

Prepared by & Return to: John K. White, Jr., Law Office of John K. White, Jr. PLLC, 2000 Hendersonville Rd. Suite B, Asheville, NC 28803;
Prepared without review, examination, or opinion regarding title to the property described herein.

TEMPORARY CONSTRUCTION EASEMENT FOR SEWER LINE

THIS TEMPORARY CONSTRUCTION EASEMENT FOR SEWER LINE (the “Easement”) made and entered into this ___ day of September, 2017, by and between **Buncombe County**, a body politic and corporate of the State of North Carolina (the “First Party” or “Grantor”) and **Olivette Development, LLC**, a North Carolina limited liability company (the “Second Party” or “Grantee”).

WHEREAS, Grantor is the fee owner of certain real property being, lying and situated in Buncombe County, North Carolina, described in Deed Book 1285, at Page 29 of the Buncombe Country, North Carolina Registry (the “Servient Estate”).

WHEREAS, Grantee is the fee owner of certain real property being, lying and situated in Buncombe County, North Carolina, such real property described in Deed Book 5263, at Page 588 of the Buncombe Country, North Carolina Registry (the “Dominant Estate”).

WHEREAS, there is a 12” public force main (MSD#198-1001) existing on the Servient Estate (the “Sanitary Sewer Line”);

WHEREAS, the Grantee desires to have a temporary construction easement across the Servient Estate to construct, install, maintain, access and connect a sanitary sewer force main and a manhole to the Sanitary Sewer Line located on the Servient Estate;

WHEREAS, the Grantor desires to grant a temporary construction easement to the Second Party to construct, install, maintain, access and connect a sanitary sewer force main and a manhole to the Sanitary Sewer Line located on the Servient Estate;

NOW, THEREFORE, said Grantor for and in consideration of Ten Dollars and No Cents (\$10.00) and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, does hereby give, grant, and convey unto said Grantee, his successors and assigns, a temporary construction easement to construct, install, maintain, access and connect a sanitary sewer force main and manhole across and upon the lands of the Grantor, together with the full right of reasonable access to and egress from said temporary construction easement over and upon the Grantor’s Real Property. Said easement being more particularly described as follows:

BEING all of that 31,500 sq. ft. tract, more or less, described as “Temporary Construction Easement for Construction of Sanitary Sewer Force Main” as shown on that plat recorded in Plat Book ___ at Page ____ of the Buncombe County, North Carolina Registry. Reference to said Plat is hereby made for a more particular description of said temporary construction easement area.

AND BEING ALSO described as follows: BEGINNING at the south westernmost corner of the tract described in Deed Book 1285, at Page 29, Buncombe County, North Carolina Registry (said beginning point also being the southern most common corner of the tracts described in Deed Book 1285, at Page 29 and in Deed Book 2167, at Page 783, Buncombe County Registry) thence N 20° 30’ 00” E 109.18 feet to a point; thence S 75° 47’ 29” E 65.43 feet to a point; thence N 14° 12’ 31” E 15.00 feet to a point; thence S 75° 47’ 29” E 30.00 feet to a point; thence S 14° 12’ 31” W 15.00 feet to a point; thence S 75° 47’ 29” E 300.37 feet to a point; thence S 04° 17’ 33” W 42.19 feet to a point; thence N 85° 42’ 27” W 256.11 feet to a point, thence N 83° 47’ 05” W 71.05 feet to a point; thence N 83° 47’ 05” W 93.30 feet to the point and place of BEGINNING.;

IT IS FURTHER AGREED, the temporary construction easement is for the purpose of grading, excavating, digging, storing dirt, supplies and materials, moving and using equipment and generally carrying out the completion of the construction of the aforementioned project to construct, install, maintain, access and connect a sanitary sewer force main over and upon Grantor’s property for all purposes in connection with such construction. Grantee shall have the right to construct and maintain the cut and/or fill slopes in the easement area(s). Grantee shall have the right to use the easement area(s) for additional working area during the above-described project.

IT IS FURTHER AGREED, Grantee agrees to restore the topography of the temporary construction easement area after construction to approximately the same condition as existed before the construction as it relates exclusively to the activities of disturbance caused only by the Grantee.

IT IS FURTHER AGREED, the Grantor shall at all times, other than while the improvements are under actual construction, have the right to use the easement area(s) for all purposes not inconsistent with the rights acquired hereto and the use thereof by Grantee.

IN WITNESS WHEREOF, the Grantor and the Grantee has each hereunto set his hand and seal, or if a corporation, limited liability company, or partnership, has caused this instrument to be signed in its name by its corporate officer, manager, general partner, or authorized agent, the day and year first above written.

[GRANTOR AND GRANTEE SIGNATURE PAGES FOLLOW]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

OLIVETTE DEVELOPMENT, LLC,
a North Carolina limited liability company

By: _____(SEAL)
SCOTT A. AUSTIN, as its Manager

STATE OF NORTH CAROLINA, COUNTY OF BUNCOMBE

I, _____, a Notary Public in and for the aforesaid state and county, hereby certify that SCOTT A. AUSTIN personally appeared before me this day and acknowledged that he is the Manager of OLIVETTE DEVELOPMENT, LLC. a North Carolina limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of OLIVETTE DEVELOPMENT, LLC.

Witness my hand and Notarial Seal, this _____day of September, 2017.

Notary Public

Printed name: _____

My Commission expires: _____

AFFIX SEAL

BUNCOMBE COUNTY, a body politic
and corporate of the State of North Carolina

By: _____ (SEAL)

Name: Brownie Newman
Title: Chairman of the Board of
Commissioners of the County of
Buncombe

Attest:

By: _____
Kathy Hughes, Clerk to the Board

STATE OF NORTH CAROLINA, COUNTY OF BUNCOMBE

I, _____, a Notary Public in and for the aforesaid state and county, have personal knowledge of the identity of Kathy Hughes, and hereby certify that said Kathy Hughes, Clerk to the Board, personally appeared before me this day and acknowledged that she is Clerk to the Board of Commissioners of the County of Buncombe and that Brownie Newman is the Chairman of the Board of Commissioners of the County of Buncombe, and that by authority duly given and as the act of the County of Buncombe, the foregoing instrument was signed in its name by said Chairman, sealed with its official seal, and voluntarily attested to by Kathy Hughes as its Clerk as the act and deed of the county of Buncombe all by authority duly given by its governing body.

Witness my hand and Notarial Seal, this _____ day of September, 2017.

Notary Public

Printed name: _____

My Commission expires: _____

AFFIX SEAL