

**RECORDED AT REQUEST OF
AND WHEN RECORDED RETURN TO:**

City of Signal Hill
2175 Cherry Avenue
Signal Hill, CA 90755
Attn: City Clerk

**EXEMPT FROM RECORDER'S FEES
PURSUANT TO GOVERNMENT CODE
SECTIONS 6103 AND 27383**

Space above this line for Recorder's use only

ENCROACHMENT AGREEMENT

THIS ENCROACHMENT AGREEMENT ("Agreement") is made and entered into this _____ day of _____, 2022, by and between _____ ("Owner"), and the City of Signal Hill, a California municipal corporation and charter city, organized and existing under and by virtue of its Charter and the Constitution, and the laws of the State of California ("City").

RECITALS

WHEREAS, Owner is the owner of property located at _____, Signal Hill, California 90755, with a legal description attached hereto as Exhibit A and depicted on Exhibit B; and

WHEREAS, Owner desires to construct certain non-standard improvements as further described herein ("Improvements") within the City's right-of-way (hereinafter "Right-of-Way") that is located adjacent to the Property; and

WHEREAS, the Improvements may interfere in the future with City's ability to construct, operate, maintain, and replace City and other public facilities and improvements within Right-of-Way; and

WHEREAS, the parties hereto desire to enter into this Agreement whereby the City will permit Owner to construct and maintain the Improvements subject to certain conditions and requirements.

NOW, THEREFORE, in consideration of the mutual promises and valuable consideration contained herein, the parties hereto agree as follows:

1. City and Owner acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement.
2. The Improvements shall be defined as:
 - a. [INSERT]

- b. In addition, if any improvements actually built or installed during the time of construction vary from the Improvements defined above, such variations or changes must be approved in advance by the Public Works Department and shall be shown on the "As Built" plans.
- 3. City will permit Owner to construct, reconstruct, install, maintain, use, operate, repair and replace the Improvements and appurtenances incidental thereto, within a portion of the Right-of-Way, if in substantial conformance with the plans and specifications on file at City. City will further allow Owner to take all reasonable measures necessary or convenient in accomplishing the aforesaid activities.
- 4. The rights granted under this Agreement may be terminated by the City with or without cause and at any time without notice. City shall make good faith efforts to provide sixty (60) calendar days' notice in advance of termination, specifying in the notice the date of termination. City shall incur no liability whatsoever in the event of the termination of this Agreement or subsequent removal of improvements by City.
- 5. Owner and City further agree as follows:
 - a. Owner may construct and install the Improvements in conformance with the plans and specifications on file at City's Public Works Department, and as described on Exhibit A.
 - b. If City or other public facilities or improvements are damaged by the installation or presence of the Improvements, Owner shall be responsible for the cost of repairs and restoration of these public facilities or improvements to their condition at the time of entry into this Agreement.
 - c. Should City be required to enter onto said Right-of-Way to exercise its primary rights associated with said Right-of-Way, including but not limited to, the maintenance, removal, repair, renewal, replacement or enlargement of existing or future public facilities or improvements, City may remove portions of the Improvements, as required, and in such event:
 - (i) City shall notify Owner in advance of its intention to accomplish the work, provided that an emergency situation does not exist.
 - (ii) Owner shall be responsible for arranging for any renewal, replacement, or restoration of the Improvements affected by such work by City and shall bear the costs of the same.
 - (iii) City agrees to bear only the cost of any removal of the Improvements affected by the City's work.
- 6. In the event either party breaches any material provision of this Agreement, the other party, at its option may, in addition to the other legal remedies available to it, terminate this Agreement and, in the event the breaching party is Owner, City may enter upon Right-of-Way and remove all or part of the Improvements installed by Owner.

Termination because of breach shall be upon a minimum of ten (10) calendar days' notice, with the notice specifying the date of termination.

7. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorneys' fees.
8. Owner shall defend, indemnify and hold harmless City, its City Council, boards and commissions, officers and employees from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees (when outside attorneys are so utilized), regardless of the merit or outcome of any such claim or suit arising from or in any manner connected with this Agreement or the design, construction, maintenance, or continued existence of the Improvements.
9. Owner agrees that this Agreement shall remain in full force and effect from execution thereof; shall run with the land; shall be binding upon the heirs, successors, and assigns of Owner's interest in the land, whether fee or otherwise; and shall be recorded in the Office of the County Recorder of Los Angeles, California.
10. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Los Angeles, California.
11. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.
12. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.
13. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.
14. Owner shall, at Owner's own cost and expense, comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted.
15. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

[Signatures on Following Page]

[Signature Page to Encroachment Agreement]

CITY OF SIGNAL HILL

By: _____
[INSERT],
Public Works Director

ATTEST:

By: _____
Carmen R. Brooks,
City Clerk

APPROVED AS TO FORM:

By: _____
Matthew Richardson,
City Attorney

OWNER:

By: _____
[INSERT]

Exhibit A
[Improvement Plans]