

When recorded mail to:

Town of Paradise Valley
Town Attorney
6401 E. Lincoln
Paradise Valley, AZ 85253

Exempt from Affidavit of Value
Under A.R.S. § 11-1134(A)(2)

TOWN OF PARADISE VALLEY DRAINAGE AND FLOOD CONTROL EASEMENT

and

DRAINAGE AND FLOOD CONTROL EASEMENT AGREEMENT

This Drainage and Flood Control Easement and Drainage and Flood Control Easement Agreement (“Agreement”) is made and entered into as of this _____ day of _____, 20**, by and between _____ *[insert Grantor/Owner name as appears in the title to the Property]* (“Grantor), and the TOWN OF PARADISE VALLEY, an Arizona municipal corporation (“Grantee” or “Town”).

1. Grantor is the fee simple owner of that certain tract of land located in the Town of Paradise Valley, County of Maricopa, State of Arizona, as shown on Exhibit A and located at the following address: _____ (the “Property”).

2. Grantor grants to Grantee a perpetual, non-exclusive easement upon, over and across the parcels shown on Exhibit B (the “Drainage Easement”). The purpose of the Drainage Easement is for drainage and flood control and all related purposes, including without limitation, construction, maintenance, operation, replacement, and repair of levees, dikes, dams, stormwater storage basins, storm drains, channels, improvements, washes, watercourses and other drainage or flood control facilities (collectively, “Drainage Facilities”). Grantee has accepted this Drainage Easement by its approval of Exhibit B and the acceptance of the Drainage Easement and this Agreement (as evidenced by the execution of this Agreement by the Mayor of the Town).

3. Grantor, for Grantor, its successors, and assigns (hereinafter “Owners”) covenants with the Grantee and its successors and assigns, that Grantor and Owners, at all times after the effective date of this instrument, at its own cost and expense, will clean and maintain the Drainage Facilities, and will keep the Drainage Facilities and the Drainage Easement area

cleaned and maintained in a proper and workmanlike manner, and in compliance with all applicable ordinances, codes, rules and regulations and as necessary to maintain their flood carrying or storage capacity; prevent erosion; and prevent any refuse, debris, sediment, vegetation, or other obstruction from accumulating in drainage facilities. Grantee is not obligated to perform any such work. Grantor and Owners shall not construct, obstruct or alter any Drainage Facilities on the Property without Grantee's prior written consent. Drainage Facilities on the Property might not be obvious. Lack of awareness of Drainage Facilities does not excuse failure to perform the requirements of this Agreement. Grantor, and all future Owners, lessees, and residents of all or any part of the Property are bound by the provisions of this Agreement. This Agreement cannot be terminated, released, amended or modified without the express prior written consent of Grantee. Grantor shall indemnify, defend and hold Grantee harmless against Grantor's failure to perform under this document.

4. If for any reason the Grantor (or Owners) does not fulfill the legal obligations and duties specified in Paragraph 3 above, the Grantee shall have the right of self help, in addition to powers and enforcement authorized by the Town of Paradise Valley Town Code and Arizona state law, and in connection with such rights, shall have the right to enter the Drainage Easement area and, as needed to access the Drainage Easement area, the Property, to clean or to maintain the Drainage Facilities, and to be compensated by Grantors (or Owners) for the full and actual amount of the cleaning and maintenance as is permitted by this Agreement and applicable ordinances, codes and regulations. In addition to Grantee's other remedies, the cost of such work shall be secured by a lien that Grantor hereby grants against the Property, together with interest at the annual rate of (8%) and reasonable attorneys' fees.

5. The Town shall have the right, at its option, to enforce collection of any amounts owed to the Town under Paragraph 4 above in any manner allowed by law, including, without limitation, bringing an action against Grantor, or, as appropriate, the Owners of the Property to pay such amounts or bringing an action to foreclose its lien against the Property in the manner provided by law for the foreclosure of a realty mortgage. The Town shall have the power to bid at any foreclosure sale and to purchase the Property so sold. Grantor and Owners shall indemnify, defend and hold Grantee harmless against Grantor's or Owners' failure to perform under this document.

7. This Agreement shall be in addition to any other agreements, law, ordinances or regulations relating to drainageways, easements and the subject matter herein.

8. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors, assigns, affiliates, agents and tenants. This Agreement, the Drainage Easement and other rights and obligations created, granted and conveyed shall run with the land as a burden upon the Property.

9. Grantor warrants that (i) it is the fee simple owner of the Property, (ii) it has full right, power and authority to grant the Drainage Easement set forth herein and to execute this Agreement, and (iii) the execution hereof by Grantor does not conflict with or constitute a

default under any agreement to which Grantor is a party or by which Grantor of the Drainage Easement is bound. The person executing this document on behalf of a corporation, trust or other organization warrants his or her authority to do so and that all persons necessary to bind Grantor have joined in this document.

10. This Agreement shall terminate only upon mutual written agreement between the parties.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the date first above written:

GRANTOR:

[insert Grantor/Owner name as appears in the title to the Property]

By: _____

Its:

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this _____ day of _____, 20**,
by _____, the _____ of *[insert Grantor/Owner
name as appears in the title to the Property]*, on behalf thereof.

Notary Public

My Commission Expires: _____

GRANTEE:

TOWN OF PARADISE VALLEY

By: _____
Michael Collins, Mayor

ATTEST:

Duncan Miller, Town Clerk

APPROVED AS TO FORM:

Andrew Miller, Town Attorney

Exhibit A – The Property

[insert legal description of the entire Property]

Exhibit B – The Drainage Easement

[insert legal description of the Drainage Easement area and sketch, if available, of same]