

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 **ZCD II, LLC**, a North Carolina limited liability company, "Grantee".

W I T N E S S E T H:

THAT WHEREAS, Grantee owns certain real property located at 120 W. Lewis Street and has requested permission to encroach upon the right of way of Grantor in order to build and install one (1) canopy and six (6) beam ends and columns projecting over City right of way from the face of the building on W. Lewis Street;

WHEREAS, the approximate measurements of the canopy is one and a half feet (1'6") by twenty-four feet (24') wide equaling thirty-three (33) square feet in City right of way and structural beam ends and columns are five feet (5') in City right of way attached drawing as Exhibit A;

WHEREAS, Grantee agrees to maintain the encroachments 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 encroachments location in the Grantor's right-of-way;

WHEREAS, Grantor through City Charter 4.128 (c) permits encroachment over 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;

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 encroachments 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 encroachment shall occupy space above the sidewalk at 120 W. Lewis Street shall have the dimensions as set out in Exhibit A attached hereto;

3. The Grantee hereby agrees to indemnify and save harmless the Grantor from any and all damages and claims for damage that may arise by reason of the installation and location of the encroachment and at the request of the Grantor, without any cost to the Grantor, shall make any necessary and required design changes if such changes are required, including, but not limited to, the removal of the encroachments;

4. The Grantee hereby agrees to maintain the encroachments so that it will not cause a public nuisance nor unreasonable interfere with the sidewalk until such time as the encroachment is removed at Grantee's expense either at the request of the Grantor or otherwise as decision of the Grantee as specified in Chapter 4.128 (c) of the Greensboro Code of Ordinances.

5. The Grantee within thirty (30) days from the execution of this agreement, shall make arrangements to begin the installation of the encroachment and require the contractor to take the necessary and reasonable precautions to protect the public from danger during the building and installing of the encroachment over the City right of way. The temporary encroachment for construction shall allow reasonable obstruction of the sidewalk of 120 W. Lewis Street during construction of the awnings represented in Exhibit A;

6. The Grantee shall maintain \$1,000,000 in liability insurance. Grantee hereby agrees to indemnify and save harmless the party of the first part from any and all damages and claims for damage that may arise by reason of the encroachment in the street right-of-way, and shall remove any or all of the structures from encroachment space at the request of the Grantor, without any cost to the party of the Grantor. Such request shall not be arbitrary or unreasonable. Grantee further insures Grantor that it currently has liability insurance in the minimum amount of \$1,000,000.00 to cover all risks involved with this authorization and that such insurance will remain in full force and effect during the activities hereby authorized.

7. The Grantee, during the building and installing of the encroachment, for themselves, their assignees and successors in interest, agree that they will require that the contractor, with regard to the work performed by the contractor during the building and installation of the encroachment over the right of way of the Grantor, 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; and

8. The Grantee shall pull all necessary permits from the City of Greensboro.

9. E-Verify - The Vendor certifies that it currently complies with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and that at all times during the term of this Agreement, it will continue to comply with these requirements. The Vendor also certifies that it will require that all of its subcontractors that perform any work pursuant to this Agreement to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Violation of this section shall be deemed a material breach of this Agreement.

10. Iran Divestment Act Certification - As of the date of this Agreement, the Vendor certifies that it is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58 and that the Vendor will not utilize any subcontractor found on the State Treasurer's Final Divestment List. All individuals signing this Agreement on behalf of the Vendor certify that they are authorized by the Vendor to make this certification.

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: ZCD II, LLC

By: _____ By: _____
President

Recommended:

By: _____
Information & Technology Director

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

By: _____
Deputy Finance Director

ATTESTED BY: CITY OF GREENSBORO

By: _____ By: _____
City Clerk Assistant City Manager

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 ZCD II, LLC a North Carolina limited liability 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.

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 _____, 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:_____