

CITY OF MIRAMAR

INSTRUCTIONS TO HOMEOWNERS AND/OR CONTRACTORS EASEMENT ENCROACHMENT AGREEMENT

PLEASE READ PRIOR TO COMPLETING AGREEMENT

1. Obtain the Agreement from either the Zoning Division or Engineering Services Department.
2. An extra copy of a survey must go with this Agreement. (That means a third copy will be needed, in addition to the two copies that are turned in with the permit).
3. Obtain a permit (process number) and folio number from the Building Division prior to going to Engineering.
4. Complete the Agreement with **OMITTING THE DATE**. (This will be completed by the City Clerks' office).
5. The permit remains in the Zoning Division. The Agreement needs to be signed by BellSouth, Florida City Gas (east of Red Road), FPL and Comcast.
6. A copy of the S.B.D.D. Permit is needed when encroaching into the South Broward District Easement.
7. Take Agreement to Engineering Services Department (**with a copy of the survey**). Survey is needed in order to locate utilities - water and/or sewer (if any) in the easement.
8. Engineering Services Department will collect a fee for recording Encroachment Agreement with Broward County. Make check payable to City of Miramar. Fee is computed as the following:
 - a. \$10.00 for first page
 - b. \$ 8.50 for additional pagesOn page final survey plus Agreement - \$61.00
Two page final survey plus Agreement - \$69.50
9. From the Engineering Services Department it will be forwarded to the City Clerk and then City Manager. Once the Agreement is signed, it will then be returned to the Engineering Services Department. A copy will then be given to Zoning Division.

10. Make sure to leave your telephone number when turning the Agreement into Engineering Services Department. You will be contacted you when Agreement is signed and forwarded to Zoning.

Folio#
Permit #

Revocable License Agreement To Encroach Into Easement

(Building Permit/Site Plan Process No.____)

THIS REVOCABLE LICENSE AGREEMENT, is entered into this _____ day of _____, 2007, by and between _____ (“Owner”), whose address is _____ MIRAMAR, FLORIDA, a Florida Municipal corporation (“City”).

WHEREAS, Owner desires permission from the City to encroach upon a public utility easement owned by the City; and

WHEREAS, Owner has requested that City grant it this Revocable License to utilize that public utility easement for the purposes set forth in this Revocable License Agreement: and

WHEREAS, City is willing to grant Owner this Revocable License for the purposes set forth herein, subject to certain terms and conditions; and

WHEREAS, in consideration of receipt of this Revocable License, Owner agrees to be bound by the limiting conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and are made a part of this Revocable License Agreement by this reference.

2. **Access.** Owner acknowledges that access to the ___ foot public utility easement running along the _____ portion of the property at _____ Miramar, Florida, and legally described as _____

_____ (the “Property”), may be limited due to the construction of a _____ (as reflected on the sketch or survey attached as Exhibit “A”) encroaching into the above referenced access easement. In the event the City or a public utility wishes to obtain ingress and/or egress to this easement for any purposes including, but not limited to, installation, maintenance or repair of facilities, Owner agrees that it shall, at its

sol expense, remove any and all structures, landscaping and other material in the easement. In the event the Owner fails to comply within thirty (30) days notice, City may remove any and all structures, landscaping and other material in the easement and Owner shall be responsible for all removal costs. Owner bears all risk of loss as to monies expended in furtherance of the use, and City may then lien Owner's property for any and all such expenses incurred.

3. **Costs.** Owner agrees to pay all investigative costs, court costs and reasonable attorney's fees resulting from any successful action taken by City to obtain compliance with the conditions of this Revocable License or removal of the use.

4. **Indemnification.** Owner shall, at all times hereafter, indemnify and hold harmless the City and its officers, agents and employees from and against all claims, damages, losses and expenses, arising out of or relating to this Revocable License or any encroachment on the Property including, but not limited to, claims, damages, losses or expenses resulting from bodily injury, sickness, disease, personal injury or death, or the injury to or destruction of tangible property including the loss of or loss of use resulting therefrom. This obligation expressly includes any alleged or actual negligence by City as to all activities regarding the easement, including enforcement of said conditions. Nothing in the Revocable License shall be construed to limit the rights, privileges or immunities accorded to the City by Section 768.28, Florida Statutes, as amended from time to time. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

5. **Defense.** Owner agrees to defend the City against any claims brought, or actions filed, against City with respect to the subject of the indemnity contained herein, whether such claims or actions are rightly or wrongfully brought or filed. In case a claim should be brought or an action filed with respect to the subject of indemnity herein, Owner agrees to employ attorneys selected by the City to appear and defend the claim or action on behalf of City, at the expense of Owner. City, subject to Owner review and approval, shall have the authority for the direction of the defense. The City Commission shall review and decide upon the acceptability of any compromise or settlement of any claims or actions against City.

6. **Successors and Assigns.** The obligations and conditions of this Revocable License Agreement, and the rights and interests created herein, shall be binding upon and inuring to the benefit of the parties hereto and their respective successors and assigns.

7. **Applicable Law and Venue.** This Revocable License shall be construed in accordance with and governed by the laws of the State of Florida. Venue for litigation concerning this Revocable License shall be in Broward County, Florida.

8. **Term.** This is an annual Revocable License, automatically renewable each year unless terminated pursuant to Section 9 of this License.

9. **Termination.** This Revocable License is only a right to use, and grants no estate or ownership rights in the Property. This Revocable License may be cancelled by the City at any time during the term hereof at its sole discretion. This Revocable License may be terminated by Owner by removing the encroachment, by returning the Property to its original condition and by notifying the City of said removal in writing. Upon confirmation of the foregoing, the City shall provide Owner with a release of this License for Owner to record at Owner's expense.

10. **Use of Property.** Owner shall use and occupy the Property under this Revocable License for _____ (describe encroachment). The Property shall not be used for any other purpose whatsoever without written consent of the City. Owner covenants that Owner will not, without written consent of the City, permit the Property to be used or occupied by any person, firm, entity or corporation other than Owner and Owner's agents. Owner further covenants that no nuisance or hazardous trade or occupation shall be permitted or carried on, in or upon said Property, and no act shall be permitted and nothing shall be kept in or about said Property, which will increase the risk of any hazard, fire or catastrophe, and no waste shall be permitted or committed upon or any damage done to said Property. Owner shall not permit the Property to be used or occupied in any manner which will violate any laws or regulations of any governmental authority.

11. **Alterations and Improvements to Property.** Owner may not make alteration, adjustment, partition, addition or improvement to the Property or any part thereof without first obtaining the written consent of the City. All requests by the Owner shall be in writing and shall contain all pertinent plans and specifications. All alterations, adjustments, partitions, additions or improvements to the Property shall remain the exclusive property of the City. All such alterations or improvements shall be made at the sole cost and expense of the Owner. Owner shall keep the premises in a clean, safe and sanitary condition.

12. **Inspections.** The City or its agents, or any authorized employee of said agent, may enter upon said Property at all reasonable times and hours to examine same to determine if Owner is properly maintaining the Property pursuant to this Revocable License.

13. **Amendments.** No modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

14. **Severance.** In the event this Revocable License or a portion of this License is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Owner elect to terminate this License.

15. **Priority of Provisions.** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any Exhibit attached hereto, any document or events referred to herein or any document incorporated into this Revocable License by reference or a term statement, requirement or provision of this License, the term, statement requirement or provision contained in this License shall prevail and be given effect.

16. **Prior Agreements.** This document incorporates and includes all prior negotiations, correspondences, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understanding concerning subject matter of this Revocable License that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or condition contained herein shall be effective unless contained in a written document utilizing the same formalities as this License.

17. **Compliance With Laws.** Owner shall comply with all federal, state and local laws, codes, ordinances, rules and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

18. **Surrender Upon Termination.** Upon termination in accordance with paragraph 9 above, Owner shall peaceably surrender and deliver the licensed Property to the City, or its agents. Owner further agrees that it will leave the licensed Property in the condition existing at the commencement of this Revocable License, with all alterations, adjustments, partitions, additions or improvements excepted and any normal wear and tear excepted, subject to the repair and maintenance obligations provided in this Revocable License.

19. **Waiver.** Failure of the City to insist upon strict performance of any covenant or condition of this Revocable License Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect. None of the conditions, covenants or provisions of this Revocable License Agreement shall be waived or modified except by the parties hereto in writing.

20. **Notices.** Any notice or demand, which under the terms of this Revocable License or by any statute or ordinance, given or made by a party hereto, shall be in writing and shall be given by certified U.S. mail sent to the other party at the address set forth below, or to such other address as such party may from time to time designate by notice.

Notice to the City shall be addressed to:

City of Miramar
Vernon E. Hargray
Assistant City Manager
2300 Civic Center Place
Miramar, FL 33025

Notice to the Owner shall be addressed to:

21. **Recordation.** This Revocable License shall be recorded in the Public Records of Broward County with the Owner paying for the costs of such recordation.

22. **City Attorney Approval.** The City Attorney has approved the standard, pre-printed terms and conditions set forth in this Revocable License as to form and legality. Accordingly, no modification of these terms and conditions shall be binding upon the City unless they are specifically endorsed and approved by the City Attorney.

{THIS SPACE INTENTIONALLY LEFT BLANK}

Notarized

IN WITNESS WHEREOF, the parties hereto have executed this Revocable License as of the day and year fist above written.

Attest:

CITY OF MIRAMAR, FLORIDA

Yvette M. McLeary, City Clerk

By: _____
Vernon E. Hargray
Assistant City Manager

Witnesses as to Owner

OWNER

(Sign / Print Name)

By: _____
(Signature)

(Print Name)

(Sign / Print Name)

STATE OF FLORIDA)
 SS:
COUNTY OF BROWARD)

The forgoing instrument was acknowledged before me this ____ day of _____, 2007 by _____ who (check one) { } is personally known to me or { } produced _____ as identification.

Notary Public, State of Florida

Print Name: _____
My Commission expires: _____