

NORTH CAROLINA

**ENCROACHMENT
AGREEMENT**

GUILFORD COUNTY

THIS AGREEMENT, made and entered into this ____ day of ____ 2015, by and between the CITY OF GREENSBORO, "Grantor", and WELL-SPRING RETIREMENT COMMUNITY, INC, "Grantee".

WITNESETH:

THAT WHEREAS, Grantee desires to install the following cables and ductbanks beneath City right-of-way to be used for their fire alarm system and community gate and has requested permission to encroach into City street right-of-way, said encroachment to be in the nature of a limited license agreement for the underground installation of 1-1" PVC conduit and communication lines along and crossing 3611 Drawbridge Parkway using 1,919 linear feet of fiber optic communication lines.

WHEREAS, the installation will allow the Grantee to use fiber optic from their existing site at 4100 Well-Spring Drive to their new site at 3611 Drawbridge Parkway as seen on Exhibit A;

WHEREAS, the installation is not intended to benefit any further resale of the property, as an income producing line, or for use apart from the business of Grantee, the installation shall not be sold, transferred or leased to any other person;

WHEREAS, Grantee shall be sole responsible for maintenance of all utilities mentioned above;

WHEREAS, Grantee shall be responsible for the removal of the installation in accordance with City standards at the request of the City or in the event of the end of the need for the installation; and

WHEREAS, Grantee agrees to maintain the encroachment in a safe condition and agrees to hold the City of Greensboro harmless from any and all loss, claims, actions, suits demands or liabilities of any nature to persons or property arising out of or due to any act or omission related to the construction, location and maintenance of the installation located in street right-of-way;

NOW, THEREFORE, IT IS AGREED that the Grantor hereby grants to the Grantee the limited right and privilege to encroach on the property of the Grantor within the above defined limits upon the following conditions:

1. Grantee guarantees that the installation will neither cause a public nuisance nor unreasonably interfere with the use of streets and sidewalks by the public or public utilities;
2. Grantee shall provide all locates of Grantees infrastructure within Grantor's right of way upon request by the Grantor at no cost to the Grantor and join the North Carolina One Call (811);
3. During the performance of the services under this Agreement, Grantee and its contractors, and engineers shall maintain the following insurance:
4. General Liability Insurance, including but not limited to coverage for all premises and non-premises operations, independent contractors, broad form property damage coverage, including explosion, collapse and underground property damage hazards, personal injury liability protection including coverage relating to employment of persons, contractual liability protection, and products and completed operations coverage. This insurance shall provide bodily injury limits of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate, and with property damage limits of not less than \$1,000,000 for each occurrence and not less than \$2,000,000 in the aggregate, with property damage limits of not less than \$500,000 for each occurrence and not less than \$500,000 in the aggregate. Automobile Liability Insurance, covering owned, non-owned, hired vehicles and trailers using in connection with this project. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/aggregate.

Worker's Compensation Insurance in accordance with statute requirements and Employer's Liability Insurance with limits of not less than \$100,000 for each occurrence. In case any work is sublet under this Agreement, Grantee shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance for all of the subcontractor's employees to be engaged in such work. This Agreement shall be void and of no effect unless Grantee shall secure and keep in effect during the terms of this Agreement. Grantee's compliance with the provisions of the Worker's Compensation laws of the State of North Carolina.

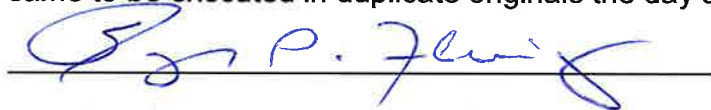
Grantee shall furnish certificates of insurance for all of the insurance coverages described herein within ten (10) days after this Agreement is ratified and certified copies of any amendments and/or renewals to the policies which occur thereafter. At least thirty (30) days written notice shall be given to the Grantor prior to any cancellation, modification or non-renewal of any insurance required under this Agreement.

All project contractors shall be required to include Grantor and Grantee as additional insured on their General Liability insurance policies;

5. Grantee hereby agrees to indemnify and save harmless the Grantor from any and all suits; actions, claims, demands, liability of any nature whatsoever arising out of the construction, location and maintenance of the installation and its structures in the street right-of-way, and shall remove any or all of the installation or its structures from the encroachment space at the request of the City, without any cost to the City. Such request shall not be arbitrary or unreasonable;
6. Grantee hereby agrees to maintain the installation in a safe condition and tag and identify all underground utilities;

7. The Grantee within thirty (30) days from the execution of this agreement, shall make arrangements to begin installation of the encroachments and will require the contractor to take necessary and reasonable precautions to protect the public from danger during the building and installing of the encroachments with the right of way of the Grantor;
8. Grantee agrees to pay annual linear foot fees to occupy City right-of-way per City Code Chapter 28.1 Telecommunications;
9. The installation shall be constructed in accordance with approved plans and coordinated with the City's right-of-way manager, and
10. Grantee during the construction of the installation, for itself, its assignees and successors in interest, agrees that the contractor(s), with regard to the work performed by it during the construction and maintenance of the installation of the encroachment, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

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



President/Vice President of Well-Spring Retirement Community, Inc.



Secretary of Well-Spring Retirement Community, Inc.

Seal

Recommended:

By: _____

Engineering & Inspections Director

ATTESTED BY:

CITY OF GREENSBORO

By: _____

City Clerk

By: _____

Assistant City Manager

(This instrument has been pre-audited in the manner
by the Local Government-Budget and Fiscal Control Act)

By: _____

Finance Officer

(Approved as to form and legality)

By: _____

Assistant City Attorney

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, Kaitlin Reid, a Notary Public in and for said County and State, do hereby certify that on this 24 day of July, 2015, before me personally appeared Alan Totten, Steve Fleming of Well-Spring Retirement Community, Inc. a North Carolina non-profit corporation, personally known to me, or proved to me by satisfactory evidence to be the person whose name is signed on the preceding attached record, and acknowledged to me that by authority duly given and as the act of the corporation/he signed it voluntarily for its stated purpose.



Kaitlin Reid

Notary Public

Kaitlin Reid

Printed Name of Notary Public

My commission expires: March 25, 2020

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

I, _____, a Notary Public in and for said County and State, do hereby certify that on this _____ day of _____, 2015, before me personally appeared _____, Deputy City Clerk of the City of Greensboro, personally known to me or proved to me by satisfactory evidence to be the person whose name is signed on the preceding attached record, and acknowledged to me that by authority duly given and as the act of the City of Greensboro, the foregoing document was signed in its name by its _____, sealed with its seal, and attested by him/himself as its Deputy City Clerk.

Notary Public

Printed Name of Notary Public

My commission expires: _____