

9/16/05 mailed to: A

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GRANVILLE COUNTY  
09/15/2005 3:36 PM  
KATHRYN CREWS AVERETT  
Register Of Deeds

### STORMWATER MAINTENANCE COVENANT

Prepared by and return to:  
Malcolm E. Harris, P.A.  
P.O. Box 1100  
Wake Forest, NC 27588-1100

LEXINGTON PARK SUBDIVISION  
Ivey Day Road  
Oxford, North Carolina

This Agreement is made and entered into this 9<sup>th</sup> day of June, 2005 by CLM Associates, LLC, a North Carolina limited liability company, and Presidential Investors, Inc., a North Carolina corporation, collectively referred to herein as the Developer.

Developer is developing a subdivision known as Lexington Park Subdivision in Granville County, North Carolina and described on the attached Exhibit A (the "Property").

A stormwater management Device (the 'Device') is, or will be, located on the Property.

Responsibility for the maintenance of the Device shall run with the land and shall be binding upon the Developer, their successors and assigns, until such time as 75% of the homes in Lexington Park have been sold. At that time, responsibility for said maintenance shall be automatically transferred to, and assumed by, the homeowners association of the subdivision, its successors and assigns. At the time of such transfer, the association will automatically be granted the right to construct, use, reconstruct, repair, maintain, and access the Device. Membership in the association shall be mandatory with the ownership of a lot in Lexington Park Subdivision. Further, the owner of each lot or property served by the Device is jointly or severally responsible for:

- Repairs and maintenance of the Device;
- Unpaid ad valorem taxes; and,
- Public assessment for improvements.

Each annual budget for the Device shall be sufficient to allow for the operation and maintenance requirements outlined in this agreement, including a sinking fund deposit for structural replacement. The budget shall be adjusted annually as necessary. The initial annual budget is attached as Exhibit B.

### OPERATION AND MAINTENANCE

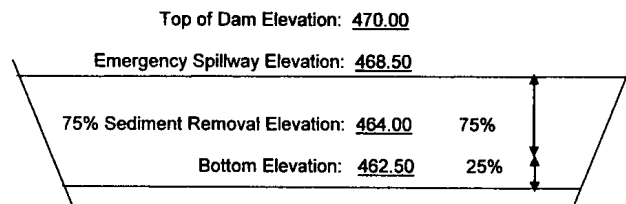
Maintenance activities shall be performed as follows:

1. After every significant runoff producing rainfall event and at least monthly:

- a. Inspect the dry detention basin system for sediment accumulation, erosion, trash accumulation, vegetated cover, and general condition.
- b. Check and clear the orifice of any obstructions such that drawdown of the temporary pool occurs within 2 to 5 days as designed.
2. Repair eroded areas immediately, re-seed as necessary to maintain good vegetative cover, mow vegetative cover to maintain a maximum height of six inches, and remove trash as needed.
3. Inspect and repair the collection system (i.e. catch basins, piping, swales, riprap, underdrains, etc.) quarterly to maintain proper functioning.
4. Remove accumulated sediment from the dry detention basin system semi-annually or when depth is reduced to 75% of the original design depth (see diagram below). Removed sediment shall be disposed of in an appropriate manner and shall be handled in a manner that will not adversely impact water quality (i.e. stockpiling near a dry detention basin or stream, etc.).

The measuring Device used to determine the sediment elevation shall be such that it will give an accurate depth reading and not readily penetrate into accumulated sediments.

#### **DETENTION BASIN DIAGRAM**

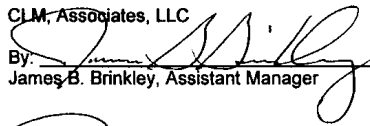


5. No cattails will be installed. Remove cattails (if any) and other indigenous wetland plants when they cover 50% of the basin surface. Indigenous wetland plants shall be encouraged to grow along the vegetated shelf and forebay berm.
6. All components of the dry detention basin system shall be maintained in good working order.
7. Level spreaders or other structures that provide diffuse flow shall be maintained every six months. All accumulated sediment and debris shall be removed from the structure, and a level elevation shall be maintained across the entire flow spreading structure. Any down gradient erosion must be repaired and/or replanted as necessary.
8. The Device shall be inspected no less than once annually by a qualified professional for safety, maintenance and proper function. The inspection report shall be submitted to the Stormwater Administrator, City of Oxford, P.O. Box 1307, Oxford, N.C. 27565, on or before January 15<sup>th</sup> of each year.

9. An escrow account shall be established by the Developer. This account shall be adequate to pay for the expenses as outlined in the budget (Exhibit 'B'). Ownership of this account shall be transferred to the homeowners association concurrently with transfer of responsibility for maintenance of the Device to the homeowners association. At the time of transfer, the escrow account shall have no less than one half  $\frac{1}{2}$  the annual estimated budget amount. A copy of the account statement shall be submitted to the City of Oxford, Stormwater Administrator as part of the annual inspection report.
10. Should the City of Oxford direct the correction, repair, replacement or maintenance of the Device in writing and the actions are not satisfactorily performed within a reasonable time (but not greater than one hundred twenty (120) days), the City of Oxford may, after reasonable notice to the developer or the homeowners association, whichever is applicable, enter the land and perform all the necessary work and assess the owners of the facility, whether that is the homeowners association or the individual lot owners, with the cost of the work performed plus reasonable administrative costs and attorney fees. In such case, and should the assessment against the homeowners association and/or individual lot owners remain unpaid for a period of sixty (60) days, the City of Oxford shall have the right to petition the a court to seize all or a part of the escrow account (not to exceed the amount of the actual assessment) to satisfy the debt. In the event there are insufficient funds available in the escrow account to satisfy the debt, the City of Oxford shall have the right to collect the unpaid indebtedness from the homeowners association or the individual lot owner, jointly and severally.
11. Developer agrees that this Stormwater Maintenance Agreement shall be appurtenant to and run with the lands described herein and that the same shall be binding on any and all of Developer's successors, assigns and grantees. Developer shall cause this Agreement to be recorded in the Office of the Register of Deeds of Granville County prior to the sale of any of the lands described herein. Developer further agrees to cause a copy of this Agreement to be delivered to the initial purchaser of each lot in Lexington Park Subdivision concurrently with a deed or other conveyance.

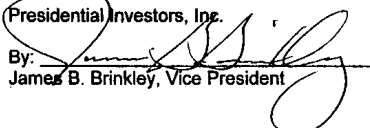
IN WITNESS WHEREOF, CLM Associates, LLC and Presidential Investors, Inc. have caused this instrument to be executed in their names by a duly authorized officer the date first above appearing.

CLM Associates, LLC

By: 

James B. Brinkley, Assistant Manager

Presidential Investors, Inc.

By: 

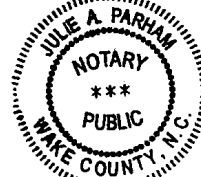
James B. Brinkley, Vice President

NORTH CAROLINA  
COUNTY OF WAKEBook  
1108 Page  
0107

I, JULIE A. PARHAM, a Notary Public for the said State and County, do hereby certify that James B. Brinkley personally appeared before me and acknowledged that he is Assistant Manager of CLM Associates, LLC, a North Carolina limited liability company, and by the authority duly given, he signed the foregoing instrument on behalf of and as the act of the company.

Witness my hand and official seal or stamp this 9 day of June, 2005.

My Commission Expires:

04-01-06Julie A. Parham  
Notary PublicNORTH CAROLINA  
COUNTY OF WAKE

I, JULIE A. PARHAM, a Notary Public for the said State and County, do hereby certify that James B. Brinkley personally appeared before me and acknowledged that he is Vice President of Presidential Investors, Inc., a North Carolina corporation, and by authority duly given, he signed the foregoing instrument on behalf of and as the act of the company.

Witness my hand and official seal or stamp this 9 day of June, 2005.

My Commission Expires:

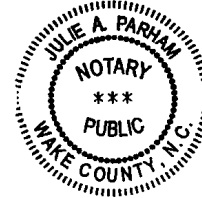
04-01-06Julie A. Parham  
Notary Public

EXHIBIT 'A'

NORTH CAROLINA  
GRANVILLE COUNTY

Tract 1:

Being all of Lots 1 – 69, inclusive, as shown on that plat of Lexington Park Subdivision, dated July 2003, and prepared by Bass, Nixon & Kennedy, Inc., Consulting Engineers, subject to any revisions to the above described lots that may be made in the final plat for Lexington Park Subdivision that will be recorded in the Granville County Registry.

Tract 2:

Being all of Lots 1 and 2, Block D, and the property that was the right of way for Dove Road as shown on that plat of Quailridge Estates Subdivision recorded in Map Book 4, page 61, Granville County Registry, less and except the proposed right of way for Bluegrass Drive as shown on the above described plat of Lexington Park Subdivision. This Tract 2 will consist of one lot located north and one lot located south of the right of way for Bluegrass Drive, subject to any revisions that may be made in the final plat for Lexington Park Subdivision that will be recorded in the Granville County Registry.

## EXHIBIT 'B'

Stormwater Management DeviceInitial Annual Budget

|                                                                                     | <u>Annual</u> |
|-------------------------------------------------------------------------------------|---------------|
| Inspection by qualified professional                                                | \$ 200        |
| Trash removal and grass maintenance as<br>a part of common area grounds maintenance | \$ 600        |
| Repairs for erosion, piping, riprap, drains                                         | \$ 600        |
| Sediment removal                                                                    | \$ 500        |
| Real estate taxes (nominal)                                                         | \$ 100        |
| *Sinking fund deposit for structural replacement                                    | \$1,500       |
| Total                                                                               | \$3,500       |

\*Sinking fund based upon structural replacement estimate of \$15,000 after 10 years.

STATE OF NORTH CAROLINA, GRANVILLE COUNTY.

The foregoing certificate of Julie A. Tarham

a Notary Public

02 Certified to be correct. This instrument was presented for registration and filed in this office in Book 1108  
Page 104 This 15th day of September 20 05 at 3:36 o'clock P.M.  
Kathryn Crews Averett Register of Deeds By Nicole Talley Deputy/Assistant