

ROUTE 1183

PROJECT Culvert Replacement

COUNTY OF

STATE OF NORTH CAROLINA
Durham

DEPARTMENT OF TRANSPORTATION

-AND-
City of Durham

RIGHT OF WAY ENCROACHMENT AGREEMENT FOR
CURB AND GUTTER, PAVEMENT WIDENING AND
STORM DRAINAGE

THIS AGREEMENT, made and entered into this the 12th day of June, 20 12, by and between the Department of Transportation, party of the first part; and City of Durham

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 Route(s) 1183, University Drive, located at 2514 University Drive, crossing the right-of-way from west to east at the location of an existing double 48-inch CMP

with the construction and/or erection of: a storm drainage curivert replacement consisting of a cast-in-place 10-foot by 5-foot reinforced concrete box culvert.

WHEREAS, it is to the material advantage of the party of the second part to effect 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 on attached plan sheet(s), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the said party of the second part binds and obligates himself to install the encroaching facility in such safe and proper condition that it will not interfere with or endanger travel upon said highway.

That the party of the second part agrees to provide during construction proper signs, signal lights, flagmen and other warning devices for the protection of traffic in conformance with the latest Manual on Uniform Traffic Control Devices for Streets and Highways and Amendments or Supplements thereto. Information as to the above rules and regulations may be obtained from the Division Engineer of the party of the first part.

That the party of the second part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation and maintenance of this encroachment.

It is clearly understood by the party of the second part that the party of the first part will assume no responsibility for any damage that may be caused to such facilities, within the highway rights of way limits, in carrying out its construction.

That the party of the second part agrees to restore all areas disturbed during construction to the satisfaction of the Division Engineer of the party of the first part. 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. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control. When any construction operation disturbs the ground surface and existing ground cover, the party of the second part agrees to remove and replace the sod or otherwise reestablish the grass cover to meet the satisfaction of the Division Engineer 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 Division Engineer of the party of the first part.

That the party of the second part agrees to have available at the encroaching site, at all times during construction, a copy of this agreement showing evidence of approval by the party of the first part. The party of the first part reserves the right to stop all work unless evidence of approval can be shown.

Provided the work contained in this agreement is being performed on a completed highway open to traffic; the party of the second part agrees to give written notice to the Division Engineer of the party of the first part when all work contained herein has been completed. Unless specifically requested by the party of the first part, written notice of completion of work on highway projects under construction will not be required.

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

That it is agreed by both parties that this agreement shall become void if actual construction of the work contemplated herein is not begun within one (1) year from the date of authorization by the party of the first part unless written waiver is secured by the party of the second part from the party of the first part.

R/W (161B) : Party of the Second Part certifies that this agreement is true and accurate copy of the form

R/W (161B) incorporating all revisions to date.

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



DEPARTMENT OF TRANSPORTATION

BY: [Signature]
Asst. Manager of Right of Way
ENCROACHMENT AGENT

ATTEST OR WITNESS:

[Signature]
D. Ann Gray, City Clerk
101 City Hall Plaza
Durham, North Carolina 27701

[Signature]
Thomas J. Bonfield, City Manager
101 City Hall Plaza
Durham, North Carolina 27701
Second Party

INSTRUCTIONS

When the applicant is a corporation or a municipality, this agreement must have the corporate seal and be attested by the corporation secretary or by the empowered city official, unless a waiver of corporate seal and attestation by the secretary or by the empowered City official is on file in the Raleigh office of the Manager of Right of Way. In the space provided in this agreement for execution, the name of the corporation or municipality shall be typed above the name, and title of all persons signing the agreement should be typed directly below their signature.

When the applicant is not a corporation, then his signature must be witnessed by one person. The address should be included in this agreement and the names of all persons signing the agreement should be typed directly below their signature.

This agreement must be accompanied, in the form of an attachment, by plans or drawings showing the following applicable information:

1. All roadways and ramps.
2. Right of way lines and where applicable, the control of access lines.
3. Location of the proposed encroachment.
4. Length and type of encroachment.
5. Location by highway survey station number. If station number cannot be obtained, location should be shown by distance from some identifiable point, such as a bridge, road, intersection, etc. (To assist in preparation of the encroachment plan, the Department's roadway plans may be seen at the various Highway Division Offices, or at the Raleigh office.)
6. Drainage structures or bridges if affected by encroachment.
7. Typical section indicating the pavement design and width, and the slopes, widths and details for either a curb and gutter or a shoulder and ditch section, whichever is applicable.
8. Horizontal alignment indicating general curve data, where applicable.
9. Vertical alignment indicated by percent grade, P.I. station and vertical curve length, where applicable.
10. Amount of material to be removed and/or placed on NCDOT right of way, if applicable.
11. Cross-sections of all grading operations, indicating slope ratio and reference by station where applicable.
12. All pertinent drainage structures proposed. Include all hydraulic data, pipe sizes, structure details and other related information.
13. Erosion and sediment control.
14. Any special provisions or specifications as to the performance of the work or the method of construction that may be required by the Department must be shown on a separate sheet attached to encroachment agreement provided that such information cannot be shown on plans or drawings.
15. The Department's Division Engineer should be given notice by the applicant prior to actual starting of installation included in this agreement.
16. Method of handling traffic during construction where applicable.
17. Scale of plans, north arrow, etc.

SPECIAL PROVISIONS

R/W 16.1B

City of Durham
(069)

1. WORK ZONE TRAFFIC CONTROL QUALIFICATIONS AND TRAINING PROGRAM

Effective July 1, 2010, all flagging operations within NCDOT Right of Way require qualified and trained Work Zone Flaggers.

Effective July 1, 2011, qualified and trained Work Zone Traffic Control Supervisors will be required on Significant Projects.

Training for this certification is provided by NCDOT approved training sources and by private entities that have been pre-approved to train themselves. If you have questions, contact our web site at <http://www.ncdot.org/doh/preconstruct/wztc/WZTCTrainingProgram/default.html>, or contact Stuart Bourne, P.E. with NCDOT Work Zone Traffic Control Unit at (919) 662-4338 or sbourne@ncdot.gov.

2. The encroaching party shall notify the District Engineer's office in writing at 815 Stadium Drive, Durham, NC 27704 at least five days prior to beginning work. (Telephone (919) 220-4750)
3. The Division Traffic Engineer, Alfred Grandy, shall be notified at telephone (919) 220-4600 five days prior to beginning work.
4. Excavation within 500 feet of a signalized intersection will require notification by the encroaching party to Robert Lynch at telephone (919) 477-2914 prior to beginning construction. All traffic signal or detection cables shall be located prior to excavation.
5. The Division Bridge Superintendent, William Briley, shall be notified at telephone (919) 733-4699 fourteen days prior to beginning work.
6. An executed copy of this encroachment agreement shall be present at the construction site at all times during construction. If safety or traffic conditions warrant such an action, NCDOT reserves the right to further limit, restrict or suspend operations within the right of way.
7. A Performance and Indemnity Bond in the amount of \$100,000.00 shall be posted with the District Engineer at 815 Stadium Drive, Durham, NC 27704 prior to beginning any work within the right of way. When all work associated with this agreement has been completed for one year, and upon written request from the encroaching party to the District Engineer, a final inspection and review will be conducted by NCDOT. If all work is found to be satisfactory, NCDOT will release the bond.
8. NCDOT does not guarantee the right of way on this road, nor will it be responsible for any claim for damages brought about by any property owner by reason of this installation.
9. The encroaching party is required to contact the appropriate Utility Companies involved and make satisfactory arrangements to adjust the utilities in conflict with the proposed work prior to beginning construction.
10. It is the responsibility of the encroaching party to notify all adjacent property owners and businesses a minimum of two weeks prior to beginning work and to secure any construction easements (temporary or permanent) from property owners affected by this installation.

11. All right of way easements (temporary & permanent drainage easements) necessary for construction and maintenance shall be dedicated to NCDOT with proof of dedication furnished to the District Engineer before construction approval will be granted.
12. The encroaching party shall comply with all applicable Federal, State and local environmental regulations and shall obtain all necessary Federal, State and local environmental permits, including but not limited to, those related to sediment control, stormwater, wetland, streams, endangered species and historical sites.
13. The contractor shall not begin the construction until after the traffic control and erosion control devices have been installed to the satisfaction of the District Engineer.
14. Trenching, bore pits and/or other excavations shall not be left open or unsafe overnight.
15. The Contractor shall comply with all OSHA requirements and provide a competent person on site to supervise excavation at all times.
16. All fill areas/backfill shall be compacted to 95% density in accordance with AASHTO T99 as modified by the NCDOT. All material to a depth of 8 inches below the finished surface of the subgrade shall be compacted to a density equal to at least 100% of that obtained by compacting a sample of the material in accordance with AASHTO T99 as modified by the Department. The subgrade shall be compacted at a moisture content which is approximately that required to produce the maximum density indicated by the above test method. The contractor shall dry or add moisture to the subgrade when required to provide a uniformly compacted and acceptable subgrade.
17. Vegetative cover shall be established on all disturbed areas in accordance with the recommendations of the Division Roadside Environmental Engineer.
18. Proper temporary and permanent measures shall be used to control erosion and sedimentation in accordance with all local, State and Federal regulations.
19. All materials and workmanship shall conform to the N. C. Department of Transportation's Standards and Specifications Manuals.
20. Strict compliance with the Policies and Procedures for Accommodating Utilities on Highway Rights of Way manual shall be required.
21. Excavation material shall not be placed on pavement. Drainage structures shall not be blocked with excavation materials. Any drainage structure disturbed or damaged shall be restored to its original condition as directed by the District Engineer.
22. Any disturbed guardrail shall be reset according to the applicable standard or as directed by the District Engineer.
23. All driveways altered during construction shall be returned to a state comparable with the condition of the driveways prior to construction.
24. Right of Way monuments disturbed during construction shall be referenced by a registered Land Surveyor and reset after construction.
25. All roadway signs that are removed due to construction shall be reinstalled as soon as possible.

26. The party of the second part agrees to provide traffic control devices, lane closures, road closures, positive protection and/or any other warning or positive protection devices necessary for the safety of road users during construction and subsequent maintenance. This shall be performed in conformance with the latest NCDOT Roadway Standard Drawings and Standard Specifications for Roads and Structures and amendments or supplements thereto. When there is no guidance provided in the NCDOT Roadway Standard Drawings and Standard Specifications for Roads and Structures, comply with the Manual on Uniform Traffic Control Devices for Streets and Highways and amendments or supplements thereto. Information as to the above rules and regulations may be obtained from the NCDOT Division Engineer.
27. All traffic control measures are the responsibility of the encroaching party and are subject to the approval of the District Engineer. If safety or traffic conditions warrant such action, NCDOT reserves the right to further limit, restrict, or suspend operations within the right of way.
28. The detour route shall be installed and maintained by the City of Durham at all times during construction. Once construction begins and the road is closed for detour on SR 1183 (University Drive) all work shall be continuous until the roadway is open for traffic.
29. The encroaching party is responsible for notifying ALL emergency services, schools, etc. of the road closure and detour prior to beginning construction.
30. Ingress and egress shall be maintained to all businesses and dwellings affected by the project. Special attention shall be paid to police and fire stations, fire hydrants and hospitals.
31. No parking or material storage shall be allowed along the shoulders of any state- maintained roadway.
32. During non-working hours, equipment shall be parked as close to the right of way line as possible and be properly barricaded in order not to have any equipment obstruction within the Clear Recovery Area.
33. The paving of the roadway shall be in accordance with the revised NCDOT 2006 Standard Specifications, Sections 610, 1012, and 1020. The contractor shall follow all procedures of the Quality Management Systems (QMS) for asphalt pavement -Maintenance Version (available from District Engineer's Office). The contractor must adhere to all testing requirements and quality control requirements specified. The contractor shall contact the NCDOT Division 5 QA Supervisor at (919) 562-0018 prior to producing plant mix and make the Supervisor aware that the mix is being produced for a NCDOT road. Only NCDOT approved mix designs will be acceptable. A quality control plan shall be submitted to the District Engineer's Office prior to asphalt production. Use form QMS-MV1 for Quality Control Plan submittal. Failing mixes and or densities are subject to penalties including monetary payments or removal and replacement.
34. If any pavement failures occur due to the construction and/or road improvements on SR 1183 or the detour routes, the existing pavement shall be repaired with material approved by the NCDOT and to a strength equivalent to the existing pavement.
35. The edges of the existing asphalt shall be saw cut to provide a straight and uniform edge before paving to it.

36. Prior to overlay, any pavement failures shall be repaired with 6" asphalt base, Type B25.0B and with 2" of surface course, Type S9.5B per NCDOT Standard 654.01. The encroaching party shall contact Mike Goodwin, Barry Matherly, or Jason Watson, inspectors for the District Engineer's Office at (919) 220-4750, prior to overlay to mark for patching.
37. Any pavement striping or reflective pavement markers that are damaged or obliterated shall be restored. All temporary and final pavement marking and reflective pavement markers are the responsibility of the encroaching party. All pavement markings shall be thermoplastic.
38. Any pipe that is abandoned and located under pavement shall be filled with flowable fill in accordance with Section 340 of the Standard Specifications. Compressive strength test results certified by a professional engineer shall be submitted in accordance with Section 340 of the Specifications.
39. Excavated areas adjacent to pavement having more than a 2" drop shall be made safe with a 6:1 or flatter slope and shall be designated by appropriate delineation during periods of construction inactivity, including but not limited to, night and weekend hours.
40. Embankment placement shall comply with the provisions of Section 235 of the North Carolina Department of Transportation Standard Specifications for Roads and Structures.
41. The encroaching party shall be responsible flow of the ditch line and/or positive flow of the curb and gutter.
42. The encroaching party shall reconstruct the shoulders to match the existing cross section.
43. Additional ditching may be required throughout the project and offsite to achieve positive drainage. This is the responsibility of the encroaching party. Existing drainage patterns shall be maintained throughout construction.
44. The encroaching party shall keep the roadway clean of dirt and debris throughout the duration of the project.
45. All curb and gutter constructed within the right of way shall conform to NCDOT Standard 846.01.
46. Drop inlets shall meet NCDOT Standard 840.14, Std. 840.15, or Std. 840.45. The frame and grate shall meet NCDOT Standard 840.16. Steps shall meet NCDOT Standard 840.66.
47. Traffic bearing Junction Box shall meet NCDOT standard 840.34 or 840.46. Manhole access will be required.
48. Concrete Junction boxes shall meet NCDOT Standard 840.31 or 840.32.
49. Drainage structures shall be raised or grading adjusted at the discretion of the District Engineer. Crossline drainage shall be extended as necessary to accommodate shoulder widening.
50. The construction engineering, inspection, and supervision shall be furnished by the encroaching party and staffing of same shall be adequate to ensure sampling, testing, inspection, quality control, etc. is performed to the satisfaction of NCDOT. Private engineering firms used in this work must be on NCDOT's preapproved consultant list.

51. The encroaching party shall furnish to the District Office verification signed and sealed by a Professional Engineer certifying that construction meets NCDOT requirements. Certification shall include the density of backfill around, above and under all pipeline/culvert installation. Test frequency and method shall be in conformance with the NCDOT Materials and Test Manual. Approval or recommendations for compliance will be provided upon receipt and review of report.
52. The encroaching party shall contact William Briley at (919) 733-4699 upon completion of the culvert installation for inspection.
53. The encroaching party shall contact Mike Goodwin, Barry Matherly or Jason Watson at (919) 220-4750 for a final inspection when all work associated with this installation is complete.
54. This encroachment agreement is for the installation of the replacement culvert only and does not constitute a review or approval by NCDOT of any utilities.
55. It is the responsibility of the Engineer of Record to review Working Drawings prior to construction and fabrication. The Engineer of Record shall clearly stamp and initial in red ink, all approved Working Drawings as either "Approved" or "Approved as Noted". One copy of the final stamped and initialed working drawings shall be sent to the Structures Management Unit. Additionally, two copies of all final stamped and approved fabrication and/or production drawings for precast or fabricated members shall be sent to the Materials and Test Unit for Inspection purposes.
56. Upon completion of the Structure – Three (3) copies of the "As Built" plans (noted with any changes) sealed, signed, and dated by a licensed North Carolina Professional Engineer should be submitted to the District Engineer who in turn will forward two(2) copies to the Utilities Unit for their files. The Utilities Unit will forward one (1) copy to the Structures Management Unit for their files. Failure to submit "As Built" plans within 2 weeks after completion of construction may result in revocation of this encroachment agreement.