



# CITY OF CHARLOTTE DEPARTMENT OF TRANSPORTATION



## Right-of-Way Encroachment Agreement

A Right-of-Way Encroachment Agreement is required for the installation of a permanent non-standard item(s) within a City maintained street right-of-way by a private individual, group, business, or homeowner's/business association. A non-standard item is one which is not installed by the Charlotte Department of Transportation (CDOT) in the exercise of its duties and responsibilities which conforms to standards in the [Manual of Uniform Traffic Control Devices](#), the Charlotte Mecklenburg Utility Department, or by utility franchise holders approved by the City. A non-standard item is an accepted roadway design element as provided in the current edition of [Policy on Geometric Design of Highways and Streets](#) published by the American Association of State Highway and Transportation Officials ([AASHTO](#)).

CDOT executes a General Encroachment Agreement for the following types of construction:

- Decorative pavers for walkways and streets
- Decorative signs and / or signposts
- Decorative lighting
- Awnings
- Building foundation footings
- Monitoring wells

CDOT also executes Encroachment Agreements for the specialized construction of Shoring & Tieback Systems, and Interim Telecommunications. All items considered for encroachment agreements must meet applicable City codes/requirements and State/local building codes.

CDOT will determine, on a case-by-case basis, whether an encroachment will be considered based on concerns for public safety, applicable standards, and conflicting use of the right-of-way by the City Departments and/or utility franchise holders. Further, CDOT and other City Departments may impose certain requirements as a condition of Encroachment Agreement Approval. The division of Risk Management of the Finance Department requires that a Certificate of Insurance for liability coverage be submitted with each Encroachment Agreement (currently \$1,000,000) with the exception of the Irrigation Encroachment Agreement.

### **Submittal Requirements**

- A letter of request with all contact information for the project applicant and a full description of the project.
  - Three (3) executed, original, encroachment agreements (including notary)
  - Page three (3) of the agreement must have a corporate seal affixed unless the company is an LLC or LP.
  - Liability insurance certificate with the City of Charlotte designated as the named insured in the amount of \$1,000,000, or as determined.
  - Three (3) sets of scaled drawings (prepared at 1"=20', 30' or 40' on 8-1/2" x 11" media) showing detailed Plan and Elevation drawings of the existing conditions and the proposed encroaching item including: R/W lines, signs, trees, curb, gutter, sidewalk, poles, pavement edges, utilities, and vicinity map.
  - Detail of the item to be placed within the right-of-way.
  - Narrative detailing the installation procedure and plan notes as necessary.
  - A check for the Application Fee in the amount of \$1,840 made to the City of Charlotte.
- NOTE: Once submitted, fee is non-refundable.**

## **INDEMNITY INSURANCE COVERAGE REQUIREMENTS**

**AUTOMOBILE LIABILITY** – Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit each occurrence/aggregate.

**COMMERCIAL GENERAL LIABILITY** – bodily injury and property damage liability as shall protect the contractor and any subcontractor performing work under this contract from claims of bodily injury or property damage which arise from operation of this contract whether such operations are performed by contractor, any subcontractor or any one directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products/completed operation, personal injury liability and contractual liability assumed under the indemnity provision of this contract.

**WORKERS' COMPENSATION INSURANCE** – Meeting the statutory requirements of the State of North Carolina and Employers Liability - \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit, providing coverage for employees and owners.

STREET: \_\_\_\_\_

BETWEEN: \_\_\_\_\_

AND: \_\_\_\_\_

**CITY OF CHARLOTTE, NORTH CAROLINA**

AND

**-- CONTRACT --  
RIGHT OF WAY  
ENCROACHMENT  
AGREEMENT**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

THIS AGREEMENT, made and entered into this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Charlotte, North Carolina, (hereinafter "City"), 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 public road designated as \_\_\_\_\_ for the purposes of constructing or erecting: \_\_\_\_\_

\_\_\_\_\_ within the said right-of-way as more particularly shown on the diagram attached hereto and incorporated herein.

WHEREAS, it is to the material advantage of the party of the second part to effect this encroachment, and the City, 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 City hereby grants to the party of the second part, its successors, and assigns, the right and privilege to make this encroachment, upon the following conditions, to wit:

1. That the said party of the second part binds and obligates itself, its successors and assigns to erect and maintain the encroaching structure in such reasonably safe and proper condition including aesthetic appearance, that it will not interfere with, or endanger, travel upon said highway, nor obstruct nor interfere with the proper maintenance thereof, and if at any time the City shall require the removal of or changes in the location of the said items, that the said party of the second part binds itself, its successors and assigns, to promptly remove or alter the said items, in order to conform to the said requirement, without any cost to the City;
2. That the said party of the second part agrees to comply with the provisions of CDOT's Work Area Traffic Control Handbook ([WATCH](#)) should any roadway or walkway, or portion thereof, need to be blocked or closed during construction. Further, the party of the second part agrees to provide advance notification to, and obtain a Right of Way Use Permit from, CDOT for any such roadway or walkway closure in accordance with following:

Travel lane(s) and/or sidewalk(s) – 5 working days (minimum)  
Street Closure – 10 working days (minimum)

Construction, installation, and maintenance activities are further restricted from blocking or closing a roadway or walkway at certain times of the day. These activities cannot occur during the following times:

7 – 9 a.m., Monday – Friday  
4 – 6 p.m., Monday – Friday

3. That the party of the second part agrees to provide notification to, and obtain a Street Cut Permit from, the Street Maintenance Department at least 24 hours prior to performing any construction that involves the cutting or breaking of any roadway or walkway pavement.
4. That the City retains the right and privilege to remove or alter the said items whenever an emergency or other situation requires prompt action and the City may recover the cost associated with removing or altering said encroachment.
5. That the party of the second part, its successors and assigns agree to indemnify and hold harmless the City, its officers and employees, from and against all damage, including injury to persons or damages to property, expenses or other liability which may result from, arise out of, or be brought by reason of the encroachment;
6. That the party of the second part, its successors and assigns, further agrees to defend any lawsuits which may be brought against the City, its officers and employees by reason of the operation of the above-mentioned encroachment and pay any claims or judgments resulting from or preceding such lawsuits. Such agreement as to indemnification and defense shall be construed to the end that the City, its officers and employees, will suffer no liability or expense because of such claims or legal actions.

7. The party of the second part, its successors and assigns, at their own expense, shall purchase and maintain for the duration of this agreement Comprehensive General Liability Insurance and contractual liability assumed under this agreement. Such policy or policies of insurance shall be for limits of not less than \$1,000,000 bodily injury and property damage liability and will be subject to future review and adjustment at the request of the City. Certificates of Insurance shall be furnished to the Director of the Charlotte Department of Transportation containing the provision that 30 days written notice will be given to the City prior to cancellation or change in the required coverage. The provision of such insurance shall in no way replace or otherwise limit the obligation to defend and pay claims described previously.
8. If the party of the second part should sell or otherwise transfer title to the property adjoining this encroachment, it shall notify the Charlotte Department of Transportation of the transfer and provide evidence that its successor or assign has obtained the insurance required under paragraph 6 of this agreement and has otherwise agreed to assume the liabilities and obligations set forth in this Agreement and has the financial means to meet such obligations. Upon the receipt of satisfactory evidence of said insurance, assumption of responsibility, and financial means, the party of the second part shall be relieved of all liabilities and obligations arising under this agreement by reason of any act or omission occurring after the giving of such notice and the proof of such insurance and assumption.
9. That the party of the second part understands that power companies, CATV television franchise holders, and other holders of easements in City right-of-way have or may have rights paramount to those of the party of the second part to use of lands under the City right-of-way at the location specified in this Agreement.
10. That the party of the second part waives any and all claims for damages or other relief which it may now or hereafter have against the City for interference with or damage to its facilities located within the City rights-of-way way arising out of negligent act or omission.

CITY OF CHARLOTTE, NORTH CAROLINA

APPLICANT: \_\_\_\_\_  
*(Company Name)*

By: \_\_\_\_\_  
Director, Charlotte Department of Transportation

Name: \_\_\_\_\_  
*(Company President)*

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*(Telephone Number)*

ATTEST:  
  
\_\_\_\_\_  
City Clerk (seal)

By: \_\_\_\_\_  
*(President Signature)*  
  
Title \_\_\_\_\_  
(seal)

APPROVED AS TO INSURANCE:  
  
\_\_\_\_\_  
Insurance and Risk Management

Attest: \_\_\_\_\_  
Secretary (seal)

**\*Signature must be notarized\***

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, \_\_\_\_\_, Notary Public for said County and State, certify that  
(Name of Notary)  
\_\_\_\_\_ personally came before me this day and who, being by  
(Name of Secretary)  
me sworn, acknowledged that (s)he is the Secretary of the \_\_\_\_\_  
(Name of Corporation)  
knows the Common Seal of the \_\_\_\_\_, and is acquainted with  
(Name of Corporation)  
\_\_\_\_\_. Who is the \_\_\_\_\_ of the name of the  
(Name of Officer) (Title of Officer)  
\_\_\_\_\_ and that (s)he saw the said \_\_\_\_\_ sign the  
(Name of Corporation) (Name of Officer)  
foregoing instrument and that (s)he affixed said seal to said instrument and that (s)he signed  
her/his name in attestation of said instrument in the presence of \_\_\_\_\_.  
(Name of Officer)

WITNESS my hand and notarial seal, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_.

\_\_\_\_\_  
(Notary Signature)

Notary Public

My Commission Expires: \_\_\_\_\_  
(Date)

**\*All individual names in this notarization statement/Encroachment Agreement must be consistent in name and signature throughout the document.**