ENCROACHMENT AGREEMENT
PLACEMENT OF CRANE ON CITY RIGHT OF WAY OR PRIVATE PROPERTY PROJECTING OVER CITY RIGHT-OF-WAY

This Agreement is made and entered this _____day of _____, 20_____, by and between the Property Owner, or its duly authorized legal representative, hereinafter referred to as "OWNER", _____ (insert the name of the legal entity/ individual that owns the property), the General Contractor or Trade Contractor (in absence of a General Contractor controlling the site) hereinafter referred to as "CONTRACTOR" _____ (insert the name of the legal entity), and the Crane Contractor _____ (insert the name of the legal entity that will be operating the crane) hereinafter referred to as "CRANE CONTRACTOR", and the City of Coral Gables, a Florida municipal corporation, hereinafter referred to as "CITY."

RECITALS

WHEREAS, the OWNER, CONTRACTOR, and CRANE CONTRACTOR desire to place a crane in the CITY's right-of-way or on private property which may project over the CITY's right-of-way located at _____, (insert address where crane will be placed) Coral Gables, Florida, and in order to _____ pursuant to Permit Application No._____;and

WHEREAS, this document is accepted by the City of Coral Gables as part of, or as a condition of, any such comprehensive plan or plan amendment; zoning ordinance; land development regulation; building code; development permit; development order; or other law, regulation, or regulatory approval.

WHEREAS, the CITY is willing to allow the placement of a crane in or over the CITY's right of way without prejudice to the CITY's right to request that the crane be removed at a later date.

NOW THEREFORE, in consideration of the mutual covenants herein contained, and as further consideration for the CITY's approval to encroach upon its right-of-way, the sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein as if repeated in their entirety.
2. The CITY hereby grants permission for the placement of the crane in the City of Coral Gables' right-of-way or on private property which may project over the City's right-of-way. Placement of said crane shall be in accordance with the placement area approved by the CITY.
3. The term of the Agreement shall be from the ____day of _____, 20_____to the date that the crane is removed from the site.
4. At any time, the CITY may require either the permanent or temporary removal of said crane. OWNER, both for themselves and their successors in interest in the Property, agrees that at such time as the CITY requires temporary or permanent removal of the aforesaid crane, they will do so promptly and at their own expense. OWNER further agrees that if they should fail to do so within two (2) days of a request from the CITY for removal, the CITY may remove the aforesaid crane and impose the cost of removal thereof as a lien against the Property. Such lien shall be in parity or coequal with the lien of all state, county, district and city taxes, superior in dignity to all other liens, titles and claims. In the event of an emergency, the CITY shall have the right to remove the crane without notice to OWNER, CONTRACTOR, or CRANE CONTRACTOR and without any obligation or liability to OWNER, CONTRACTOR, or CRANE CONTRACTOR for damages to the crane or other property.

5. To the fullest extent permitted by laws and regulations, the OWNER, CONTRACTOR, and CRANE CONTRACTOR hereby agree to defend, indemnify, and hold harmless the CITY, its commissioners, attorneys, consultants, employees, representatives, officers, agents, the administration, and elected and appointed officials, from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting from, in whole or in part, any tortious conduct, intentional acts, malicious conduct, and negligent acts and/or omissions, on the part of the OWNER, CONTRACTOR, and/or CRANE CONTRACTOR, their tenants, agents, subcontractors, or any person or organization directly or indirectly employed by the OWNER, CONTRACTOR, and/or CRANE CONTRACTOR for whose acts any of them may be liable (directly or indirectly) for the placement, maintenance, operation or dismantling of the subject crane. OWNER, CONTRACTOR, and CRANE CONTRACTOR also hereby agree to defend, indemnify, and hold harmless the CITY for any claims or causes of actions alleged to have been caused by the CITY's acts and/or omissions. OWNER, CONTRACTOR, and CRANE CONTRACTOR shall obtain insurance, which shall provide for the indemnity provisions provided herein. Moreover, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or under workers' or workman's compensation acts, disability benefit acts, or other employee benefit acts. Nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law.

6. The OWNER, CONTRACTOR, and CRANE CONTRACTOR shall obtain, for the purposes of this agreement, insurance policies, naming the CITY as an additional insured on a primary and non-contributory basis that will comply with the current version of the City of Coral Gables Insurance Requirements for Encroachment & Restrictive Covenant Agreements and the above described property owner will evidence this insurance to the Risk Management Division of the City of Coral Gables pursuant to the instructions included within the said insurance requirements. Evidence of insurance will not be approved unless all of the requirements have been met to the satisfaction of the Risk Management Division. Moreover, said insurance shall be maintained until the crane is removed and failure to maintain such insurance shall constitute a material breach of this Agreement that may result in the City requiring removal of the crane at the OWNER, CONTRACTOR, and CRANE CONTRACTOR's sole expense.

7. The OWNER, CONTRACTOR, and/or CRANE CONTRACTOR shall provide the City of Coral Gables with a Letter of Credit, Bond, Cashier's Check, or bank draft in the amount of One Hundred Thousand Dollars ($100,000.00) for placement of a crane on/over the CITY's right of way for a period of over five (5) days or Ten Thousand Dollars ($10,000.00) for placement of a crane on/over the CITY's right of way for a period of five days or less, which must be valid throughout the term of this Agreement and which Coral Gables may collect against in the event they fail to remove the crane when required by the Coral Gables Building Official or fail to repair any and all damage to the CITY's right-of-way caused by the operation/placement/dismantling of the crane.

8. The OWNER, CONTRACTOR, and CRANE CONTRACTOR shall only allow fully certified operators licensed under Florida law in the classification required to operate a truck and/or crane of the type authorized in this Agreement to operate said crane.

9. All individuals signing this Agreement have the legal authority to enter into this Agreement.

10. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations or policies of the City of Coral Gables now in effect and those hereinafter adopted.

11. The location for settlement of any claims, controversies, disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be in Miami-Dade County, Florida.

12. The CITY shall be entitled as a matter of right to an injunction issued by any court of competent jurisdiction restraining any violation of this Agreement, as well as recovery of any and all costs and expenses sustained or incurred by the CITY in obtaining such an injunction including, without limitation, reasonable attorney's fees.

13. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Any amendments to our waivers of the provisions herein shall be made by the parties in writing.

14. OWNER, CONTRACTOR, and CRANE CONTRACTOR acknowledge that they have had ample opportunity to seek and consult with independent legal counsel prior to executing this Agreement, and OWNER, CONTRACTOR, and CRANE CONTRACTOR represent and warrant that they have sought such independent legal advice and counsel or have knowingly and voluntarily waived such right.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and the year first written above.

_____	_____	_____
Owner Signature	Contractor Signature	Crane Contractor Signature
_____	_____	_____
Print Name and Title	Print Name and Title	Print Name and Title

_____
For the City of Coral Gables

_____
Print Name and Title

Notarization as to OWNER

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, on this ____ day of _____, 20___, by _____, who is personally known to me or has produced a _____ as identification.

My Commission Expires:

_____
NOTARY PUBLIC, State of Florida

Notarization as to CONTRACTOR

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, on this ____ day of _____, 20___, by _____, who is personally known to me or has produced a _____ as identification.

My Commission Expires:

_____
NOTARY PUBLIC, State of Florida

Notarization as to CRANE CONTRACTOR

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, on this ____ day of _____, 20___, by _____, who is personally known to me or has produced a _____as identification.

My Commission Expires:

_____
NOTARY PUBLIC, State of Florida

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By:_____
Cristina M. Suárez, City Attorney
Stephanie M. Throckmorton, Deputy City Attorney
Gustavo J. Ceballos, Assistant City Attorney
Yesenia Alfonso, Assistant City Attorney