

**NORTH CAROLINA**

**ENCROACHMENT AGREEMENT**

**GUILFORD COUNTY**

**THIS AGREEMENT**, made and entered into this the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **CITY OF GREENSBORO**, “Grantor”; and **GREENSBORO DOWNTOWN PARKS, INC.**, a North Carolina non-profit corporation, “Grantee”.

**WITNESSETH:**

**WHEREAS**, Grantee approached Grantor to locate electrical lines and meter boxes along 208 North Davie Street in City right of way; and

**WHEREAS**, The four Simply Grid meter boxes will allow food trucks to use electrical service paid by LeBauer Park, LLC. These electrical lines and meter boxes are shown within City right-of-way as depicted upon Exhibit A and Exhibit B, the site map; and

**WHEREAS**, Grantor through City Charter 4.128 (c) permits encroachment on City sidewalks if, in the opinion of the Council, such encroachment will neither cause a public nuisance nor unreasonably interfere with the use of the streets and sidewalks by the public; and

**WHEREAS**, Grantee agrees to maintain the electrical lines and meters (hereinafter referred to as “the Encroachment”) in a safe condition and agrees to hold the City of Greensboro harmless from any and all loss to persons or property resulting from the location of the Encroachment within the Grantor’s 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. The Grantee guarantees that the Encroachment will neither cause a public nuisance nor unreasonably interfere with the use of the public streets and private streets and sidewalks by the public.
2. The permanent encroachment shall occupy space on the sidewalk at 208 North Davie Street and shall have the dimensions and placement as set out in Exhibit A and Exhibit B attached hereto.
3. The Grantee shall indemnify and save harmless the Grantor 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, or maintenance of the Encroachment located in street right-of-way.
4. The Grantee, at the request of the Grantor and without any cost to the Grantor,

shall make any necessary or required maintenance, repair, or design changes if such changes are required, including, but not limited to, the removal of the Encroachment.

5. 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.

6. The Grantee shall maintain the encroached upon area in a safe condition and shall maintain and repair the Encroachment until such time as the Encroachment is removed either at the request of the Grantor or otherwise as a decision of the Grantee.
7. The Grantee, during the building and installing of the Encroachment, for itself, its assignees and successors in interest, agrees that it will require that the contractor, with regard to the work performed by the contractor during the building and installation of the Encroachment within the rights of way of the Grantor, shall not discriminate on the grounds of race, color, religion, national origin, biological sex, age, or disability in the selection and retention of subcontractors, including the procurement of materials and leases of equipment.
8. The Grantee, shall seek proper building permits and inspections required by the City of Greensboro.
9. The Grantee shall record their fully executed Encroachment Agreement with the Guilford County Register of Deeds and provide proof thereof in order to obtain required permitting.

10. The Grantee assumes all costs associated with the proposed installation of the Encroachment including: utility locates, delivery and removal of the Encroachment, delivery of engineer-stamped drawing of installation design, installation and de-installation of the Encroachment by a fully qualified contractor, insurance for damage and liability for the Encroachment, repair of any disturbance to the site at the time of installation and at the time of de-installation, and all routine maintenance of the Encroachment.

**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.

WITNESS: GREENSBORO DOWNTOWN PARKS, INC

By: \_\_\_\_\_ By \_\_\_\_\_  
Secretary President

RECOMMENDED BY:

\_\_\_\_\_  
Information Technology Director

ATTEST: CITY OF GREENSBORO

By: \_\_\_\_\_ By: \_\_\_\_\_  
Deputy City Clerk Assistant City Manager

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

Approved as to Form

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Finance Officer

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 \_\_\_\_\_, 2016, before me personally appeared \_\_\_\_\_, \_\_\_\_\_ of Greensboro Downtown Parks, 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 s/he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires:\_\_\_\_\_

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 \_\_\_\_\_, 2016, before me personally appeared \_\_\_\_\_, City Clerk/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/herself as its City Clerk/Deputy City Clerk.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

My commission expires:\_\_\_\_\_