

ORDINANCE NO. BL2020 - 155

An Ordinance authorizing OliverMcMillan Spectrum Emery LLC to install, construct and maintain underground encroachments in the right-of-way located at 500 Broadway (Proposal No. 2020M-005EN-001).

WHEREAS, OliverMcMillan Spectrum Emery LLC plans to install, construct and maintain underground encroachments in the right-of-way of 500 Broadway, under proposal No. 2020M-005EN-001; and,

WHEREAS, the underground encroachments are comprised of tree grates, bollards, a DES ventilation shaft, trees, and structural soil, encroaching the public right-of-way, on property located on 500 Broadway; and,

WHEREAS, OliverMcMillan Spectrum Emery LLC has agreed to indemnify and hold The Metropolitan Government of Nashville and Davidson County harmless of any and all claims for damages of every nature and kind resulting from or arising from the installation of said encroachments.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That subject to the requirements, limitations and conditions contained herein and in the attached License Agreement, OliverMcMillan Spectrum Emery LLC is hereby granted the privilege to construct and maintain said encroachments under proposal No. 2020M-005EN-001, in accordance with the plans which are on file in the office of the Director of Public Works, and which are more particularly described by lines, words and figures on the attached sketches which are attached to and made a part of this Ordinance.

Section 2. That the authority granted hereby for the construction, installation, operation, and maintenance of said encroachments under proposal No. 2020M-005EN-001 shall not be construed as a surrender by the Metropolitan Government of its rights or power to pass resolutions or ordinances regulating the use of its streets, or the right of the Metropolitan Government through its legislative body, in the interest of public necessity and convenience to order the relocation of said facilities at the expense OliverMcMillan Spectrum Emery LLC.

Section 3. That plans and specifications for said encroachments under proposal No. 2020M-005EN-001 shall be submitted to the Director of Public Works of The Metropolitan Government of Nashville and Davidson County for approval before any work is begun; and all work, material, and other details of said installation shall be approved by the Director of Public Works prior to its use by OliverMcMillan Spectrum Emery LLC.

Section 4. That construction and maintenance of said encroachments under proposal No. 2020M-005EN-001 shall be under the direction, supervision and control of the Director of Public Works, and their installation, when complete, must be approved by said Director.

Section 5. That this Ordinance confers upon OliverMcMillan Spectrum Emery LLC a privilege and not a franchise, and the Mayor and the Metropolitan Council herein expressly reserve the right to repeal this ordinance, whenever, in their judgment, a repeal may be demanded by public welfare, and such repeal shall confer no liability on The Metropolitan Government of Nashville and Davidson County, its successors and assigns, by reason of said repeal. In the event of such repeal by Metropolitan Government, OliverMcMillan Spectrum Emery LLC, its successors and assigns, shall remove said encroachment at their own expense.

Section 6. OliverMcMillan Spectrum Emery LLC, its successors and assigns, shall pay all costs incident to the construction, installation, operation and maintenance of said encroachments under proposal No. 2020M-005EN-001 and shall save and hold The Metropolitan Government of Nashville and Davidson County harmless from all suits, costs, claims, damages or judgments in any way connected with the construction, installation, operation and maintenance of said encroachments and shall not claim, set up or plead, as a defense, in the event of joint liability, with or without suit, that it and the Metropolitan Government were joint wrongdoers. OliverMcMillan Spectrum Emery LLC, its successors and assigns, shall be responsible for the expense, if any, of repairing and returning the right-of-way to the condition which it was in prior to the installation of said encroachments and for any street closure.

Section 7. That the authority granted to OliverMcMillan Spectrum Emery LLC as herein described, shall not in any way interfere with the rights of the Metropolitan Government, its agents, servants, and/or contractors and utility companies, operating under franchise from the Metropolitan Government to enter, construct, operate, maintain, repair, rebuild, enlarge, and patrol its now existing or future utilities, including drainage facilities, together with their appurtenances, and to do any and all things necessary and incidental thereto.

Section 8. OliverMcMillan Spectrum Emery LLC shall and is hereby required to furnish The Metropolitan Government of Nashville and Davidson County a certificate of public liability insurance, naming The Metropolitan Government as an insured party, of at least four million (\$4,000,000) dollars aggregate, for the payment of any judgment had on any claim, of whatever nature, made for actions or causes of action arising out of, or connected with, the construction or installation of said encroachment. Said certificate of insurance shall be filed with the Metropolitan Clerk and the Department of Public Works prior to the granting of a permit, and the insurance required herein shall not be canceled without the insurance company or companies first giving thirty (30) days written notice to The Metropolitan Government of Nashville and Davidson County.

Section 9. That said construction shall be carefully guarded and protected, and shall be completed promptly, so as to cause the least inconvenience to the public. The acceptance by OliverMcMillan Spectrum Emery LLC of all provisions of this Ordinance shall be determined by the beginning of work.

Section 10. The authority granted pursuant to this Ordinance shall not become effective until the certificate of insurance, as required in Section 8, has been posted with the Department of Public Works.

Section 11. This Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

SK Wahlstrom
for M. Sturtevant

Mark Sturtevant, Director
Department of Public Works

INTRODUCED BY:

APPROVED AS TO FORM
AND LEGALITY:

P. J. Cadell
Assistant Metropolitan Attorney

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink, appearing to read "Freddie O'Connell". The signature is written in a cursive style with a large initial 'F' and 'O'.

Freddie O'Connell, Councilmember, District 19

Electronic Signature Page

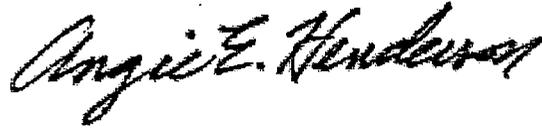
(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink that reads "Kathleen D. Murphy". The signature is written in a cursive style with a large, looped initial "K".

Kathleen Murphy
Councilmember, District 24

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink that reads "Angie E. Henderson". The signature is written in a cursive style with a large initial 'A' and 'H'.

Angie Henderson
Councilmember, District 34

Proposal No. 2020M-005EN-001



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/04/2019

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 have ADDITIONAL INSURED provisions or 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 Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	CONTACT NAME PHONE (Int. No., Ext.) (516) 396-4800 FAX (Int. No.) (800) 353-0105 E-MAIL ADDRESS	
	INSURER(S) AFFORDING COVERAGE	
INSURED Skanska USA Building Inc. 5000 Meridian Blvd., Suite 200 Franklin TN 37067 USA	INSURER A: Berkshire Hathaway Specialty Ins Company	22276
	INSURER B: Zurich American Ins Co	16535
	INSURER C: American Zurich Ins Co	40142
	INSURER D:	
	INSURER E:	

Holder Identifier:

COVERAGES CERTIFICATE NUMBER: 670078148728 REVISION NUMBER:

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. Limits shown are as requested.

INSURER	TYPE OF INSURANCE	AUTHORITY (REG. NO.)	POLICY NUMBER	POLICY EFF. DATE	POLICY EXPI. DATE	LIMITS
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> Wrap-Up GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER		GL0019164700	05/19/2016	05/19/2021	EACH OCCURRENCE \$2,000,000 UNFAVORABLE RENTED PREMISES (Per occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,500,000 PRODUCTS - COMBINED AGG \$4,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-SCHEDULED AUTOS ONLY					COMBINED SINGLE LIMIT (Per accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> (P.D.) INDENTATION		47XSF20258101 Primary \$25M	05/19/2016	05/19/2021	EACH OCCURRENCE \$25,000,000 AGGREGATE \$25,000,000
C	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? (Mandatory in MO) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	WCD19564803	05/19/2019	05/19/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER EL EACH ACCIDENT \$2,000,000 EL DISEASE-BA EMPLOYER \$2,000,000 EL DISEASE-POLICY LIMIT \$2,000,000

Certificate No : 670078148728

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Nashville Convention Center Redevelopment # 2514000-000. Coverage is limited to work performed at the Skanska USA Building Inc., Nashville Convention Center Redevelopment under contract 2514000-000. The project is located at 601 Commerce Street Nashville, TN 37203. Skanska USA Building Inc., Skanska USA Inc., Skanska Inc., and each of their respective directors, officers, employees and affiliates, Indemnified Parties, any other parties as required by the Owner contract, The Metropolitan Government of Nashville and Davidson County, and ALL UNROLLED PARTIES are listed as additional insured's on a primary and non-contributory basis on the General Liability and Excess Liability coverages. Waiver of Subrogation applies to all policies. Olyyatrckh:Man Spectrum Emery, LLC is an Additional Named Insured to the General Liability.

CERTIFICATE HOLDER The Metropolitan Government of Nashville & Davidson County Metro Legal & Claims C/O Insurance and Safety Division 222 3rd Avenue North Ste #501 Nashville TN 37201 USA	CANCELLATION 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 <i>Aon Risk Services Northeast Inc</i>

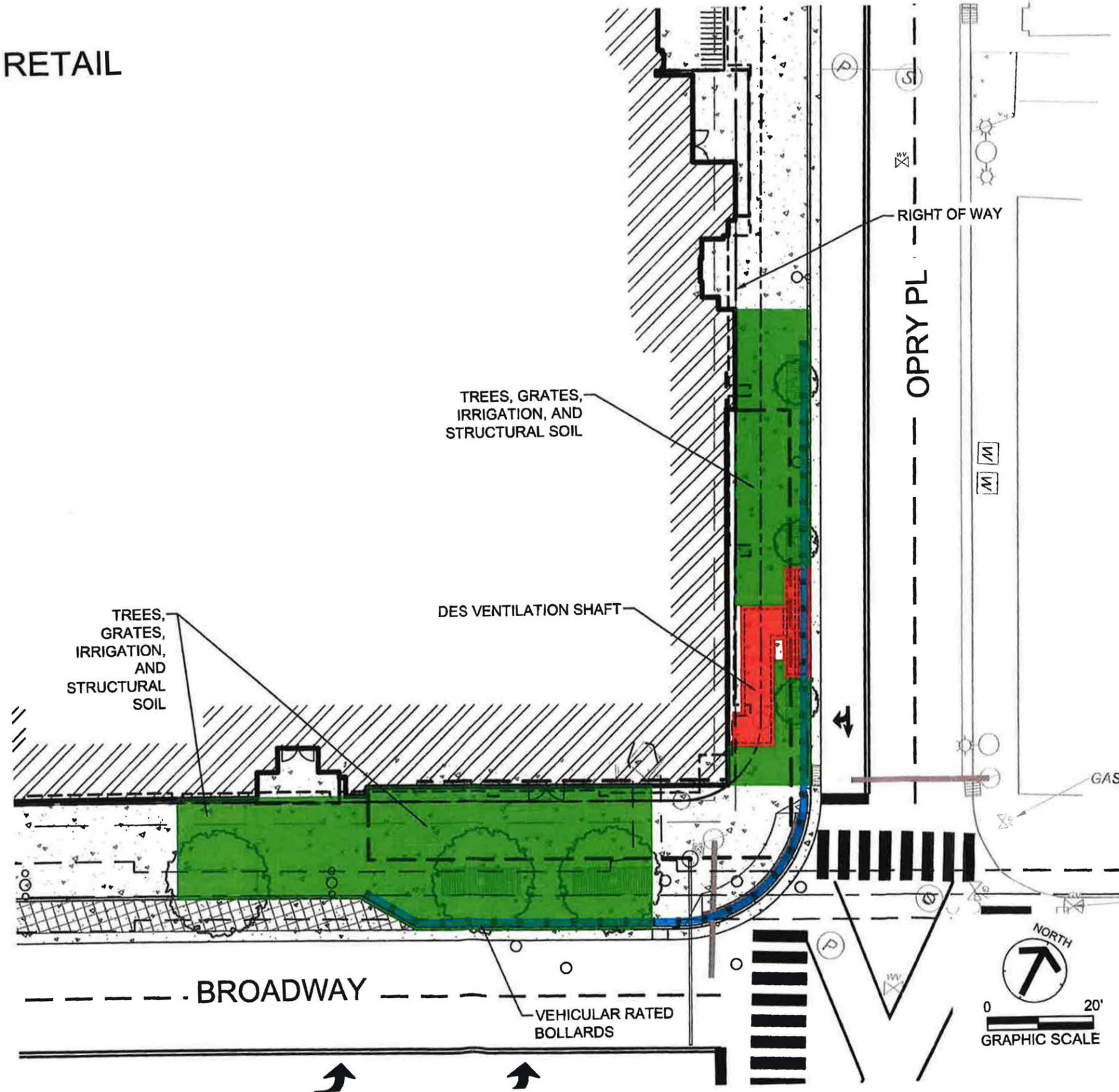
ACORD 25 (2016/03)

©1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

LEGEND

- TREES, GRATES, IRRIGATION, AND STRUCTURAL SOIL 
- BOLLARDS 
- DES VENTILATION SHAFT 

RETAIL



CLIENT
OMISE
OliverMcMillan
 733 8th Avenue, San Diego, CA 92101

PROJECT
FIFTH + BROADWAY
NASHVILLE
 500 Broadway, Nashville TN, 37203

Gresham Smith

WOODS BAGOT.

PRELIMINARY
 NOT FOR
 CONSTRUCTION

MANDATORY
 REFERRAL
 SITE PLAN
 GROUND
 ENCROACHMENTS

0.MR.2.3