

STATE OF NORTH CAROLINA

COUNTY OF POLK

**RIGHT OF WAY
ENCROACHMENT
AGREEMENT**

THIS AGREEMENT, made and entered into this the ___ day of _

_____,
20___, by and between the City of Saluda, a North Carolina municipal corporation, party of
the first part; and _____ party of the
second part.

WITNESSETH:

THAT WHEREAS, the party of the second part desires to encroach on the right-of-
way of the city’s public road as designated by (address) _

with the construction and/or erection of _

WHEREAS it is to the material advantage of the party of the second part to affect this
encroachment, and the party of the first part in the exercise of authority conferred upon it by
statute, is willing to permit the encroachment within the limits of the right-of-way as
indicated, subject to the conditions of this agreement.

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to
the party of the second part the right and privilege to make this encroachment as shown as an
attached exhibit, to include but not limited to; plan sheet(s), specifications, special provisions,
erosion control measures and if applicable a safety plan which are made a part hereof upon
the following conditions, to wit:

That the said party of the second part binds and obligates himself/herself to
install and maintain the encroaching structure in such safe and proper
condition that it will not interfere with or endanger travel upon said road, nor
obstruct nor interfere with the property maintenance thereof, and if at any time
the party of the first part shall require the removal of or changes in the location
within said right-of-way of the said structure(s), that the said party of the
second part binds himself/herself, his/her successors and assigns, to promptly
remove or alter the said structure(s), in order to conform to the said

requirement, without any cost to the party of the first part.

That the party of the second part agrees to provide, during construction and any subsequent maintenance, as necessary under the circumstances proper signs, signal lights, flagmen and other warning devices for the protection of traffic.

That the party of the second part agrees to exercise every reasonable precaution during construction and maintenance to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. When any installation or maintenance operation disturbs the ground surface and the existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise re-establish the grass (and or ground cover) to meet the satisfaction of the City Manager or designee of the party of the first part.

That the party of the second part agrees to assume the actual cost of any inspection of the work considered to be necessary by the City Manager or designee of the party of the first part.

That in the case of noncompliance by the party of the second part, the party of the first part reserves the right to stop all work until the agreed upon work has been brought into compliance or removed from the right-of-way at no cost to the party of the first part.

Further, in an emergency necessitating in the judgment of the party of the first part, immediate repair, maintenance or removal of the encroaching structure(s), the party of the second part upon request of the party of the first part, shall do such requisite repair work, or shall remove the structure(s) within (7) days of notice and if the party of the second part fails to do so in (7) days after such request, the party of the first part may do such requisite work or effect such removal at the expense of the party of the second part.

That the party of the second part shall be responsible for all loss of life, personal injury or property damage or any other claims or liabilities accruing from or attributable to the construction, maintenance, use, or presence of any encroachments upon the party of the first part's right-of-way, resulting from negligence or intentional act of the party of the second part, and the party of the second part shall indemnify, defend and hold the party of the first part, its agents, officers and employees harmless from any and all claims, losses, injury or damage arising from the negligence or intentional act of the party of the second part.

That this agreement shall inure to the benefit of and be binding upon the respective heirs, successors and assigns of the parties hereto, as well as upon themselves.

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

CITY OF SALUDA

SECOND PARTY

By: _____
Fred Baisden, Mayor

By: _____

ATTEST:

City Clerk

STATE OF NORTH CAROLINA

COUNTY OF POLK

I, _____ a Notary Public of the County and State aforesaid, certify that Tola Mueller personally came before me this day and acknowledged that she is Clerk to the City of Saluda Board of Commissioners, a municipal corporation of the State of North Carolina, and that by authority duly given and as the act of the City, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal and attested by her as its Clerk.

Witness by Hand and official stamp or seal, this ____ day of _____, 2020.

My commission expires: _____

_____, Notary Public

SEAL

STATE OF NORTH CAROLINA

COUNTY OF POLK

I, _____, a Notary Public for the County of _____ and State of North Carolina, do hereby certify that _____, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official stamp/seal, this the _____ day of _____ 20__

[Official Stamp/Seal]

Notary Public
My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF POLK

I, _____, a Notary Public for the County of _____ and State of North Carolina, do hereby certify that _____, personally appeared before me this day and acknowledged that he/she is the _____, an _____ operation, and that by authority duly given and as the act of the corporation the foregoing instrument was

signed in its name by its _____, sealed with its corporate seal, and attested by himself/herself as its _____.

Witness my hand and official stamp/seal, this the _____ day of _____ 20__.

[Official Stamp/Seal]

Notary Public
My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF POLK

I, _____, a Notary Public for the County of _____ and State of North Carolina, do hereby certify that _____ personally came before me this day and acknowledged that he/she is the City Manager or designee of the City of Saluda, a municipal corporation, and that by authority duly given and as the act of the City the foregoing instrument was signed in its name by its City Manager, sealed with its corporate seal, and attested by _____ as its City Clerk.

Witness my hand and official stamp/seal, this the _____ day of _____ 20__.

[Official Stamp/Seal]

Notary Public
My Commission Expires: _____