

Prepared By:  
Alan Fallik  
Deputy City Attorney  
City of Hollywood  
2600 Hollywood Blvd., Room 407  
Hollywood, FL 33022

### Right of Way Occupancy License

THIS LICENSE, dated as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, issued to Shmuel Mishele, (hereinafter referred to as "OWNER"), whose property address is 5933 Wiley Street, Hollywood, FL 33023, by the CITY OF HOLLYWOOD, FLORIDA (hereinafter referred to as "CITY"), a municipal corporation, shall be revocable by CITY at any time, without cause. In consideration of receipt of this permit, OWNER agrees to be bound by the following limiting conditions:

1. All structures built by OWNER which encroach into public property shall remain the property of OWNER, who shall be solely responsible for ensuring that such structures remain in good and safe condition. In the event of failure to so comply within 30 days of written notice, CITY may remove the encroachment and OWNER shall be responsible for all removal costs. CITY assumes no liability with regard to injuries caused others by a failure of OWNER to meet this requirement.

2. OWNER acknowledges that it intends to utilize and incorporate the public alley right of way with the adjacent to properties located at 5933 Wiley Street and 5960 Plunkett Street to provide for a secured private parking lot. The parking lot improvements which will encroach within the alley right of way will include ornamental metal picket fencing, landscaping and irrigation (herein referred to as the "Improvements" as more specifically identified in Exhibit "1").

The OWNER's property in which the parking lot improvements are being implemented is located at 5933 Wiley Street and more specifically described as:

Lots 3, Block 3, of WEST HOLLYWOOD TRAILER CITY, according to the plat thereof, as recorded in Plat Book 25, Page 35, of the Public Records of Broward County, Florida, (hereinafter referred to as the "Property").

The public alley right of way in which the Improvements will encroach is more particularly described as:

That parcel of right of way beginning at the Northwest corner of Lot 46, Block 3 of the West Hollywood Trailer City Plat, a Point of Beginning, thence South 210' and parallel with the west line of Lot 46, Block 3 to the Southwest corner of Lot 3, Block 3; thence west 15' to the Southeast corner of Lot 1, Block 3; thence North 210' and parallel with the East line of Lot 1, Block 3 to the Northeast corner of Lot 47, Block 3; thence East 15' to the Northwest corner of Lot 46, Block 3, to the Point of Beginning, as recorded in Plat

Book 25, Page 35, of the Public Records of Broward County, Florida (herein referred to as the "Alley").

In consideration of this Right of Way Occupancy License, OWNER shall provide for and maintain in good condition, enhanced trees, landscaping, irrigation, and an ornamental metal picket fence within the Property and Alley as more specifically delineated in Exhibit "1".

In the event the CITY wishes to use the Alley for any purpose requiring the removal of the Improvements, OWNER hereby agrees that the removal and reinstallation of this or any other encroachment into the Alley shall be the responsibility of OWNER. In the event of failure to so comply within 30 days of written notice, CITY may remove the encroachment and OWNER shall be responsible for all removal costs. In the event of an emergency for which CITY must obtain immediate use of the Alley, CITY may damage or remove the encroachment without notice to OWNER and OWNER shall reimburse CITY for all costs incurred by CITY in connection therewith. OWNER bears all risk of loss as to monies expended in furtherance of the encroachment.

3. 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 permit or removal of the encroachment.

4. OWNER shall indemnify and hold harmless CITY and its officers, employees and employees from and against all claims, damages, losses and expenses arising out of or relating to any encroachment into the Alley, provided that any such claim, damage, loss or expense is attributed to bodily injury, sickness, disease, personal injury or death, or the injury to or destruction of tangible property, including the loss of use resulting therefrom. Nothing in this Agreement shall be constructed to limit the rights, privileges or immunities accorded to CITY under the doctrine of sovereign immunity or Florida Statutes Section 768.28.

5. Indemnity under this Agreement shall relate back to the issuance of the building permits for the construction of the encroachment into the Alley and shall continue in full force until the encroachment is removed.

6. OWNER agrees to defend 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, CITY agrees that OWNER may employ attorneys of their own selection to appear and defend the claim or action on behalf of CITY, at the expense of OWNER. OWNER, subject to CITY'S 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. In the event OWNER sells or in any way conveys the Property to another party, such new OWNER, and any subsequent OWNER or successor in interest, shall succeed to all rights and responsibilities of OWNER hereunder.

8. This Agreement shall be recorded in the Public Records of Broward County, with OWNER paying the costs of such recordation.

9. IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF HOLLYWOOD, FLORIDA

BY: \_\_\_\_\_  
PETER BOBER, MAYOR

APPROVED AS TO FORM AND LEGALITY  
for the use and reliance of the  
City of Hollywood, Florida, only.

\_\_\_\_\_  
JEFFREY P. SHEFFEL, CITY ATTORNEY

WITNESSES:

OWNER

Print: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

Print: \_\_\_\_\_

\_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_ as \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

Print: \_\_\_\_\_

Commission No.: \_\_\_\_\_

My commission expires:

Personally known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_