

RESOLUTION

BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

That the Agreement dated July 13, 2010 by and between the City of New Bern and the Town of Trent Woods, and the Warranty Deed from the City to the Town of Trent Woods, copies of which are attached hereto and incorporated herein by reference, be and the same are hereby approved, and the Mayor and the City Clerk are hereby authorized and directed to execute the same for and on behalf of the City.

ADOPTED THIS 27TH DAY OF JULY, 2010.

MAYOR

CITY CLERK

NORTH CAROLINA

AGREEMENT

CRAVEN COUNTY

THIS **AGREEMENT**, made and entered into as of the 13th day of July, 2010 ("Agreement"), by and between the **CITY OF NEW BERN** ("City"), a municipal corporation organized and existing by virtue of the laws of the State of North Carolina; and the **TOWN OF TRENT WOODS** ("Trent Woods"), a municipal corporation organized and existing by virtue of the laws of the State of North Carolina.

WITNESSETH:

ARTICLE 1

Recitals

THAT WHEREAS, the City and Trent Woods, having investigated the feasibility of the City constructing a sewer collection system for Trent Woods and connecting said system to one of the City's waste treatment facilities, entered into an agreement regarding the same on June 11, 2002 ("Agreement"), wherein the City agreed to construct and finance said sewer collection system with an installment loan, and Trent Woods agreed to reimburse the City on an annual basis an amount equal to the City's installment loan obligation; and

WHEREAS, pursuant to the Agreement, and as part of the construction cost of the Trent Woods sewer system, the City acquired Lots 4, 5 and 6 as the same are shown on that certain map entitled "Greenside – A Special Development Revision of Final Plan" and recorded in Plat Cabinet G, Slide 116-B in the Craven County Registry ("Greenside Plat") which plat is incorporated herein by reference, so that a wastewater lift station could be located and constructed on Lot 4;

WHEREAS, as a condition to the offer to purchase Lots 4, 5 and 6, and as part of the Trent Woods sewer system construction project, the City agreed to install a storm drain from the terminus of Greenside Court to the northeast corner of a canal located between Hillcrest Road and Trent River Drive, generally located along the common property line of A. Drew Willis and wife Miriam B. Willis, and Lucille C. Parker, ("Storm Drain"); and

WHEREAS, prior Trent Woods governing boards directed the City to install the Storm Drain at the City's sole cost and expense, and to retain ownership of Lots 5 and 6 to offset the

City's costs associated with the construction of the Storm Drain; and

WHEREAS, the current Board of Commissioners of the Town of Trent Woods desires to relieve the City of the obligation to construct the Storm Drain provided that the City convey to Trent Woods Lot 5 and 6, and the City desires to convey to Trent Woods Lots 5 and 6 provided that Trent Woods relieves the City of the obligation to construct the Storm Drain, subject to the terms and conditions contained herein.

WHEREAS, the parties hereto desire to reduce their agreement to writing.

NOW, THEREFORE, the parties enter into this Agreement to provide a more complete understanding of their responsibilities and obligations.

ARTICLE 2
Responsibilities of New Bern

As consideration for the execution and delivery of this Agreement, City shall:

2.1 Transfer to Trent Woods, by general warranty deed, Lots 5 and 6 as the same are shown on the Greenside Plat. Such conveyance shall be free and clear of any and all deeds of trusts, mortgages and/or security interests in third-parties.

2.2 Provide a deed of easement for drainage on Lot 4 over that portion thereof identified as "Drainage Easement", as the same is shown on the Greenside Plat.

2.3 Transfer and assign any and all interests in those certain agreements between it and the following parties: EMD, LLC; Rolvix H. Patterson Jr. and spouse Martha Ann Patterson; and Lucille C. Parker.

2.4 Not seek any adjustments to the budget for the Sewer Project, nor seek reimbursement or compensation from Trent Woods for legal fees and easement fees related to the Storm Drain, or any related easements and rights previously obtained related thereto. The parties acknowledge the remaining balance related to the sewer project, reflective of drainage issues addressed herein, to be paid by Trent Woods to the City is One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00).

2.5 Have no responsibility to improve or maintain any drainage system and/or easement as shown on Lot 4 in the Greenside Plat, or any drainage extending therefrom.

2.6 Take all steps and actions necessary to achieve the purposes of this Agreement.

ARTICLE 3
Responsibilities of Trent Woods

As consideration for the execution and delivery of this Agreement, Trent Woods shall:

3.1 Be responsible, at its sole cost and expense, for obtaining drainage easements from the North Carolina Department of Transportation, Willis and Parker.

3.2 Release the sum of One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) to City, which amount is currently being held by Trent Woods as retainage for the sewer project, and which shall constitute final payment from Trent Woods to New Bern for the same.

3.3 Release the City from any requirements to improve or maintain drainage over the "Drainage Easement" as shown on Lot 4 in the Greenside Plat, or any drainage extending therefrom.

3.4 Indemnify the City from and against any and all liability whatsoever arising out of any obligations under the Offer to Purchase between Brent Cooper and the City regarding the construction of a storm drain system.

3.5 Take all steps and actions necessary to achieve the purposes of this Agreement.

ARTICLE 4
Miscellaneous

4.1 Entire Agreement; Modification: This Agreement supersedes all prior agreements and constitutes the entire agreement between the parties hereto with regard to the subject matter hereof. It may not be amended or modified except by an instrument executed by all parties.

4.2 Severability: If any of the provisions of this Agreement shall be held by a court of competent jurisdiction to be unconstitutional or unenforceable, the decision of such court shall not affect or impair any of the remaining provisions of this Agreement, and the parties shall, to the extent they deem to be appropriate, take such actions as are necessary to correct any such unconstitutional or unenforceable provision. It is hereby declared to be the intent of the parties to this Agreement that this Agreement would have been approved and executed had such an unconstitutional or unenforceable provision been excluded therefrom.

4.3 Binding Effect: This Agreement shall be binding upon and inure to the benefit of the

parties hereto and their respective legal representatives, successors, and assigns.

4.4 Assignment: Except as may otherwise be expressly provided herein, no party may assign any right, obligation, or liability arising hereunder without the other party's prior written consent. Any such assignment or attempted assignment shall be null and void.

4.5 Covenant of Further Assurances: The Parties agree that from and after the date of execution of this Agreement, each upon the request of the other take such actions as may be reasonably required to carry out the purpose and intent of this Agreement.

4.6 Headings: Headings in this Agreement are for convenience and reference only and shall not be used to interpret or construe its provisions.

4.7 Multiple Originals: This Agreement may be executed in duplicate originals, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

4.8 Governing Law: This Agreement shall be construed in accordance with and governed by the laws of the State of North Carolina. Venue for any action, whether at law or in equity, shall be in Craven County, North Carolina.

4.9 Consideration: The consideration for the execution of this Agreement is the agreement among the parties affixing their signatures hereto to agree to the matters and things set forth herein. The parties expressly acknowledge the giving of good and sufficient consideration.

IN TESTIMONY WHEREOF, the City of New Bern has caused this instrument to be executed as its act and deed by its Mayor, attested by its City Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Aldermen, as of the day and year first above written; and,

IN FURTHER TESTIMONY WHEREOF, the Town of Trent Woods has caused this instrument to be executed as its act and deed by the Mayor, attested by its Town Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Commissioners, as of the day and year first above written.

CITY OF NEW BERN

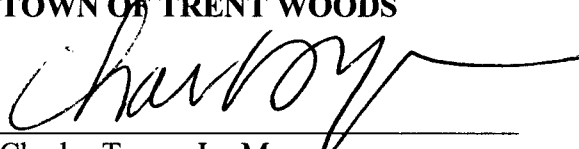
Lee Wilson Bettis, Jr., Mayor

ATTEST:

Veronica Mattocks, Clerk

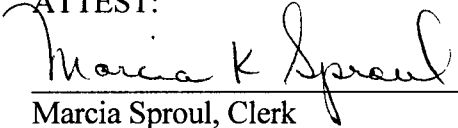
-SEAL-

TOWN OF TRENT WOODS



Charles Tyson, Jr., Mayor

ATTEST:



Marcia Sproul, Clerk

-SEAL-

NORTH CAROLINA
CRAVEN COUNTY

I, Glenda C. Bynum, Notary Public in and for said County and State, do hereby certify that on the 13th day of July, 2010, before me personally appeared CHARLES TYSON, JR., with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that MARCIA SPROUL is the Town Clerk for the Town of Trent Woods, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Commissioners of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and notarial seal, this 13th day of July, 2010.

My Commission Expires:

3-9-2013

Glenda C. Bynum
NOTARY PUBLIC

NORTH CAROLINA
CRAVEN COUNTY

I, _____, Notary Public in and for said County and State, do hereby certify that on the _____ day of _____, 2010, before me personally appeared LEE WILSON BETTIS, JR., with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that VERONICA MATTOCKS is the City Clerk for the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and notarial seal, this _____ day of _____, 2010.

My Commission Expires:

NOTARY PUBLIC

**Prepared by and return to:
Jimmie B. Hicks, Jr.
Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.
416 Pollock Street
New Bern, NC 28560**

**PARCEL NO. 8-050-6005 and 8-050-6006
REVENUE STAMPS: \$ 0.00**

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

WARRANTY DEED

THIS DEED, made and entered into this ____ day of July, 2010 by and between CITY OF NEW BERN, a municipal corporation of the State of North Carolina, Grantor; and TOWN OF TRENT WOODS, a municipal corporation of the State of North Carolina, whose mailing address is 912 Country Club Drive, Trent Woods, North Carolina, 28562, Grantee;

W I T N E S S E T H:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to the Grantor in hand paid by the Grantee, the receipt of which is hereby acknowledged, the Grantor has bargained and sold, and by these presents does bargain, sell, and

Prepared by:
Sumrell, Sugg, Carmichael, Hicks and Hart, P.A.
Attorneys at Law
416 Pollock Street
New Bern, North Carolina 28560

convey unto the Grantee, its successors and assigns, all that certain lot or parcel of land being more particularly described as follows:

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 thereunto belonging to the said Grantee, its successors and assigns, in fee simple forever.

And the said Grantor does covenant that it is seized of said property in fee and has the right to convey the same; that the same is free and clear of all encumbrances; and that the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the City of New Bern has caused this instrument to be executed as its act and deed by its Mayor, attested by its City Clerk, and its seal to be hereunto affixed, all by the authority of its Board of Aldermen, as of the day and year first above written.

CITY OF NEW BERN

(SEAL)

By: _____
LEE WILSON BETTIS, JR., Mayor

ATTEST:

VERONICA MATTOCKS, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF CRAVEN

I, _____, Notary Public in and for said County and State, do hereby certify that on the ____ day of _____, 2010, before me personally appeared LEE WILSON BETTIS, JR., with whom I am personally acquainted, who, being by me duly sworn, says that he is the Mayor and that VERONICA MATTOCKS is the City Clerk for the City of New Bern, the municipal corporation described in and which executed the foregoing instrument; that he knows the common seal of said municipal corporation; that the seal affixed to the foregoing instrument is said common seal; that the name of the municipal corporation was subscribed thereto by the said Mayor; that the said common seal was affixed, all by order of the Board of Aldermen of said municipal corporation; and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the ____ day of _____, 2010.

Notary Public

My Commission Expires:

EXHIBIT A

All those certain lots or parcels of land, lying and being situate in Number 8 Township, Trent Woods, North Carolina, and being more particularly described as follows:

BEING all of Lots 5 and 6 (also designated as Lots 99, 100 and 101) as the same are shown on that certain map entitled "Greenside – A Special Development Revision of Final Plan" and recorded in Plat Cabinet G, Slide 116-B in the Craven County Registry.

Together with a nonexclusive perpetual easement of right to erect, construct, install and lay and thereafter use, operate, inspect, repair, maintain, replace and remove storm water drainage, as well as any attachments appurtenant thereto over, across, and through the lands of the Grantor more particularly identified as "Drainage Easement" over Lot 4 (also designated as Lot 98) as the same is shown on that certain map entitled "Greenside – A Special Development Revision of Final Plan" and recorded in Plat Cabinet G, Slide 116-B in the Craven County Registry.

D BY THIS SURVEY

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OR SIX PERMISSIBLE UNITS)
PRIVATE STREET).

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CHelsea ROAD - 60' R/W

GREENVIEW ROAD - 60' R/W

COUNTRY CLUB ROAD - 60' R/W

CREST ROAD

GREENSIDE COURT
40' R/W - PRIVATE

