CITY OF BREVARD
ENCROACHMENT & HOLD HARMLESS
AGREEMENT

This ENCROACHMENT & HOLD HARMLESS AGREEMENT is given this ____ day of _____, 202__, by _____, ("Grantor") to the City of Brevard, a North Carolina incorporated City (the "City").

THAT WHEREAS, the Grantor desires access to encroach on the public right-of-way designated as (address) _____, adjacent to the parcel identified as (PIN) _____, with the placement of _____
_____
_____
("Encroachments"); and that the Grantor will construct, install, and maintain the Encroachments in accordance with the site plan attached hereto as Exhibit A and incorporated herein by reference, and any other such standards or requirements as the City has required as of the date hereof; and

WHEREAS, the City, in the exercise of authority conferred upon it by ordinance, is willing to allow Encroachments within the limits of the right-of-way as indicated, under the terms and conditions herein set forth; and

WHEREAS, the Grantor has paid to the City the applicable fee to defray the administrative costs of the City in processing this request.

NOW, THEREFORE, in consideration of these promises, the required development fees in hand paid, the receipt and sufficiency of which are hereby acknowledged, and other consideration, the Grantor and the City hereby agree that the Grantor is hereby granted a license to encroach upon the right-of-way by constructing, installing, and thereafter maintaining the Encroachments for its sole interest and convenience in accordance with the following stipulations:

1. The Grantor is responsible for any and all expenditures of labor or materials required for the planning, installation, erection, repair, maintenance and removal ordered by the City of the Encroachments.

2. The Grantor is to be fully responsible for any and all property damage or injury or death of any person which results from any and all negligence, omission, defect in design, maintenance, or workmanship created by the Grantor, its agents or contractors relating to the Encroachments, or any cause of action arising out of the installation, erection, repair, maintenance, location or removal of said Encroachments.

3. The Grantor agrees to and does hereby hold the City, its officers, agents, and employees

harmless from any and all liability arising out of such negligence, omission, defect, or other cause of action; that it will defend the City, its officers, agents, and employees, and pay all attorney fees in any and all actions brought as a result of such; and that it will indemnify the City, its officers, agents, and employees against any and all loss sustained by reasons of such negligence, omission, defect, or other cause of action arising out of the installation, erection, repair, maintenance, location or removal of said encroachments.

4. The Grantor agrees to abide by all applicable laws, statutes, ordinances and code provisions.

5. This agreement shall not divest the City of any rights or interest in said right-of-way, and for any reason the City may terminate this encroachment agreement by giving the Grantor 15 days advance written notice of termination. Prior to the termination date, the Grantor shall remove or relocate, at its own expense, all or part of the encroachments as specified by the City.

6. The City further retains the right and privilege to remove or alter the encroachments whenever an emergency or other situation requires prompt action, and the City may recover the cost associated with removing or altering the encroachments from the Grantor.

7. The Grantor, during the life of this agreement, agrees to procure an insurance, issued by an insurance company licensed to do business in the State of North Carolina, in the minimum amounts of $2,000,000.00 covering full liability for any and all personal injury, property damage or wrongful death caused by the construction, maintenance, location, repair, removal or visual obstruction of said Encroachments. The Grantor shall furnish the City on the Effective Date of this Encroachment Agreement certification from the insurance carrier or carriers with whom the insurance herein mentioned is carried, stating that such compensation is covered by such carrier or carriers and showing such insurance to be in full force and effect. The Grantor, the City, and if applicable North Carolina Department of Transportation, shall be named as insured parties. In the event of any change in the insurance policy, the Grantor shall give the City thirty (30) days' notice of such change. The City may, at any time, request proof of adequate insurance from the Grantor. Should Grantor fail to pay premiums upon said insurance or to perform any of the agreements, terms or conditions herein contained, the City, at its option, by written notice may declare this agreement cancelled and terminated and all rights acquired hereunder by Grantor shall thereupon terminate.

8. The Grantor shall obtain all necessary permits from the City prior to the placement or installation of the encroachments.

9. The rights conveyed to the Grantor under this Agreement shall be personal to the Grantor and non-transferrable to any other party unless the City provides its prior written consent thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this _____ day of _____, 202__.

ATTEST:		CITY OF BREVARD:	
Sign Name:	_____	Sign Name:	_____
Print Name:	_____	Print Name:	_____
Title:	_____	Title:	City Manager or Designee

STATE OF NORTH CAROLINA,
COUNTY OF TRANSYLVANIA.

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

Witness my hand and official seal, this the ___ day of _____, 202__.

(SEAL)

_____
Notary Public

My Commission expires: _____.

EXHIBIT A

SITE PLAN AND LOCATION OF ENCROACHMENTS