

**CONTRACT ROUTING FORM**

1. Complete the information below BEFORE printing and completing items 2 through 7. Items in red are required.

Department: Planning Department

Department contract file name (use effective date): Briar Chapel Rec Fees\_Planning\_20200124

Project Code: Click here to enter text.

Contract type: Agreement

Contracted Services/Goods: Agreement to provide funding for Affordable housing and Recreation fees.

Contract Component: Choose an item.

Change Order Number/Addendum Number: Click here to enter text.

Vendor Name: NNP Briar Chapel LLC

Effective Date: 1/24/2020

Approved by: County Manager

Commissioner Approval Date:

Ending Date: NA

Total Amount: \$129,844.08 (Affordable Housing) \$261,132.00 (Recreation)

Is this contract funded by federal dollars? Yes  No

2. Department Head or his/her designee has read the contract in its entirety.

By: Jamie Hall (Department Head signature required)

3. County Attorney has reviewed and approved the contract

County Attorney has reviewed and rejects the contract  Reason: \_\_\_\_\_

This is an automatic renewal and does not require approval from the County Attorney: Yes  No



If this box is checked the County Attorney's Office has reviewed the contract but has not made needed changes to protect the County because the contract is a sole source contract and the services required by the County are not available from another vendor.

4. Technical/MIS Advisor has reviewed the contract if applicable. Yes  No  NA

5. Vendor has signed the contract. Yes  No

6. A budget amendment is necessary before approval. Yes  No

If budget amendment is necessary, please attach to this form.

7. Approval

Requires approval by the BOC - contracts over \$100,000.00, contracts longer than three years and leases longer than one year. Follow Board submission guidelines.

Requires approval by the Manager – contracts \$100,000 or less.

8. Submit to Clerk.

**Clerk's Office Only**

Finance Officer has signed the contract

The Finance Officer is not required to sign the contract

**BRADSHAW ROBINSON SLAWTER LLP**

ATTORNEYS AND COUNSELORS AT LAW

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**M E M O R A N D U M**

**TO:** Mr. Jason Sullivan, Director  
Chatham County Planning Department  
80-A East Street  
Pittsboro, NC 27312  
*Via hand delivery*

**FROM:** Denise M. Hart, Paralegal

**DATE:** January 24, 2020

**RE:** Briar Chapel Advance Payment - AHU and Rec Fees

Dear Mr. Sullivan, per Nick Robinson's request, enclosed are the three originals of the Affordable Housing and Recreation Fee Agreement, each signed by Tanya Matzen on behalf of NNP. Please have the Manager sign. We'll be happy to pick up one fully executed original for our records. Thanks.

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”;

**W I T N E S S E T H:**

**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 Sixty and 44/100 Dollars (\$460.44) 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: Tanya Matzen

4020 Westchase Blvd. Ste 150  
~~1342 Briar Chapel Parkway~~  
~~Chapel Hill, North Carolina 27516~~  
Raleigh, North Carolina 27607  
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: Dan Lamontagne  
Title: County Manager  
Date: 1-27-2020

NNP-Briar Chapel, LLC

By:   
Name: Tanya Matten  
Title: Vice President  
Date: 1/22/2020