

CABARRUS COUNTY
FILED
08/30/2006 8:46 AM
LINDA F. MCABEE
Register Of Deeds
By. Deputy/Asst.
EXCISE TAX \$0.00

**CONSENT AGREEMENT
FOR THE Roberta Meadows DEVELOPMENT
FOR CABARRUS COUNTY**

THIS CONSENT AGREEMENT is entered into as of this 21st day of August, by and among Pilts School, LLC, with its principal place of business at 4608 Carriker Road, Monroe, NC 28110, the owners of the project more fully defined below ("Developer") and Cabarrus County, North Carolina, a political subdivision of the State of North Carolina, with its principal place of business at 65 Church Street, SE, Concord, North Carolina 28025 (hereafter, the "County" or "Cabarrus County") by and through its Cabarrus County Board of Commissioners.

RECITALS:

A. Developer is the owner of approximately 13.70 +/- acres of real property located in the City of Concord, Cabarrus County, and has proposed the development of a subdivision in that location with a maximum of 33 single family lots, currently known as the Hampden Village subdivision project (the "Project"), to be constructed in multiple phases.

B. The Project is subject to the Adequate Facilities Provisions of the Cabarrus County Subdivision Ordinance, Chapter 4 Section 17, and to best knowledge of the County, has been reviewed by all public agencies which may potentially serve the Project and its future residents.

C. Developer is willing to advance public services and facilities for the Project and to agree to certain other considerations to address Cabarrus County adequate facility standards and advance these services and facilities.

D. Cabarrus County, acting pursuant to its authority under G.S. 153A-330 to 335, and the applicable provisions of the Cabarrus County Subdivision Regulations, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to process the Project, resulting in the negotiation, consideration and approval of this Consent Agreement after all necessary hearings.

CABARRUS COUNTY AND THE DEVELOPER HEREBY AGREE AS FOLLOWS:

1. The Project

1.1 Description of Project. The Roberta Meadows Project covered by this Consent Agreement consists of a single-family subdivision with 33 lots located on approximately 13.70 +/- acres in Concord, North Carolina and has a density not to exceed 2.41 as shown on the approved preliminary subdivision plan. Any changes in such approval must be approved in accordance with the City of Concord Unified Development Ordinance (UDO) its successor in interest.

1.1A. Timing and Phasing of Project. Absent a separate agreement by and between Landowners/Developers, its or their successors or assigns, and the County formally approved by the Board subsequent to this Consent Agreement, Landowners/Developers, on its (their) own behalf and that of its (their) successors and assigns, agree that homes within the Project shall become available for occupancy upon the rate, time frame, or schedule set forth hereinafter, the total number of which may be accumulated (i.e. the total number of homes available for occupancy in a subsequent year or years shall

include those for a prior year or years, but shall not exceed the cumulative total for the year/years identified);
Calendar year 2006, no more than 4 lots platted;
Calendar year 2007, no more than 20 lots platted;
Calendar year 2008, no more than 9 lots platted.

1.2 Legal Description of Property. The map description of the land covered by the Project is attached hereto as Exhibit A and incorporated into this Consent Agreement by this reference (the "Property"). No property may be added to the map description for purposes of this Consent Agreement, except by written amendment. Except as expressly set forth in this Agreement with respect to off-property road improvements, this Consent Agreement shall not affect any land other than the Property.

1.3 Approved Use and Density. This Consent Agreement shall recognize, with respect to the Project, the total number of subdivided, single family residential lots, consisting of an overall maximum density not to exceed 2.41 units per gross acre of the Property. No multi-family units are approved for the Project.

1.4 Configuration of Development. The configuration of the Project is recognized, as shown on the approved preliminary plan, copies of which are available in the Cabarrus County office of Planning Services. The Project Plan is subject to revision in accordance with the adequate facilities fees provisions of the Cabarrus County Subdivision Regulations and Cabarrus County Zoning Ordinance, as more fully set forth herein, and any applicable provisions of the provisions of the City of Concord Unified Development Ordinance (UDO). The Project Plan shall reflect the general location of roads and configuration of lots for the Project as shown on the preliminary plat; subject to revision in accordance with the provisions of The City of Concord Unified Development Ordinance (UDO).

1.5 Specific Conditions. The approval and development of this Project is subject to the following conditions as agreed upon by the Developer and County:

A) Payment of a fee per single-family lot to advance school adequacy (the "base Adequate Facilities Fee" or "AFF") which may be adjusted annually in accordance with a policy and/or schedule adopted by the Cabarrus County Board of Commissioners (the "Board"). The AFF applicable to this project currently is \$4,034.00 per lot and the total AFF for all lots in this Project currently approved is \$133,122.00 (the "Total Project AFF").

B) Except as otherwise authorized in a written payment plan specifically approved by the Board, a copy of which shall be attached hereto as Exhibit B and incorporated herein by reference, the Total Project AFF shall be due and payable upon Final Platting of the current approved Project, or any phase thereof, whichever shall first occur.

2. Summary of Cabarrus County Determinations Relating to the Project.

The Board of Commissioners of Cabarrus County, acting in its legislative capacity, has made the following determinations with respect to the Project, including all findings of fact and law as are necessary to make each of the following determinations:

2.1 County Determinations Relating to the Project.

2.1.1 Permit Approvals. The Project has received an approval recommendation, with the conditions staff recommended, on the preliminary plat by action of the City of Concord Planning and Zoning Board taken on June 20th, 2006.

2.2 Recognized Rights In Base Adequate Facility Fee.

2.2.1 Recognized Rights. Subject to Section 1.5.A, the Project shall have the right to have the base Adequate Facilities Fee assessed in accordance with the subdivision plats approved and to develop and construct the Project in accordance with the uses, density and general configuration of development described and incorporated in Section 1 under the applicable zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, laws and regulations in existence and effective as of the date of final subdivision approval and the terms and conditions of this Consent Agreement.

2.2.2 Reserved Legislative Powers.

2.2.2.0.1 Future Changes of Laws and Plans; Compelling Countervailing Public Interest.

Nothing in this Agreement shall limit the future exercise of the police power of the City of Concord and the County in enacting zoning, subdivision, development, growth management, platting, environmental, open space, transportation and other land use plans, policies, ordinances and regulations, including without limitation, the enactment of impact fees and the application thereof, after the date of this Agreement. Any such proposed change affecting the recognized rights of the Project shall be of general application to all development activity in The City of Concord or Cabarrus County.

2.3 Fees.

2.3.1 Development Review Fees. The Project has paid development review fees for the entire Project upon submission of the application for Preliminary Plat approval. No further development review fees for a Preliminary Plat approval shall be charged by Cabarrus County to the Project.

2.3.2 Cabarrus County Plan Engineering Review Fees. Notwithstanding the foregoing paragraph, Cabarrus County may charge such standard engineering and review fees for final subdivision plat approval as are applicable at the time of application.

2.3.3 Other Fees. Cabarrus County and any other applicable jurisdiction may charge other review fees that are generally applicable, including but not limited to standard building permit review fees for improvements to be constructed on improved lots and sediment and erosion control plan review fees.

3. Successors and Assigns.

3.1 Binding Effect. This Agreement shall be binding on the successors and assigns of the County and the Developer in the ownership or development of any portion of the Project.

3.2 Transfer of Project. Developer shall be entitled to transfer any portion of this Project subject to the terms of this Consent Agreement upon written notice to and the prior written consent of the County, which consent shall not be unreasonably withheld. However, such consent may take into account the solvency of the proposed assignee and the assignee's perceived ability and willingness to comply with all terms and conditions of this Consent Agreement, including without limitation, the timely payment of any fees owed the County hereunder. In the event of any such transfer, the transferee shall be deemed to be the Developer for all purposes under this Consent Agreement with respect to that portion of the Project transferred.

3.3 Release of Developer. In the event the County approves a transfer of all or a the remaining portion of the obligations to the County pursuant to the Project, the Developer shall obtain a written assumption by the transferee, satisfactory to the County, of the Developer's obligations under this Agreement, and, such evidence of financial ability to assume such obligations as may be reasonably requested by the County with regard to payment of any fees or other obligations owed to the County pursuant to this Agreement. In such an event, the transferee shall be fully substituted as the Developer under this Agreement and the Developer executing this Agreement shall be released from any further obligations to the County with respect to this Consent Agreement.

4. General Terms and Conditions.

4.1 Agreements to Run with the Land. This Agreement shall be recorded against the Property as described in this Consent Agreement. The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property.

4.2 Construction of Agreement. This Agreement shall be deemed to be negotiated between all affected parties and shall not be more strictly construed against any one party, but rather be construed so as to fairly effectuate the public purpose of settlement of disputes that may arise hereunder.

4.3 Laws of General Applicability. Where this Agreement refers to laws of general applicability to the Project and other properties, this Agreement shall be deemed to refer to other developed and subdivided properties in Cabarrus County.

4.4 Duration. The term of this Agreement shall commence on and become effective the date of final subdivision approval from the County. The Term of this Agreement shall extend for a period of two years following the effective date unless the Agreement is earlier terminated, or its term modified. The term of this Agreement shall automatically be extended for a period of two years following the filing of each record plat for a portion of the project, in accordance with The City of Concord Unified Development Ordinance (UDO) and any applicable Cabarrus County regulations.

4.5 Mutual Releases. At the time of, and subject to: (i) the expiration of any applicable appeal period with respect to the approval of this Agreement without an appeal having been filed; or (ii) the final determination of any court upholding this Agreement, whichever occurs later, and excepting the parties' respective rights and obligations under this Agreement; Developer, on behalf of itself and Developer's partners officers, directors, employees, agents, attorneys and consultants, hereby release Cabarrus County and Cabarrus County board members, officials, employees, agents, attorneys and consultants, from and against any and all claims, demands, liabilities, costs, expenses of whatever nature, whether known or unknown, and whether liquidated or contingent, arising on or before the date of this Agreement in connection with the application, processing or approval of the Roberta Meadows Project.

4.6 State and Federal Law. The parties agree, intend and understand that the obligations imposed by this Agreement are only such as are consistent with state and federal law. The parties further agree that if any provision of this Agreement becomes, in its performance, inconsistent with state or federal law or is declared invalid, this Agreement shall be deemed amended to the extent necessary to make it consistent with state or federal law, as the case may be, and the balance of the Agreement shall remain in full force and effect.

4.7 Enforcement. The parties to this Agreement recognize that, in addition to other remedies that may be available, Cabarrus County has the right to enforce its rules, policies, regulations, ordinances, and the terms of this Agreement by seeking an injunction to compel compliance with the terms of this Agreement. In the event that Developer or any user on the subject property violates the rules, policies, regulations or ordinances of Cabarrus County or violates the terms of this Agreement, Cabarrus County may, without seeking an injunction and after ten (10) days' notice to correct the violation, take such actions as shall be deemed appropriate under law until such conditions have been honored by the Developer. Cabarrus County shall be free from any liability arising out of the exercise of its rights under this paragraph.

4.8 No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future time said right or any other right it may have hereunder. No officer, official or agent of Cabarrus County has the power to amend, modify or alter this Agreement or waive any of its conditions as to bind Cabarrus County by making any promise or representation not contained herein.

4.9 Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

4.10 Attorneys Fees. Should any party hereto employ an attorney for the purpose of enforcing this Agreement, or any judgment based on this Agreement, for any reason or in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearings, and whether or not an action has actually commenced, each party shall be responsible for their own attorneys' fees and all costs and expenses, unless any judgment or final order be issued in that proceeding, specifying otherwise.

4.11 Notices. All notices hereunder shall be given in writing by certified mail, postage prepaid, at the following addresses:

Cabarrus County, P.O. Box 707, Concord, North Carolina 28026-0707

Developer: Pitts School, LLC, 4608 Carriker Road, Monroe, NC 28110

4.12 Applicable Law. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of North Carolina.

4.13 Execution of Agreement. This Agreement may be executed in multiple parts as originals or by facsimile copies of executed originals; provided, however, if executed and evidence of execution is made by facsimile copy, then an original shall be provided to the other party within seven (7) days of receipt of said facsimile copy.

4.14 Hold Harmless. Developer agrees to and shall hold Cabarrus County, its, officers, agents, employees, consultants, special counsel and representatives harmless from liability: (1) for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of the Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the project; and (2) from any claim that damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. Developer agrees to pay all costs for the defense of Cabarrus County and its officers, agents, employees, consultants, special counsel and representatives regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project or any claims arising out of this Agreement. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph or due by reason of the terms of, or effects, arising from this Agreement regardless of whether or not the County prepared, supplied or approved this Agreement, plans or specifications, or both, for the Project. The developer further agrees to indemnify, hold harmless, and pay all costs for the defense of the County, including fees and costs for special counsel to be selected by Cabarrus County, regarding any action by a third party challenging the validity of this Agreement or asserting that damages, just compensation, restitution, judicial or equitable relief is due to personal or property rights by reason of the terms of, or effects arising from this Agreement. Cabarrus County may make all reasonable decisions with respect to its representation in any legal proceeding.

4.15 Relationship of Parties. The contractual relationship between Cabarrus County and Developer arising out of this Agreement is one of independent contractor and not agency. It is specifically understood by the parties that: (a) the Project is a private development; (b) County has no interest in or responsibilities for or duty to third parties concerning any improvements to the Property unless the County accepts the improvements pursuant to the provisions of this Agreement or in connection with any applicable subdivision map approval; and (c) As between the County and the Developer, the Developer shall have the full power and exclusive control of the Property subject to the obligations of the Developer set forth in this Agreement.

5.1 Default.

5.1.1 Events of Default. Developer is in default under this Agreement upon the happening of one or more of the following events or conditions:

- (1) If a warranty, representation or statement made or furnished by Developer to Cabarrus County is false or proves to have been false in any material respect when it was made;
- (2) A finding and determination made by Cabarrus County following a periodic review that upon the basis of substantial evidence the Developer has not complied in good faith with one or more of the terms or conditions of this Agreement.
- (3) Any other event, condition, act or omission which materially interferes with the intent and objectives of this Agreement.

5.1.2 Procedure upon Default.

(1) Upon the occurrence of default, County shall give Developer (the "defaulting party") thirty (30) days written notice specifying the nature of the alleged default and, when appropriate, the manner in which said default may be satisfactorily cured. After proper notice and expiration of said thirty (30) day cure period without cure, Cabarrus County may execute any remedy available to it hereunder and under applicable law, rule, regulation or ordinance, and may be entitled to terminate or amend this Agreement in accordance with the procedures adopted by Cabarrus County. Failure or delay in giving notice of default shall not constitute a waiver of any default, nor shall it change the time of default. Exercise of any remedy available to Cabarrus County does not preclude exercise of any other remedies available to Cabarrus County, any of which may be exercised independently or concurrently.

(2) Cabarrus County does not waive any claim of defect in performance by Developer, if on periodic review Cabarrus County does not propose to modify or terminate this Agreement.

(3) Non-performance shall not be excused because of a failure of a third person.

(4) Adoption of a law or other governmental activity making performance by the applicant unprofitable or more difficult or more expensive does not excuse the performance of the obligations by the Developer hereunder.

(5) All other remedies at law or in equity which are not inconsistent with the provisions of this Agreement or are available to the parties to pursue in the event there is a breach, may be pursued by the applicable party.

5.1.3 Damages Upon Termination. In no event shall Developer be entitled to any damages against Cabarrus County upon termination of this Agreement.

5.14 Institution of Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Cabarrus, State of N.C., or in the Federal District Court in the Middle District, and the parties hereto submit to the personal jurisdiction of such courts without application of any conflicts of laws provisions of any jurisdiction.

IN WITNESS WHEREOF, this Agreement has been executed by Cabarrus County, acting by and through its Commerce Department, pursuant the approval of the Project by the Cabarrus County Board of Commissioners, authorizing such execution, and by a duly authorized representative of Developer.

Dated this 22nd day of August, 2006.

CABARRUS COUNTY, North Carolina

By: [Signature]
Authorized Signature

DEVELOPER: Pitts School, LLC

By: [Signature]
Authorized Signature for Pitts School, LLC

Title: Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

By: [Signature]
Asst. Finance Director

Date: 8-28-06

[Attach notarized certificate of Developer's executing party's authority to execute]

North Carolina

Cabarrus County

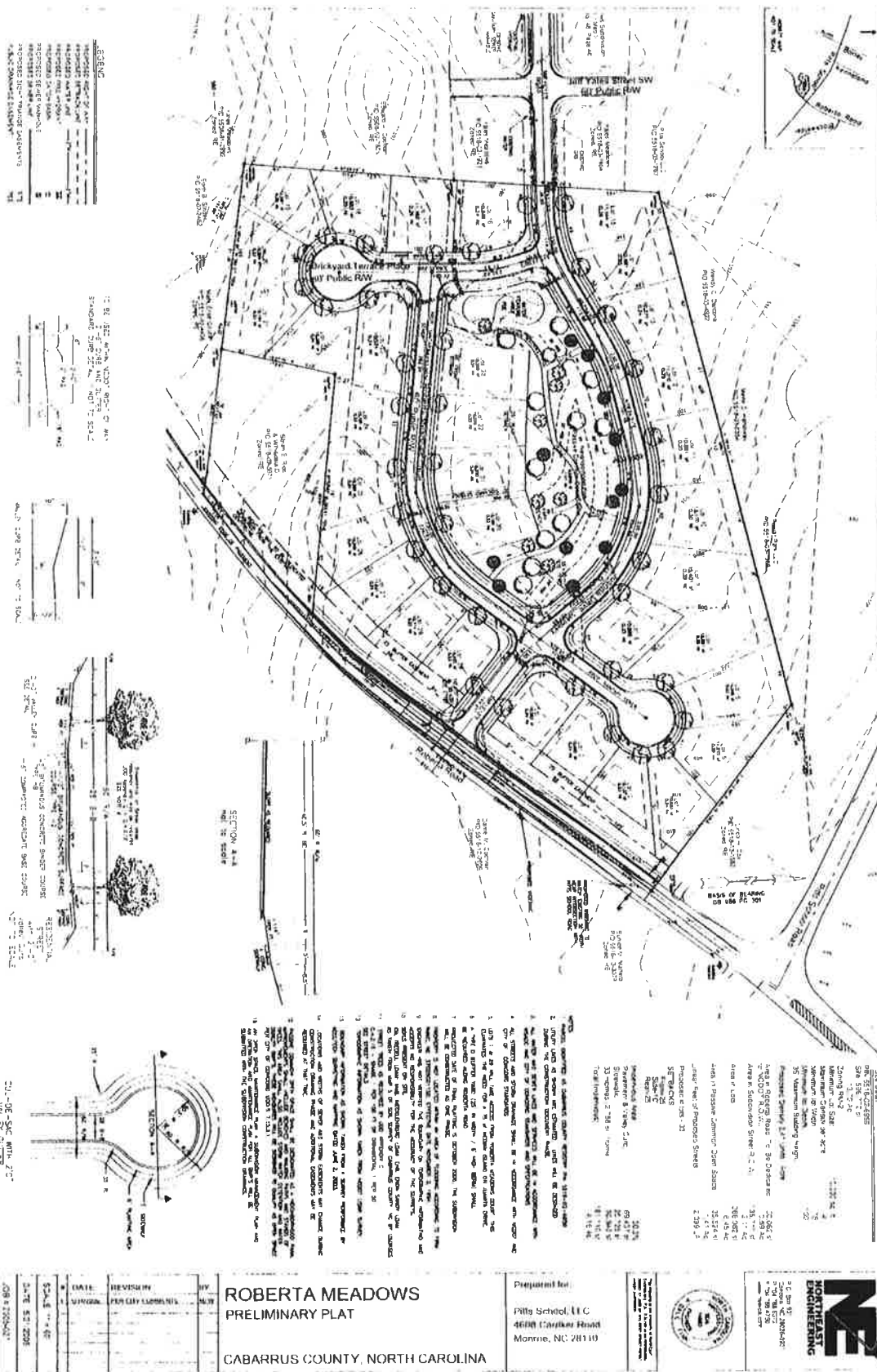
I, Michael Byrd, a Notary Public for the said County and State,
do hereby certify that Tim Hurthy personally came before me this
day and acknowledged that he is Manager of P.H. School LLC and
acknowledged, on behalf of P.H. School LLC, the due execution of the
foregoing instrument.

Witness my hand and official seal, this the 22nd day of
August, 2006



Michael Byrd
Notary Public

My commission expires 2/21/09, 2009.



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0275

FILED
CABARRUS COUNTY NC
LINDA F. McABEE
REGISTER OF DEEDS

FILED Nov 28, 2012
AT 04:10 pm
BOOK 10267
START PAGE 0275
END PAGE 0294
INSTRUMENT # 30692
EXCISE TAX \$0.00

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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
ROBERTA MEADOWS SUBDIVISION

THIS DECLARATION is made as of this 28 day of November, 2012, by Pitts School, LLC, a North Carolina limited liability company, referred to in this instrument as "Declarant."

STATEMENT OF PURPOSE

Declarant is the owner of certain land known as ROBERTA MEADOWS Subdivision, located in Cabarrus County, North Carolina, ("ROBERTA MEADOWS"), and more particularly described on the plat recorded in Map Book 55, Page 69, Cabarrus County Registry and shown on Exhibit A attached hereto (the "Submitted Property").

It is in the best interest of Declarant, as well as to the benefit, interest and advantage of each person or other entity later acquiring any property in ROBERTA MEADOWS, that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land.

Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in ROBERTA MEADOWS and for the continued maintenance and operation of such recreational and common areas as may be provided.

DECLARATION

In consideration of the premises and for the purposes stated, Declarant hereby declares that all of the Submitted Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (all of which are collectively referred to in this instrument as "restrictions"), which restrictions shall be construed as covenants running with the

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land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(1.1) "Association" shall mean Roberta Meadows Homeowners Association, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina and its successors and assigns.

(1.2) "Builder" or "Builders" shall mean the record owner of a fee simple title to any Lot whose sole purpose in owning the Lot is to construct a residential dwelling to be sold to a third party.

(1.3) "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of ROBERTA MEADOWS but excluding those having such interest merely as security for the performance of an obligation.

(1.4) "Properties" shall mean the Submitted Property and such real property as may subsequently be brought within the jurisdiction of the Association.

(1.5) "Common Area" shall mean all real property and/or easements over real estate acquired by the Association in ROBERTA MEADOWS for the common use and enjoyment of members of the Association lying within the boundaries of the Properties. Common Areas, with respect to the Properties subject to this Declaration, shall be: (i) shown on the plats of ROBERTA MEADOWS recorded in the Cabarrus County Public Registry and designated thereon as "Common Open Space", "Common Area", "COS", "LSE", or "Landscaping Easement" and (ii) all entrance islands within the public rights of way, if any.

(1.6) "Lot" shall mean any numbered plot of land to be used for residential purposes shown upon any recorded subdivision plat of the Properties subject to this Declaration.

(1.7) "Declarant" shall mean and refer to Pitts School LLC and its successors and assigns.

(1.8) "Person" shall mean a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

(1.9) "ROBERTA MEADOWS" shall mean the Submitted Property, together with such additions thereto as may from time to time be designated by Declarant in accordance with Article II hereof, whether or not such additions are contiguous with or adjoin the boundary lines of the Submitted Property.

(1.10) "FHA and VA" shall mean and refer to the Federal Housing Administration, U.S. Department of Housing and Urban Development, and the Veteran's Administration, respectively.

If either or both of these federal agencies shall hereafter cease to exist or perform the same or similar functions they now serve, references hereto to FHA or VA shall be deemed to mean and refer to such agency or agencies as may succeed to the duties and services now performed by either or both of these departments.

ARTICLE II: PROPERTY SUBJECT TO THIS DECLARATION

(2.1) The Submitted Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration. Only the Submitted Property is hereby made subject to this Declaration; provided, however, Declarant shall have the right to subject other real property to these restrictions as provided in Section 2.2.

(2.2) Without further assent or permit, Declarant hereby shall have the right within seven (7) years from the date of this Declaration, exercisable from time to time, to subject other real property within a one mile radius of the Submitted Property in order to extend the scheme of this Declaration to other property to be developed as part of ROBERTA MEADOWS and thereby bring such additional properties within the jurisdiction of the Association (provided that the FHA and the VA determine that the annexation of such area is in accord with Declarant's general plan of development of ROBERTA MEADOWS as previously approved by them, if such determination and approval are necessary).

(2.3) Any addition of real property shall be made by filing of record one or more Supplemental Declarations in respect to the property to be then made subject to this Declaration, and the jurisdiction of the Association shall thereby then extend to such property and subject such addition to the assessments provided in this instrument for a just and proportionate share of the Association's expenses. Each Supplemental Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added properties and as are not inconsistent with the provisions of this Declaration.

ARTICLE III: PROPERTY RIGHTS

(3.1) Owner's Easements of Enjoyment. Every Owner, including Declarant, shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the provisions of this Declaration, including but not limited to the following:

(a) The right of the Association to limit the use of the Common Area to Owners, their families and guests;

(b) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations, if any;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association members. No such dedication or transfer shall be effective unless the members entitled to at least two-thirds (2/3) of the vote appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement

by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cablevision, water and sewerage utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership if such easements are requisite for the convenient use and enjoyment of the Properties or preclude the Board of Directors of the Association from transferring part of the common area without the assent of the membership for the purpose of adjusting lot lines in accordance with local zoning and subdivision ordinances provided the transfer does not materially affect the development plan for ROBERTA MEADOWS on file with any federal agency.

(3.2) Delegation and Use. The right and easement of enjoyment granted to every Owner in Section 3.1 of this Article may be exercised by members of Owner's family and guests thereof. An Owner may delegate to his tenants his rights of enjoyment in and to the Common Area and such facilities thereon as may be provided, in accordance with the Association's Bylaws and rules and regulations, if any.

ARTICLE IV: MEMBERSHIP AND VOTING RIGHTS

(4.1) Membership. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

(4.2) Voting and Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners with the exception of Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) Class B. The Class B member shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever first occurs:

(i) When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in Class B membership; or

(ii) Ten (10) years from the date of recording of this Declaration; or

(iii) When the Declarant voluntarily relinquishes majority control of the Association by a duly recorded instrument.

(4.3) Suspension of Rights. During any period in which a member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment, is paid. In the event of violation by a member of any rules or regulations established by the

Board of Directors, such member's voting rights may be suspended for a period not to exceed sixty (60) days by the board after a hearing. Such hearings shall only be held by the board or a committee thereof after giving a member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of the violation shall be made by a majority vote of the board or the committee thereof.

ARTICLE V: COVENANT FOR MAINTENANCE ASSESSMENTS

(5.1) Purpose of Assessment. The assessments levied by the Association shall be used: (a) to provide funds for maintenance, upkeep, landscaping and beautification of the Common Area and the Stormwater Control Facilities in ROBERTA MEADOWS; (b) to provide services for the Association members to promote the health, safety and welfare of the residents of ROBERTA MEADOWS, and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, and other Common Area and the cost of repair, replacement and additions thereto; (c) for the payment of taxes assessed against the Common Area, for appropriate types of insurance related to the Common Area, for the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful, the employment of security personnel; (d) the provision of any service which is not readily available from any governmental authority related to the use, occupancy and enjoyment of the properties and which the Association shall decide to provide; and (e) for the payment of monthly electric and water bills and other expenses resulting from the maintenance or beautification of entrance monuments, signs, and landscaping.

(5.2) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in said Deed, is deemed to covenant and agree to pay to the Association;

(a) Annual assessments ("Annual Assessments") for the purposes specified in Section 5.1 in the amount hereinafter set forth; and

(b) Special assessments ("Special Assessments") for the purposes specified in Section 5.1 as may be approved by the members, to be established, and collected as provided herein.

In order to secure payment of the Annual and Special Assessments, such charges as may be levied by the Association against any Lot, together with interest, costs of collection and reasonable attorney's fees, shall be a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment, together with interest, late charges, costs of collection and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by them. Such assumption shall not relieve an Owner of his obligation.

(5.3) Exempt Property. The assessments, charges and liens created under this Article shall not apply to the Common Area, nor shall they apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans Affairs or any other state or federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed

mortgage loan; provided, however, that upon the resale of such property by such first mortgagee or such governmental agency the assessments shall again accrue on such Lot. Any Lot which Declarant may hereafter designate for common use as part of the Common Areas shall also be exempt and all land granted to or used by a utility company shall be exempt from the assessments created herein.

(5.4) Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment shall be \$150.00 on each Lot owned by Class A Members.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased each year above the maximum assessment for the previous year without a vote of the membership not more than ten percent (10%) from the previous year.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Annual Assessment may be increased above ten percent (10%) of the previous year by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum herein provided.

(5.5) Special Assessments. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of the Association members who are voting in person or by proxy at a meeting duly called for this purpose.

(5.6) Notice and Quorum for Any Action Authorized Under Sections 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.4 and 5.5 of this Article shall be sent to all members not less than thirty (30) days nor more than fifty (50) days in advance of the meeting. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, the general nature of any proposed amendment to the declaration or bylaws, any budget changes or proposal to remove a director or officer. At the first such meeting called, the presence in person or by proxy of members entitled to cast twenty percent (20%) of all the votes of each class shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half of the required quorum applicable to the meeting adjourned for lack of a quorum. The quorum requirement shall continue to be reduced by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

(5.7) Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment. The Annual Assessments shall commence as to all Lots on the later to occur of the first day of the month following the date such property is submitted to the provisions of this Declaration or when activated by the Declarant. From the date on which the Annual Assessments commence on a Lot until the date on which the Lot is sold by the Owner or Builder to a homeowner, the Owner and Builder shall be liable for Annual Assessments at a rate which is

twenty-five percent (25%) of the rate otherwise payable except that Declarant shall not be liable for Annual Assessments on any Lots if the Association is operating without a deficit. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year when filed. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the Annual Assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's Annual Assessment shall be the fixed amount. Written notice of any change in assessment rate shall be sent to every owner. The Annual Assessments shall be due and payable in advance on January 1 of each year unless the Board of Directors votes to collect such assessments on a monthly basis and the due dates for the payment of Special Assessments shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid to date.

(5.8) Effect of Non-Payment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be assessed a late charge as determined by the Board of Directors and bear interest from the due date at an annual rate of eight percent (8%) but in no event above the then maximum legal rate, and to the extent allowed by law. The Association, or its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

(5.9) Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first priority deed of trust or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

(5.10) Collection Upon Sale by Declarant or Builder. Upon the sale of a Lot by Declarant or Builder to a purchaser, the purchaser shall pay to the Association at the closing of the sale that amount of money that is equal to that portion of the Annual Assessment attributable to the balance of the period in which the closing takes place. After receipt of said payment, any amounts prepaid by the Declarant or Builder shall be refunded by the Association. Any Special Assessment made before, but falling due after, the date of closing of the sale of a Lot by Declarant or Builder shall be paid in full to the Association by the purchaser at the closing of the sale. In addition, each original purchaser of a Lot containing a residence shall pay to the Association an amount equal to the Annual Assessment at closing as a contribution to the Working Capital Fund of the Association.

ARTICLE VI: ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

(6.1) Architectural Control Committee. Declarant shall appoint an Architectural Control Committee consisting of not less than three members to serve as representatives of the Association's Board of Directors and enforce the restrictions hereafter set forth and any additional rules and regulations adopted by a majority of the Association's Board of Directors.

Prior to the formation of said Committee, Declarant shall have the responsibility of enforcing the restrictions set forth in this Article. Upon the earlier of the following two dates, the Architectural Control Committee shall be appointed by the Board of Directors: (1) Upon the Declarant voluntarily relinquishing control of the Architectural Control Committee; or (2) ten (10) years following the date of recording of this Declaration.

(6.2) Approval of Plans and Architectural Control Committee. Reference herein to the Architectural Control Committee shall mean the Declarant until such Committee is appointed. The following architectural, maintenance and use restrictions shall apply to each and every Lot now or hereafter subject to this Declaration. No construction, reconstruction, remodeling, alteration, roofing or addition to any structure, building, fence, wall, drive or walkway, or exterior color change, shall be commenced or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made after completion of construction of said dwelling, unless and until the plans and specifications showing the nature, kind, shape, height, color, material and location of the same shall have been mailed to the Architectural Control Committee by certified mail with return receipt requested and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications shall have been submitted to it, further approval will not be required and this Article will be deemed to have been fully complied with. Upon giving approval to such plans and specifications, construction shall be started and prosecuted to completion promptly and in strict conformity with such plans as have been previously approved by the Architectural Control Committee. The Architectural Control Committee or the Board of Directors of the Association shall be entitled to stop any construction in violation of these restrictions.

(6.3) Residential Use. All Lots shall be used for single-family residential purposes only.

(6.4) Building Line Requirements. No building shall be located nearer to the front property line than the front building setback line as shown on the recorded maps of the Property, and no building shall be located nearer to the side street line than the side street setback line shown on the recorded maps of the Property. It is provided, however, that eaves, steps, stoops, porches and chimneys shall not be considered a part of the building for purposes of interpreting this paragraph of this Declaration. Minimum setback lines which may be shown on any recorded plat of the Properties are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment of his/her Lot. Any deviation from the building line requirements not in excess of ten (10) percent thereof shall not be construed as a violation of the building line requirements.

(6.5) Building Requirements. All Lots shall have a minimum square footage as shown on the recorded plat. No dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces, attached garages or carports) of less than 1300 square feet. All homes shall have a minimum roof pitch of 6/12. Any house built on a slab foundation shall have a minimum three (3) course brick masonry veneer skirt extending up the face of the slab. Homes shall be required to have articulated elements on the front elevation as approved by the Architectural Control Committee. These elements may include dormer windows, stoops, porches, bay windows, turned gables and garages.

(6.6) Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as may later be approved by the Architectural Control Committee as described in Paragraph (6.2) above. No metal fences, except for a 2 x 4 wire mesh inside of an approved wooden fence to contain pets, are allowed on a Lot. No solid fence is allowed on the perimeter of any Lot. All perimeter fences on a Lot must be rail type or picket fences with at least 50% of surface area open. Privacy fences are permitted around pools or patios with a maximum height of six (6) feet. Fences shall be no closer to the right-of-way of any street than the front corner of the house upon any such Lot. The Architectural Control Committee shall have the authority to grant exceptions to the above-referenced fence and wall guidelines.

(6.7) Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shed, tent, garage, carport, or any other structure of a similar nature shall be used as a residence either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Declarant or Builder from using sheds or other temporary structures during construction for such purposes as Declarant or Builder deems necessary or later approved by the Association. No television satellite dishes shall be erected on any Lot, except that a television satellite dish not exceeding eighteen (18) inches in diameter which is attached to the house and is not visible from the street shall be permitted. No radio or television antenna shall be allowed on the roof of any house or structure located on a Lot and no separate towers for antenna shall be erected on any Lot. Only one (1) accessory building greater than ten (10) square feet shall be allowed upon any Lot (exclusive of pools and associated buildings). Construction of accessory buildings must conform in methods and materials to the primary residence. No metal storage buildings, metal sheds, metal carport, metal trailers or metal garages shall be permitted on any Lot. The maximum size of an outbuilding or similar structure is 10 ft by 12 ft. All other types of storage buildings, sheds, trailers or garages shall not be allowed on a Lot unless approved by the Architectural Control Committee as described in Paragraph (6.2) above.

(6.8) Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets which may be kept thereon in reasonable numbers as pets for the sole pleasure and use of the occupants, but not for any commercial use or purpose. All household pets shall be kept under Owner's control so as not to be a nuisance to other Owners. Birds shall be confined in cages.

(6.9) Signs. No advertising signs of any type or kind shall be erected, placed or permitted to remain upon or above any Lot or Common Area with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed two feet by two feet in dimension and shall

refer only to the premises on which displayed, there being only one sign to a Lot. Notwithstanding the above, the Declarant or Builder may erect and place permanent and temporary signs on or above any unsold Lot. Declarant or Builder shall also have the right of ingress, egress and regress over the aforesaid Lots in order to maintain and replace any such signs until 100% of the Lots have been sold.

(6.10) Nuisances. No offensive or illegal activity shall be carried on upon any Lot, nor shall anything be done thereof which is or may become an annoyance or nuisance to any other Owner as determined by the Association. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in any unclean or untidy condition or that is unsightly; nor shall any substance, thing or material be kept upon any Lot that will emit a foul odor or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding Lots. No trash, rubbish, stored materials, wrecked, unlicensed or inoperable vehicles, boats and/or trailers, recreational vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a majority of the Association Board of Directors, the Association may, through its agent or representative, five days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property requesting the Owner to comply with the requirements of this paragraph, enter and remove all such unsightly objects, debris or other vegetation at Owner's expense and Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Association in the enforcement of this paragraph promptly upon demand. The Association or its agent or representative may impose fines and bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount due to the extent allowed by law. No such entry as provided herein shall be deemed a trespass. The foregoing provisions shall not apply to the Declarant while constructing residences upon any Lots.

(6.11) Clotheslines, Garbage Cans, Etc. All clotheslines, garbage cans, lawnmowers and similar equipment shall be kept, in an enclosed structure or screened by adequate planting or fencing so as to conceal same from the view of neighboring Owner and Streets. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any Lot.

(6.12) Use of Common Areas. No planting or gardening by individual Owners shall be done upon any Common Area without approval of the Board of Directors. Except for the right of easement of enjoyment in and to the Common Areas herein given to each Owner, Owners are hereby prohibited and restricted from using any of the Common Area except as may be allowed and prescribed by the Association's Board of Directors or as expressly provided for herein. It is Declarant's intent that this paragraph inure to the mutual benefit of all Owners within the Properties.

(6.13) Maintenance.

(a) Exterior maintenance, upkeep and repair to the main dwelling on each Lot, yard, fence, walkway and shrubbery shall be the sole responsibility and expense of the Owner of the Lot subject to such reasonable requirements as may from time to time be established by the Committee to insure the continuity and harmony of exterior design of ROBERTA MEADOWS.

Should a majority of the Association Board of Directors determine that any Owner has failed or refused to discharge properly his obligations with respect to such maintenance, upkeep and repairs, the Association, through its agent or representative, may provide same as it may deem necessary and proper.

(b) All Lots, together with the exterior of all improvements thereon, shall be maintained in a neat and attractive condition by their respective Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing or caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, walks or other exterior improvements. In the event an Owner shall fail to maintain the premises and the improvements thereon in a manner satisfactory to the Association Board of Directors, the Association may, through its agent or representative, after approval by two-thirds (2/3) vote of the Board, have the right to enter upon said Lot and repair, maintain and restore the Lot and the exterior of the buildings and any other improvements thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject and the Owner shall be personally liable to the Association for the costs of such maintenance, and the cost, until paid, shall be a permanent charge and lien upon such Lot, enforceable to the same extent and collectible as provided for in Article V. Such entry as provided herein shall not be a trespass, nor shall the Association be liable for doing anything reasonably necessary or appropriate in connection with carrying out those provisions, provided such entry shall be at reasonable times and places so as not to interfere with the right of quiet enjoyment of the individual Lot Owner.

(6.14) Above Ground Swimming Pools. No above-ground swimming pools, except for small wading pools, are permitted on any Lot.

(6.15) Decorative Structures. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front or side yards of any Lot.

(6.16) Boats, Commercial Vehicles and Recreational Vehicles. No boats, boat trailers, commercial vehicles larger than a full-size pickup truck or full-size van, or recreational vehicles shall be permitted on any Lot except in an enclosed garage or screened area approved by the Architectural Control Committee.

(6.17) Mailboxes. Mailboxes on each Lot shall conform to specifics set forth by the Architectural Control Committee.

ARTICLE VII: EASEMENTS

(7.1) General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth on the recorded plat or plats of survey upon which such Lot is shown. No structure of any type shall be erected or placed upon any part of a Lot or the Common Area which will interfere with rights and use of any and all easements shown on said recorded plat.

(7.2) Utility and Drainage. An easement on each Lot is hereby reserved by Declarant for itself and its successors and assigns along, over, under and upon a strip of land ten feet (10') in width parallel and contiguous to the rear or back Lot line of each Lot and easements five feet (5') in width over, under and along the side lot lines of each Lot, in addition to such other

easements as may appear on a recorded subdivision plat for ROBERTA MEADOWS. The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the Lots. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements without approval of the Architectural Control Committee. The easement area of each and all improvements in it shall be maintained continuously by Owner, except for those improvements for which a public authority or utility company is responsible. Within ten (10) days prior written notice to Owner, Declarant may exercise the right to remove obstructions in such easements upon Owner's failure to do so. For the purpose of this covenant, Declarant reserves the right to modify or extinguish the herein reserved easements along any Lot lines when in its sole discretion adequate reserved easements are otherwise available for the installation of drainage facilities and/or utility service lines. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of Declarant; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefor from Declarant. The Association may likewise reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities in, across, under and over the Common Area.

(7.3) Emergency. There is hereby reserved without further assent or permit and to the extent allowed by law, a general easement to all firemen, ambulance personnel, policemen and security guards and all similar persons to enter upon the Properties or any portion thereof, in the performance of their lawful duties.

(7.4) Entry Monuments, Signs and Landscaping Easements. Declarant hereby grants the Association perpetual easements over the portion of those Lots which are designated "LSE" or "Landscape Easement" or "Common Open Space" or "COS" on all recorded maps of ROBERTA MEADOWS. Easements over these areas shall be for the purpose of the installation, maintenance and repair of all ROBERTA MEADOWS entry monuments, walls, signs and landscaping, and the Association is also granted a perpetual easement for ingress, egress and regress over these areas to fulfill these purposes. Declarant also hereby grants perpetual easements over all entrance islands within public rights of way and the easement over these areas shall be for the installation and maintenance of landscaping on the entrance islands.

ARTICLE VIII: CITY OF CONCORD STORMWATER COVENANTS

(8.1) Stormwater Control Facilities. The City of Concord Code of Ordinances (the "Code") requires that stormwater runoff from the Properties be controlled and pollutant loading from stormwater runoff from the Properties be reduced. To comply with the Code, Stormwater Control Facilities will be installed by the Declarant and Maintained by the Association as Common Area or Limited Common Area (or by a Sub-Association as Sub-Association Common Area or Sub-Association Limited Common Area) in strict compliance with the standards of the City of Concord Technical Standards Manual, Article 1 Stormwater Operations and Maintenance and any STORMWATER REPLACEMENT PROTECTION EASEMENT, ACCESS MAINTENANCE AGREEMENT AND INSTALLMENT REPLACEMENT. CONTRIBUTION AGREEMENT (the "Agreement") for the Properties so that, at all times, the Stormwater Control

Facilities shall perform as designed and shall comply with the Agreement, the Code and applicable regulations, rules and directives of the City. The expenses for Maintenance of Stormwater Control Facilities by the Association shall be Common Expenses (or, if applicable, Limited Common Expenses). Failure to Maintain the Stormwater Control Facilities is a violation of the City of Concord Code of Ordinances potentially subjecting each Owner of a Lot to significant daily civil penalties and other enforcement actions.

(8.1) **Creation of Stormwater Assessments.** Each Owner, by execution of this Declaration or by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association (or to any Person who may be designated by the Association to collect such monies) a Stormwater Assessment, as hereinafter defined, established and collected as hereinafter provided, and each Owner of a Lot, by acceptance of a deed or other instrument conveying title to a Lot, whether or not it shall be so expressed therein, is deemed to covenant and agree to pay to the Association (or to any person who maybe designated by the Association to collect such monies) such Stormwater Assessment. Stormwater Assessments shall commence with respect to each Lot on the later of the date on which this Declaration or applicable Annexation Declaration is recorded or the date on which a plat is recorded establishing a new or revised lot. The annual budget for the Association shall include a line item evidencing the Stormwater Assessments, and the amount budgeted shall be sufficient to satisfy the total annual inspection, management and Maintenance budget for the Stormwater Control Facilities as set forth in the Stormwater Operations and Maintenance Manual and Budget attached to the Agreement as an exhibit, and any replacement contribution payment owed to the General Replacement Account pursuant to the Agreement. The Association shall honor its obligations under the Agreement, and the Association shall assess the Stormwater Assessment. The Declarant and each Owner of a Lot shall be obligated to pay the Stormwater Assessment, whether or not the annual budget contains the required line item for the Stormwater Assessment, and whether or not the annual budget is ratified by the Members of the Association. No vote of the Owners is required to levy, collect, or foreclose a Stormwater Assessment. Stormwater Assessments shall be paid to the Association at the same time annual assessments are due.

In the event of nonpayment of any Stormwater Assessment for a period of thirty (30) days or longer after the payment due date, such Stormwater Assessment, together with interest at a rate not to exceed the highest rate allowed by North Carolina law), as computed from the date the delinquency first occurs, late charges, and costs of collection thereof, including reasonable attorney's fees, shall be a charge on the land upon the filing of a claim of lien, in the manner provided in G.S. 47F-3-116(g), in the office of Clerk of Superior Court in the County in which the Lot is located and shall be a continuing lien upon each Lot against which the assessment is made until paid in full. The lien may be foreclosed in accordance with North Carolina law, or in any other manner permitted under the Act or by law. When the holder of a first mortgage or first deed of trust of record or other purchaser of a Lot who obtains title to the Lot as a result of a foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns shall not be liable for the Stormwater Assessments against such Lot which became due prior to the acquisition of title to such Lot by such purchaser. In such instances, such unpaid assessments shall be deemed Common Expenses collectible from all Owners, including the new Owner.

Each Stormwater Assessment, together with late charges, interest, the costs of collection thereof, including attorney's fees, shall also be the personal obligation or corporate obligation of each Person who was the Owner of a Lot at the time when the Stormwater Assessment first became due and payable. If more than one Person held an ownership interest in a Lot at the time the Stormwater Assessment first became due, then each Person shall be both jointly and severally liable. An Owner's personal obligation for payment of Stormwater Assessments shall not become the personal obligation of a subsequent Owner unless expressly assumed by the subsequent Owner, although the lien shall continue against the Lot until the amount due is paid.

The creation of the Stormwater Assessments is for the benefit of the City, and the Stormwater Assessments may be collected and enforced by the City as provided herein and in the City of Concord Code of Ordinances.

(8.3) Purpose of Stormwater Assessments. The Stormwater Assessments to be levied by the Association against each Lot shall be used as follows:

(a) to pay the actual and estimated expenses incurred or anticipated to be incurred by the Association, including any reasonable reserve finds, under any Stormwater Agreement, including Maintenance of the Stormwater Control Facilities in strict compliance with the Stormwater Operations and Maintenance Manual and Budget attached to the Stormwater Agreement as an exhibit, so that, at all times, the Stormwater Control Facilities shall perform as designed and shall comply with the Stormwater Agreement, the Code, applicable regulations and rules and directives of the City;

(b) to pay all legal, engineering and other professional fees incurred by the Association in carrying out its duties as set forth herein, or in the Governing Documents, or in the Stormwater Agreement in connection with the Stormwater Control Facilities; and

(c) payments to the City pursuant to the Stormwater Agreement.

(8.4) Assignment of Collection Rights and Lien Rights to the City. Pursuant to the Stormwater Agreement and G.S.47F-3-102(15) of the Act, the Association has assigned to the City its rights to collect Stormwater Assessments, its rights to file liens against the Lots, and the right to foreclose on those liens for monies owed by the Association to the City pursuant to the Stormwater Agreement. The Association shall have a license to collect Stormwater Assessments, to file liens against the Lots, and to foreclose on those liens for monies owed by the Association to the City pursuant to the Stormwater Agreement until such time as the City notifies the Association in writing that it has elected to exercise its right to collect Stormwater Assessments, to file liens against the Lots, and/or to foreclose on those liens for monies owned by the Association to the City pursuant to the Stormwater Agreement. Declarant hereby irrevocably authorizes and directs each Owner to rely upon any written notice sent to such Owner by the Association that the City has elected to exercise its rights hereunder and thereafter to pay Stormwater Assessments directly to the City without any obligation or right to inquire otherwise until such time such Owner receives written notice from the City to pay the Stormwater Assessments directly to the Association. As the assignee of the Association's collection and lien rights, upon the filing of a claim of lien by the City, any such lien may be foreclosed in like manner as a mortgage on real estate pursuant to power of sale under Articles 2A of Chapter 45 of the General Statutes from and after the time of recording a claim of lien in the office of the clerk

of superior court of the county in which the Lot is located; which claim of lien shall state the description of the Lot(s) encumbered by the claim of lien, the name and address of the Association and of the City, the record Owner(s) of the encumbered Lot(s) at the time the claim of lien is filed, and the amount of the lien claim. The claim of lien shall be filed any time after a period of thirty (30) days or longer of default and the lien shall continue in effect until all sums secured by the lien as herein provided shall have been fully paid. Such claims of lien shall include all sums that are due and payable when the claim of lien is filed, plus late charges, interest at the rate set forth in the Stormwater Agreement, but not to exceed eighteen percent (18%) per year, collection costs, and reasonable attorney's fees. Any lien claim filed by the City shall be signed by the City Manager. Upon full payment of all sums secured by such claims of lien, the same shall be satisfied of record.

(8.5) Effect of Assignment. Each Owner of a Lot, by acceptance of a deed or otherwise, vests in the City, as the assignee of the Association's collection and lien rights for the Stormwater Assessments, the right and power, upon nonpayment of the Stormwater Assessments by the Association, to bring all actions against each Owner, personally, for the collection of such charges as a debt or to foreclose the lien, which charges and lien amounts shall equal a pro-rata share of the Stormwater Assessments for each Owner. The lien provided for in this Article shall be in favor of the City and shall be for the benefit of all Owners.

(8.6) Annexation of Additional Property. As set forth in this Declaration, additional real property from time to time may be annexed to the Properties and subjected to this Declaration. Such Annexed Property shall also be subjected to existing Agreement and/or new Agreements, in accordance with the following: In connection with the recording of an Annexation Declaration, either a new Agreement and/or an amendment to an existing Agreement (as determined by the City) shall be entered into among the City, Declarant, and Association to address the Stormwater Control Facilities of the Annexed Property. Except in those instances where the Agreement already contains contribution payments for the Annexed Property, the Annexation Declaration shall establish a new Stormwater Assessment for the Lots in the Annexed Property with respect to all new Stormwater Control Facilities located in or serving such Annexed Property, and such new Stormwater Control Facilities shall be designated as Common Area or Limited Common Area, as appropriate, on the recorded plat(s) of the Annexed Property. The new Stormwater Assessment shall be sufficient to maintain the new or additional Stormwater Control Facilities in or serving the Annexed Property and to pay the applicable replacement contribution payments to the City under the new or amended Stormwater Agreement, and such Stormwater Assessment shall be assessed against the Owners of the Lots of the Annexed Property and Owners of the existing or future Lots served by the same Stormwater Control Facilities.

(8.7) Drainage Easement. The Declarant dedicates, establishes and declares to and for the benefit of each Lot, the Common Area and each Owner hereof:

(a) a perpetual, irrevocable and nonexclusive easement, right and privilege to discharge and store surface water drainage from such Lot or Common Area into the Stormwater Control Facilities situated in private drainage easements that serve the Properties, whether located on or off the Properties, and

(b) a perpetual, irrevocable and non-exclusive easement, right and privilege to use and Maintain Stormwater Control Facilities, including the right of access to and from the private drainage easements and other portions of the Properties as reasonably necessary to maintain the Stormwater Control Facilities.

(8.8) Joint and Several Liability. Each Owner of any portion of the Properties served by Stormwater Control Facilities is jointly and severally responsible for maintenance of such Stormwater Control Facilities, including payment of any unpaid *ad valorem* taxes, public assessments for improvements, and unsafe building and public nuisance abatement liens charged against the Stormwater Control Facilities, and including all interest charges thereon, together with the costs and expenses of collection incurred by the City or other collecting Person, including court costs and reasonable attorney's fees actually incurred. Each Owner of any portion of the Properties served by the Stormwater Control Facilities has a right of contribution against all other Owners of other portions of the Properties served by the same Stormwater Control Facilities for payment of such costs and expenses to the extent that the Owner having such right of contribution pays more than such Owner's prorata share thereof, such prorata share being determined either by other assessment provisions of this Declaration or by dividing the acreage of such Owner's portion of the Properties served by the Stormwater Control Facilities by the total acreage of the Properties served by the same Stormwater Control Facilities.

(8.9) Relocation of Drainage Easements. Drainage easements situated on the Properties may be relocated only by a written agreement signed by the Association - upon approval of the Board of Directors without vote of the Members- and by the Owners of all portions of the Properties on which the drainage easement then is located, and by the Owners of all portions of the Properties on which the drainage easement is to be relocated. The consent of tenants and Mortgagees of the affected Lots shall not be required for the relocation to be effective. All relocations of a drainage easement shall be accompanied with a letter sealed by a professional engineer licensed in the State of North Carolina stating that the relocated drainage easement will not cause any adverse stormwater runoff onto adjoining properties.

Notwithstanding anything herein to the contrary, no relocation of any drainage easement shall be valid without the without the prior approval of the Concord Stormwater Administrator or his/her Deputy. City approval shall be evidenced by the signature of the Concord Stormwater Administrator or his/her Deputy on the recorded plat or other instrument of the relocation. Any relocation, without the required City signature is void *ab initio*.

Relocation of a drainage easement is valid from the later of the time of either recording of the plat or other instrument of relocation in the Registry or such later date specified therein.

(8.10) Title. No immunity, exculpation or indemnification provision of the homeowners declaration or governing documents shall relieve owners from their liabilities as an owner under the homeowners' declaration and other governing documents.

ARTICLE IX: GENERAL PROVISIONS

(9.1) Covenants Running with the Land. All provisions of this Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein, and every Owner or any other person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Declaration.

(9.2) Duration. The covenants, conditions and restrictions of this Declaration shall be binding for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive and additional periods of ten (10) years each.

(9.3) Amendments and Termination. This Declaration may be terminated during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Owners, and thereafter may be terminated by an instrument signed by not less than seventy-five percent (75%) of the Owners. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least sixty-seven percent (67%) of the Owners and the consent of the Declarant; provided, however, that the Declarant may amend this Declaration to correct minor and clerical errors, as determined by the Declarant, without approval of Owners and should the FHA, VA, Federal National Mortgage Association (FNMA) or the Federal Home Loan Mortgage Corporation (FHLMC) subsequently delete any of their requirements which necessitate certain provisions of this Declaration or make any such requirements less stringent, the Declarant, without approval of Owners, may amend this Declaration to reflect such changes. Any such amendment or termination shall not be effective until an instrument evidencing such change has been filed of record in the Cabarrus County Public Registry.

(9.4) FHA/VA Approval. In the event the Declarant has arranged for and provided purchasers of Lots with FHA insured or VA mortgage loans, then as long as any Class B lot exists, as provided in Article VI hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties other than as provided in Article II hereof, deeding, mortgaging or dedication of Common Area to persons other than the Association except as provided herein and dissolution or amendment of this Declaration.

(9.5) Enforcement. If any Owner shall violate or attempt to violate any of these restrictions, failure to comply with any of the same shall be grounds for the imposition of fines and penalties and an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors on behalf of the Association, or, in proper case, by an aggrieved Owner. Any failure by Association or any other Owner to enforce any of the foregoing restrictions or other provisions shall in no event be deemed a waiver of their right to do so thereafter. Invalidity of any covenant, condition or restriction or other provision of this Declaration shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

(9.6) Headings. Headings are inserted only for convenience and are in no way to be constructed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

(9.7) Unintentional Violation of Restrictions. In the event of unintentional violation of any of the foregoing restrictions with respect to any Lot, the Declarant or its successors reserves the right (by and with the mutual written consent of the then Owner or Owners of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

(9.8) Severability. The provisions of this Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

(9.9) Conflict. In the event of conflict between the terms and provisions of Article VII and the remaining terms and provisions of this Declaration, Article VII shall govern.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed under seal on the day and year first above written.

Pitts School, LLC
a North Carolina Limited Liability Company

By: 
Member Manager/General Manager

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

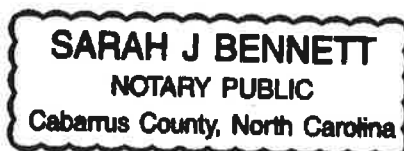
This 28 day of November, 2012, before me, the undersigned Notary Public in and for the County and State aforesaid, personally came Mike McGee, who, being duly sworn, says that he is the General Manager or Member Manager of Pitts School, LLC, and that he signed said instrument on behalf of said company by its authority duly given. And the said Member Manager acknowledged said instrument to be the act and deed of said limited liability company.

WITNESS my hand and notarial stamp or seal this 28 day of November, 2012.

Sarah J Bennett
Notary Public

My Commission Expires:

9.3.2013

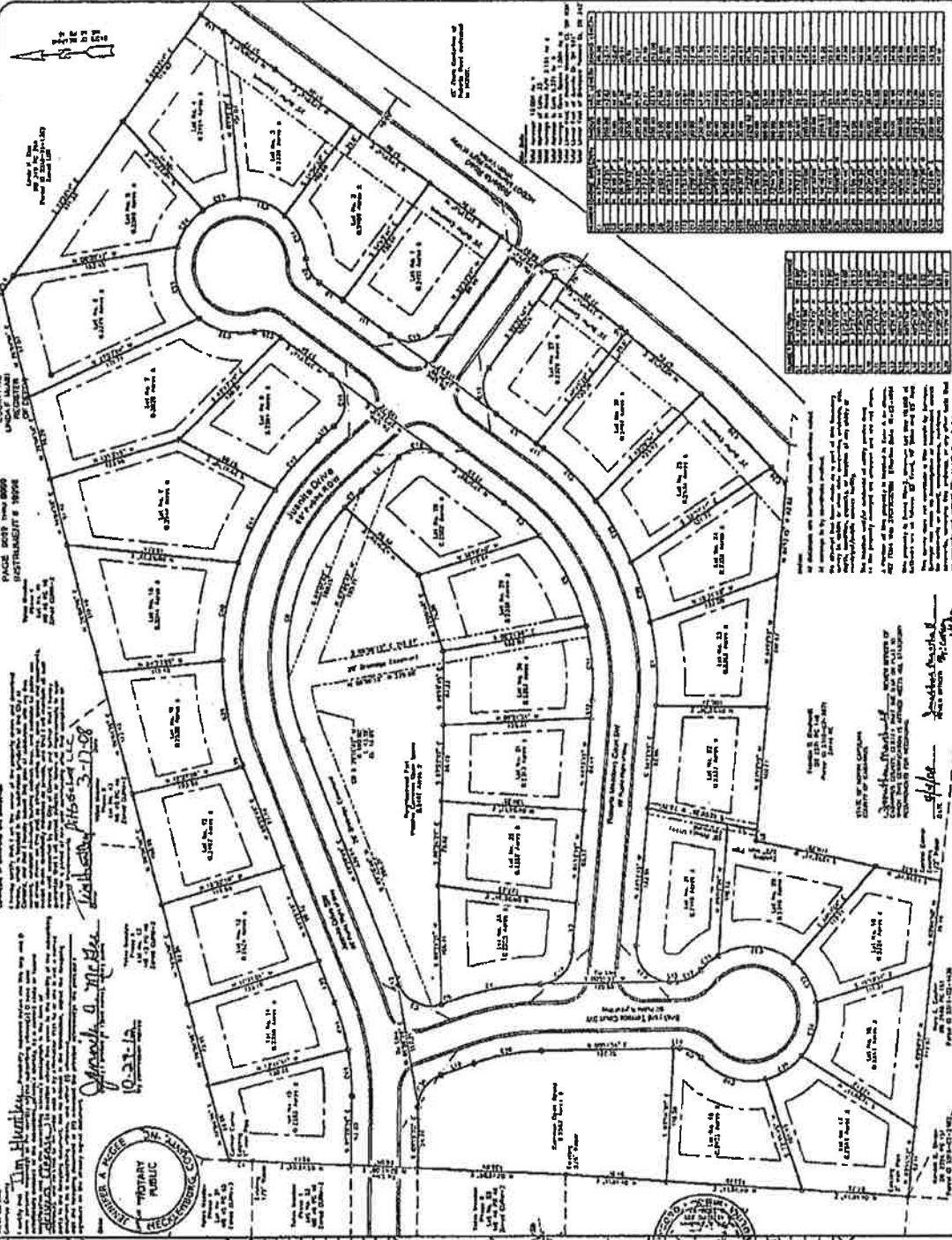


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EXHIBIT A

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FILED APR 04, 2008 10:17 AM
PLAT 10098
COUNTY OF CAROLINA
REGISTERED



Accutech Surveying & Mapping, LLP
546 Newell Street NW
Concord, NC 28025
Telephone (704) 784-3266
Fax (704) 784-3381
accutech@accutechsurveying.com

Survey Prepared for:
Pitts School, LLC
4608 Carrier Road
Monroe, NC 28110

Final Subdivision Plat of:
Roberta Meadows
Site of North Carolina
City of Concord
Number Two Township
Catawba County

Carroll County
North Carolina
Seal of the County

#10098

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