

STREET

PROJECT

COUNTY OF

STATE OF NORTH CAROLINA
Harnett

TOWN OF LILLINGTON

RIGHT OF WAY ENCROACHMENT AGREEMENT

-AND-

PUBLIC TOWN STREETS

THIS AGREEMENT, made and entered into this _____ day of _____ 20 _____ by and between the Town of Lillington, party of the first part; and _____ party of the second part,

WITNESSETH

THAT WHEREAS, the party of the second part desires to encroach on the right of way of the public road designated as Route(s) _____, located _____

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute and ordinance, is willing to permit the encroachment within the limits of the right of way as indicated, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the party of the second part the right and privilege to make this encroachment as shown on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, and maintenance of the above described facility will be accomplished in accordance with the party of the first part's latest POLICIES, PROCEDURES, PRACTICES, and ORDINANCES, and such revisions and amendments thereto as may be in effect at the date of this agreement. Information as to these policies and procedures may be obtained from the Director of Public Works of the party of the first part.

That the said party of the second part binds and obligates himself to install and maintain the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said street, nor obstruct nor interfere with the proper maintenance thereof, to reimburse the party of the first part for the cost incurred for any repairs or maintenance to its roadways and structures necessary due to the installation and existence of the facilities of the party of the second part, and if at any time the party of the first part shall require the removal of or changes in the location of the said facilities, that the said party of the second part binds himself, his successors and assigns, to promptly remove or alter the said facilities, in order to conform to the said requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide during construction and any subsequent maintenance proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Director of Engineering Services of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

That the party of the second part agrees to restore all areas disturbed during installation and maintenance to the satisfaction of the Director of Public Works of the party of the first part. The party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of the Town of Lillington and other official agencies relating to pollution prevention and control. When any installation or maintenance operation disturbs the ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Director of Public Works of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the Director of Public Works of the party of the first part.

That the party of the second part agrees to have available at the construction site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Director of Public Works of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the facility has been brought into compliance or removed from the right of way at no cost to the party of the first part.

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

Any disputes related in any way to this agreement shall be filed and resolved in Harnett County, North Carolina District Court and the parties hereby consent to said jurisdiction and venue."

COA ROW Encroachment Agreement:
Party of the Second Part certifies that this agreement is true and accurate copy of the form incorporating all revisions to date.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

| |
|--------------------|
| |
| |
| |
| ATTEST OR WITNESS: |
| |
| |
| |
| |

| | |
|--------------------|--------------|
| TOWN OF LILLINGTON | |
| BY: | |
| | TOWN MANAGER |
| | |
| | |
| | |
| | |
| | |
| | |

INSTRUCTIONS

When the applicant is a corporation or another government entity, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered official, unless a waiver of corporate seal and attestation by the Chief Administrative Officer or by the empowered official is on file in the Lillington office of the Director of Public Works. In the space provided in this agreement for execution, the name of the corporation or government entity shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information and general requirements:

- 1. All roadways and ramps.
- 2. Right of way lines and where applicable, the control of access lines.
- 3. Location of the existing and/or proposed encroachment.
- 4. Length, size and type of encroachment.
- 5. Method of installation.
- 6. Dimensions showing the distance from the encroachment to edge of pavement, shoulders, etc.
- 7. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Town's roadway plans may be seen at the office of Engineering Services).
- 8. Drainage structures or bridges if affected by encroachment (show vertical and horizontal dimensions from encroachment to nearest part of structure).
- 9. Method of attachment to drainage structures or bridges.
- 10. Manhole design.
- 11. On underground utilities, the depth of bury under all traveled lanes, shoulders, ditches, sidewalks, etc.
- 12. Length, size and type of encasement where required.
- 13. On underground crossings, notation as to method of crossing - boring and jacking, open cut, etc.
- 14. Location of vents.

GENERAL REQUIREMENTS

- 1. Any attachment to a bridge or other drainage structure must be approved separately prior to submission of encroachment agreement to the Director of Public Works.
- 2. All crossings should be as near as possible normal to the centerline of the highway.
- 3. Minimum vertical clearances of overhead wires and cables above all roadways must conform to clearances set out in the National Electric Safety Code.
- 4. Encasements shall extend from ditch line to ditch line in cut sections and 5' beyond toe of slopes in fill sections.
- 5. All vents should be extended to the right of way line or as otherwise required by the Town.
- 6. All pipe encasements as to material and strength shall meet the standards and specifications of the Town.
- 7. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
- 8. Locating underground facilities must take place prior to commencement of work.
- 9. The Director of Public Works should be given notice by the applicant prior to actual starting of installation included in this agreement.
- 10. **If for any reason the Town of Lillington would need to disturb the encroachment area in the Town of Lillington's Right of Way and/or Street for maintenance, repairs, installations, road widening, downtown improvements, ext., it will retain the right to do so. Any replacement, relocation or repairs of the proposed/existing infrastructure will be the responsibility of the owner(Second Party) at their expense. Relocation of facilities must take place within 60 days following Town relocation plan approval. The facility owner(Second Party) will be required to relocate this overhead facility underground prior to downtown construction beginning within 60 days following Town relocation plan approval.**