

Prepared by:

Return to:

**NORTH CAROLINA  
ORANGE COUNTY**

**TOWN OF HILLSBOROUGH**

**ENCROACHMENT AND ESCROW AGREEMENT**

The Town of Hillsborough, a North Carolina municipal corporation (the "Town"), owner of certain real property commonly known as the Riverwalk (the "Riverwalk") , and Mark Garbrick and Lauren Roussel (the "Grantees"), owner of certain real property located at 183 Faribault Lane, Hillsborough, NC 27278(the "Adjacent Property") pursuant to a deed recorded in Orange County Registry Book 6906 at Page 1408 and further identified by Orange County Parcel Identification Number 9864950215, hereby agree as follows:

The purpose of this Encroachment and Escrow Agreement is to establish the terms pursuant to which the Town agrees to allow Grantees to connect a sanitary sewer lateral intended to serve a residence to be constructed on the Adjacent Property. In order to make that connection, Grantees must disturb an area of land on the Riverwalk property. This Agreement is to establish the terms pursuant to which the Town will allow the Grantees (and/or their contractor for the work described herein) to encroach onto the Riverwalk property as shown on Exhibit A annexed hereto.

**ENCROACHMENT TERMS**

The Town hereby grants a license to the Grantee to:

1. Access the Town's Riverwalk Property for a period of five (5) consecutive business days to install a public sanitary sewer service lateral.
2. Allow licensed utility contractors working for the Grantee to install the sewer service by excavating soil on Town property, installing a lateral under an existing paved surface by trenchless methods, and to make a direct connection into an existing sewer manhole on the Riverwalk property.

No further license for any other encroachment into the Riverwalk property as described herein are granted to the Grantees.

The Parties further agree that:

1. This Encroachment Agreement does not convey any title or other interest or estate in the Riverwalk property in any person other than the Grantees.
2. This Encroachment Agreement does not impact or interfere with the Town's rights in the Riverwalk property.
3. This Encroachment Agreement may be modified only by written agreement signed by all Parties hereto.
4. The license granted herein may be revoked at any time by the Town by giving written notice of revocation to the Grantee.
5. Upon such revocation, the Grantee agrees to remove the encroachment authorized herein within thirty (30) days after receipt of the Town's written notice.
6. Any expenses arising from the revocation of the license granted herein or the removal of the structure shall be paid by the Grantee.
7. If the encroachment is not removed as provided in Paragraph 4, above, the Town is authorized to remove the encroachment and other objects on the Riverwalk property without any liability therefore and without the necessity of a hearing or other judicial intervention, with expenses to be paid by the Grantee, and if not paid, the expenses of removal, including any attorney's fees associated with the removal and assertion of the Town's interest, shall be a lien upon the Adjacent Property and shall be collected as unpaid taxes.
8. The Grantees' rights established by this Encroachment Agreement are subject to the following conditions:
  - a. All work performed to make Grantees' sanitary sewer lateral connection to the existing Town sanitary sewer line on the Riverwalk property shall be performed by a NC licensed utility contractor.
  - b. Grantees shall notify the Town Engineering Services department at least 48 hours prior to commencement of any work related to making the aforesaid connection;

- c. Prior to commencement of the work described above, Grantees shall deliver their contractor's estimate of the cost of the work and shall deposit with the Town an amount equal to the estimated cost. Grantees may request partial release/reduction of the escrow balance as work progresses
- d. The new sanitary sewer lateral to serve the Adjacent property shall tie into the existing manhole on the Riverwalk property as shown on Exhibit A.
- e. In the performance of the work, Grantees shall not cut any asphalt on the existing Riverwalk trail surface , but rather shall "bore and jack" beneath the trail surface where necessary.
- f. Grantees and their contractor may not store any equipment or material on the Town's Riverwalk property.
- g. The Town understands that the Riverwalk in the area of the work as shown on Exhibit A may need to be closed temporarily. Grantees shall notify the Town at least 30 days in advance of the intended closure date. The closure shall not extend beyond 5 business days, and the scheduling thereof may be delayed by the Town in the Town's discretion for reasons such as, but not limited, special events and maintenance of the Riverwalk trail.
- h. Grantees shall restore any disturbed area on the Riverwalk property resulting from the work as nearly as possible to its existing condition as of the date of this Agreement.
- i. Failure by Grantees to abide by the terms of this agreement may result in forfeiture of any remaining escrow balance.

**ESCROW TERMS**

The Grantee shall deliver to the Town a check in the amount of Thirty Thousand Dollars (\$30,000.00) as performance security to ensure the timely completion of the sanitary sewer lateral connection pursuant to the terms established above. The Town shall hold the funds in a non-interest bearing account. The Town may use the funds to complete the work described above and as depicted on Exhibit A. If the work, once commenced, is not completed in a timely manner as described above, or if the work is not completed to the standard required by the Town, then the Town may use the escrow funds to either complete the work OR to remove the non-conforming work, in the Town's sole discretion after the Town provides the Grantees with five (5) business days written notice of its intent to do so.

This Encroachment and Escrow Agreement contains the Town's and the Grantees' complete understanding with respect to this matter. This Agreement may not be amended or modified except by a written agreement signed by the parties.

The parties further agree that this Encroachment and Escrow Agreement will be recorded in the Orange County Register of Deeds office in the chain of title for the Adjacent Property so that any successor in title to the Property has record notice of the privileges and obligations associated with this license. The parties also agree that the fees associated with recording the Encroachment Agreement will be paid by the Adjacent Owner.

So agreed this \_\_\_day of \_\_\_\_\_, 202\_\_.

BY:

[INSERT NAME OF ADJACENT OWNER]

\_\_\_\_\_  
[ADJACENT OWNER/TITLE] date  
Adjacent Owner

\_\_\_\_\_  
[ADJACENT OWNER/TITLE] date  
Adjacent Owner

BY:

TOWN OF HILLSBOROUGH

ATTEST:

\_\_\_\_\_  
Eric J. Peterson, Town Manager

\_\_\_\_\_  
[SEAL]  
\_\_\_\_\_, Town Clerk

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that [INSERT NAME(S) OF ADJACENT OWNER(S)], 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: \_\_\_\_\_

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public for said County and State, do hereby certify that \_\_\_\_\_, Hillsborough Town Clerk, personally appeared before me this day and acknowledged that (i) Eric J. Peterson is the Hillsborough Town Manager, and (ii) the due execution of the foregoing instrument.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

SEAL

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_