

PREPARED BY AND RETURN AFTER RECORDING TO:
CAROLYN CLARK SNIPES of ROBERTS & STEVENS, P. A. (Box #39)

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

TEMPORARY EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, made this ____ day of _____, 2019, by and between **BUNCOMBE COUNTY**, hereinafter referred to as Grantor, and **MAPLE CREST, LLC**, a North Carolina limited liability company, hereinafter referred to as Grantee (the designations Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine and neuter as required by context).

W I T N E S S E T H:

THAT WHEREAS, the Grantor is the owner of certain property more particularly described in a Deed recorded in Book 3871 at Page 266, Buncombe County Registry, located on the East side of Wilbar Avenue (hereinafter sometimes referred to as "Property"); and

WHEREAS, the Housing Authority of the City of Asheville ("HACA") is the owner of land located at 50 Wilbar Avenue, Asheville, North Carolina, known as Tax Parcel No. 9648-36-57-9300, located on the West side of Wilbar Avenue;

WHEREAS, Grantee is the tenant of a Ground Lease from HACA dated July1, 2019, a Memorandum of which is recorded in Book 5793 at Page 480, Buncombe County Registry; and

WHEREAS, the Grantee has requested that the Grantor grant and convey to the Grantee a temporary construction easement over, upon, across, under and through a portion of the property of the Grantor for purposes of constructing, repairing, inspecting, reconstructing, widening and improving the roadway known as Wilbar Avenue, and installing a sidewalk (collectively the "Improvements"), and the Grantor has agreed to do so.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, has given, granted and conveyed, and by these presents does give, grant, and convey unto the Grantee, its successors and assigns, the temporary right, privilege and easement to for purposes of the Improvements over, upon, across, under and through the above-referenced property of the Grantor, said temporary construction easement being described as follows:

TEMPORARY CONSTRUCTION EASEMENT: A temporary construction easement for the purposes of excavation, grading, digging ditches, storing dirt, supplies and materials, moving and using equipment and generally carrying out the completion of the Improvements, and for the purposes of inspecting and performing appropriate tests within said temporary construction easement, including but not limited to, archaeological and environmental studies, together with the full right of reasonable access to and egress from said temporary construction easement over and upon the above-referenced Property or other property of Grantor, for all purposes in connection with said Improvements, it being understood that this right of use as set out in this paragraph shall terminate twenty-four (24) months from the date of this Easement, said temporary construction easement being more particularly described as follows.

BEGINNING at a point being the southwestern corner of the land of FT & LT, LLC described in Deed recorded in Book 5352 at Page 1143, Buncombe County Registry (“LT Land”) and the eastern margin of the right of way of Wilbar Avenue, and from said Beginning Point thus established, running generally east along the southern boundary of the LT Land a distance of thirteen (13) feet; thence leaving the southern boundary of the LT Land and running generally south and parallel with the eastern margin of the right of way of Wilbar Avenue at the top of the existing wall, then extending to a greater width up to thirty-five (35) feet with and to the end of the of the existing wall; thence extending from the end of the existing wall generally south and parallel with the eastern margin of the right of way of Wilbar Avenue to a point in the northern boundary of the land of Duke Energy described in a Deed recorded in Book 5236 at Page 640, Buncombe County Registry (the “Duke Land”); thence running generally west along the northern boundary of the Duke Land a distance of thirty-five (35) feet to a point in the northwest corner of the Duke Land and the eastern margin of the right of way of Wilbar Avenue; thence running generally north along the eastern margin of the right of way of Wilbar Avenue to the Beginning Point; said temporary easement area being a strip of land varying in width from thirteen (13) to thirty-five (35) feet of the western portion of the Property.

Said temporary construction easement being generally shown on Exhibit A attached hereto and made a part hereof.

IT IS UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND THE GRANTEE:

1. That the Grantee shall have the right to clear the temporary construction easement described above, and the right to remove from the temporary construction easement all brush, trees

and other obstructions, and to go upon said easement whenever necessary for the purpose of clearing the same and removing therefrom all brush, trees and other obstructions of any kind.

2. That the Grantor shall at all times, other than while the Improvements are under actual construction, have the right to use said temporary construction easement, in the same manner as has been heretofore done; provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein.

3. That the Grantee agrees to restore the topography of said easement area after completion of the Improvements to approximately the same condition as existed before said installation.

4. This agreement shall run in favor of the Grantee's successors and assigns, specifically including Grantee's agents and contactors.

TO HAVE AND TO HOLD said temporary construction easement unto said Grantee, its successors and assigns, upon the terms and for the time periods set forth above.

The Grantor covenants to and with the Grantee, its successors and assigns, that the Grantor is lawfully seized in fee simple of said lands and premises and has full right and power to convey these easements to the Grantee, and that said lands and premises are free from any and all liens and encumbrances, and that they will and their successors and assigns shall forever warrant and defend the title to said easements unto the Grantee, its successors and assigns, against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the Grantor has hereunto executed this Temporary Easement Agreement, as of the day and year first above written.

By: _____
Brownie Newman, Chairman

ATTEST:

Lamar Joyner, Clerk to the Board

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

I, _____, Notary Public for said County and State, has personal knowledge of the identity of Lamar Joyner, and hereby certifies that said Lamar Joyner, Clerk to the Board, personally appeared before me this day and acknowledged that he is Clerk to the Board of Commissioners of County of Buncombe and that Brownie Newman is the Chairman of the Board of Commissioners of Buncombe County, 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 himself 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 the ___ day of _____.

Notary Public

My Commission Expires:

EXHIBIT A



