West," in order to construct a health sciences campus of Central Carolina Community College
("CCCC") on the property (the "CCCC Lot"), which deed was recorded at Book 1960, Page 368,
Chatham County Registry; and

WHEREAS, the County took title to the CCCC Lot subject to certain conditions and
covenants, including but not limited to those contained in that certain Declaration of Reciprocal
Parking Easement Relating to Briar Chapel SD-West, recorded in Book 1960, Page 359,
Chatham County Registry (the "Parking Declaration"); and

WHEREAS, the Parking Declaration establishes certain reciprocal parking easements

over certain property comprising the entirety of SD-West (the "Subject Property"), as the same is further described within the Parking Declaration; and

WHEREAS, NNP- Briar Chapel has contracted to sell certain property within SD-West known as "Parcels 16-19," which property is intended to be used for multi-family private residential use; and

WHEREAS, NNP-Briar Chapel, LLC and the County, as sole owners of the Subject Property, desire to amend the Parking Declaration to remove from the coverage thereof Parcels 16-19;

WHEREAS, the County owns a parcel of land adjoining the Subject Property and containing approximately 2.3 acres, formerly used as a water tank site by the County and shown on the Chatham County tax map as AKPAR Parcel No. 62221 (the "Water Tank Site")

WHEREAS, NNP-Briar Chapel, LLC has agreed to allocate to the County 1000 gallons per day of wastewater treatment capacity at the Briar Chapel wastewater treatment facility, which treatment capacity will be available solely for use by the County in respect of wastewater generated by improvements located on the Water Tank Site; and

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises and respective benefits flowing to the County and NNP-Briar Chapel, the Parties agree as follows:

1. Recitals Incorporated. The foregoing recitals are incorporated in this Agreement by this reference and shall constitute a part hereof.

2. Amendment of Parking Declaration. The County agrees to execute, simultaneously with the execution of this Agreement, the First Amendment to Declaration of Reciprocal Parking Easement Relating to Briar Chapel SD-West in substantially the form attached as Appendix 1 to this Agreement, which form is incorporated herein by reference (the "First Amendment"). The County further consents to recordation of the First Amendment by NNP-Briar Chapel. NNP-Briar Chapel, LLC shall be responsible for costs of recording the First Amendment.

3. Allocation of Wastewater Treatment Capacity. NNP-Briar Chapel hereby allocates to the County a maximum of 1,000 gallons per day of wastewater treatment capacity within the Briar Chapel wastewater treatment plant, which capacity shall be used exclusively for treatment of wastewater generated by improvements now or hereafter located on the Water Tank Site (the "Wastewater Capacity Allocation"). NNP-Briar Chapel agrees to pay for any and all tap fees, connection fees, or any other fees, or charges associated with the connection of the improvements on the Water Tank Site to the Briar Chapel wastewater treatment system in effect on the date or dates the improvements are connected. NNP-Briar Chapel's sole obligation with respect to the wastewater treatment is to make the Wastewater Capacity Allocation to the County for use in respect of the Water Tank Site, and pay or caused to be paid all tap fees, connection fees, or other charges associated with its connection of the improvements. The County shall be responsible for constructing the infrastructure needed to connect the

Water Tank Site to the wastewater treatment system (including, all pipes, lines, pumps and related infrastructure)(the "County Sewer Line"), for repair and restoration of any existing improvements damaged by installation of the County infrastructure needed to connect the Water Tank Site to the wastewater treatment system and for the usage fees for treatment of the wastewater.

4. Easement for Sewer Line. NNP shall grant the County a fifteen foot (15') wide perpetual non-exclusive sewer line easement over, across and under its property in the location described as the "Easement Area" in the Exhibit attached hereto as Appendix 2 ("Deed of Easement and Easement Option Agreement") for the purposes of installation, repair, maintenance and replacement of a force main sewer line connecting the Water Tank Site to the wastewater collection system that is located within the Ballentrae Court right of way (the "Sewer Easement"). The Sewer Easement location shall be described in Appendix 2 which shall be recorded by NNP-Briar Chapel to establish the effective date of this Agreement. Appendix 2 shall also contain an option in favor of the County to relocate the Easement Area to an alternate location described in Appendix 2, which option shall expire if not exercised prior to the earlier of (a) the completion of construction of the County Sewer Line or (b) February 28, 2022.

5. Notices. All notices, payments, or other correspondence given or made pursuant to this Agreement shall be in writing, delivered in person, mailed by certified mail, return receipt requested, or delivery by a recognized overnight courier, postage or fees prepaid, addressed to a Party at the address given below, and shall

be deemed effective upon the date received, via personal delivery, certified mail, or overnight delivery. The Parties shall be responsible for notifying each other of any change of address. Mailing addresses for Parties are as follows:

If to the County: Chatham County
Attention: County Manager
Post Office Box 1809
Pittsboro, North Carolina 27312

If to NNP-Briar Chapel: NNP-Briar Chapel, LLC
Attention: Mike Scisciani
1342 Briar Chapel Parkway
Chapel Hill, North Carolina 27516

and

Newland Real Estate Group, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121
Attention: Legal Services

6. Effective Date. The effective date of this Agreement is the date the Deed of Easement and Easement Option attached hereto as Appendix 2 is recorded in the Chatham County Registry.
7. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the Parties and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements, and agreements heretofore entered into between the Parties with respect to the matters contained herein are merged in this Agreement. This Agreement may not be changed orally, but only by a written document signed by the Parties. No waiver

of any of the provisions of this Agreement shall be valid unless in writing and signed by the Party against whom it is sought to be enforced. The provisions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns. The provisions of this Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina, and any action brought under or concerning this Agreement shall be brought and maintained in the Superior Court of Chatham County, North Carolina. The headings contained in this Agreement are solely for the convenience of the Parties and do not constitute a part of this Agreement and shall not be used to construe or interpret any provisions hereof. This Agreement shall be considered for all purposes as having been prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of preparation, substitution, submission, or other event of negotiation. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument, and the Parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, Chatham County and NNP-Briar Chapel, LLC have caused this Agreement to be executed by their respective authorized representatives effective the day and year first above written.

CHATHAM COUNTY

By _____
Dan LaMontagne, Interim County Manager

NNP-Briar Chapel, LLC

By _____
_____, (Title)

APPENDIX 1
Chatham County/NNP-Briar Chapel, LLC

[INSERT FORM OF FIRST AMENDMENT TO DECLARATION OF RECIPROCAL
PARKING EASEMENT]

**Prepared by / Upon recording,
please return to:**

Jo Anne P. Stubblefield
Hyatt & Stubblefield, P.C.
1200 Peachtree Center, Harris Tower
233 Peachtree Street, N.E.
Atlanta, GA 30303

NOTE TO CLERK: Please Cross-Reference to:

Book 1833
Page 138
Book 1960
Page 359

INDEXING NOTE TO CLERK'S OFFICE:

Please index in Grantor index under "NNP-Briar Chapel, LLC" and "Chatham County"
Please index in Grantee index under "Briar Chapel" and "Briar Chapel Commercial Association, Inc."

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

**FIRST AMENDMENT TO
DECLARATION OF RECIPROCAL PARKING EASEMENT
RELATING TO BRIAR CHAPEL - SD WEST**

THIS FIRST AMENDMENT TO Declaration of Reciprocal Parking Easement Relating to Briar Chapel - SD West ("**Amendment**") is made by NNP-BRIAR CHAPEL, LLC, a Delaware limited liability company (the "**Declarant**"), with the joinder and consent of CHATHAM COUNTY, NORTH CAROLINA, a body politic and corporate of the State of North Carolina ("**County**").

Background Statement

The Declarant is the developer of the planned community located in Chatham County, North Carolina known as Briar Chapel. The Declarant previously executed and filed that certain Declaration of Reciprocal Parking Easement Relating to Briar Chapel - SD West recorded on December 1, 2017 in Deed Book 1960, Page 359, *et seq.*, in the Office of the Register of Deeds of Chatham County, North Carolina (the "**Declaration of Easements**"), establishing certain

reciprocal easements over and obligations on the property described in Exhibit "A" thereof (the "**Subject Property**").

Pursuant to Section 2.2 of the Declaration of Easements, the Declaration of Easements may be amended during the Development and Sale Period (as defined in the Commercial Declaration) by a written instrument executed by the Declarant and recorded in the Office of the Register of Deeds for Chatham County, North Carolina; provided, the Declarant shall give the Owner of each Parcel written notice of any such instrument at least 10 days prior to recordation, and if such amendment would materially adversely affect any Parcel in a manner different than any other Parcel, such amendment shall also require the written consent of the Owner of the Parcel which is materially adversely affected, as evidenced by such Owner's execution of the amendment.

The Declarant and the County are the sole Owners of the Subject Property and desire to amend the Declaration of Easements to remove from the coverage thereof certain property intended for multi-family residential use, a private street and common area.

NOW, THEREFORE, the Declarant, with the consent of the County as evidenced by its signature below, hereby amends the Declaration of Easements by replacing Exhibit "A" thereof with Exhibit "A" attached to this Amendment.

[continued on next page]

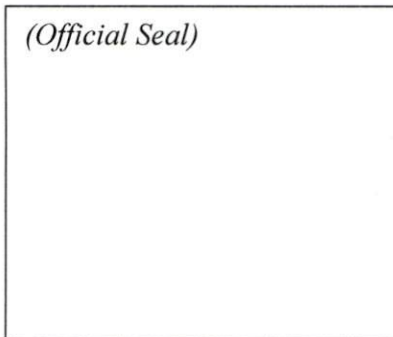
COUNTY: CHATHAM COUNTY, NORTH CAROLINA, a body politic and corporate of the State of North Carolina

By: _____
Name: _____
Title: _____

STATE OF NORTH CAROLINA)
)
COUNTY OF _____)

I, _____, a Notary Public in and for _____ County, North Carolina, certify that _____ personally came before me this day and acknowledged that s/he is _____ of Chatham County, North Carolina, a body politic and corporate of the State of North Carolina, and that by authority duly given and as a fact of such entity, s/he executed the foregoing instrument in the name of and on behalf of said entity.

Witness my hand and official stamp or seal, this ____ day of _____, 20 ____.



_____, Notary Public

My Commission Expires: _____

EXHIBIT "A"

Subject 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 Final Subdivision, Recombination, Easement and Private Right-of-Way Dedication Plat of SD-West Parcel 6 and Commercial Common Area #2 recorded on November 21, 2017, at Plat Slide 2017-411, Instrument No. 13109, in the office of the Register of Deeds of Chatham County, North Carolina, as such plat may be further revised from time to time (the "**SD-West Plat**");

LESS AND EXCEPT:

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Baldwin Township, Chatham County, North Carolina, and being more particularly described as "Parcel 16," "Parcel 17," "Parcel 18," "Parcel 19," and "Commercial Common Area #5" on that certain Final Subdivision, Recombination, Easement and Private Right-of-Way Dedication Plat of SD-West – Parcels 16-22 and Commercial Common Area #5 for NNP-Briar Chapel, LLC recorded on _____, 20_____, at Plat Slide _____ - _____, Instrument No. _____, in the office of the Register of Deeds of Chatham County, North Carolina, as such plat may be further revised from time to time.

APPENDIX 2

[Insert Deed of Easement and Easement Option Agreement]

[APPENDIX 2]

Prepared by and return to: Bradshaw Robinson Slawter, LLP, Post Office Box 607, Pittsboro, North Carolina 27312

STATE OF NORTH CAROLINA
COUNTY OF CHATHAM

DEED OF EASEMENT AND EASEMENT OPTION AGREEMENT

This DEED OF EASEMENT AND EASEMENT OPTION AGREEMENT (“**Easement Agreement**”) is made and entered into the ____ day of February, 2019, by and between NNP-BRIAR CHAPEL, LLC (“**NNP**” or “**Grantor**”), and CHATHAM COUNTY, a body politic and corporate of the State of North Carolina (“**Grantee**”). The Grantor and the Grantee are sometimes collectively referred to herein as the “Parties.”

WITNESSETH:

WHEREAS, Grantor is the owner of all of the land shown on the Plat recorded at Plat Slide 2019-____, Chatham County Registry (the “**Plat**”), entitled “SD-WEST PARCELS 16-22 AND COMMERCIAL COMMON AREA #5 FOR NNP-BRIAR CHAPEL, LLC,” dated March 9, 2018 (the “**NNP Property**”);

WHEREAS, Grantee is the owner of all that certain tract or parcel of land adjoining the NNP Property and containing approximately 2.3 acres, formerly used as a water tank site by the County and shown on the Chatham County tax map as AKPAR Parcel No. 62221 (the “**Water Tank Site**”);

WHEREAS the Parties have entered into that certain Reciprocal Parking Easement Release and Wastewater Treatment Allocation and Easement Agreement dated the ____ day of February, 2019 (incorporated herein by reference) under the terms of which Grantee agreed to release certain parking rights in SD-WEST to Grantor in exchange for (i) Grantor’s allocation of wastewater treatment capacity within the Briar Chapel treatment plant to Grantee to be used for treatment of wastewater generated on the Water Tank Site and (ii) the grant of the easement and easement option set out in this Easement Agreement;

WHEREAS, Grantee desires for itself, its successors, assigns, mortgagees, licensees and invitees to have a non-exclusive, perpetual easement for the installation, operation, repair, replacement and maintenance of sanitary sewer lines and associated appurtenances to serve the Water Tank Site, as hereinafter defined;

WHEREAS, Grantor desires to convey to Grantee access and certain other easement rights over portions of the NNP Property as provided herein;

WHEREAS, because Grantee also desires the flexibility, at its option, to relocate the Easement Area based on future design of the Water Tank Site and engineering concerns, this Easement Agreement includes an Easement Option Agreement to accommodate the relocation of the Easement if requested by Grantee.

NOW, THEREFORE, Grantor, for and in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby bargain, sell and convey, and by these presents does hereby give, grant, bargain, sell and convey to Grantee, its successors and assigns, a non-exclusive, perpetual easement over and under the Easement Area, as hereinafter defined, for the purpose of allowing Grantee, its successors, assigns, mortgagees, licensees and invitees to install, operate, repair, replace and maintain a sanitary sewer line and associated appurtenances within the Easement Area (the "**Easement**") and connecting the Water Tank Site improvements to the sanitary sewer collection system existing within the Ballentrae Court right of way on the NNP Property (the "**County Sewer Line**").

The "**Easement Area**" referred to herein shall mean a fifteen foot (15') wide area beginning at the Water Tank Site and running across Parcel 20 (shown on the Plat), along the entire eastern lot line of Parcel 20 (the "**Lot Line**"), from the Water Tank Site, along the Lot Line until intersecting with the 76' Private Right of Way of Ballentrae Court and then within the 76' Private Right of Way of Ballentrae Court for the distance and along the route necessary to connect the County Sewer Line to the sanitary sewer system currently existing within the 76' Private Right of Way of Ballentrae Court at a convenient location. The precise location of the Easement Area within the 76' Private Right of Way of Ballentrae Court shall be compliant with applicable regulations and shall be agreed to by the Parties, such agreement not to be unreasonably withheld, conditioned or delayed.

TO HAVE AND TO HOLD said Easement to the Grantee and its successors and assigns forever. This Easement shall be appurtenant to and run with the title to the NNP Property. Grantee's easement rights set forth herein shall also inure to the benefit of Grantee's successors and assigns.

EASEMENT RELOCATION OPTION

THE PARTIES FURTHER AGREE that, as an alternative to the Easement Area location described above and in lieu thereof, Grantee, in its sole discretion, may exercise the following easement relocation option (the "**Option**") to relocate the Easement location from the Easement Area defined above to the Easement Option Area defined hereinafter below, subject to the terms and conditions set forth below.

1. The "**Easement Option Area**" referred to herein shall mean a fifteen foot (15') wide area beginning at the intersection of Ballentrae Court and the western edge of the US 15-501 right of way and thence running generally westerly within the 76' Private Right of Way of

Ballentrae Court for the distance and along the route necessary to connect the County Sewer Line to the sanitary sewer system currently existing within the 76' Private Right of Way of Ballentrae Court. The precise location of the Easement Area within the 76' Private Right of Way of Ballentrae Court shall be compliant with applicable regulations and shall be agreed to by the Parties, such agreement not to be unreasonably withheld, conditioned or delayed.

2. If the Option is exercised, the allowed uses of the Easement Option Area shall be identical to the uses of the Easement as defined above.
3. Option Period. This Option period shall exist and continue from February 28, 2019 through the earlier of (a) completion of construction of the County Sewer Line within the original Easement Area (defined above) or (b) February 28, 2022 at 5:00 p.m. Eastern Standard Time (the "**Option Period**"). **TIME IS OF THE ESSENCE WITH RESPECT TO THE OPTION PERIOD AND EXERCISE THEREOF.**
4. Exercise of the Option. At any time during the Option Period, Grantee may exercise this Option by giving Grantor a written notice thereof signed by the Grantee, which exercise is effective upon (a) hand delivery or (b) prepaid deposit of the notice with an overnight commercial delivery service or in certified mail, return receipt requested, at the following address:

NNP-Briar Chapel:

NNP-Briar Chapel, LLC
Attention: Mike Scisciani
1342 Briar Chapel Parkway
Chapel Hill, North Carolina 27516

and

Newland Real Estate Group, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121
Attention: Legal Services

Failure by the Grantee to timely exercise the Option during the Option Period shall cause the Option to expire immediately and be of no further effect. Grantee further agrees to make a good faith effort to notify Grantor in writing (at the Notice address above) if it determines, prior to expiration of the Option Period, that it will not exercise the Option in order that Grantor may clarify title as to the same. In the case of expiration of the Option Period or the earlier notification of Grantee's election not to exercise the Option, Grantee shall promptly sign any mutually agreed upon Option Termination notice required by Grantor for the purposes of recordation and clarification of title.

5. Effect of Exercise of Option. Upon exercise of the Option to relocate the Easement to the Easement Option Area, the original Easement granted above within the original Easement Area shall automatically expire and be deemed revoked. Either Party may record a document or map of record describing the final easement area with the joinder in the same by the other Party, said joinder not to be unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, Grantor and Grantee have hereunto set their hands and seals, as of the date first above written.

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

By: _____
Mike Scisciani, Vice President

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of _____ County and State aforesaid do hereby certify that Mike Scisciani, Vice President for NNP BRIAR CHAPEL, LLC, a Delaware limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company for the purposes therein expressed.

Witness my hand and official stamp or seal, this ___ day of February, 2018.

Notary Public

My commission expires: _____

SEAL-STAMP

[signatures continued on next page]

GRANTEE: CHATHAM COUNTY, NC., a body politic and corporate of the State of North Carolina

By: _____

Name: _____

Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public in and for _____ County, North Carolina, certify that _____ personally came before me this day and acknowledged that s/he is _____ of CHATHAM COUNTY, NORTH CAROLINA., a body politic and corporate of the State of North Carolina, and that by authority duly given and as a fact of such entity, the foregoing instrument was signed in its name by its _____.

Witness my hand and official seal this _____ day of February, 2019.

Notary Public

My Commission Expires: _____, 20____

SEAL-STAMP
