

Instrument prepared by: Christina Freeman Pearsall, Schell Bray PLLC
[Utilizing City of Raleigh Form Instrument]

Brief description for index: Utility Placement Easement
Property PIN: 1722-27-2966
City Case No. ID: RCMP-0040-2024

Mail after recording to: City of Raleigh
Land Development Manager
Planning and Development Department
Development Services Department
P.O. Box 590
Raleigh, NC 27602

DEED OF EASEMENT FOR UTILITY PLACEMENT PURPOSES

This Deed of Easement for Utility Placement Purposes (this “Utility Placement Easement” and/or “Easement”) is made and executed this _____ day of _____, _____, by Terrace at Rock Quarry Limited Partnership, a North Carolina limited partnership (the “Grantor”) to the City of Raleigh, a North Carolina municipal corporation, with a mailing address of PO Box 590, Raleigh, NC 27602 (the “City”). The designation “Grantor” as used herein shall include said party, its heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

Grantor warrants that it is the owner of the property (the “Property”) described in the instrument recorded at Book 19511, Page 2478, Wake County Registry, that it is vested of the Property in fee simple, and that the Property is free from encumbrances except as expressly stated within this instrument.

For valuable consideration, the receipt of which is hereby acknowledged by Grantor, which may include permitting and approvals of the City for development activity on the Property, and in further consideration of the mutual covenants and terms, conditions and restrictions hereinafter set forth, the Grantor hereby gives, grants, bargains and conveys unto the City, its successors and assigns, in perpetuity, those rights-of-way, privileges, easements and areas enumerated and described hereinbelow, and as more particularly identified and described in Exhibit A, attached hereto and incorporated herein by reference, and as follows:

UTILITY PLACEMENT EASEMENT

A permanent easement upon, under, above and across the Property being five (5) feet in width for any utility purpose including electric power, gas, cable television, telephone, communications, broadband, fiber optics, and for related purposes whether they be wire or wireless, including the right to construct, install, improve, remove, replace, inspect, repair, maintain and use all pipes, lines, wires, poles, cables, conduit, fixtures, equipment, and related appurtenances, including but not limited to antennas, guy wires and supports, both above-ground and subsurface, that are necessary and appropriate to the utility purposes enumerated above, and for all other purposes for which the City is authorized by law to use the Easement.

In addition, City has the right to:

1. remove and keep removed from the Easement all trees, roots, limbs, shrubs, underbrush and part(s) thereof, or other obstructions as necessary to maintain, repair, replace or protect said utilities and related infrastructure and appurtenances located within the Easement;
2. trim limbs from, or cut down, any tree outside the Easement area which will likely endanger overhead electric cables, other lines, related appurtenances and utilities within the Easement;
3. use the Easement area for access onto this and other City easements and public rights-of-way; provided nothing herein shall be construed to grant to City any right of access over the Grantor's Property except as described and dedicated herein;
4. prohibit the construction of any fences, gates, walls, barriers or other such obstructions crossing the Easement that may impair use of the easement as enumerated above.

Following completion of any utility improvement work within the Easement area, any disturbed lands resulting from such work will be restored by the person or entity doing the work in accordance with generally accepted engineering and landscape practices.

Grantor shall in all other respects remain the fee owner of the Property and area subject to this Easement, and may make all lawful uses of the Property not inconsistent with this Easement and its terms and conditions.

THE PROPERTY HEREIN DESCRIBED AND CONVEYED IS: (choose one)

- 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
- Does not include a primary residence.

Subordination

[Any existing deeds of trust, mortgages, or liens encumbering the Property, other than property tax liens for the current tax year or governmental improvement assessment liens, must be subordinated to this Easement. Such encumbrances must be listed and the 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.]

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 PROPERTY AT THE TIME OF THE EXECUTION AND RECORDING OF THIS EASEMENT, OR THAT IF ANY OF THE FOREGOING EXIST, THEY SHALL BE SUBORDINATE TO THIS EASEMENT THROUGH THE SUBORDINATION LANGUAGE HEREIN.

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

TO HAVE AND TO HOLD said Easement, together with all rights, privileges and appurtenances as thereunto belonging unto the City, together with the terms, conditions, obligations and restrictions imposed herein which shall be binding upon the Grantor, its successors and assigns, and shall continue as a servitude running with the land in perpetuity. Grantor covenants that it is vested of the Property in fee simple, has the right to convey the same in fee simple, that the Property is free from encumbrances except as herein stated or subordinated herein, and that Grantor will warrant and defend such title to the same against claims of all persons. This Easement shall not divest the Grantor of any rights or interests in its Property not herein mentioned.

[Signature pages follow this page]

[Grantor Signature Page]

IN WITNESS WHEREOF, Grantor hereby executes this **Utility Placement Easement** under seal as of the day and year first above written.

GRANTOR:

Terrace at Rock Quarry Limited Partnership,,
a North Carolina limited partnership

By: Terrace at Rock Quarry GP, LLC,
a North Carolina limited liability company,
its General Partner

By: _____ (SEAL)

Name: Charles S. Heritage

Its: Manager (Title)

NORTH CAROLINA

_____ COUNTY

GRANTOR
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Signature: _____

Print Name: _____

[Affix Notary Stamp or Seal]

APPROVED FOR RECORDING:

CITY OF RALEIGH

By: _____

Name: _____

Title: _____

[Subordination signature page follow this page.]

[Subordination Signature Page]

The Fidelity Company, a North Carolina corporation, as Trustee, and Cedar Rapids Bank and Trust Company, an Iowa state-chartered banking corporation, as Beneficiary, under that certain Deed of Trust recorded in Book 19511, Page 2523, Wake County Registry, North Carolina, join in this **Public Street Right-of-Way 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 Property to the terms, covenants and conditions of this Easement.

TRUSTEE: The Fidelity Company,
a North Carolina corporation

By: _____ (SEAL)
Name: _____
Its: _____ (Title)

BENEFICIARY: Cedar Rapids Bank and Trust Company,
an Iowa state-chartered banking corporation

By: _____ (SEAL)
Name: _____
Its: _____ (Title)

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

NORTH CAROLINA

_____ COUNTY

TRUSTEE
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Signature: _____

Print Name: _____

[Affix Notary Stamp or Seal]

NORTH CAROLINA

_____ COUNTY

BENEFICIARY
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Signature: _____

Print Name: _____

[Affix Notary Stamp or Seal]

CONSENT AND SUBORDINATION

(Wake County – Terrace at Rock Quarry Limited Partnership)

The undersigned are the beneficiary and trustee under a certain deed of trust dated February 5, 2024 and recorded in Book 19533, Page 752, Wake County Registry (the “Deed of Trust”). The undersigned hereby consent to and approve of the Deed of Easement for Utility Placement Purposes to which this Consent and Subordination is attached (the “Deed of Easement”) and hereby acknowledge and agree that their right, title, interest and estate by virtue of the Deed of Trust in and to that portion of Grantors’ (as defined in the Deed of Easement) property identified and depicted as the “Utility Placement Easement” area (five)-5 feet in width, described in the Exhibit A attached to the Deed of Easement shall be subject and subordinate to this Deed of Easement. The undersigned hereby evidences such consent, approval, agreement and subordination by causing its duly authorized officers to sign, seal and deliver this Consent and Subordination this _____ day of _____, 20___. This Consent and Subordination is given for the sole purpose of consenting to, and subordinating, the undersigned’s interest in and to the Grantors’ property as identified in the Deed of Easement for Utility Placement Purposes, Utility Placement Easement area (five)-5 feet in width described in the Deed of Easement and further depicted in Exhibit A attached to the Deed of Easement.

Attested by:

Name: Yvonne C. Gilyard
Title: Clerk to the Board

(Official Seal)

BENEFICIARY:
WAKE COUNTY, a body Politic and Corporate

By: _____
Shinica Thomas, Chair
Wake County Board of Commissioners

TRUSTEE:
By: _____
Scott Warren, Wake County Attorney,
Trustee as recorded in Deed Book 19533, Page
752, Wake County Registry

NORTH CAROLINA
COUNTY OF WAKE

WAKE COUNTY
ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the said County and State, do hereby certify that Yvonne C. Gilyard personally appeared before me this day and acknowledged that she is the Clerk of the Wake County Board of Commissioners, and by authority duly given and as the act of said Board, the foregoing instrument was signed by its Chairman of the Wake County Board of Commissioners, sealed with its corporate seal and attested by Yvonne C. Gilyard as its Clerk.

Witness my hand and notarial seal this _____ day of _____, 20__.

Notary Public

(SEAL)

Notary printed or typed name
My Commission Expires: _____

NORTH CAROLINA
COUNTY OF WAKE

WAKE COUNTY
ACKNOWLEDGEMENT

I, the undersigned, a Notary Public in and for the said County and State, do hereby certify that the following person personally appeared before me and acknowledged to me that they signed the foregoing instrument: Scott Warren, Wake County Attorney.

Witness my hand and notarial seal this _____ day of _____, 20_____.

Notary Public

(SEAL)

Notary printed or typed name

My Commission Expires: _____

[Subordination Signature Page]

Susan Y. Ellinger, as Trustee, and City of Raleigh, North Carolina, a municipal corporation chartered by the State of North Carolina, as Beneficiary, under that certain Deed of Trust recorded in Book 19511, Page 2552, Wake County Registry, North Carolina, join in this **Public Street Right-of-Way 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 Property to the terms, covenants and conditions of this Easement.

TRUSTEE: Susan Y. Ellinger

By: _____ (SEAL)
Name: _____
Its: N/A (Title)

BENEFICIARY: City of Raleigh, North Carolina,
a municipal corporation chartered by the State of North Carolina

By: _____ (SEAL)
Name: _____
Its: _____ (Title)

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

NORTH CAROLINA

_____ COUNTY

TRUSTEE
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Signature: _____

Print Name: _____

[Affix Notary Stamp or Seal]

NORTH CAROLINA

_____ COUNTY

BENEFICIARY
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Signature: _____

Print Name: _____

[Affix Notary Stamp or Seal]

Attorney Certification:

I, Christina Freeman Pearsall, an attorney licensed to practice law in the State of North Carolina, certify to the City of Raleigh that this **Utility Placement Easement** has been prepared in accordance with the instructions provided by the City of Raleigh, that I am familiar with the requirements of any development approvals of the City of Raleigh associated with this Easement and have prepared this instrument in accordance with such requirements. If a deed of trust is being subordinated to this 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 #: 25513

EXHIBIT A

Those **Utility Placement Easement** areas specifically enumerated herein located in, upon, and across the Property of the Grantor, and being more specifically identified and described on a plat prepared by Gregory E. Johnson, NCPLS: L-5521, entitled "Right-of-Way, Easement, & Tree Conservation Area Dedication for South Creek Development, LLC," dated _____, and recorded in Book of Maps _____, Pages _____, Wake County Registry.

(The balance of this page is intended to be blank)