

Prepared by _____

Tax Parcel ID # _____

NORTH CAROLINA
NASH COUNTY

LOW MAINTENANCE CONSERVATION EASEMENT

Nash County, North Carolina

THIS LOW MAINTENANCE CONSERVATION EASEMENT ("Low Maintenance Conservation Easement") made and entered into this _____ day of _____ 2006, by and between _____ with an address at _____ (whether one or more, "Grantor"), and the **County of Nash**, a North Carolina corporation with an address of 120 West Washington Street, Nashville, North Carolina 27856 ("Grantee").

RECITALS AND CONSERVATION PURPOSES

A. Grantor is the sole owner in fee simple of certain real estate containing approximately _____ acres located in Nash County, North Carolina, more particularly described in Exhibit A, attached hereto and by this reference incorporated herein (the "Property"); and

B. The Property is located in the Tar/Pamlico River Basin, which has been designated nutrient sensitive by the North Carolina Division of Water Quality and the North Carolina Environmental Management Commission; and

C. The Property is part of an approved development project known as _____ (_____ total acres), which designates a required permanent conservation easement to ensure that nutrient reduction occurs within the development project in a manner consistent with the requirements of the Tar-Pam Overlay District for New Development in the Nash County Unified Development Ordinance and the Basinwide Stormwater Requirements of the Tar-Pamlico Nutrient Sensitive Waters Management Strategy (15A NCAC 2B .0258) ; and

D. The Property possess natural, environmental and scenic values which Grantor intends to conserve and maintain by the continuation of land use patterns approved at the time of this development; and

E. Grantor as owner of the Property intends the property to be maintained in perpetuity, such that it maintains its nutrient removal properties intended by the approved development plan; and

F. Grantor agrees to operate and maintain the Property in such a manner as to not increase the amount of nitrogen and phosphorus discharged in the stormwater runoff from the site.

NOW, THEREFORE Grantor, for valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents, does hereby unconditionally and irrevocably grant, bargain, sell, and convey to Grantee a perpetual Low Maintenance Conservation Easement of the nature, character, and extent hereinafter set forth in, over, under, through and across the Property, as described in Exhibit A attached hereto, together with the right of ingress to and egress from the Property over the adjoining property of Grantor, including the right with regard to said easement to preserve and protect the conservation values thereof as described herein.

ARTICLE I - PURPOSE

It is the purpose of this Low Maintenance Conservation Easement to assure that the Property is managed in a manner that prevents any use of the Property which will impair or interfere with the nutrient removal properties of the Property and will be retained forever in an open vegetative condition as shown on the approved plans.

ARTICLE II - DURATION OF EASEMENT

This Low Maintenance Conservation Easement shall be perpetual and runs with the land, and is enforceable by Grantee against Grantor, his, her, its, or their representatives, successors, heirs, assigns, lessees, agents, and licensees.

ARTICLE III - PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the Property inconsistent with the purpose of this Low Maintenance Conservation Easement is prohibited. The Property shall be maintained in an open vegetative condition in the form and state shown on the approved plan and restricted from any development or other use that would impair or interfere with the nutrient removal purpose of this easement set forth above. Any alterations of the property must be approved by the Grantee in writing.

The Grantor shall not undertake any action including the application of fertilizer, pesticides or herbicides that may increase the nitrogen and/or phosphorus contained in the stormwater runoff from the Property. The Grantor shall not mow, cultivate or otherwise prevent or impair the continuance of the Property as a woodland, or prevent or impair natural succession of the Property to a woodland state.

All rights reserved by Grantor are reserved for Grantor, Grantor's representatives, successors, heirs and assigns and are considered to be consistent with the conservation purpose of this easement, and, unless specifically stated otherwise herein, require no prior notification to or approval by Grantee.

Notwithstanding the foregoing, Grantor and Grantee shall have no right to agree to any activity that would result in the termination of this Conservation Easement.

Without limiting the generality of the foregoing, the following activities and uses by Grantor, Grantee, or any other person are expressly prohibited or restricted:

A. Industrial and Commercial Use. Industrial and commercial activities of any type or kind and any right of access or passage for such purposes are prohibited.

B. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, farming, grazing, horticultural and animal husbandry operations are prohibited.

C. Construction of Buildings and Use. There shall be no constructing or placing of any residence, building, mobile home, asphalt or concrete pavement, antenna or any other temporary or permanent structure or facility on, above, or under the Property.

D. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner except as necessary for the purpose of combating erosion or incidental to any conservation management activities otherwise permitted in this Conservation Easement.

E. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Property or into any surface waters, or cause soil degradation or erosion; in addition, there shall be no diking, dredging, alteration, draining, filling or removal of wetlands, except for activities to restore natural hydrology or wetlands enhancement as permitted by state and any other appropriate authorities.

F. Dumping. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, or machinery, or other materials on the property is prohibited.

G. Conveyance and Subdivision. The Property shall not be subdivided, partitioned, or conveyed except in its current configuration as an entity.

H. Other Activities or Use. Any use or activity not expressly permitted in ARTICLE IV – PERMITTED ACTIVITIES of this Conservation Easement is prohibited.

ARTICLE IV – PERMITTED ACTIVITIES

The following activities or uses on the Property are not inconsistent with the purpose of this Conservation Easement and are reserved to Grantor:

A. Fencing. The Property may be fenced, provided the same can be accomplished without cutting or removing trees, or disturbing the natural features of the land.

B. Hunting, Fishing, and Recreational Activities. Hunting, fishing, and recreational activities may be conducted on the Property provided the same are conducted in conformity with all applicable laws, rules, and regulations governing the same, and provided further, that there shall be no surface alteration or other development of the Property in connection therewith. Motorized vehicles are not permitted.

C. Public Utilities. Public utility easements may be granted and facilities, including, without limitation, lines, wires, cables, pipes, meters, pumps, and lift stations may be placed on the

Property, subject to prior written approval of the Grantee. Disruption to the nutrient removal properties of the Property must be minimized and restricted to essential needs.

ARTICLE V - ENFORCEMENT & REMEDIES

A. Grantee's Remedies. If Grantee determines that Grantor is in violation of any of the terms of this Conservation Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Conservation Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or, if the circumstances are such that the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or, if having commenced actions to cure the violation, fails to continue diligently to complete the cure, Grantee may bring an action at law or in equity in any court of competent jurisdiction to enforce the terms of this Low Maintenance Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of any term of this Low Maintenance Conservation Easement or for injury to any conservation values protected by this easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, with Grantee's best efforts to give notice to Grantor, Grantee may pursue its remedies under this paragraph without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, as well as specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

B. Right of Entry: Grantee, its employees and agents, shall have the right to enter the Property (including the concomitant right to cross the adjoining property of Grantor, including Grantor's successors, heirs, assigns, lessees, agents, and licensees) at any reasonable time for the purpose of preparing baseline documentation with respect to the Property and for inspecting the Property to determine whether Grantor is complying with the terms, conditions, and restrictions of this Low Maintenance Conservation Easement.

C. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the term of this Conservation Easement, shall be paid by Grantor. This, however, shall not include the cost of inspection.

D. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights hereunder shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights hereunder. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

E. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property or to persons resulting from such causes.

ARTICLE VI - MISCELLANEOUS

A. Subsequent Transfers. Grantor shall incorporate the terms of this Conservation Easement in any deed or other legal instrument by which Grantor transfers any interest in the Property, including, without limitation, any liens or leasehold interest. Grantor further agrees to give written notice to Grantee of the proposed transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

B. Successors. The covenants, terms, conditions, and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

C. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

D. Notices. Any notices shall be sent by registered or certified mail, return receipt requested, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other. In any case where the terms of this Conservation Easement require the consent of any party, such consent shall be requested by written notice. Such consent shall be deemed denied unless, within thirty (30) days after receipt of notice, a written notice of approval and the reason therefore has been mailed to the party requesting consent.

E. Amendments. Grantor and Grantee are free to jointly amend this Low Maintenance Conservation Easement to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purpose of this easement, affects the perpetual duration of this easement (except as provided below), or the status of Grantee under any applicable law. In the event of repeal of the basinwide nutrient reduction requirements for the Tar-Pamlico River and a subsequent absence of state and county regulation requiring nutrient reduction, the Grantee may, at its discretion and upon request by the Grantor, amend the duration of this Low Maintenance Conservation Easement. Such amendment(s) shall be effective upon recording in the public records of Nash County, North Carolina.

F. Costs and Liabilities. Grantor shall retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including, without limitation, the payment of all taxes and assessments levied on or assessed against the Property by any competent authority and the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by, Grantor or anyone claiming under Grantor.

TO HAVE AND TO HOLD the Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor have executed this Conservation Easement, each having adopted the type written word ("SEAL") as their personal/corporate seal, as of the day and year first written above.

GRANTOR:

_____ **Homeowner Association**

By: _____ (SEAL)

_____, President

NORTH CAROLINA

NASH COUNTY

I, _____, a Notary Public in and for said County and State

so hereby certify that _____ personally appeared before me this day and acknowledged that he/she is President of _____ Homeowner Association and that he, as President, being authorized to do so, executed the foregoing instrument on behalf of the Association.

WITNESS my hand and official stamp or seal, this the ____ day of _____,
_____.

Notary Public

My Commission Expires: _____

EXHIBIT A
CONSERVATION EASEMENT

DESCRIPTION