

NORTH CAROLINA

**EASEMENT ENCROACHMENT
AGREEMENT**

GUILFORD COUNTY

THIS AGREEMENT made and entered into this the ____day of _____, 2019, by and between the CITY OF GREENSBORO, a North Carolina municipal corporation with a mailing address of P.O. Box 3136, Greensboro, NC 27402, hereinafter known as “City”; and Piedmont Natural Gas Company, Inc. a North Carolina corporation with a mailing address of 4720 Piedmont Row Drive, Charlotte, NC 28210, hereinafter known as “PNG”.

W I T N E S S E T H:

THAT WHEREAS, City is the holder of a twenty (20’) foot permanent utility easement (“Easement”) for a sanitary sewer line with such Easement being recorded in the Guilford County Register of Deeds at Book 4265 Page(s) 2134 to 2137 (“Property”);

WHEREAS, PNG desires to build a 12” diameter natural gas pipeline (“Pipeline” or “Infrastructure”) and has requested permission to encroach upon the Easement owned by City in order to build and install the pipeline (“Encroachment”);

WHEREAS, the approximate measurements of the pipeline is 20.5 feet and is set forth in detail on the attached drawing as Exhibit A;

WHEREAS, PNG agrees to maintain 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 encroachments location in the City’s Easement except when resulting from the negligence or willful misconduct by City or its employees or agents;

WHEREAS, City through City Charter 4.128 permits encroachment if, in the opinion of the Council, such encroachment will neither cause a public nuisance nor unreasonably interfere with the City’s use of the easement;

WHEREAS, the City, pursuant to N.C. General Statute §160A-265 and upon the terms and conditions herein set forth, is willing to allow the above described Encroachment upon the above-referenced City-owned Easement.

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

1. PNG guarantees that the Encroachment will neither cause a public nuisance nor unreasonably interfere with the City’s use of the Easement.
2. The Encroachment shall occupy that portion of the Easement over the Property in the manner described and depicted as set out in Exhibit A attached hereto.
3. PNG hereby agrees to indemnify the City from any and all damages and claims for damage that may arise by reason of the installation and location of the Encroachment and agrees to hold the City, its officers, councilors, employees, or agents harmless from any and all

liability arising out of the Encroachment; that it will defend the City, its officers, councilors, employees, or agents and pay all reasonable attorney fees in any and all actions brought as a result of the Encroachment; and that it will indemnify the City, its officers, councilors, employees, or agents against any and all loss sustained by reason of negligence arising out of the design, location, construction, maintenance, or removal of said Encroachment; provided that PNG's aforesaid obligations shall not apply to damages and claims resulting from City or its employees or agent's negligence or willful misconduct.

4. Prior to installation PNG, at the request of the City and without any cost to the City, shall make any necessary and required design changes to the Encroachment to avoid interference with the City's existing Easement, including but not limited to, the relocation of the Encroachment. Such request shall not be arbitrary or unreasonable. Upon receipt of notice from the City that the City must perform or cause to be performed any maintenance, upgrade, or replacement of the City's infrastructure within the Easement, PNG will cooperate with the City to enable such activities to occur, which shall include PNG's responsibility and payment for the temporary location or removal of PNG's infrastructure if the City deems the same necessary in order to maintain, upgrade, or replace its infrastructure located within the Easement. City will not be responsible for any damage caused to PNG's infrastructure unless such damage is caused by the City's negligent or wrongful conduct.

5. PNG agrees that the City shall not be responsible for any labor or expense whatsoever which results from the installation or any future maintenance, repair, removal, or dismantling of said Encroachment except if such expense results from the City or its employees, agents, or invitees' negligence or willful or wanton conduct.

6. PNG hereby agrees to maintain the Encroachment so that it will not cause a public nuisance nor unreasonably interfere with the City's Easement until such time as the Encroachment is removed, which shall be at PNG's expense, either at the request of the City or otherwise as decision of the PNG. Such removal request by City shall not be arbitrary or unreasonable, and PNG shall not be required to remove the Encroachment in a manner that does not comply with any applicable laws and regulations.

7. PNG within six (6) months from the execution of this agreement, shall make arrangements to begin the installation of the Encroachment and require any contractor(s) to take the necessary and reasonable precautions to protect the public from danger during the building and installing of the Encroachment. Any temporary encroachment for construction shall allow for reasonable obstruction as represented in Exhibit A;

6. PNG confirms to the City that it will maintain 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 lifetime of the Encroachment.

7. PNG, 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 City, 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.

8. PNG shall pull all necessary permits from the City of Greensboro and abide by all applicable statutes and ordinances.

9. All notices required herein shall be deemed given by depositing such in the United States Mail and sent certified with first class postage at the mailing address hereinabove set out for City and PNG respectively.

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.

**PIEDMONT NATURAL GAS
COMPANY, INC.**

WITNESS:

By: _____
Title

By: _____

STATE OF _____
COUNTY OF _____

I certify that _____ personally came before me this day and acknowledged that he/she holds the position of _____ with the business known as _____, a corporation / LLC / partnership; and that by authority duly given and as the act of the business he/she signed this foregoing instrument in its name and on its behalf as its act and deed.

Witness my hand and official seal, this the _____ day of _____, 20____.

(Official Seal)

Notary Public

My Commission Expires: _____

CITY OF GREENSBORO

ATTESTED BY:

By: _____
Nancy B. Vaughan, Mayor

By: _____
City Clerk

RECOMMENDED:

By: _____
Water Resources Director

Approved as to form:

Assistant City Attorney

EXHIBIT A