Gibbs Cove Lot 51

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

INSPECTION AND MAINTENANCE

185 Hickory Hill Rd

This AGREEMENT is made and entered into this 12th day of March, 2007 by and between Matthew Niccolai , (hereinafter the "Owner") and Rowan Septic Tank & Ditching Co., Inc., George Kirkpatrick, (hereinafter the "Contractor").

WITNESSETH

WHEREAS, The Owner owns or controls the property upon which ground absorbtion sewage treatment system (hereinafter "system") is installed, such system being designated a Type 4 system under the Rules for Sanitary Collection Treatment and Disposal found at 15A N.C. Admin. Code 18A.1900 et seq.; and

WHEREAS, 15A N.C. Admin Code 18A.1961 requires a contract to be executed between the system owner and a management entity prior to issuance of an Operation Permit for said system; and

WHEREAS, 15A N.C. Admin. Code 18A1961 requires that a condition of the Operation Permit for said system be that a properly executed contract between the system owner and a management entity shall be in effect for as long as the system is in use; and

WHEREAS, the Contractor is a management entity of a type authorized by 15A N.C. Admin. Code 18A.1961 to manage a Type 4 system.

NOW THEREORE; in consideration of the premises and of the mutual covenants and promises contained in the Agreement, it is hereby agreed by and between the Owner and theContractor as stipulated below.

1. The Contractor's Obligations: The Contractor shall perform the following on the Owner's system located at Gibbs Cove #51, 185 Hickory Hill Drive.

   a. The Contractor shall inspect the system twice annually. Inspect septic tank for cracks, breaks or other imperfections that would allow leakage of effluent out of the tank or for infiltration of extraneous water into the system.

   b. Check sludge depth annually.

   c. The Contractor will inspect the pump tank for cracks, breaks or other imperfections that would allow leakage of effluent out of the tank or infiltation of extraneous water into the pump tank. It includes an inspection of the riser connection and conduit connections to make sure they are not allowing surface water into the pump tank.

   d. Activate the pump to insure that it is functional.

   e. Inspect and test all float switched to insure that they are functional.

   f. Activate and test all components of the alarm system including high water float, control box, audible and visible alarms.

Note: Any pumping, minor repairs or replacement of system components shall be charged the current and customary fee. This fee will not exceed $150.00 without prior notification to the Owner.

g. The Contractor shall report the results of it's inspection to the local health department annually.

h. If an inspection indicates the need for major system repairs, the Contractor shall notify the health department within 48 hours of the inspection.

i. The Contractor shall notify the Owner of the needed repairs which are outside the scope of routine maintenance. The Contractor shall perform necessary repairs to the system at the request of the Owner and shall be entitled to payment therefore at the Contractor's normal charge for services and material.

j. The Contractor shall respond to a request for non-scheduled service or maintenance call within 48 hours after receipt of such request.

2. The Owner's Obligations:

a. The Owner shall pay to the Contractor the sum of $200.00 per year for periodic inspections, routine maintenance procedures and periodic reports. The annual fee may be amended upon 60 days advance notice to the Owner but may not be increased more than 10% per year. The Owner shall pay the Contractor his normal and customary fees for work performed on the system as a result of non-scheduled service or maintenance calls. All fees are due and payable within 30 days of billing. Payments due to the Contractor and unpaid by the Owner after 30 days shall accrue interest from the date due until paid at the rate od 18% per month

b. Within 30 days of reciept of notice of needed repairs pursuant i.e. above, the Owner shall request the Contractor to complete needed repairs or shall provide to the Contractor evidence that the needed repairs were satisfactorily completed by another entity.

c. The Owner shall provide the Contractor with such access to the system as is reasonably necessary for the Contractor to comply with the terms of this agreement.

3. Terms: This Agreement shall remain in effect until terminated.

a. Automatic Termination:
This Agreement shall automatically terminate 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.

b. Termination by Mutual Consent:
The Parties may mutually agree to terminate this Agreement by giving written notice of termination by mutual consent to the local health department 30 days in advance of the date of termination.

c. Termination by the Owner:
The Owner may terminate this Agreement by giving notice to the Contractor and to the local health department 30 days in advance of the date of termination.

d. Termination by the Contractor:
The Contractor may terminate this Agreement for cause by giving written notice to the local health department and the Owner 30 days in advance of the date of termination. Cause shall be defined as:

(a) Failure to remit payment for any bill for services performed under and in accordance with this Agreement if said bill is not paid within 30 days of reciept by the Owner of the bill. If said bill is paid after notice of termination is given but prior to the date of termination of this Agreement, this Agreement shall continue in effect;

(b) Failure of the Owner to provide to the Contractor authorization to complete needed repairs or satisfactory evidence that needed repairs to the system were completed by another entity within 30 days of receipt of notice of needed repairs pursuant to paragraph above. If said authorization to complete needed repairs or evidence of completion of said repairs is provided after notice of termination is given but prior to date of termination of this Agreement, this Agreement shall continue in effect.

(c) Failure of Owner to allow the Contractor such access to the system as reasonably necessary in order for the Contractor to comply with the terms of this Agreement.

The Contractor may not terminate this Agreement without cause, but may assign its rights and duties under this Agreement in order for the Contractor as provided in paragraph 4, below.

4. Assignment:

a. Assignment by Owner: The Owner shall notify the Contractor of the name and address of any puchaser of property on which the system is located of the existence of this Agreement and shall assign all rights and duties under this Agreement to said puchaser.

b. Assignment by Contractor: The Contractor may assign it's rights and duties under this Agreement to another entity which is qualified pursuant to 15A N.C. Admin. Code 18A.1961 to manage a Type 4 system upon 30 days written notice to the Owner and to the local health department.

5. Use of Subcontractor: The Contractor may subcontract with such manufactures, suppliers and contractors as it deems desirable to perform the Contractor's duties under this Agreement. The Contractor shall at all times remain responsible for the performance of and payment for all work performed by all subcontractors.

6. Representation: The Parties represent to each other that each has the power authority and legal right to enter into and perform it's obligations as set forth in this Agreement.

7. Regulatory Amendents: References in this Agreement to sections of the Administative Code shall include such rules as they may amended in the future.

8. No Implied Waiver: The waiver by either Party of a default or a breach by the other Party of and provision of this Agreement shall not operate or be construed to operate as a waiver of any subsquent default or breach. The failure at any time of either Party to enforce any provision of this Agreement:

a. Shall be construed to be a waiver of such provisions, of any other provisions.

b. Shall not in any way affect the validity of this Agreement, or any part of this Agreement, or the right of either Party thereafter, to enforce each and every provision of this Agreement.

9. Notice: Every notice required under this Agreement shall be in writing and shall be deemed sufficently given if delivered in person or sent by certified or registered mail, return receipt requested, postage pre-paid to the Party to be notified and addresed as follows:

To The Owner:
Matthew Niccolai
185 Hickory Hill Drive
Mooresville NC 28117

To The Contractor
Rowan Septic Tank and Ditching Co Inc
7321 Old Mocksville Road
Salisbury NC 28144-1253
Attn: George Kirkpatrick

To The Local Health Department
Iredell County Haealth Department
610 E Center Avenue
Mooresville NC 28115
Attn: Maria Dodson

10. Place of Agreement: This Agreement and any questions concerning it's validity, construction or performance shall be governed by laws of the State of North Carolina, notwithstanding the place of execution, or the order in which the signatures of the Parties are affixed.

11. Entire Agreement and Amendment: This Agreement supersedes all prior negotiations, agreements and understandings between the Parties with respect to the subject matter hereof. To be effective, any amendments or modifications to this Agreement must be in writing and must be signed by the Parties.

12. Severability: In the event that any provision of this Agreement shall, for any reason,be determined to be invalid, illegal or unenforceable in any respect, the Parties shall negotiate in good faith and agree to such amendments, modifications or supplements of or to this Agreement or such appropriate actions as shall, to maximum extent practicable in light of such determination, implement and give effect to intentions of the Parties as reflected in this Agreement, and the other provisions of this Agreement shall, as so amended, modified, supplemented or otherwise affected by such action, remain in full force and effect.

IN TESTIMONY WHEREOF, the Parties hereto have executed this Agreement in duplicaticate orginals, one of which is retained by each of the Parties, the day and year above written.

_____ Date 3/12/07
(Owner)

_____ Date 3/12/07
(Contractor)