

PREPARED BY: Asheville City Attorney's Office

AFTER EASEMENT HAS BEEN RECORDED, PLEASE SEND ORIGINAL TO:
City of Asheville Water Department; P. O. Box 7148; Asheville, NC 28802.

Project Name: ENKA CANDLER FIRE STATION
Project No: WPFY-19-20-009
Project Location: 125 ASHEVILLE COMMERCE PARKWAY

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

WATERLINE EASEMENT

THIS WATERLINE EASEMENT, made and entered into this the _____ day of _____, 20 _____, by and between The County of Buncombe, a body politic and corporate of the State of North Carolina, and REBECCA B. JOYNER, the Deed of Trust Trustee for the Buncombe Financing Corporation pursuant to the Deed of Trust referenced below, herein collectively sometimes "Grantors," and the City of Asheville, a North Carolina Municipal Corporation, herein "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).

WITNESSETH:

WHEREAS, Grantor has constructed a 6 inch waterline, crossing the lands of Grantors as described in Deed Book 5300 Page 588 of the Buncombe County Registry, and now wishes to convey said waterline to the Grantee;

WHEREAS, as a condition of acceptance, Grantee desires a perpetual easement for ingress, egress, and regress to said waterline for the purpose of constructing, laying, replacing, enlarging and continuing general maintenance of said waterline;

WHEREAS, the Trustee holds title to a security interest in the Property on behalf of U.S. Bank National Association, the successor to which is Regions Bank, as assignee of Buncombe Financing Corporation ("Beneficiary") as beneficiary of that certain Deed of Trust, Security Agreement and Fixture Filing dated as of the 1st day of April 1, 2015 and recorded in Book 5308, Page 1705, as extended by the Notice of Extension of Deed of Trust to Additional Property dated March 15, 2018 and recorded in Book 5648, Page 1204, both with the Buncombe County Registry;

WHEREAS, the terms of the Deed of Trust empower the Trustee to release easements and other interests in the Property upon receipt of (a) a copy of the instrument of grant or release, (b) a written request of the County requesting such instrument and (c) a certificate executed by the Grantor that the grant or release is not detrimental to the proper conduct of the operations of the Grantor at the Property and will not impair the effective use, nor decrease the value, of the Property;

WHEREAS, the County now proposes to grant to Grantee a permanent easement for a waterline easement across the portion of the Property as described below, which easement area is included in the Property subject to the Deed of Trust;

WHEREAS, the County now wishes to release its interests in and to the easement area to Grantee, and the Trustee has consented to the same pursuant to the terms of the Deed of Trust;

WHEREAS, the Grantor shall have the continuing right to cultivate and use the property subject to the waterline easement, provided that said use in no way interferes with the ability of said waterline to conduct water nor with the right of the Grantee, its successors and assigns to construct and maintain said waterline as set forth below.

NOW, THEREFORE, for valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Grantor hereby grants, dedicates and conveys unto the Grantee, its successors and assigns, a Waterline and Easement located as set forth below, and the Trustee hereby consents to the same, said waterline easement being more particularly described as follows:

Being all of the Waterline and Easement Area as set forth in Plat Book 212, at Page 121, recorded in the Buncombe County Registry.

Further, Grantor hereby agrees and accepts all of the conditions required by Grantee as part of this acceptance as shown on said plat, and as set forth below:

CONDITIONS

- A. The Grantee shall have the right to construct, operate, maintain, repair, enlarge, inspect and reconstruct within the permanent easement described above, waterlines for the transmission of water for public use, together with the right to do all things necessary or convenient thereto.
- B. The Grantee, its officers, agents and employees shall have the right to go to and from the permanent easement at all times across the Real Property by such route or routes as shall cause Grantors the least practicable inconvenience, as determined in Grantee's sole discretion, including the use of private roads and ways then existing thereon, on foot or by conveyance, with materials, machinery, supplies, and equipment as may be desirable to Grantee; provided such right of ingress, egress, and regress shall not extend to any portions of the Real Property which are separated from the permanent easement by any public road now or hereafter crossing the Real Property. Provided further, that except in emergencies, existing roads and ways thereon shall be used to the extent that they afford ingress, egress and regress to and from said permanent easement.
- C. The Grantee shall have the right to clear the permanent easement and keep the same cleared at all times, and to remove therefrom all buildings, structures, improvements, fixtures, brush, trees and other obstructions.
- D. The Grantee shall have the right to erect and maintain structures for access to the waterlines and for controlling water flowing through said waterline and the right to install, operate and maintain other equipment necessary for transmitting water.
- E. The Grantor shall at all times, have the right to use said permanent easement for all purposes not inconsistent with the rights acquired hereto and use thereof by Grantee. Provided however, the Grantor shall not: (1) cause the waterline to be undermined in any way; (2) cause electric, telephone or television cable lines to be constructed within the permanent easement; (3) cause any buildings, wells, septic tanks, absorption pits, underground or overhead storage tanks or burial ground to be placed on or within the permanent easement; or (4) cause Grantee's facilities or use of said permanent easement to be interfered with or endangered by Grantors, its heirs, successors and assigns.
- F. The Grantor hereby releases and forever discharges, the Grantee, its successors and assigns, from any and all claims associated with Grantee's use of the permanent easement crossing the Real Property, said use to include all purposes for which the Grantee is authorized to utilize the easement contained therein and provided by law.

G. The easement, covenants, terms and conditions contained herein are intended to and shall run with the Real Property and shall be binding on Grantee and Grantor and their respective successors, heirs and assigns. Grantor warrants that Grantors has good title to the Real Property and warrants Grantee's quiet enjoyment of the easement.

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

IN WITNESS WHEREOF, the Grantor has hereunto caused this waterline easement to be duly executed by its authorized officials, and the Trustee hereby consents to the same as to the easement area described herein, on the day and year set forth below:

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

By: _____
Brownie Newman, Chair

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 December, 2020.

Notary Public

My Commission Expires:

TRUSTEE:

_____ (SEAL)
Rebecca B. Joyner

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that REBECCA B. JOYNER, Trustee, personally appeared before me this day and acknowledged the signing of the foregoing instrument.

Date: _____

Official Signature of Notary

_____, Notary Public
Notary Public's printed or typed name

My Commission expires: _____

(Official Stamp or Seal)