



Stallings

315 Stallings Road • Stallings, North Carolina 28104

MAJOR RIGHT-OF-WAY ENCROACHMENT AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20, by and between the Town of Stallings, hereinafter referred to as the "TOWN," and _____, hereinafter referred to as the "APPLICANT" or "RIGHT-OF-WAY USER."

PROJECT INFORMATION

Project Name: _____

Applicant/Provider: _____

Contractor: _____

Streets/Areas Affected: _____

Approximate Linear Footage: _____

Number of Street Crossings/Cuts: _____

Description of Work:

Approved construction plans and all written project-specific conditions issued by the Town are attached to or incorporated by reference into this Agreement.

1. Purpose and Applicability

- This Major Right-of-Way Encroachment Agreement applies to substantial construction or installation within Town-controlled right-of-way, including, but not limited to, linear utility or facility installations, fiber/broadband, telecommunications, water, sewer, gas, electric facilities, road crossings, bores, open cuts, or other work determined by the Town Engineer or designee to warrant major-project review.
- The Town Engineer or designee may classify an encroachment as Major based upon its scope, complexity, location, length, number of streets or properties affected, public-safety impacts, anticipated right-of-way disturbance, potential impacts to Town infrastructure, or the need for engineered construction plans.

- Facilities subject to specialized State or federal statutory procedures, including certain small wireless facilities, shall be governed by applicable law to the extent those requirements conflict with this Agreement.

2. Definitions

- Facility means any pipe, conduit, cable, wire, line, duct, pole, pedestal, cabinet, vault, structure, equipment, or other infrastructure installed, constructed, operated, or maintained within the Right-of-Way.
- Right-of-Way means any Town-controlled street, roadway, alley, sidewalk, bicycle facility, or other public way, together with the land lying within the dedicated, platted, easement, or fee-simple right-of-way.
- Contractor includes the Applicant's prime contractor, subcontractors, installers, and other persons performing work on behalf of the Applicant.

3. Compliance with Standards and Approved Plans

- The installation, construction, operation, and maintenance of all Facilities shall comply with:
 - The approved construction plans;
 - All written conditions of Town approval;
 - Applicable Town ordinances, policies, specifications, and construction standards;
 - Applicable North Carolina Department of Transportation standards and specifications where required;
 - Applicable traffic-control and pedestrian-accessibility requirements;
 - Applicable State and federal law; and
 - Any additional reasonable field direction issued by the Town Engineer or designee to address public safety, protection of Town infrastructure, or consistency with the approved plans.
- Field modifications materially affecting alignment, depth, street crossings, above-ground equipment, drainage facilities, sidewalks, or other Town infrastructure shall require prior approval from the Town.

4. Construction Plans and Application Materials

- Prior to approval, the Applicant shall provide complete construction plans in a format acceptable to the Town.
- Plans shall include, as applicable:
 - Existing and proposed right-of-way;
 - Proposed Facility alignment and dimensions;
 - Installation method;
 - Proposed burial depths;
 - Street crossings and bore locations;
 - Existing utilities;
 - Above-ground equipment, cabinets, pedestals, poles, vaults, or handholes;
 - Sidewalks, curb ramps, drainage structures, curb and gutter, pavement, and other Town infrastructure;
 - Traffic-control requirements;
 - Limits of disturbance;
 - Restoration details;
 - Construction phasing; and

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- Other information reasonably required by the Town Engineer.
- Plans shall be sealed by a North Carolina licensed professional engineer when required by law or by the Town based upon the nature of the work.
- The Town may require electronic CAD, GIS, or other digital files

5. Applicant and Contractor Information

- The Applicant shall maintain current information with the Town throughout the project, including:
 - Applicant project manager name, telephone number, and email;
 - Local project representative;
 - Twenty-four-hour emergency contact;
 - Prime contractor;
 - Field superintendent;
 - Authorized subcontractors;
 - Contractor telephone and email contacts; and
 - Any applicable certificates or authorizations required to perform the proposed work.
- The Applicant remains responsible for the acts and omissions of all contractors and subcontractors performing work under this Agreement.

6. Preconstruction Meeting and Schedule

- The Applicant shall attend a preconstruction meeting when required by the Town Engineer or designee.
- Prior to commencement, the Applicant shall provide a proposed construction schedule identifying anticipated start date, construction sequence, streets or neighborhoods affected, major phases of work, and anticipated completion date.
- The Applicant shall promptly notify the Town of material changes to the schedule.
- For projects involving multiple streets, neighborhoods, substantial linear footage, or recurring construction activity, the Town Engineer may require periodic coordination meetings or progress updates throughout construction.

7. Notification to Town

- The Applicant shall provide the Town with at least forty-eight (48) hours' written notice before commencing work unless a different period is approved in writing.
- The Applicant shall also notify the Town upon completion of construction and when specific inspections are requested.
- No approval to begin work relieves the Applicant of responsibility for complying with the approved plans and this Agreement.

8. Property-Owner and Resident Notification

- Unless otherwise approved by the Town Engineer or designee, the Applicant shall provide advance notification and coordination with property owners, residents, homeowners associations, and/or property owners associations reasonably affected by the proposed construction.
- At a minimum, the following shall be required:
 - HOA/Property-Owner Coordination Meeting
 - For work occurring within a subdivision or other organized residential community, the Applicant shall coordinate and conduct a meeting with the applicable homeowners association/property owners association and/or affected property owners, as determined by the Town Engineer or their designee.

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- The meeting shall occur prior to the project's preconstruction meeting with the Town. The Applicant shall provide the Town with written confirmation that the meeting occurred, including the date of the meeting and the parties represented, prior to the preconstruction meeting.
 - The purpose of the meeting shall be to communicate the anticipated scope of work, construction schedule, potential impacts, restoration expectations, and appropriate contacts for construction-related questions or concerns.
 - Door-Hanger Notification
 - The Applicant shall distribute door-hanger notifications to each residence within a subdivision or other residential area affected by the proposed construction at least seven (7) calendar days before work begins within that area.
 - At a minimum, each door hanger shall include:
 - The name of the Applicant/provider;
 - The name of the contractor performing the work;
 - A general description of the proposed work;
 - The anticipated construction schedule or timeframe;
 - Applicant and contractor contact information as required by Section 5;
 - A telephone number and email address or other direct method for reporting construction-related concerns, property damage, or restoration issues; and
 - Emergency contact information, where applicable.
 - The Town Engineer may approve an alternative notification method, including mailed notice, when door-hanger notification is impractical or another method would provide equal or greater notice to affected residents.
 - Project Identification Signage
 - The Applicant shall install and maintain project identification signage in accordance with Section 9 of this Agreement.
 - The Applicant shall be responsible for ensuring that all required notifications are completed before construction begins. Upon request, the Applicant shall provide documentation demonstrating compliance with the notification requirements of this Section.
- Notice shall include, at minimum:
 - The name of the Applicant/provider;
 - A general description of the work;
 - Approximate construction timing;
 - Applicant project-management contact information;
 - Contractor contact information;
 - Telephone number and email address for questions, complaints, damage reports, and restoration concerns; and
 - Emergency contact information where appropriate.
- The Applicant, not the Town, shall be the primary point of contact for property restoration claims and complaints resulting from the Applicant's construction activities.

9. Project Identification Signage

- For projects or locations designated by the Town Engineer, the Applicant shall install and maintain project identification signage at entrances to affected neighborhoods or at other locations approved by the Town.

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- Required signage shall clearly identify:
 - The Applicant/provider performing or sponsoring the work;
 - The contractor performing the work;
 - A project contact telephone number; and
 - An email address or other direct method for reporting construction or restoration concerns.
- Signs shall be installed before construction begins in the affected area and shall remain in place through substantial completion of construction and restoration unless otherwise directed by the Town.
- Sign location, size, and placement shall be subject to Town approval and shall not obstruct sight distance, pedestrian accessibility, traffic-control devices, or other public facilities.

10. Utility Location and Protection

- Prior to excavation, the Applicant and its contractors shall contact NC 811 and all other appropriate utility owners or agencies.
- Utility markings do not relieve the Applicant or contractor of responsibility for performing prudent field verification, potholing, or other measures reasonably necessary to avoid utility damage.
- The Applicant shall immediately report any utility strike, service interruption, hazardous condition, or damage to public infrastructure to the appropriate utility owner and to the Town.
- The Applicant shall be responsible for damage caused by its construction activities.

11. Traffic and Pedestrian Control

- The Applicant shall maintain safe vehicular and pedestrian passage throughout construction unless a closure is specifically approved.
- When required, the Applicant shall submit and comply with an approved traffic-control plan.
- Traffic-control devices and temporary pedestrian accommodations shall comply with applicable standards, such as MUTCD and other Work Area Traffic Control Handbook(s) (WATCH).
- No street, travel lane, sidewalk, greenway, or pedestrian route shall be closed without prior approval from the agency having jurisdiction.
- Emergency vehicle access shall be maintained at all times unless otherwise specifically approved.

12. Work Hours and Restrictions

- Unless otherwise authorized in writing:
 - Work within the Right-of-Way shall occur only during hours approved by the Town;
 - Weekend and holiday work is prohibited unless specifically authorized;
 - Work shall be coordinated to minimize unnecessary obstruction of traffic and access;
 - Construction materials, equipment, spoils, and debris shall not be stored in a manner that creates a safety hazard or unnecessarily obstructs the Right-of-Way; and
 - The Town may impose project-specific work restrictions based upon school traffic, special events, traffic volumes, weather, emergency conditions, or other public-safety considerations.

13. Installation Depth and Above-Ground Facilities

- Underground Facilities shall be installed at the depths shown on the approved plans and shall satisfy applicable Town and NCDOT standards.
- Unless otherwise approved by the Town Engineer, bored installations shall provide not less than thirty-six (36) inches of cover.

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- The Town may require greater depth based upon existing or planned roadway, drainage, sidewalk, utility, or other public improvements.
- No pole, cabinet, pedestal, vault, handhole, or other above-ground Facility may be installed at a location not shown on approved plans without prior Town approval.

14. Inspection

- The Town may inspect work performed under this Agreement at any time.
- The Applicant shall provide reasonable access to active construction areas and shall not cover work identified by the Town for inspection until the applicable inspection has occurred or the Town authorizes work to proceed.
- Town inspection does not relieve the Applicant, contractor, engineer, or other responsible party of responsibility for compliance with approved plans, applicable standards, or law.
- The Town may require reinspection when work or restoration does not comply with approved requirements.
- Applicable inspection and reinspection fees shall be assessed in accordance with the Town's adopted fee schedule and applicable law.

15. Restoration

- The Applicant shall restore all disturbed right-of-way and public infrastructure to the reasonable satisfaction of the Town.
- Restoration shall include, as applicable:
 - Pavement;
 - Curb and gutter;
 - Sidewalks and curb ramps;
 - Drainage facilities;
 - Road shoulders;
 - Topsoil;
 - Sod or vegetative cover;
 - Landscaping;
 - Erosion and sediment-control measures; and
 - Other affected public improvements.
- Temporary restoration shall be maintained until permanent restoration is completed.
- The Applicant shall correct settlement, sinking, erosion, pavement failure, dead vegetation, damaged infrastructure, or other deficiencies attributable to the permitted work during the applicable maintenance or warranty period.
- The Town may establish project-specific restoration requirements and completion deadlines.

16. Private Property and Resident Restoration

- The Applicant shall be responsible for resolving claims arising from its work on or adjacent to private property, including damage to lawns, landscaping, irrigation systems, mailboxes, driveways, utilities, or other improvements when such damage results from Applicant or contractor operations.
- The Town's issuance of an encroachment approval does not make the Town responsible for construction damage caused by the Applicant or its contractors.

17. Insurance

- Prior to commencement of work, the Applicant shall provide proof of commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence, or such other amount approved by the Town based upon the nature of the project.
- Coverage shall include, as applicable, underground property damage, collapse, completed operations, and other risks associated with the work.
- The Town of Stallings shall be named as an Additional Insured.
- The Town may require additional insurance appropriate to the project.

18. Restoration/Security Bond

- When required by Town ordinance, fee schedule, or the Town Engineer and/or Designee, the Applicant shall provide a performance, restoration, continuing-indemnity, letter-of-credit, or other security acceptable to the Town.
- The amount shall be based upon anticipated disturbance, restoration exposure, project scope, and the Town's adopted policies or fee schedule.
- Security shall remain in effect until the Town determines that applicable construction and restoration obligations have been satisfactorily completed.
- Release of security shall not relieve the Applicant of continuing maintenance, warranty, indemnification, relocation, or other obligations surviving completion.

19. Stop Work

- The Town may order work stopped when:
 - Work materially deviates from approved plans;
 - Work violates this Agreement or applicable requirements;
 - Work creates an immediate or unreasonable public-safety hazard;
 - Required traffic or pedestrian control is not being maintained;
 - Construction is causing avoidable damage to Town infrastructure;
 - Required restoration has not been completed; or
 - The Applicant or contractor fails to correct deficiencies after reasonable notice.
- Upon issuance of a Stop Work Order, affected activities shall cease until the Town authorizes work to resume.
- Nothing herein limits emergency action necessary to protect life, property, existing utilities, or public safety.

20. Maintenance

- The Applicant shall be solely responsible for ongoing operation, maintenance, repair, and replacement of its Facilities.
The Town shall have no obligation to maintain, repair, protect, or replace the Applicant's Facilities.
- The Applicant shall maintain its Facilities so they do not create a safety hazard, nuisance, obstruction, drainage problem, accessibility issue, or unreasonable interference with Town infrastructure.

21. Removal and Relocation

- Facilities located within Town right-of-way remain subordinate to the public use of the Right-of-Way.
- If the Town reasonably requires removal, adjustment, protection, or relocation of a Facility for a roadway, sidewalk, drainage, utility, transportation, public-safety, maintenance, or other public

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project or purpose, the Applicant shall comply within the timeframe established by the Town and at no cost to the Town, except where applicable law expressly provides otherwise.

22. Abandoned Facilities

- Facilities that are permanently discontinued or abandoned shall be removed unless the Town approves abandonment in place.
- The Applicant shall notify the Town before abandoning a Facility.
- If abandonment in place is approved, the Town may establish conditions concerning documentation, capping, filling, mapping, future removal, or other measures necessary to protect the public Right-of-Way.

23. As-Built Information and Project Closeout

- As directed and required by the Town Engineer and/or their Designee, the Applicant shall submit as-built documentation acceptable to the Town.
- As-built information shall identify the final location and configuration of installed Facilities and shall be prepared or certified by a licensed professional engineer or surveyor when required by law or the Town.
- The Town may require CAD, GIS, shapefile, or other electronic data.
- Project closeout may also require:
 - Completion of outstanding restoration;
 - Correction of inspection deficiencies;
 - Removal of temporary traffic-control devices and construction debris;
 - Submission of required closeout documentation; and
 - Final inspection.

24. Commencement and Expiration

- Unless otherwise approved in writing by the Town Engineer or designee, this Agreement shall become void if construction does not commence within twelve (12) months following Town authorization.
- If the Agreement becomes void prior to commencement of construction and a restoration/security bond or other financial security was required and provided by the Applicant, the Town shall release the applicable security within thirty (30) calendar days after the Agreement becomes void, provided that the Applicant has no outstanding obligations, fees, restoration requirements, or other liabilities associated with the approved encroachment.
- Any future construction proposed after expiration of the Agreement shall require a new Encroachment Agreement and shall be subject to the Town's requirements and fees in effect at the time of the new application.

25. Indemnification

- To the fullest extent permitted by law, the Applicant agrees to indemnify, defend, and hold harmless the Town of Stallings and its elected officials, officers, employees, and agents from claims, damages, losses, costs, and liabilities arising from the Applicant's or its contractors' installation, construction, operation, maintenance, repair, restoration, relocation, abandonment, or removal of Facilities, except to the extent caused by the negligence or willful misconduct of the Town.

26. Assignment

- This Agreement shall not be assigned or transferred without prior written approval from the Town.

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- Any approved successor shall assume the obligations applicable to the Facilities subject to this Agreement.

27. Fees

- The Applicant shall pay all applicable application, review, inspection, reinspection, street-crossing, restoration, and other lawful fees established by the Town's adopted fee schedule.
- Fees shall be administered in accordance with applicable Town ordinances and State and federal law.

28. Special Project Conditions

- The Town may impose reasonable project-specific conditions addressing construction sequencing, traffic control, notification, restoration, public safety, inspection, work hours, or protection of public infrastructure.
 - The following additional conditions apply to this Agreement:
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29. Entire Agreement

- This Agreement, approved plans, incorporated exhibits, written project conditions, and applicable Town ordinances and standards constitute the terms governing the approved encroachment.
- In the event applicable State or federal law establishes requirements that conflict with this Agreement, controlling law shall govern.

30. Acceptance

TOWN OF STALLINGS

By: _____

Town Engineer or Designee

Date: _____

APPLICANT / RIGHT-OF-WAY USER

Company/Organization: _____

Signature: _____

Printed Name & Title: _____

Address: _____

City, State, ZIP: _____

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Telephone: _____

Email: _____

24-Hour Emergency Contact: _____

Date: _____