

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

Brief description for index: Waterline Easement

Property: 1722-27-2966

City Project ID: _____

Mail after recording to: City of Raleigh
Real Estate Office
P.O. Box 590
Raleigh, NC 27602

DEED OF EASEMENT FOR WATERLINE PURPOSES

This Deed of Easement for Waterline Purposes (this “Waterline 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”).

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 premises in fee simple, and that the premises are 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, the right, privilege and easement, now and hereafter, to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a system of pipelines or mains for public water supply and distribution purposes, together with all appurtenant facilities and equipment (the “Facilities”) necessary or convenient thereto in, upon and across the Property, the area subject to this easement being more particularly identified and described in Exhibit A as “City of Raleigh Waterline Easement” (or by an equivalent label), attached hereto and incorporated herein by reference.

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 Waterline Easement. Such encumbrances must be listed and the Waterline 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 WATERLINE EASEMENT, OR THAT IF ANY OF THE FOREGOING EXIST, THEY SHALL BE SUBORDINATE TO THIS WATERLINE EASEMENT THROUGH THE SUBORDINATION LANGUAGE HEREIN.

Grantor acknowledges that the City is acting in reliance on Grantor's authority to enter into this Waterline 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 the terms, conditions, obligations and restrictions imposed herein 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 Waterline Easement shall not divest the Grantor of any rights or interests in its Property not herein mentioned.

THE FURTHER TERMS AND CONDITIONS of the easement interest herein conveyed are as follows:

1. The City is authorized hereunder to remove and keep removed from the easement all trees, vegetation, and other obstructions as necessary to maintain, repair or protect said waterline or lines and appurtenances. This easement shall not prohibit the Grantor from (i) constructing, maintaining, and using the easement area for paved or unpaved drives and parking areas; and (ii) planting and maintaining shallow-rooted ground cover material within the easement area, all subject to applicable laws and regulations. All risk of damage

to such improvements caused by maintenance or repair of the waterline(s) and appurtenant facilities shall be with the Grantor.

2. Nothing herein shall be construed to grant to the City any right of access through or over any other property of the Grantor except that lying within the easement herein described and conveyed.
3. The Grantor shall retain fee simple ownership of the Property through and over which this easement passes; provided, however, no use may be made of the Property which interferes or is inconsistent with the City's easement rights and full, reasonable use thereof for waterline purposes.
4. To the extent reasonably necessary and incidental to the installation of Facilities within the waterline easement area herein described, Grantor grants to City a temporary construction easement for the movement and storage of vehicles and equipment, construction staging, the repair, reconstruction and reconnection of a private driveway or driveways onto adjacent public street right-of-way, and similar purposes. If so granted to the City, the temporary construction easement is more particularly identified and described on Exhibit A as "Temporary Construction Easement" (or an equivalent label). Following the installation of the Facilities within the waterline easement herein described, any temporary construction easement interest herein conveyed to the City shall terminate; and further, the area within the waterline and temporary easements shall be re-graded, mulched, and re-seeded or otherwise restored in accordance with generally accepted landscaping and engineering practices.

[Signature pages follow this page]

[Grantor Signature Page]

IN WITNESS WHEREOF, Grantor hereby executes this Waterline 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

WAKE 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:

Print Name: _____

[Affix Notary Stamp or Seal]

**PROPERTY DESCRIPTION VERIFIED AND
APPROVED FOR RECORDING:
PUBLIC UTILITIES DEPARTMENT**

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 Waterline 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 Waterline 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

WAKE 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:

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 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:

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 Waterline 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 New 20’ x 10’ City of Raleigh Waterline Easement, 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 Waterline Purposes, New 20’ x 10’ City of Raleigh Waterline Easement 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 Waterline 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 Waterline 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

WAKE 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:

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 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:

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 Waterline 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 Waterline Easement and have prepared this instrument in accordance with such requirements. If a deed of trust is being subordinated to this Waterline 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

[Exhibit A follows this page]