Type: CONSOLIDATED REAL PROPERTY
Recorded: 9/27/2013 2:49:12 PM
Fee Amt: $26.00 Page 1 of 5
Iredell County, NC
Matthew J. McCall Register of Deeds
BK 2267 PG 1590 - 1594

Drawn by: Jenaper Loma Hill, LLC

Return to: Gerard W. McNaught, PLLC, 19721 Bethel Church Rd., Ste. 101A, Cornelius, NC 28031

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AGREEMENT FOR OFF SITE SEPTIC

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NORTH CAROLINA
IREDELL COUNTY

AGREEMENT FOR OFF SITE SEPTIC

This Agreement made and entered this the 6th day of September, 2013 between Mallard Head Development Corp., a North Carolina Corporation, hereinafter known as the "MALLARD" and Jenaper Lorna Hill LLC, a North Carolina Limited Liability Corporation, hereinafter known as "DEVELOPER", hereinafter together known as "PARTIES":

WITNESSETH:

1- The DEVELOPER is currently under contract to purchase from owner, Allen C Johnson and Superior Properties of Iredell, 2 parcels on Spring Run Rd. Mooresville NC 28117 known as Mallard Head Lot 129 Parcel # 4636-75-9717 and Mallard Head Lot 131 Parcel # 4636-76-8020, both parcels together hereinafter together known as "LOTS".
2- The DEVELOPER desires to construct and install off-site septic systems with supply lines and drain lines, hereinafter known as "SYSTEMS", in the attached easement areas on property owned by MALLARD.
3- The DEVELOPER has applied to the Iredell County Health Department, hereinafter known as "DEPARTMENT" and DEVELOPER has secured Improvement Permits for said installation of SYSTEMS on LOTS including drain lines and septic fields on property owned by MALLARD shown on Easement Survey.
4- DEPARTMENT has required DEVELOPER to secure this AGREEMENT as conditional upon DEVELOPER being issued Building Permits to construct said SYSTEMS.
5- PARTIES desire to assure that the SYSTEMS are properly constructed, maintained and operated in accordance with laws, rules, and permit conditions in order to protect the public health, the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, for and in consideration of the LOTS and the benefits to be derived by each of the parties hereto, the DEVELOPER and MALLARD, do hereby mutually agree as follows:

1- The DEVELOPER shall construct the SYSTEMS with off-site lines and drain fields on property owned by MALLARD as shown on attached survey showing Easements. Construction shall be in accordance with the permit, applicable rules, plans and specifications hereinafter issued and approved by the DEPARTMENT; and thereafter properly operate, maintain, and repair such SYSTEMS in accordance with applicable permit provisions, rules and laws until SYSTEMS have been transferred to another owner.
2- SYSTEMS shall be constructed and installed on Easements shown on attached Survey which hereinafter shall be part of this AGREEMENT and shall be recorded with AGREEMENT.
3- The DEVELOPER, their successors in title, heirs and assigns, shall not transfer ownership of SYSTEMS until the SYSTEMS have been inspected, permitted and determined to be operating in accordance with the applicable rules and permit conditions. DEVELOPER, their successors in title, heirs and assigns, will then be responsible thereafter to properly operate, maintain, and repair such SYSTEMS in accordance with applicable permit provisions, rules and laws until SYSTEMS have been transferred to another owner.
4- DEVELOPER, their successors in title, heirs and assigns, hereby covenants and agrees to include specific reference to this Agreement and the Easement on each Deed upon any Title transfer to a new owner. Each new owner shall agree to assume DEVELOPERS rights and obligations herein written. DEVELOPER shall record this Agreement as well as the Easement.
5- MALLARD shall have the right and responsibility to repair any damage which may occur to the supply lines in the easements on MALLARD'S property. Providing damage was not caused by MALLARD, once MALLARD has established the lot owner of said supply line, MALLARD shall have the right to be reimbursed for said repairs from the DEVELOPER, their successors in title, heirs and assigns, of the supply line that services that lot owner's septic system.

IN WITNESS WHEROF, this Agreement was executed by the duly authorized representatives of the PARTIES hereto named below:

MALLARD:

Mallard Head Development Corp.

By: Edward P. Campbell Date: 19 September, 2013

Title: President

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

I, J Alan Campbell, a Notary Public of said County and State aforesaid, certify that Edward P. Campbell personally appeared before me this day and acknowledged that he is President of MALLARD HEAD DEVELOPMENT CORP Inc., and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its President and signed personally. Witness my hand and official stamp or seal, this the 23rd day of September, 2013.

X _____
Notary Public

My commission expires: 7/15/2018

J. ALAN CAMPBELL NOTARY PUBLIC ORANGE COUNTY NORTH CAROLINA

DEVELOPER:

Jenaper Loma Hill LLC

By: _____ Date: 27 September, 2013

Title: Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF IREDELL Mecklenburg

I, LAURIE A. BRIGGS, a Notary Public of said County and State aforesaid, certify that Clifford Hecht personally appeared before me this day and acknowledged that he is the Member/Manager of Jenaper Loma Hill, LLC, and that by authority duly given and as the act of the company, the foregoing instrument was signed in its name by its Member/Manager. Witness my hand and official stamp or seal, this the 27 day of September 2013.

Laurie A. Briggs
Notary Public

My commission expires: 5/11/14

LAURIE A. BRIGGS Notary Public Union County My Commission Expires 05/11/2014 NORTH CAROLINA

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

CONTRACT FOR INSPECTIONS OF ON-SITE WASTEWATER SYSTEMS TYPE II, III, IV and V

This Contract is entered into this 21st day of September, 2016 by and between TCW Wastewater Management, Inc., a North Carolina Corporation of Union County, North Carolina (hereinafter "TCW") and **Rich Tomasini**

Preamble

TCW is contracting with The Owner to provide inspection services as described on Attachment A for the fees or charges also shown in Attachment A.

The Owner owns or controls the property upon which a ground absorption sewage treatment system ("System") is installed, such System being designated as a type II, III, IV or V system under the Rules for Sanitary Sewage Collection. Treatment and Disposal found at 15A N.C. Admin. Code 18A. 1900 et seq.; and 15A N.C. Admin. Code 18A.1961 requires that a condition of the Operation Permit for certain systems be that a properly executed inspection contract between the System Owner and a management entity shall be in effect for as long as the System is in use. TCW is a management entity which employees certified operators of a type authorized by 15A N.C. Admin. Code 18a.1961 to manage and inspect type II, III, IV, and V systems.

In consideration of the premises and of the mutual covenants and promises contained in this Agreement, it is hereby agreed by and between the Owner and TCW as stipulated below.

Conditions of the Contract

A. TCW, in consideration of the payment by the Owner as set out in the schedule of services and charges in Attachment A, incorporated herein, agrees:

1) To provide the services set out in Attachment A according to the minimum schedule of inspections/services required by regulations for the lots or parcels set out in Attachment B.

2) To report results of the inspections to the local environmental regulatory agency having jurisdiction as required by applicable laws or regulations.

3) If inspections indicate the need for System repairs:

   a) to notify the local environmental regulatory agency within 48 hours.

   b) to give notice to the "Owner" of needed repairs, and, if the necessary repairs are outside the scope of the routine maintenance described in Attachment A, then The Owner may request TCW to provide an estimate. At the authorization of The Owner TCW will perform the necessary repairs at TCW's then prevailing charges for services and materials.

4) If TCW's services are terminated, TCW will notify the local environmental regulatory agency within 48 hours.

B. The Owner, in consideration of the services performed, agrees:

1) To pay TCW for its services according to the schedule of charges as set out in Attachment A.

2) Within 30 days of receipt of notice of repairs under A (3) above, the Owner(s) must provide proof that repairs have been performed by a licensed or qualified entity and the System is functioning properly or request and authorize TCW to complete the needed repairs.

3) To notify TCW promptly of any emergency or malfunction known to it which may violate environmental, health, or other laws and regulations, and to authorize immediate repair as necessary to restore the System to proper function and operation.

4) To use reasonable efforts to provide and to maintain at all times, such access to the Systems as is reasonably necessary for TCW to comply with its obligations under this Agreement.

C. **Terms of the Agreement**

1) This Agreement shall be effective for one year from the date of this contract, and will be automatically renewed from year-to-year thereafter, unless written notice of termination and non-renewal is given to the other party not less than 60 days prior to the end of the then current annual contract year.

2) The real property to be serviced under this contract is listed on Attachment B.

3) This Agreement automatically terminates if the Operation Permit for the system is revoked and all appeals of the revocation are exhausted or time for making an appeal has passed.

4) The parties may terminate at the end of the then current term by consent of each party or by not less than 60 days written notice to the other party prior to the end of the then current contract year, and not less than 30 days written notice to the local environmental regulatory agency.

5) This Agreement may be terminated for cause for breach which remains unremedied after 15 days written notice to the defaulting party.

D. **Limited Warranty**

TCW'S SOLE DUTIES AND RESPONSIBILITIES UNDER THIS AGREEMENT IS TO PROVIDE INSPECTION AND ROUTINE MAINTENANCE ONLY AS SPECIFIED IN THIS AGREEMENT. INSPECTIONS WILL COMPLY WITH APPLICABLE CODES, LAWS, AND REGULATIONS IN FORCE AT THE TIME OF THE INSPECTION AND REPORT. WORK AND MATERIALS USED IN REPAIRS ARE WARRANTED ONLY TO BE OF GOOD WORKMANSHIP, FREE OF DEFECTS, AND CONFORM TO THE SYSTEMS SPECIFICATIONS AND EQUAL TO THE ORIGINAL PARTS AND EQUIPMENT. THE OWNER'S SOLE REMEDY UNDER THIS EXPRESS WARRANTY IS REPAIR OR REPLACEMENT AND CONSEQUENTIAL DAMAGE OR DAMAGES FOR DELAY ARE LIMITED TO TOTAL SUMS PAID TCW UNDER THIS AGREEMENT FOR THE PARTICULAR LOT OR PARCEL FOR THE THEN CURRENT YEAR. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE, ARE EXPRESSLY AND SPECIFICALLY EXCLUDED. REPAIRS, REPLACEMENTS, ADDITIONS AND CHANGES BY OTHERS TO THE SYSTEMS COVERED BY THIS AGREEMENT WITHOUT PRIOR NOTICE TO TCW OR ACCEPTANCE OF THE WORK BY TCW DURING THE TERM OF THIS AGREEMENT VOIDS ANY WARRANTY GRANTED HEREIN AS TO TCW.

E. **Miscellaneous**

1) Transfer of rights, responsibilities, and duties under this Agreement by any party shall be valid only on written notice and consent signed by all parties, which consent shall not be unreasonably or arbitrarily withheld.

2) TCW may perform its duties and responsibilities by subcontract but TCW will remain directly liable and responsible to the Owner under the terms of this Agreement.

3) Waiver of default or a breach of the Agreement by any party shall not operate nor be construed as a waiver of further or subsequent defaults or breach of this Agreement. Failure to take action in any default or breach does not bear action on such default at any time subsequent to such breach or default.

4) This Agreement constitutes the entire agreement of the parties, incorporating, and superseding all prior representations and negotiations and may not be changed or amended except in writing signed by the parties. The Agreement shall be interpreted under North Carolina law. Any part of the Agreement declared void, illegal, or unenforceable will not affect other provisions of the Agreement.

5) Disputes arising under this Agreement shall be determined by any method of Alternative Dispute Resolution the parties choose, including but not limited to, mediation or arbitration, under the Uniform Arbitration Act of North Carolina or its equivalent, or such means or methods as the parties agree to in writing.

6) Notices are deemed delivered if delivered in person; by certified or registered mail; by courier; or delivery service, if properly receipted, charges and postage prepaid, as follows:

Owner: Mr. Rich Tomasini
121 Spring Run Dr.
Mooresville, NC 28117

Operator:
TCW Wastewater Management, Inc.
P. O. Box 187
Wingate, NC 28174

Environmental Regulatory Agency:

Iredell County Environmental Health
610 E. Center St.
Mooresville, NC 28115

A party may change its address my giving notice in the manner provided above.

Each party has executed this Agreement with full power, authority, and legal right to enter into; to bind itself to the rights, duties and responsibilities under this Agreement, which is binding on the parties, their successors and assigns, heirs and personal representatives, on the date first above written.

WITNESS: _____

OWNER: _____

TCW Wastewater Management, Inc.

WITNESS: Vicki Davis

BY: _____

Title: President

License numbers: SS 12248
SI 23910
2WW 24666
Inst. IV 37901
Insp. 3790

EXHIBIT A
TYPE II, III, IV

MONITORING & INSPECTION PLAN

1. **COST:** **INITIAL CONTRACT YEAR:** **$ 300.00 (2 required inspections)**
$ N/A (0 required lab)
$ 300.00 Total Initial Year

RENEWAL YEARS: **$ 300.00 (2 required inspections)**
$ N/A (0 required lab)
$ 300.00 Total Renewal Years

a. The Owner shall pay to TCW the aforementioned sums for each parcel listed on Attachment B. The initial annual fees are payable upon the execution of the contract. Annual billings will be made thereafter and payable within 30 days of billing. The annual billings will be made on the anniversary dates. The annual renewal fees may increase no more than 5% per year. The Owner shall pay to TCW his normal and customary fees for any authorized work performed on the System as a result of non-scheduled service or maintenance calls. These fees are due and payable within 30 days of billing. Payments due to TCW, and unpaid by the Owner after 30 days, shall be assessed late payment fee of 15% per month, accruing monthly on the unpaid balance.

2. **PERFORMANCE DUTIES:**

- Inspections and services that meet state requirements, i.e., inspections of System using an itemized check list, monitoring "septic tanks" to insure proper operation, and make adjustments of imbalances to systems through the distribution devices.
- Inspection report copies are sent to the environmental regulatory agency (if applicable) and homeowner
- Emergency service calls at no additional charge.
- 24-hour availability
- The Owner will be advised of any repairs needed and estimated cost or repairs. Repairs will not be made without Owner authorization.
- The Owner will be advised when pumping is recommended

Bacteria Additive Option – Additional $45 per year:

- The addition of a bacterial product into the individual septic tank as needed to maintain the proper level of bacteria.

EXHIBIT B

1. PHYSICAL ADDRESS OF SYSTEM(S):

a. 121 Spring Run Dr.
Mooresville, NC 28117

b. _____

c. _____

d. _____