

NORTH CAROLINA

CHATHAM COUNTY

AGREEMENT

THIS AFFORDABLE HOUSING AND RECREATION FEE AGREEMENT (this “**Agreement**”), is made and entered into 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, NNP-Briar Chapel is developing a subdivision in Chatham County known as the Briar Chapel Compact Community (“**Briar Chapel**”); and

WHEREAS, there are two hundred and eighty-two (282) single family residential lots spanning four (4) phases of Briar Chapel (Phase 12 A&B – 134 lots; Phase 13, Section 3 - 59 lots; and Phase 14 – 89 lots) (collectively the “Remaining Residential Lots”) that remain to be submitted for final plat approval; and

WHEREAS, pursuant to (i) the County’s subdivision regulations and (ii) the conditional use permit issued by the County to NNP-Briar Chapel for the Briar Chapel subdivision, NNP-Briar Chapel is required to pay the County an affordable housing fee in the amount of Four Hundred Forty and 66/100 Dollars (\$440.66) per residential lot (the “Affordable Housing Fee”) and a Recreation Fee in the amount of Nine Hundred Twenty-Six and No/100 Dollars (\$926.00) per residential lot (the “Recreation Fee”), each such fee being due and payable on the date the final plat is submitted to the County for approval; and

WHEREAS, NNP-Briar Chapel has requested that it be permitted to pay the Affordable Housing Fees and the Recreation Fees for the Remaining Residential Lots prior to final plat submittal; and

WHEREAS, the County has agreed that NNP-Briar Chapel may accelerate payment for the Affordable Housing Fees and the Recreation Fees without waiting for final plat submittal;

NOW, THEREFORE, in consideration of the premises and the respective benefits going to the County and NNP-Briar Chapel, the Parties agree as follows:

1. Recitals Incorporated. The above and foregoing recitals are incorporated in this Agreement by reference and constitute an essential part hereof.

2. Payment of Affordable Housing Fees. On or before a date that is thirty (30) days after the Effective Date of this Agreement, NNP-Briar Chapel shall pay the County the sum of One Hundred Twenty-Nine Thousand Eight Hundred Forty-Four and 8/100 Dollars (\$129,844.08), which payment shall be accepted by the County as full and final payment for the Affordable Housing Fees for the Remaining Residential Lots.

3. Payment of Recreation Fees. On or before a date that is thirty (30) days after the Effective Date of this Agreement, NNP-Briar Chapel shall pay the County the sum of Two Hundred Sixty-One Thousand One Hundred Thirty-Two and No/100 Dollars (\$261,132.00) for the Recreation Fees. The Recreation Fee, unlike the Affordable Housing Fee, is not fixed, and is subject to change, so while the foregoing amount is based on the Recreation Fee in effect as of the Effective Date of this Agreement, it is subject to increase.

4. Increase in the Recreation Fees. In the event there is an increase in the Recreation Fee prior to the date that all of the Remaining Residential Lots are submitted for final plat approval, NNP-Briar Chapel shall pay the County the difference between the Recreation Fee paid pursuant to this Agreement (\$926.00 per lot) and the per lot Recreation Fee in effect on the date any remaining final plat or plats are submitted for approval. If the Recreation Fee does not increase no additional payment shall be due for any of the Remaining Residential Lots.

5. Limitations of Agreement. This Agreement applies only to the Affordable Housing Fees and the Recreation Fees for the 282 single family residential lots yet to be final platted. The Affordable Housing Fees and Recreation Fees for the multifamily areas and other areas of Briar Chapel will be paid by NNP-Briar Chapel or such other developer, or developers of those areas when the building permit applications are submitted. No other fees are covered under this Agreement except for the Affordable Housing Fees and Recreation Fees.

6. 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: _____

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

7. Effective Date. The effective date of this Agreement is the date it is executed by the County.

8. 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 as provided above.

CHATHAM COUNTY

By: _____
Name: _____
Title: _____
Date: _____

NNP-Briar Chapel, LLC

By: _____
Name: _____
Title: _____
Date: _____