

DRAFT

Prepared By:

Return To:

State of North Carolina

Town of Chapel Hill

Orange County

PRIVATE UTILITY EASEMENT AGREEMENT

This Private Utility Easement Agreement (this “Agreement”), made this _____ day of July, 2023 by and between Habitat for Humanity, Orange County, N.C., Inc., a North Carolina non-profit corporation (the “Grantee”), whose mailing address is 88 Vilcom Center Drive, Suite L110, Chapel Hill NC 27514, and the TOWN OF CHAPEL HILL, a municipal corporation under the laws of North Carolina (the “Town”), whose address is 405 Martin Luther King Junior Boulevard, Chapel Hill, NC 27514.

WITNESSETH THAT:

WHEREAS, the Grantee, as the owner of the real property described on **Exhibit A** having the Orange County, North Carolina Parcel Identification Number 9788-07-9584 (the “Grantee Property”), desires to enter upon the real property owned by the Town identified by Orange County, North Carolina Parcel Identification Numbers 9788-07-9924, and being a 1.9 acre parcel more or less, and described in the Deed recorded in Book 233, Page 166, Orange County Registry, and located at 505 Craig St., Chapel Hill, NC 2751* (the “Grantor Property”) for the construction, and installation, of Sewer Services for benefitting the Grantee Property in the location shown on **Exhibit A** attached hereto (the “Easement Area”); and

WHEREAS, the town owns, maintains and insures the aforementioned Grantor Property;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the Town hereby grants, bargains, sells and conveys unto the Grantee, its successors and assigns, as the owner and for the benefit of the Grantee Property, a permanent, perpetual, non-exclusive utility easement over and upon a portion of the Grantor Property for the installation of the Sewer Services and related utility improvements (the "Improvements"), and for the construction, installation, and maintenance of the above described Improvements in generally the location shown on the attached map, together with the right of ingress and egress within said area whenever the same is necessary for the purpose of inspecting, maintaining and/or repairing said improvements within the Easement Area.

TO HAVE AND TO HOLD, all and singular, the easement rights and privileges described herein unto the Grantee, its successors and assigns forever. The terms of this Agreement shall be appurtenant to, affect, and run with the title to, the Grantor Property and the Grantee Property (together, the "Property"), and shall inure to the benefit of and be binding upon the parties hereto, their heirs, successors and assigns. Each easement, covenant, condition, and restriction contained herein shall be appurtenant to and for the benefit of all of the Property, and shall be binding upon each and every successor-in-interest of the parties hereto, regardless of whether the deed or other instrument of conveyance by which such successor-in-interest acquires title shall recite that the Property or any part thereof is subject and subordinate to the terms and provisions hereof.

This Agreement is subject to, and conditioned upon, the following covenants and provisions.

1. This Agreement shall run with the Town's and Grantee's lands, and shall be binding upon his/their respective successors in interest or title.
2. The Grantee, and his/their successor in interest or title, shall be responsible for construction, reconstruction, maintenance, and repair of the above-described Easement Area at no cost to the Town unless the need for reconstruction, maintenance and repair results from the direct actions of the Town or its agents.
3. The Grantee, and his/their successors in interest of title, shall comply with any applicable Town ordinances, regulations, and policies regarding construction, maintenance, and the repair of said Easement Area. Construction plans have been approved by the Town and are part of the approved plan set for the Conditional Zoning Permit for the Gattis Court Project.
4. The Grantee, and his/their successors in interest or title, agree to defend, indemnify, and hold the Town of Chapel Hill and its employees and agents free and harmless from and against any and all damages, settlements, charges, professional fees, or other liabilities of every kind arising out of or relating to any and all claims, action, and proceedings in

connection with or arising out of the construction, installation, maintenance, or erection within the Easement Area.

5. The Grantee, and his/ their successors in interest or title, agrees to prudently maintain the Improvements so they will no adversely affect the public health, safety, or welfare.
6. This Agreement may not be modified or amended, in whole or in part, except by the written consent of the parties hereto as evidenced by an amendment to this Agreement that has been fully executed and acknowledged and recorded in the Orange County real estate recording office.
7. This Agreement is an integrated agreement and expresses the complete agreement and understanding of the undersigned parties and any and all prior or contemporaneous oral agreement or prior written agreement regarding the subject matter hereof shall be merged herein and extinguished. The undersigned parties represent and warrant that the execution of this agreement and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with and governed by the laws of the State of North Carolina. The Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which, taken together, shall constitute the same instrument.

[signature page follows]

IN WITNESS WHEREOF, the undersigned has set its hand and seal to this Agreement as of the day and year first above written.

This the _____ day of _____, 2023.

HABITAT FOR HUMANITY, ORANGE COUNTY, N.C., INC.,
a North Carolina non-profit corporation

By: _____
Jennifer D. Player, President

NORTH CAROLINA

ORANGE COUNTY

I hereby certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document in the capacity indicated:

Jennifer D. Player, President

Date: _____

_____, Notary Public

Printed Name of Notary Public

(Official Seal)

My commission expires: _____

IN WITNESS WHEREOF, the undersigned has set its hand and seal to this Agreement as of the day and year first above written.

TOWN OF CHAPEL HILL

By: _____

Name:

Title:

Attest: _____

TOWN SEAL

Approved as to Form and Authorization: _____

Town Attorney

State of _____

County of _____

I, _____, a Notary Public in and for said county and State, do hereby certify that _____, personally came before me this day and acknowledged that she/he is _____ of the town of Chapel Hill, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its _____ sealed with its corporate seal and attested by her as its _____.

Witness my hand and Notarial Seal, this the _____ day of _____, 2021.

Notary Public

My Commission Expires: _____