

Department of Transportation

July 20, 2015



Mr. Bill Bumgarner
Marsh Furniture
1001 S. Centennial Street
High Point, NC 27260

RE: Letter of Understanding: Use of S. Centennial Right-of-Way for Additional Parking and Landscaping

Dear Mr. Bumgarner:

Pursuant to your request on behalf of Marsh Furniture Company ("Marsh") to construct additional parking and new landscaping along the west side of S. Centennial Street between Kearns Avenue and S. Main Street, the City of High Point ("the City") offers the following conditions of approval:

- 1) Marsh proposes to extend an existing paved area used for 90-degree on-street parking approximately 101 feet southward to accommodate up to 10 new parking spaces for employees. The area to be used for this expansion lies partially on public street right-of-way, and partially on railroad right-of-way. Adequate depth for vehicles to back out of the proposed spaces without backing into the street must be provided, estimated at a minimum 30 feet from the existing edge of pavement on S. Centennial Street. If permission from the controlling railroad to use their right-of-way cannot be obtained, or if the minimum depth cannot be achieved, this agreement shall be void.
- 2) The City acknowledges that the desired project to be constructed by Marsh does not meet the requirements for plan review by the Technical Review Committee (TRC), the Watershed Review Committee (WRC), or other independent departmental reviews. No special permits are required. Marsh has, however, provided a sketch plan of the plant site and the proposed additions for documentation purposes.
- 3) Permanent or temporary landscaping is not required. Marsh, however, desires to install and maintain landscaping within the railroad and street rights-of-way at the south end of the proposed improvements. The proposed landscaping and any desired hard features (e.g., block bordering) shall not be placed any closer than 8 feet to the western edge of pavement of S. Centennial Street, and shall not extend southward beyond the right-of-way for S. Main Street.
- 4) Construction of the paved parking area to City development standards is strongly encouraged. A lane/road closure permit must be obtained by Marsh or their general contractor from the City Department of Transportation for construction that may require the temporary closure of any part of S. Centennial Street. Closures and traffic control shall be established and maintained in conformance with the Federal *Manual on Uniform Traffic Control Devices* (MUTCD), including but not limited to the use of signing, barricades, cones, barrels, and flaggers.

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- 5) The City assumes no liability or responsibility for the activities under this Letter of Understanding. Marsh agrees to indemnify and hold harmless the City from any claims arising from or relating to the activities under this Letter of Understanding.
- 6) Marsh shall be required to execute an encroachment agreement provided by the City and be subject to the terms of that agreement.

THE CITY OF HIGH POINT

Reviewed and recommended by:

A handwritten signature in blue ink, appearing to read "Mark V. McDonald".

Mark V. McDonald, P.E.
Transportation Director

Date: 08-25-15

A handwritten signature in blue ink, appearing to read "JoAnne Carlyle".

JoAnne Carlyle
City Attorney

Date: 8/27/15

Approved by:

A handwritten signature in blue ink, appearing to read "Randy E. McCaslin".

Randy E. McCaslin
Deputy City Manager

Date: 8/27/15

Attest: A handwritten signature in blue ink, appearing to read "Lisa Vierling".
Lisa Vierling, City Clerk



A handwritten signature in blue ink, appearing to read "Mollie Marsh Brugh".

Mollie Marsh Brugh
CEO/President, Marsh Furniture Company

Date: 8/7/15

Attest: A handwritten signature in blue ink, appearing to read "Lynn Smith".
Secretary, Marsh Furniture Company

DRAWN BY: JoAnne L. Carlyle, City Attorney
RETURN TO: City Attorney, P.O. Box 230, High Point, NC 27261

NORTH CAROLINA

GUILFORD COUNTY

**RIGHT OF WAY
ENCROACHMENT AGREEMENT**

NTC:

THIS AGREEMENT (Agreement) made this 7 day of August, 2015, between **THE CITY OF HIGH POINT**, a municipal corporation, located at 211 South Hamilton Street, High Point, North Carolina 27260 existing under the laws of the State of North Carolina (the "City") and **MARSH FURNITURE COMPANY**, a corporation in the state of North Carolina, located at 1001 S. Centennial Street, P.O. Box 870, High Point, NC 27261-0870, hereinafter known as the ("Applicant.")

WITNESSETH

WHEREAS, the City owns the a public street right of way located at and around the corner of S. Centennial Street and South Main Street, High Point, North Carolina; and

WHEREAS, the Applicant desires, for its interest and convenience, to construct and extend its existing paved area not more than one hundred (100) feet to accommodate eleven (10) new parking spaces and to provide landscape improvements around the site (collectively the paved area and landscaping referred to as "Improvements") which will cross a currently held public street right of way as shown on Attachment A; and

WHEREAS, the City under the terms and conditions herein set forth, is willing to allow the above described Improvements to be made, and allow the Applicant to encroach upon the above-referenced City-owned right of way; and

WHEREAS, the Applicant has paid to the City the sum of \$100.00, which partially defrays the administrative costs of the City.

NOW, THEREFORE, in consideration of the premises and \$100.00 in hand paid receipt of which is hereby acknowledged and other consideration, the Applicant hereby covenants and agrees that:

1. The Applicant is responsible for any and all expenditure of labor or materials required in the construction, repair, maintenance or location of the above-referenced Improvements.

2. The Applicant is responsible for any and all labor or expense which results from any and all future maintenance and repair of such Improvements, and the removal or dismantling of the Improvements if and when they are removed.

3. The Applicant will fully indemnify and hold harmless the City for any and all property damage or injury to or death of any person which results from any and all negligence, omission, defect in design, maintenance or workmanship created by the Applicant, its agents, employees, contractors or subcontractors in connection with the construction and maintenance of the Improvements, or any cause of action arising out of the installation, maintenance, or location of said Improvements (collectively, "Claims and Causes of Action"). The Applicant will be responsible for defending any and all such claims, as provided in Section 4 below.

4. The Applicant agrees:

- (a) to hold the City, its officers, agents and employees harmless from any and all liability arising out of any such Claims and Causes of Action, and
- (b) to defend the City, its officers, councilors and employees and pay all attorney fees in any and all actions brought as a result of such Claims and Causes of Action; and
- (c) indemnify the City, its officers, agents and employees against any and all loss sustained by reason of such Claims and Causes of Action.

5. The Applicant, during the life of this agreement, agrees to procure or cause to be procured from a responsible insurance carrier or carriers, authorized under the laws of the State of North Carolina, insurance in the minimum amounts of One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate, combined single limit for personal injury, property damage, or wrongful death caused by construction, maintenance, location, repair or visual obstruction of said encroachment with the City of High Point being included as additional insured as respects work under this Agreement. Applicant shall furnish the City upon the City's request, but no more than once in any 12 month period, a 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 (or proof of self-insurance as referenced below). Applicant shall give the City at least 30 days advanced written notice of any cancellation of any required coverage that is not replaced. Should Applicant fail to pay premiums upon said insurance, or should Applicant fail to obtain 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 Applicant shall thereupon terminate, except Applicant shall still be responsible for removing the Equipment from the right of way. In lieu of the foregoing, Applicant may self-insure for any or all of the coverages set forth above.

6. The Applicant, upon completion of the installation of the Improvements, shall submit to the City revised drawings in the form of an AutoCad (.dwg) file for retention by the City if the actual installation differs significantly from the installation shown on the drawings (in such event, the Applicant shall secure approval of the City prior to the differing installation).

7. The Applicant agrees to abide by all lawful statutes and ordinances governing installation of the Improvements as contemplated herein.

8. This Agreement shall not divest the City of any rights or interest in said right of way.

9. This Agreement shall be revocable at will by the High Point City Council by sufficient advance written notice to the Applicant to allow the Applicant to relocate its Improvements in the event that the City is undertaking a road maintenance or improvement project within the public right of way where the Improvements are located with which the Improvements conflicts; and this Agreement shall be terminable by the Applicant by written notice to the City in the event of and following removal of the Improvements.

10. The Applicant shall contact "NC One Call Center" prior to excavation where and in the manner required by the NC One Call law.

11. This Agreement shall be binding upon and inure to the benefit of all of the parties hereto and their heirs, personal representatives, grantees, successors, and assigns.

12. All matters relating to this Agreement shall be governed by laws of the State of North Carolina without regard to its choice of law provisions, and venue for any action related to the Agreement shall be Guilford County Superior Court or the United States District Court for the Middle District of North Carolina.

13. All notices required herein shall be deemed given by depositing such in the United States Mail, first class, and addressed as follows:

If to City:
City of High Point
Transportation Department
P.O. Box 230
High Point, NC 27261
ATTN: Transportation Director

If to Applicant:

Marsh Furniture Company
William Bumgarner, VP of Human Resources
1001 South Centennial Street
P.O. Box 870
High Point, NC 27261-0870

14. This represents the complete Agreement of the parties; any modification of any terms set forth in this Agreement shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the City of High Point has caused this instrument to be signed by its Mayor and attested by its Clerk and its seal to be affixed by the duly-granted authority of its City Council, the day and year first above written.

APPLICANT

(Corporate Seal)
if corporation

By: Mollie Marsh Brugh

Print Name: Mollie Marsh Brugh

Title: President/CEO, Marsh Furniture Company

ATTEST: Kevin L. Smith
Kevin L. Smith, Secretary

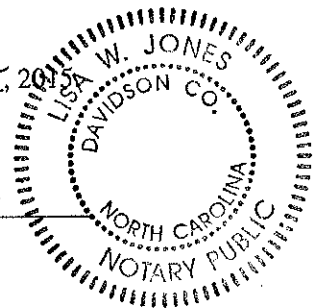
STATE OF North Carolina
Guilford COUNTY

I, Lisa W. Jones, a Notary Public of the County and State, do hereby certify that Mollie Marsh Brugh, personally came before me this day and acknowledged that he/she is President/CEO of Marsh Furniture Company, and that he/she, as President being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official stamp or seal, this the 7th day of August, 2018

My commission Expires: 8-14-2018

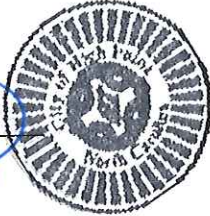
Lisa W. Jones
Notary Public



ATTEST:

CITY OF HIGH POINT

Lisa B. Vierling
Lisa B. Vierling, City Clerk



By: William S. Bencini, Jr.
William S. Bencini, Jr., Mayor

NORTH CAROLINA

GUILFORD COUNTY

I, Cynthia C. Duncan-Smith, a Notary Public of said county and state do hereby certify that Lisa B. Vierling is known to me as City Clerk of the City of High Point; that she personally appeared before me this date; and, that by authority duly given, and as the act of the said City of High Point, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by herself as its clerk.

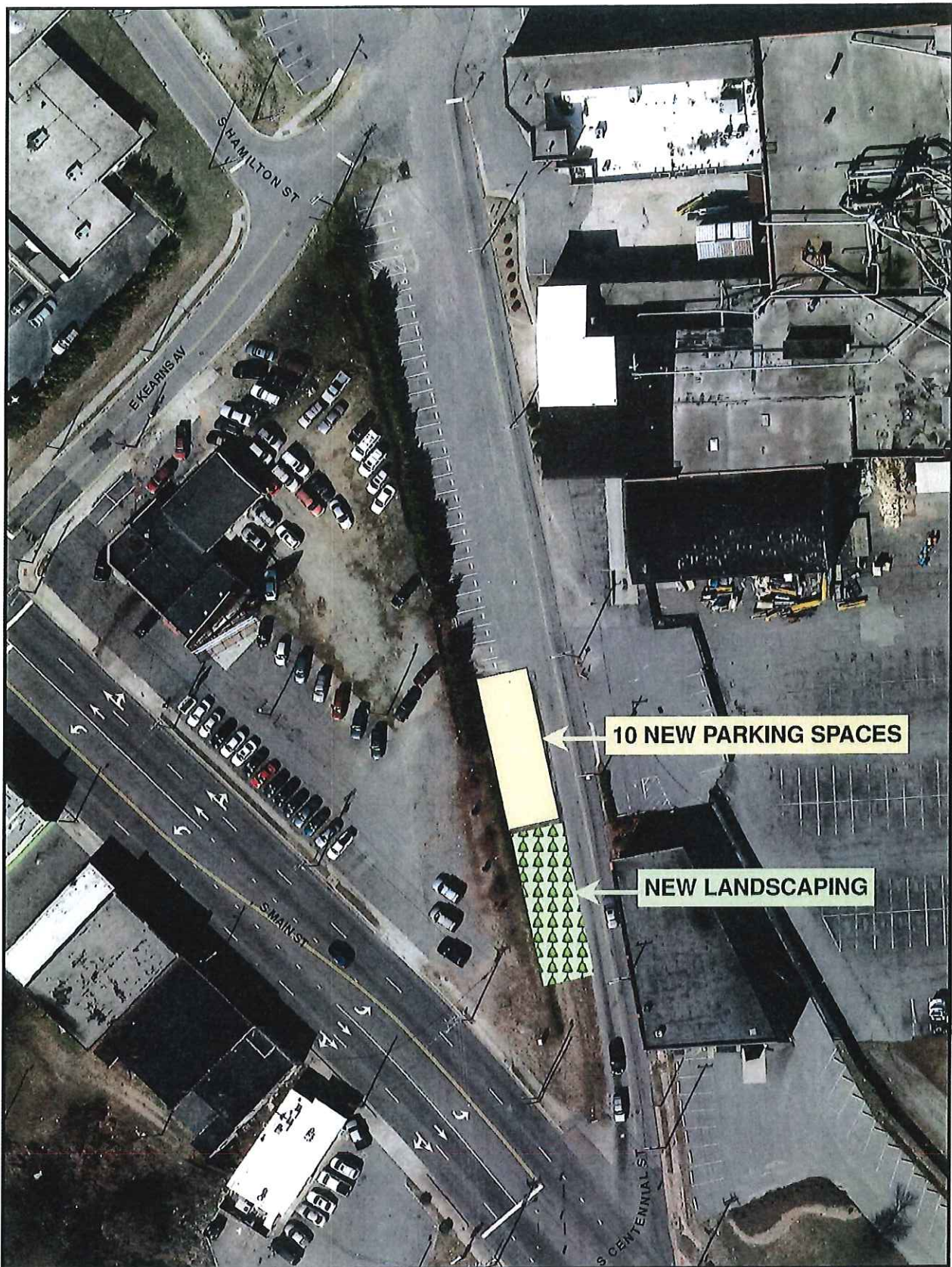
Witness my hand and official stamp or seal, this the 28th day of August, 2015.

My commission Expires: 11/18/2020

Cynthia C. Duncan-Smith
Notary Public

CYNTHIA C. DUNCAN-SMITH
NOTARY PUBLIC
GUILFORD COUNTY, NC

EXHIBIT A

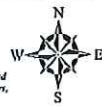


MARSH FURNITURE PARKING PROPOSAL



MAP PREPARED BY
HIGH POINT MPO
211 S. HAMILTON STREET
HIGH POINT, NORTH CAROLINA 27260
JULY 2015

This map is provided as a public information resource and every reasonable effort has been made to assure the quality of the map. This data information and related graphics are not legal documents and are not intended to be used as such. The City of High Point makes no warranty, express or implied, as to the accuracy, reliability, utility or completeness of this information. The City of High Point assumes no liability either for any errors, omissions, or inaccuracies in the information provided regardless of the cause of such or for any decision made, action taken, or action not taken by the user in reliance upon any maps or information provided herein.





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/31/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Commercial Lines – 800-868-8834 Wells Fargo Insurance Services USA, Inc. 6100 Fairview Road Charlotte, NC 28210	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A : Phoenix Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :
INSURED Marsh Furniture Company, Inc. P O Box 870 High Point NC 27261	FAX (A/C, No): NAIC # 25623

COVERAGES

CERTIFICATE NUMBER: 9406187

REVISION NUMBER: See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY			Y-630-6A689223-PHX-14	11/01/14	11/01/15	EACH OCCURRENCE	\$ 1,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 5,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	\$ 2,000,000
	<input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC							\$
	OTHER:							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS							\$
	<input type="checkbox"/> NON-OWNED AUTOS							
	UMBRELLA LIAB						EACH OCCURRENCE	\$
	EXCESS LIAB						AGGREGATE	\$
	<input type="checkbox"/> OCCUR							\$
	<input type="checkbox"/> CLAIMS-MADE							
	DED							
	RETENTION \$							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of High Point is additional insured on General Liability with respect to work performed by the named insured.

CERTIFICATE HOLDER

CANCELLATION

City of High Point Public Services Department P.O. Box 230 High Point, NC 27261	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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ACORD 25 (2014/01)

(This certificate replaces certificate# 9406183 issued on 7/31/2015)