

# CITY OF MIRAMAR

## INSTRUCTIONS TO HOMEOWNERS AND/OR CONTRACTORS EASEMENT ENCROACHMENT AGREEMENT

1. Homeowner/Contractor visits the Zoning Division of Community and Economic Development department with a copy of survey and explains the desire to construct a fence encroaching into a utility easement.
2. Zoning/Engineering schedule a field visit and verify whether any utility box, water meter, sewer clean outs etc. exists within the area of the proposed work.
3. Zoning contacts the Homeowner/Contractor and advises whether a fence permit can/cannot be approved encroaching into the utility easement. If encroachment can be allowed, all the required forms for execution of the "License to Encroach into Utility Easement" (the Agreement) will be forwarded to the Homeowner/Contractor for execution.
4. Homeowner/Contractor completes the fence permit application and the back-up documents, along with completed Agreement and its back-up documents to zoning division.
5. Obtain a permit (process number) and folio number from the Building Division.
6. Submit the Agreement along with its back-up documents, copy of survey and permit drawing to engineering services.
7. The permit application remains in the Zoning Division. The consent letters need to be signed by AT&T, Florida City Gas (east of Red Road), FPL, Comcast and City of Miramar Utility department. For the consent from Miramar Utility department, the Homeowner/Contractor can submit the completed and signed form to engineering division to coordinate with Utilities for signature.
8. A copy of the S.B.D.D. Permit is needed when encroaching into the South Broward District Drainage Easement or Lake Maintenance Easement.
9. A **\$400.00** Processing fee will be collected for processing the Agreement. Check need to be made payable to **City of Miramar**.
10. From Engineering Services, the Agreement will be forwarded to the City Clerk and then City Manager. Once the Agreement is executed, the documents need to be recorded in Broward County Records and the originals will keep in City Clerk office. **Owner shall be responsible for recordation fees and need to pay upfront with processing fee.** Allow approx. 4 to 6 weeks for processing. (All documents must be legible)
11. Make sure to leave telephone number / email address when turning the Agreement into Engineering Services. Engineering Services will contact the Homeowner/Contractor when Agreement is signed and recorded copy forwarded to Planning and Zoning.

**REVOCABLE LICENSE AGREEMENT**  
**TO ENCROACH INTO EASEMENT**

**Folio #**  
**Permit #**

**(Building Permit/Site Plan Process No. \_\_\_\_\_)**

**THIS REVOCABLE LICENSE AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ (“Owner”), whose address is \_\_\_\_\_, and the CITY OF 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.** City and Owner acknowledge that access to the \_\_\_\_ foot public utility easement running along the \_\_\_\_\_ portion of the property (the “Easement”) 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”) (the “Encroachment”) encroaching into the above referenced access easement.

**2.1 Routine Access.** 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 sole expense, remove the Encroachment and any and all structures, landscaping and other material in the Easement. In the event the Owner fails to comply within 30 days' notice, City may remove such Encroachment and materials from 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. Owner shall be responsible for any replacement or reconstruction to restore the Owner's Encroachment or Use of the Property.

**2.2 Emergency Access.** In the event the City or a public utility must obtain emergency access to prevent property damage or avoid the endangerment of the health, safety or welfare of the public, the City shall have the right to immediate access. The City shall make reasonable efforts to notify the Owner and allow Owner the opportunity to remove the Encroachment and any and all structures, landscaping and other material from the easement. However, in the event Owner is not available or unable to remove the structures, landscaping or other materials immediately, the City shall remove such materials 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 including processing and recording fees. Owner shall be responsible for any replacement or reconstruction to restore the Owner's Use of the Property.

**2.3 Release.** City shall have no liability to Owner, or its employees, contractors, agents, and invitees in connection with the Encroachment or Easement, this Agreement and the subject matter hereof, including, without limitation, any Claims in connection with, related to, or arising from the City's routine or emergency access to the easement area, including, but not limited to, any Claims for damage to the Easement Area, Encroachment, improvements on the Encroachment or the Property. The Owner hereby releases the City, its officials, employees and agents with respect to the foregoing.

**3. Use of Property.** Owner shall use and occupy the Property under this Revocable License for \_\_\_\_\_ (describe encroachment) (the "Use"). 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.

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

**5. 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 or Use 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.

**6. 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 rightfully 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.

**7. Assignability.** In the event the Owner sells or in any way conveys the Property to another party, Owner shall either remove the Encroachment or, with the written consent of the City, may assign and delegate to that party the rights and responsibilities set forth hereunder through execution by that party of a replacement Revocable License Agreement with the City.

**8. 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.

**9. Term.** This is an annual Revocable License, automatically renewable each year unless terminated pursuant to Section 10 of this License.

**10. 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.

**11. Alterations and Improvements to Property.** Owner may not make any 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, expense and risk 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, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the 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 conditions 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 10 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 Hargray, 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]

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

**CITY OF MIRAMAR, FLORIDA**

Attest:

\_\_\_\_\_  
Denise Gibbs  
City Clerk

By: \_\_\_\_\_  
Vernon Hargray  
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 foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who (check one) [  ] is personally known to me or [  ] produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

My commission expires:



Witnesses as to Owner

**OWNER**

\_\_\_\_\_  
(Sign / Print Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Sign / Print Name)

STATE OF FLORIDA            )  
  ) SS:  
COUNTY OF BROWARD        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who (check one) [ ] is personally known to me or [ ] produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

My commission expires:

## Utility Company Contacts

### **Comcast**

2601 SW 145<sup>th</sup> Avenue  
Miramar, FL 33027  
954-447-8410  
Fax (954) 447-8445  
Email: [leonard\\_maxwell-newbold@cable.comcast.com](mailto:leonard_maxwell-newbold@cable.comcast.com)  
Contact Person: Leonard Maxwell-Newbold

### **AT&T**

#### **Faye Hunt**

Email: [fh3403@att.com](mailto:fh3403@att.com)  
Phone: 954-723-2401  
Fax: (954) 423-6108

### Via Regular Mail

AT&T  
Attn: Easement  
8601 W. Sunrise Blvd.  
Plantation FL 33322

### **Florida City Gas**

Florida City Gas Company of Florida  
993 E 25 Street  
Hialeah, FL 33013  
Fax: (305) 695-7079 or (305) 835-3603  
*Contact Person:*  
Mildred A. Valdez

**NOT NEEDED FOR RESIDENTS  
WEST OF RED ROAD**

### **FPL**

Florida Power and Light Company  
4000 Davie Road extension  
Hollywood, Florida 33024  
Phone: (954) 442-6350.  
Fax. (954) 442-6340.

### **City of Miramar**

George Albury  
Engineering Technician  
2200 Civic Center Place ▪ Miramar, Florida 33025  
954.602.3321 Office  
[gfalbury@miramarfl.gov](mailto:gfalbury@miramarfl.gov)

