

**Instructions to Preparing Attorney
Deed of Easement for Access to and Protection of Stormwater Control Facilities
and Maintenance Requirements**

City of Raleigh Code of Ordinances, Part 10, Section 9.2.2.G.3.

The following are instructions to the drafting attorney for preparation of the form Deed of Easement for Access to and Protection of Stormwater Control Facilities and Maintenance Requirements (the “Maintenance Easement”) in accordance with the provisions of Section 9.2.2.G.3. of Part 10 of the Code of Ordinances of the City of Raleigh (hereinafter, Part 10 of the Code of Ordinances of the City of Raleigh is referred to as the “Unified Development Ordinance” or the “UDO”). Use of and acceptance of this form by the City of Raleigh cannot be construed as acceptance or waiver of any other provisions of the UDO applicable to the proposed development and/or Lot. The applicant remains responsible for compliance with all other applicable provisions of the UDO and all other conditions of approval as indicated in the project approval granted by the City.

This Maintenance Easement must be recorded prior to issuance of any building permit for the Lot. Any mortgages, non-governmental liens, or deeds of trust against the Lot must be subordinated to this Maintenance Easement.

PREPARATION OF THIS FORM MAY BE DEEMED TO BE THE PRACTICE OF LAW IN THE STATE OF NORTH CAROLINA AND SHOULD ONLY BE PERFORMED BY AN ATTORNEY LICENSED TO PRACTICE IN THE STATE OF NORTH CAROLINA.

Before preparing this form, you should have copies of all approval documents issued for the proposed development and/or Lot by the City of Raleigh. These approval documents may list additional conditions of approval that must be satisfied prior to authorization to issue permits for the project and/or Lot. Once completed, submit the completed Maintenance Easement with all exhibits (which may include these instructions until execution) to the City at Legaldocumentreview@raleighnc.gov for review prior to execution.

The instructions below are numbered in accordance with the areas in the Maintenance Easement requiring customization for each specific project and/or Lot. All fields must be filled out and none should be left blank or with the reference number remaining. The terms in this instructions document shall bear the same meaning as defined in the Maintenance Easement.

- [1] Name of attorney (or law firm) preparing this form for submission to the City for review.
- [2] Brief description for registry index; typically book of maps reference for the Lot subject to this Maintenance Easement, a street address, or deed book reference for instrument conveying the Lot to the Grantor.
- [3] Wake or Durham County Tax Property Identification Number for the Lot.
- [4] City of Raleigh Case File Number. Typically preceded by SPR, BLDR, or ZONE.
- [5] Name of Development (as shown in site plan application).
- [6] Legal name of Grantor, which should match name of owner in property records and in the deed conveying the Lot.
- [7] Insert year of execution (day and month should be written in by hand at execution).
- [8] Insert legal name of Grantor, as owner of the Lot.
- [9] Insert the Grantor’s mailing address.
- [10] Insert deed book and page information for deed conveying the Lot to the Grantor.
- [11] Insert Wake or Durham, whichever is applicable to the Lot.

[12] Insert "X" if Grantor is representing that no encumbrances exist on the Lot as described in the adjacent statement. If this section is not checked, subordination must be obtained from any superior beneficiaries, trustees, mortgagees, or lien holders. If such a representation is not being made by the Grantor, "N/A" should be inserted in this field.

[13] Insert address for notices sent to the Grantor.

[14] Insert "X" next to the statement that applies to the Lot. Insert "N/A" next to the statement that does not apply to the Lot.

[15] Insert legal name of Grantor.

[16] Print name of individual signing on behalf of Grantor if Grantor is not an individual; otherwise, reinsert the legal name of Grantor if Grantor is an individual. Multiple Grantor signature pages must be utilized if the Lot is owned by more than one individual or entity.

[17] Print title of individual signing on behalf of Grantor if Grantor is not an individual. The individual signing the Maintenance Easement on behalf of Grantor must be authorized to bind the Grantor to legal obligations. Otherwise, if the Grantor is an individual, indicate "N/A" in this field.

[18] Insert legal name of trustee on deed of trust to be subordinated to Maintenance Easement, if applicable. Multiple subordination pages must be utilized if multiple deeds of trust, mortgages, or liens must be subordinated. If not applicable, indicate "N/A" in this field.

[19] Insert legal name of beneficiary on deed of trust to be subordinated to Maintenance Easement. If not applicable, indicate "N/A" in this field.

[20] Insert deed book and page information for deed of trust being subordinated to Maintenance Easement. If not applicable, indicate "N/A" in this field.

[21] Insert full name of attorney (as licensed) that prepared this Maintenance Easement form.

[22] Insert North Carolina State Bar identification number for attorney listed in #21, above.

Exhibit A:

[23] Insert the number of the Lot as it is labeled on the plat which, among other parcels (if any), established and depicted the Lot.

[24] Insert book of maps and page information for the plat that established and depicted the Lot.

Exhibit B: Recording information should be inserted for the map showing the metes and bounds of all "Stormwater Control Facilities (Protection Easement)", "Stormwater Control Facility", "Protection Easement", and/or "Access Easement" (or equivalent terms) shown on the recorded map, which should be labeled as shown in Exhibit B.

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Instrument Prepared By: _____[1]_____
(utilizing form drafted by the City Attorney's Office for the City of Raleigh)

Brief Description for Index: _____[2]_____

Parcel Identifier: _____[3]_____

Mail After Recording To: Planning and Development Department
 City of Raleigh
 Attn: Legal Document Review
 P. O. Box 590
 Raleigh, N.C. 27602

**DEED OF EASEMENT FOR ACCESS TO AND PROTECTION OF STORMWATER
CONTROL FACILITIES AND MAINTENANCE REQUIREMENTS**

Required by City of Raleigh Code of Ordinances, Part 10, Section 9.2.2.G.3.

City of Raleigh Case or File Number: _____[4]_____

Name of Development: _____[5]_____

Legal Name of Grantor: _____[6]_____

**DEED OF EASEMENT FOR ACCESS TO AND PROTECTION OF STORMWATER
CONTROL FACILITIES AND MAINTENANCE REQUIREMENTS**

Required by City of Raleigh Code of Ordinances, Part 10, Section 9.2.2.G.3.

This Deed of Easement for Access to and Protection of Stormwater Control Facilities and Maintenance Requirements (this “Maintenance Easement”) is made and executed this _____ day of _____, ____[7]____ by _____[8]_____, with a mailing address of _____[9]_____, hereinafter referred to as “Grantor”, to the City of Raleigh, a municipal corporation of the State of North Carolina, with a mailing address of P.O. Box 590, Raleigh, NC 27602, hereinafter referred to as the “City”. The designation Grantor as used herein shall include singular, plural, masculine, feminine, or neuter as required by context.

RECITALS

WHEREAS, the City, under various state and federal laws, is required to regulate the maintenance of Stormwater Control Facilities (as defined herein) constructed to serve new development within the City’s planning jurisdiction to ensure that, following initial construction, the Stormwater Control Facilities are operated, maintained, and, to the extent necessary, repaired in accordance with applicable state and federal law; and

WHEREAS, the City may be subject to substantial regulatory and financial penalties from the State of North Carolina and the federal government if the above-referenced rules and regulations are not applied to new development occurring within the City’s planning jurisdiction; and

WHEREAS, the City Council of the City of Raleigh has determined that, to maintain the City’s compliance under applicable state and federal regulations, certain obligations are to be met by owners of Stormwater Control Facilities constructed to benefit those Owners (as defined herein) of Lot(s) (as defined herein) in which new development has occurred; and

WHEREAS, Grantor, as Owner of the Lot (which is described in Book _____[10]_____, Page _____[10]_____, _____[11]_____ County Registry and is further described on **Exhibit A** attached hereto), wishes to develop the Lot in accordance with the rules, regulations, and laws of the City of Raleigh (including conditions of approval as shown in the aforesaid City of Raleigh Case Number) and the State of North Carolina; and

WHEREAS, Grantor intends to construct one or more Stormwater Control Facilities that will serve only the Lot, thus subjecting the Lot to this Maintenance Easement pursuant to the requirements of Section 9.2.2.G.3. of Part 10 of the City of Raleigh Code of Ordinances (hereinafter, Part 10 of the City of Raleigh Code of Ordinances is referred to as the “Unified Development Ordinance” or the “UDO”); and

WHEREAS, this Maintenance Easement has been procured in accordance with the requirements of N.C. General Statutes Chapter 143, Article 21, Part 1, N.C. General Statutes 160D-925, and Section 9.2.2.G.3. of the UDO.

NOW THEREFORE, in order to comply with the requirements of Section 9.2.2.G.3. of the UDO of the City of Raleigh, the Grantor hereby gives, grants, bargains and conveys unto the City, its successors and assigns, in perpetuity, those rights-of-way, privileges, and easements enumerated and described hereinbelow, and for the further benefit of the City subjects the Lot to the Maintenance (as defined herein) terms, conditions, and obligations set forth below.

Article I

Definitions, Construction, and Amendment

1. Definitions. As used in this Maintenance Easement, the following words and terms have the following definitions.

(a) “City” or “City of Raleigh” is defined as the City of Raleigh, North Carolina, a North Carolina municipal corporation.

(b) “City Approval” is defined as the written approval of the City of Raleigh, as given by the Director of Engineering Services or his or her designee on the applicable document or plat.

(c) “Code” is defined as the Raleigh City Code of Ordinances as it may be amended from time to time, and includes all duly adopted regulations, rules, directives, and policies of the City pursuant to or in furtherance of the Code.

(d) “Development” is defined as the real property approved for development by the City under the City of Raleigh Case or File Number shown on the first page of this Maintenance Easement.

(e) “Governmental Authority” (or “Governmental Authorities”) is defined as the City, the County in which the Lot is located, the State of North Carolina, the United States of America and all other governmental entities and quasi-governmental entities that have jurisdiction over the Lot, and all applicable departments and agencies of any of them, whichever is/are applicable.

(f) “Grantor” is defined as the Person identified as the Grantor hereinabove and its heirs, successors, and assigns, and includes any Person who has the powers of a declarant established in a Subsequent Document, and its heirs, successors, and assigns.

(g) “Lot” or “Parcel” is defined as that real property that is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference, together with any and all improvements located thereon.

(h) “Maintain”, “Maintenance”, “Maintaining”, or any similar term used herein is defined to include any one or more of the following, as the context requires: acquisition, purchase, construction, re-construction, installation, maintenance, inspection, examination, upkeep, cleaning, renewal, alteration, repair, replacement, repainting, remodeling, restoration, removal, improvement, administration, operation, use, planting, mowing, cutting, trimming, pruning, fertilizing, watering, and preservation.

(i) “Maintenance Easement” is defined as this instrument, together with all exhibits and amendments to this instrument.

(j) "Owner" is defined as the record Owner, whether one or more Persons, of fee simple title to the Lot, but excluding those having an interest in the Lot solely as security for the performance of an obligation or a tenant. As of the date of recording of this Maintenance Easement, the Grantor is the record Owner of the Lot.

(k) "Person" is defined to include any natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, Governmental Authority (including the City), or other entity.

(l) "Parcel" is defined as "Lot", above.

(m) "Registry" is defined as the office of the Register of Deeds (or any successor office under applicable law) for the North Carolina County in which deeds, plats, easements, mortgages, and deeds of trust for the Lot are recorded. All references herein to recording or to any requirement to record a document or plat refer to recording in the Registry of the County in which the Lot is situated.

(n) "Stormwater Control Facilities" is defined as one or more of the following devices and measures that serves the Lot solely and which are located outside of public street rights-of-way and drainage easements accepted into public use by the City, including, but not limited to, conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wet ponds, dry detention basins, wetlands, permanently protected undisturbed open space areas (or similarly designated areas, such terms to be used interchangeably in this Maintenance Easement), bio-retention areas, retention or detention ponds, and other devices and measures, necessary to collect, convey, store, and control stormwater runoff and pollutants for the Lot only.

(o) "Stormwater Operations Maintenance Manual and Budget" or "Stormwater Operations and Maintenance Manual and Budget" is defined as that manual, however named, approved by the City and incorporated into this Maintenance Easement by reference, as the same may be amended from time to time, that documents the cost estimate to construct the Stormwater Control Facilities, the requirements for the Maintenance of the Stormwater Control Facilities, and the projected annual costs for such Maintenance. The most up-to-date, City-approved version of the Stormwater Operations and Maintenance Manual and Budget must be kept on file with the City's Stormwater Division.

(p) "Subsequent Document" is defined as any document, map, or plat affecting or encumbering the Lot that is recorded in the Registry after this Maintenance Easement is recorded in the Registry.

2. Applicability. The Lot, this Maintenance Easement, and all provisions of Subsequent Documents and other separately recorded instruments applicable to the Lot (or any portion thereof) are subject to the ordinances, regulations, and rules of the City, and shall be construed in accordance with all of the applicable provisions of the Code, whether or not such Code provisions are specifically referenced in this Maintenance Easement or in any Subsequent Document. It shall be the responsibility of each Owner of the Lot to comply with all provisions of the Code applicable to the Lot. No Subsequent Document may avoid, vary, negate, or waive the obligations

and rights of the Owner(s) without amendment to this Maintenance Easement with City Approval, as provided in Article I, Section 4, to allow such avoidance, variation, negation, or waiver.

3. Conflicts.

(a) The provisions of the Code control over any inconsistent provisions of this Maintenance Easement or any Subsequent Document.

(b) As applicable provisions of the Code are amended, modified, revised, deleted, or moved to different sections, this Maintenance Easement is deemed to be revised so as to conform to the provisions of the Code as they may exist from time to time and are applicable to the Lot.

(c) The provisions of this Maintenance Easement shall control over any inconsistent provisions of any Subsequent Documents unless this Maintenance Easement is amended, with City Approval as provided in Article I, Section 4 below, to allow subordination of this Maintenance Easement to the Subsequent Document. To the extent that any Subsequent Document affecting the Lot conflicts with the provisions of the Code or the General Statutes of the State of North Carolina, the conflicting provision shall be automatically cured to comply with the Code and the General Statutes of the State of North Carolina. To the extent that the requirements of the Code and the General Statutes of the State of North Carolina conflict, the more stringent provision shall prevail and apply.

(d) Notwithstanding any other provision of this Maintenance Easement, any provision of this Maintenance Easement or Subsequent Document that is more restrictive than an applicable provision of the Code is not an inconsistent provision of this Maintenance Easement unless the Code specifically provides otherwise, and is not deemed revised to conform to the Code.

(e) To the extent that definitions or provisions in a Subsequent Document are different than the definitions or provisions utilized in this Maintenance Easement yet bear a similar meaning, the provisions of this Maintenance Easement shall apply as if the defined term or provision of this document was utilized. Specific exceptions to this provision may only be achieved through amendment to this Maintenance Easement as provided in Article I, Section 4, below.

(f) The rights of the City in this Maintenance Easement, including, without limitation, the rights of the City to enforce liens and collect monies from Owner(s) of the Lot, shall not be impaired or adversely affected by any allocation of assessment obligations in any Subsequent Document.

4. Amendment of Maintenance Easement. Amendments to this Maintenance Easement are valid from the time of recording in the Registry. Any amendment of this Maintenance Easement must have City Approval. Any amendment to an exhibit attached and incorporated into this Maintenance Easement will similarly require an amendment to this Maintenance Easement.

Article II

Obligations of the Raleigh City Code for Stormwater Control Facilities and Maintenance

1. Construction and Maintenance of Stormwater Control Facilities. Grantor and/or any future Owners of the Lot shall be responsible for the construction of the Stormwater Control Facilities and the Owners of the Lot shall be responsible for the Maintenance thereof, all in accordance with the construction drawings approved by the City for such Stormwater Control Facilities and the Stormwater Operations and Maintenance Manual and Budget. The Stormwater Control Facilities must be constructed and Maintained in accordance with all applicable laws, ordinances, regulations, rules, and directives of Governmental Authorities, including, but not limited to, the Code, and the Stormwater Control Facilities must perform as designed. The Stormwater Operations and Maintenance Manual and Budget must meet all applicable requirements of the Code.
2. Location of Stormwater Control Facilities. A description of the portions of the Lot where the Stormwater Control Facilities are located, including the City's Protection Easement (as defined in Article III, Section 2(a)) over and upon the Stormwater Control Facilities, is provided in **Exhibit B**, attached hereto and incorporated herein by reference.
3. Relocation of Stormwater Control Facilities.
 - (a) Stormwater Control Facilities situated on the Lot may be relocated only by a written amendment to this Maintenance Easement signed by the Owner(s) of the Lot with City Approval wherein the corresponding City Protection Easement and, if required to access the relocated Stormwater Control Facilities, the City Access Easement (as defined in Article III, Section 2(b)) are also relocated. Any relocation without the required City Approval is void ab initio. The consent of tenants, mortgagees, and beneficiaries and trustees under deeds of trust with respect to the Lot shall not be required for the relocation to be effective. All relocations of Stormwater Control Facilities, and the corresponding Protection Easement and Access Easement (if needed to access the relocated Stormwater Control Facilities), shall be accompanied with a letter sealed by a professional engineer licensed in the State of North Carolina stating that the relocated Stormwater Control Facilities will not cause any adverse stormwater runoff unto other portions of the Lot and/or adjoining properties.
 - (b) The relocation of Stormwater Control Facilities and the corresponding Protection Easement and Access Easement (if needed to access the relocated Stormwater Control Facilities) is valid from the later of the time of either recording of the written amendment to this Maintenance Easement that relocates the Stormwater Control Facilities and the corresponding Protection Easement and Access Easement or such later date specified therein.
4. Insurance. As part of the routine costs and expenses of Maintaining the Stormwater Control Facilities, the Owner(s) of the Lot must procure and maintain liability insurance in an amount no less than \$1,000,000.00 for the protection of the Stormwater Control Facilities.

5. Penalties Associated with Failure to Maintain Stormwater Control Facilities. Operation and Maintenance of the Stormwater Control Facilities must comply with all relevant provisions of the Code. Failure to Maintain the Stormwater Control Facilities in accordance with the Stormwater Operations and Maintenance Manual and Budget and any applicable regulation of a Governmental Authority is a violation of the Code and may subject the Lot Owner(s) to significant daily civil penalties and other enforcement actions by the City and/or other Governmental Authorities, including assessments.

6. Permanently Protected Undisturbed Open Space Areas. Within any permanently protected undisturbed open space areas (and similarly designated areas) shown on any recorded plat of the Lot, there must not be any land disturbing activity, any placement of impervious surfaces, any tree disturbing activity (as defined in the Code), any removal of vegetation, any new development or expansion thereof, or new use, construction, or encroachment without first obtaining a stormwater control permit from the City.

7. Establishment of Segregated Account to Hold Funds Designated Solely for Maintenance Expenses. The Owner(s) of the Lot must deposit and retain funds for the Maintenance of the Stormwater Control Facilities. Such funds must equal ten percent (10%) of the estimated costs to construct the Stormwater Control Facilities as is established in the Stormwater Operations and Maintenance Manual and Budget. The Owner(s) of the Lot shall have five (5) years from the date(s) the City accepted the as-built certification(s) for the Stormwater Control Facilities to deposit and retain such funds. All such funds shall be held by the Owner(s) of the Lot in a segregated account used solely for the purposes of Maintaining the Stormwater Control Facilities. After the fifth anniversary of the City's acceptance of the as-built certification(s) for the Stormwater Control Facilities, every annual inspection report for the Stormwater Control Facilities to be submitted thereafter to the City's Engineering Services Department pursuant to Section 9.2.2.H. of the UDO (or its successor provision) must include a certification signed by the Owner(s) of the Lot that ten percent (10%) of the estimated costs to construct the Stormwater Control Facilities are being held by the Owner(s) of the Lot in a segregated account used solely for the purposes of Maintaining the Stormwater Control Facilities as is required by Section 9.2.2.G.3. of the UDO (or its successor provision) and this Maintenance Easement.

Article III

Rights Granted to City of Raleigh

1. Action for Specific Performance. Recognizing the consequences to the City of Raleigh of non-compliance with the obligations of this Maintenance Easement, Grantor, on behalf of its heirs, successors, and assigns, hereby grants the City the right to seek, in any court of appropriate jurisdiction, judicial action for specific performance of any of the obligations established within this Maintenance Easement. This right of the City shall not limit any other remedies or enforcement options available to the City under this Maintenance Easement, the Code, or any other applicable law, including later adopted ordinances or statutes that may supplement or supersede the requirements stated herein.

2. Grant of Easements.

(a) Grantor hereby dedicates and grants unto the City a permanent, non-exclusive and irrevocable easement over the Stormwater Control Facilities located within the Lot for the purposes of permitting City inspection and, if deemed necessary, as determined by the City, in its sole discretion, for Maintenance and other work on the Stormwater Control Facilities (the “Protection Easement”), such Protection Easement more particularly described and depicted in **Exhibit B** attached hereto.

(b) Grantor hereby dedicates and grants unto the City a permanent, irrevocable, and non-exclusive right of ingress, egress, and regress over and across all public or private easements on the Lot, including, but not limited to, private roads, for Maintenance and other work on the Stormwater Control Facilities (the “Access Easement”), such Access Easement more particularly described and depicted in **Exhibit B** attached hereto. The rights granted to the City in this subsection shall extend to employees, agents, and contractors of the City.

3. Use of Protection and Access Easements. The City, its officers, employees, contractors, and agents may access the Lot and enter the Stormwater Control Facilities for purposes of exercising the City’s rights hereunder. This Maintenance Easement shall in no way obligate the City to monitor and Maintain the Stormwater Control Facilities, and the City shall not be liable to any person, firm, partnership, company, corporation, governmental agency, or entity for the condition or operation of the Stormwater Control Facilities. Further, this Maintenance Easement shall in no way stop, diminish, limit, impair, or restrict the right of the City to enforce any of its ordinances as permitted by law or to exercise any rights or powers granted to it.

4. City Right to Maintain and Repair Stormwater Control Facilities and Right of Reimbursement.

(a) If Stormwater Control Facilities serving the Lot are not performing adequately or as intended or are not properly Maintained or replaced, the City, in its sole discretion, may, after providing written notice to the Owner(s) of the Lot, enter the Lot and perform Maintenance of the Stormwater Control Facilities as is necessary to remedy the situation.

(b) The City shall be fully reimbursed for its costs of inspecting, monitoring, designing, constructing, repairing, reconstructing, replacing, and/or installing the Stormwater Control Facility or Stormwater Control Facilities. Such costs shall include the costs of administration, overhead, contracting, and public advertising associated with the work performed by the City pursuant to this Article.

(c) In addition to any other rights the City has to be reimbursed for its costs, the City may levy an assessment against the Lot served by the noncompliant Stormwater Control Facility. No assessment will be levied by the City without prior notice to the Owner(s) of the Lot. Any unpaid assessment levied by the City shall be, as allowed by law, a lien against the Lot.

5. No Public Adoption.

(a) The City's exercise of its rights under this Maintenance Easement, or its abatement of a public nuisance, or its repair of unsafe structures does not constitute adoption of any Stormwater Control Facility by the City. The legal authority of the City is not intended to impede or prohibit the Owner(s) of the Lot from taking all necessary actions to Maintain the Stormwater Control Facilities so that they function safely, perform the function for which they were created, and comply with requirements of the Code and this Maintenance Easement.

(b) The City is not obligated to monitor or Maintain any Stormwater Control Facilities and the City shall not be liable to any person or entity for the condition or operation of any Stormwater Control Facilities.

**Article IV
Subordination**

1. Subordination.

(To protect the interests of the City of Raleigh and the public at large, any existing deeds of trust, mortgages, or liens encumbering the Lot, other than property tax liens for the current tax year or governmental improvement assessment liens, must be subordinated to this Maintenance Easement. If no such encumbrances exist, the following representation must be checked by the Grantor. Otherwise, such encumbrances must be listed and the Maintenance Easement must be executed by the beneficiary and trustee (if trustee execution is necessary per the terms of the security instrument), mortgagee, or lien holder to evidence such subordination.)

☐ [12] GRANTOR REPRESENTS THAT NO SUPERIOR DEEDS OF TRUST, MORTGAGES, OR LIENS (OTHER THAN PROPERTY TAX LIENS FOR THE CURRENT TAX YEAR OR GOVERNMENTAL IMPROVEMENT ASSESSMENT LIENS) ENCUMBER OR AFFECT THE LOT AT THE TIME OF THE EXECUTION AND RECORDING OF THIS MAINTENANCE EASEMENT, OR THAT IF ANY OF THE FOREGOING EXIST AND ARE NOT BEING SUBORDINATED BY THE DEED OF TRUST BENEFICIARY AND TRUSTEE, MORTGAGEE, OR LIEN HOLDER BY EXECUTION OF THIS MAINTENANCE EASEMENT, GRANTOR HAS AN OWNER'S POLICY OF TITLE INSURANCE THAT EITHER INSURES THE LOT WITHOUT EXCEPTION FOR SUCH ENCUMBRANCE OR THAT PROVIDES AFFIRMATIVE COVERAGE WITH RESPECT TO SUCH ENCUMBRANCE AND, IN SUCH EVENT, A COPY OF SUCH TITLE INSURANCE POLICY HAS BEEN GIVEN TO THE CITY.

(If the box above is not checked, the subordination section on the signature pages must be completed and signed by the appropriate parties.)

Article V

Miscellaneous

1. Notice. Written notice as required hereunder shall be provided to the City of Raleigh at P. O. Box 590, Raleigh, N.C. 27602, Attention: Stormwater Program Manager and to the Grantor at _____[13]_____. The City may elect to notify the Grantor and any future Owner(s) of the Lot at either (i) the mailing address for the record Owner(s) of the Lot provided to the Wake County Tax Assessor; or (ii) the registered agent of the record Owner(s) of the Lot on file with the Corporations Division of the Secretary of State's Office, either of which shall be deemed to comply with any notice requirements of this Maintenance Easement. Written notice shall be deemed received four (4) days following its deposit, first class mail, with the United States postal system. All mailings required by this Article shall be sent via the United States Postal Service.
2. Term. This Maintenance Easement, and all of its terms, conditions, and obligations, shall continue as a servitude running in perpetuity with the Lot.
3. Severability. If any provision of this Maintenance Easement shall be deemed invalid by a judgment, order, or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining provisions of this Maintenance Easement.
4. No Waiver. The failure of the Owner(s) of the Lot or the City, in any one or more instances, to insist upon compliance with any provision or covenant herein or to exercise any right or privilege herein shall not constitute or be construed as a waiver of such or any similar provision, covenant, right, or privilege including the right to cure a breach or default, but the same shall continue and remain in full force and effect, as if no such forbearance had occurred.

THE LOT HEREIN DESCRIBED AND CONVEYED IS:

[__[14]__] Located on a parcel that includes the Grantor's primary residence, but the Grantor's primary residence is not a property interest being conveyed; or

[__[14]__] Does not include a primary residence.

Article VI

Execution

TO HAVE AND TO HOLD the easements and covenants agreed to and the terms, conditions, obligations, and restrictions imposed herein shall be binding upon the Grantor, its heirs, successors, and assigns, and shall continue as a servitude running with the land in perpetuity. Grantor covenants that it is vested of the Lot in fee simple, has the right to convey the same in fee simple, that the Lot is free from encumbrances except as herein stated or subordinated herein, and Grantor will warrant and defend such title to the same against claims of all persons

whatsoever. Title to the Lot is subject to the following: all utility rights of way and easements recorded in the Registry; plats of the Lot recorded in the Registry; and restrictive covenants affecting the Lot that were recorded in the Registry prior to the recording of the deed to the Grantor that conveyed the Lot to the Grantor.

Grantor acknowledges that the City of Raleigh is acting in reliance on Grantor's authority to enter into this Maintenance Easement and the terms, conditions, obligations, and restrictions imposed herein in its authorization to issue any permits or development approvals associated with any construction of improvements on the Lot and that the City of Raleigh may suffer irreparable harm from the violation of the easements, covenants, restrictions, and obligations established herein.

[The signature pages follow this page.]

[Grantor Signature Page]

IN WITNESS WHEREOF, GRANTOR hereby executes this Maintenance Easement under seal as of the day and year first above written.

GRANTOR:

_____ [15] _____

By: _____ (SEAL)

Name: _____ [16] _____

Its: _____ [17] _____ (Title)

NORTH CAROLINA

GRANTOR

WAKE COUNTY

ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.
(Print name of signatory in blank)

Date: _____

My Commission Expires:

Notary Public

Print Name: _____

[Affix Notary Stamp or Seal]

[The next page is the subordination signature page.]

[Subordination Signature Page]

_____[18]_____, as Trustee, and _____[19]_____, as Beneficiary, under that certain Deed of Trust recorded in Book ____[20]____, Page ____[20]____, ____[11]____ County Registry, North Carolina, join in this Maintenance Easement for the sole purpose of expressing their consent hereto and of binding, subjecting and subordinating said Deed of Trust and their interest in the Lot to the terms, covenants and conditions of this Maintenance Easement.

TRUSTEE:

_____[18]_____

By: _____ (SEAL)

Name: _____

Its: _____ (Title)

BENEFICIARY:

_____[19]_____

By: _____ (SEAL)

Name: _____

Its: _____ (Title)

[Notary acknowledgments for the Trustee and Beneficiary follow this page.]

STATE OF _____

COUNTY OF _____

TRUSTEE
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.
(Print name of signatory in blank)

Date: _____

My Commission Expires: _____

Notary Public

Print Name: _____

[Affix Notary Stamp or Seal]

NORTH CAROLINA

WAKE COUNTY

BENEFICIARY
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.
(Print name of signatory in blank)

Date: _____

My Commission Expires: _____

Notary Public

Print Name: _____

[Affix Notary Stamp or Seal]

Attorney Certification:

I, _____[21]_____, an attorney licensed to practice law in the State of North Carolina, certify to the City of Raleigh that this Maintenance Easement has been prepared in accordance with the instructions provided by the City of Raleigh, that I am familiar with the requirements of Section 9.2.2.G.3. of the UDO, and have prepared this instrument in accordance with the requirements of Section 9.2.2.G.3. of the UDO. If a deed of trust is being subordinated to this Maintenance Easement and the signature of the trustee is not provided, I hereby certify that I have reviewed that deed of trust and verify that the terms of the deed of trust do not require trustee consent or signature for the subordination to be effective.

Attorney at Law

NC Bar #: _____[22]_____

Exhibit A
Description of Lot

That Lot identified and shown as Lot # ____[23]____ on that plat recorded in Book of Maps ____[24]____, Page(s) ____[24]____, ____[11]____ County Registry.

Exhibit B
Description of Stormwater Control Facilities,
Protection Easement, and Access Easement

All areas shown and labeled as “Stormwater Control Facility (Protection Easement)”, “Stormwater Control Facility”, “Protection Easement”, and/or “Access Easement” (or equivalent terms) on that plat recorded in Book of Maps _____, Page(s) _____. ____[11]____ County Registry.