

UNOFFICIAL COPY



1319829088

RECORDING COVER SHEET

MAIL TO:
NICOLE C. HASAN
Neal & Leroy, L.L.C.
203 North LaSalle Street, Suite 2300
Chicago, Illinois 60601

PREPARER:
NICOLE C. HASAN
Neal & Leroy, L.L.C.
203 N. LaSalle Street, Suite 2300
Chicago, Illinois 60601

Doc#: 1319829088 Fee: \$96.00
RHSP Fee:\$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 07/17/2013 04:30 PM Pg: 1 of 11

FOR RECORDER'S OFFICE USE ONLY

DESCRIPTION OF ATTACHED INSTRUMENT:

LICENSE AGREEMENT

JURISDICTION: IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

PIN NO.: 13-36-420-001 and -051

ADDRESS: 1759 N. Talman Avenue, Chicago, Illinois 60647

UNOFFICIAL COPY

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is dated July 16, 2013, by and between the Licensor, City of Chicago, an Illinois municipal corporation and home rule unit of government (the "City") and Michael Kupfer and Christine Kupfer ("Licensee").

RECITALS

A. The City owns the Bloomingdale Avenue right-of-way and the former Bloomingdale rail line located therein, depicted on Exhibit A attached hereto and made a part hereof ("City Property").

B. The City, in cooperation with the Chicago Park District (the "Park District"), and the Trust for Public Lands, is redeveloping and converting the former Bloomingdale rail line into a linear public park ("Bloomingdale Trail Park"), which the City shall lease to the Park District or otherwise permit the Park District to develop and operate as a public park.

C. Licensee owns the real property legally described on Exhibit B attached hereto and made a part hereof, ("Licensee Property"), which is adjacent to the City Property.

D. Licensee has constructed or placed certain improvements that encroach on portions of the City Property.

E. In order to redevelop and operate the Bloomingdale Trail Park, the City and the Park District must have full access to City Property, and in particular, the area depicted on Exhibit A attached hereto and made a part hereof, (the "Encroachment Area").

F. Licensee would like to continue to use the Encroachment Area.

G. The City is willing to grant Licensee a limited license to use the Encroachment Area for only those existing uses described on Exhibit C attached hereto and made a part hereof, subject to the owner's compliance with the terms and conditions of this License Agreement.

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

1. **Term:** This License Agreement shall commence on the date set forth above and terminate upon thirty (30) days written notice by the City for any reason whatsoever. Such notice must be served by hand delivery or certified U.S. mail. Upon receipt of notice, Licensee shall have thirty (30) days to remove any of Licensee's improvements or personal property from the Encroachment Area. If Licensee fails to timely remove its improvements or personal property, Licensee shall be deemed to have abandoned such improvements and personal property and either the City or the Park District shall have the right to remove or otherwise dispose of it, the right to recover any costs associated with such removal and the right to retain any proceeds from

UNOFFICIAL COPY

the disposal of such property. Notwithstanding the license granted hereunder, the City at all times, maintains the right to exclusive possession of the Encroachment Area.

2. Restriction on Use: Licensee may use the Encroachment Area only for the uses described on Exhibit C. Licensee may not use the Encroachment Area for any other purpose whatsoever without the City's prior written consent, which shall be in the City's sole discretion. This License is non-exclusive and is subject to any use or purpose by the City, the Park District, or either such parties' contractors and subcontractors.
3. Licensor/Licensee Relationship: This License Agreement is not a lease and does not grant an easement interest or any other interest in real property, or create any interest in Licensee in the Encroachment Area other than a revocable license interest. No act of or failure to act by either party to this License Agreement shall create any interest in Licensee in the Encroachment Area so as to result in any adverse possession claim, even if such failure to act should extend for many years.
4. No Right of Assignment: This License Agreement is personal to the Licensee and its successors in title to the Licensee Property and cannot be assigned or sub-licensed to any third party not in title of the Licensee Property. This License Agreement shall be binding upon Licensee and all successors in title to the Licensee Property.
5. Licensor's Right of Entry: Licensee acknowledges that the City, the Park District, and each of such party's contractors and subcontractors, have the right to enter and access the Encroachment Area at any time: (a) for the purpose of construction, maintenance or operation of the Bloomingdale Trail Park; (b) to determine Licensee's compliance with the terms of this License Agreement; (c) in the event of an emergency which requires either the City's or the Park District's immediate access; (d) for any other purpose relating to either the City's or the Park District's construction, maintenance or operation of the Bloomingdale Trail Park which requires such parties to access the Encroachment Area. When the City or the Park District need Licensee to provide access to the Encroachment Area, Licensee shall provide access to such parties upon two (2) days' notice, which notice may be by either (a) telephone, (b) posting on the License Property, or (c) email or electronic communication, except in cases of emergency when immediate access is necessary. If Licensee fails to provide access to the City or the Park District after any such notice, said parties shall be entitled to use any reasonable means necessary to access the Encroachment Area. Neither the City nor the Park District shall be liable for any costs or expenses associated with restoring the Encroachment Area or repairing any improvements on the Encroachment Area.
6. Restoration of the Encroachment Area: To the extent either the City, the Park District or their representatives, agents, employees or contractors need to remove, alter or relocate any of Licensee's existing or subsequently located permitted improvements or personal property on the Encroachment Area for purposes of constructing, or maintaining the Bloomingdale Trail Park, such parties shall give Licensee prior notice. Licensee shall, at its own cost and expense, be entitled to restore those improvements in conformance with the permitted uses as detailed on Exhibit C after the completion of such construction or maintenance work

UNOFFICIAL COPY

7. Duty to Maintain: Licensee shall keep the Encroachment Area free of debris and maintain the Encroachment Area in a clean condition at all times and surrender the Encroachment Area at the termination of this License in good condition and free of any encroachments. Licensee shall not plant trees in the Encroachment Area.
8. Hazardous Materials: Hazardous Materials means any substance, chemical or material within the meaning of any federal, state, or municipal statute, law, code, ordinance or regulation, or any substance, chemical or material which may or could pose a hazard to the environment or health or safety of any person. Licensee shall not cause or permit any Hazardous Materials to be stored, treated, generated, discharged, released or transported to, at, upon, in or under the Encroachment Area. In the event of a release, spill, discharge, leakage or disposal of any Hazardous Materials at, upon, in or under the Encroachment Area, Licensee shall (1) immediately notify both the City and the Park District of such release, spill, discharge, leakage or disposal; (2) comply, at Licensee's sole cost and expense, with all applicable state, local and federal agency requirements; (3) immediately clean up and/or remediate the Encroachment Area, at its sole cost and expense, to the appropriate local, state and federal requirements, provided however, that Licensee shall first obtain joint approval of the City and the Park District for any such remedial actions; and (4) obtain, at Licensee's sole cost and expense, a No Further Remediation Letter from the Illinois Environmental Protection Agency.
9. Liens: Licensee shall not permit any lien for services, utilities, labor or materials to be filed against any portion of the Encroachment Area arising from Licensee's use under this License Agreement. Licensee agrees to indemnify, defend and save harmless the City and the Park District for all loss, damage, liability, expense or claims whatsoever, including attorneys' fees, by reason of any lien or claim for lien for such work, services, utilities or materials performed or supplied which shall be filed against the Encroachment Area. In the event any such lien is filed, Licensee shall pay and discharge the same of record as promptly as possible but in no event later than thirty (30) days after the filing thereof; provided however, Licensee shall have the right to contest the lien and if Licensee chooses to contest the lien, Licensee shall deposit with the City a cash or surety bond in a form and with a company satisfactory to the City in an amount equal to one hundred twenty-five percent (125%) of the amount of the contested lien.
10. Taxes: Licensee shall pay any taxes, assessments, impositions or other charges levied upon the Encroachment Area resulting from the use or placement of any structure thereon by Licensee, if any.
11. Insurance: Licensee must at all times during the duration of this License Agreement maintain and pay for general liability insurance applicable to the Encroachment Area naming the City and the Park District each as an additional insured on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$1,000,000 for each occurrence. Upon execution of this License Agreement, Licensee must deliver to Licensor and the Park District a copy of its certificate of insurance evidencing the existence of such insurance. If Licensee fails or refuses to maintain insurance as required, or fails or refuses to furnish Licensor or the Park District with the required proof that the insurance has been renewed or otherwise maintained, the City may immediately terminate this License Agreement.

UNOFFICIAL COPY

12. Indemnification:

(a) Licensee shall indemnify and hold harmless the City, the Park District, and their representatives, agents, employees, contractors, successors and assigns from all loss, cost, damage or expense because of injury to or death of any person or persons, including Licensee, or damage to any property, which includes environmental and natural resources damages, arising out of or caused by the construction, maintenance, repair, use, presence, operation or removal of any structure or thing owned by Licensee located upon the Encroachment Area, or Licensee's use of the Encroachment Area, whether or not it is alleged or determined that any such loss, cost, damage or expense mentioned herein, was caused by a direct violation of this License Agreement, or through negligent acts or omissions of the Licensee, or its employees, if any. Licensee shall pay all attorneys' fees and all costs and other expenses arising from or incurred by the City or the Park District in connection with any of such indemnified claims.

(b) The provisions of this paragraph are not applicable to loss or damage arising from the City's or the Park District's intentional acts or omissions.

13. Successors and Assigns: This License Agreement shall be binding upon and inures to the benefit of the successors and assigns of the parties hereto respectively.

14. Governing Law: This License Agreement shall be governed by the laws of the State of Illinois. The venue for any suit brought to enforce this License Agreement shall be limited to a state or federal court located in Cook County, Illinois.

15. Notices: All notices given by either party to this License Agreement that are required to be delivered in writing or served by hand-delivery or by U.S. certified mail, return receipt requested to the following addresses:

Licensor: City of Chicago

Department of Transportation
30 N. LaSalle St. Room 1100
Chicago, Illinois 60602
Attn: Commissioner

Copied to:

Department of Law
City of Chicago
121 N. LaSalle St. Room 500
Chicago, Illinois 60602
Attn: Corporation Counsel

Chicago Park District

Chicago Park District
541 N. Fairbanks Court
Chicago, Illinois 60611
Attn: First Deputy General Counsel

UNOFFICIAL COPY

Licensee:

Michael Kupfer
Christine Kupfer
1759 N. Talman Avenue
Chicago Il 60647

The above provisions shall not apply to notices which, under the terms of this License Agreement, may be delivered by regular mail or delivered by telephone or other electronic communication.

16. Authority: The parties hereto each represent and warrant to the other party that it has the power and authority to enter into this Agreement and to perform its obligations hereunder.
17. Entire Agreement: This License Agreement constitutes the entire agreement between the parties and supersedes and discharges any prior oral or written agreements relating to the Encroachment Area or to the City Property.
18. Severability: If any provision of this License Agreement, or portion thereof, is deemed invalid or unenforceable, the remainder of this License Agreement shall not be affected, and each other provision of this License Agreement shall be valid and enforceable to the fullest extent permitted by law. The failure of any party to enforce any term of this License Agreement or a party's waiver of the nonperformance of a term by the other party shall not be construed as a general waiver or amendment of that term or the License Agreement, but the term and License Agreement shall remain in full effect and fully enforceable.
19. Time is of the Essence: The parties understand and acknowledge that time is of the essence with respect to the performance of each obligation of this License Agreement.
20. Counterparts: This License Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same document.
21. Third-Party Beneficiary: The Park District is an intended third-party beneficiary of the rights granted to the City under this agreement and shall be entitled to enforce the applicable provisions of the Agreement to the same extent as the City.

UNOFFICIAL COPY

IN WITNESS WHEREOF, the parties have executed and delivered this License Agreement to each other as of the date set forth above.

Licensors

CITY OF CHICAGO, a municipal corporation,

By: [Signature]

Dated: 7/14/13

Licensee

Michael Kupfer,

By: [Signature]

Dated: 7-1-13

Christine Kupfer,

By: [Signature]

Dated: 7-1-13

Property of Cook County Clerk's Office



[Signature]
7/14/13

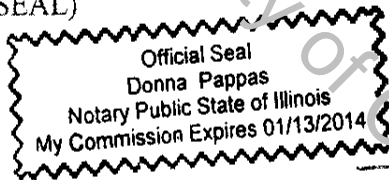
UNOFFICIAL COPY

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned notary public, do hereby certify that Gabe Klein, Commissioner of the City of Chicago Department of Transportation, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed and delivered the said instrument in said capacity, pursuant to authority of the governing body of the City of Chicago.

Given under my hand and official seal this 16th day of July, 2013.

(SEAL)



Donna Pappas
NOTARY PUBLIC

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned notary public, do hereby certify that Michael Depina, Christine Depina, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed and delivered the said instrument.

Given under my hand and official seal this 1st day of July, 2013

(SEAL)

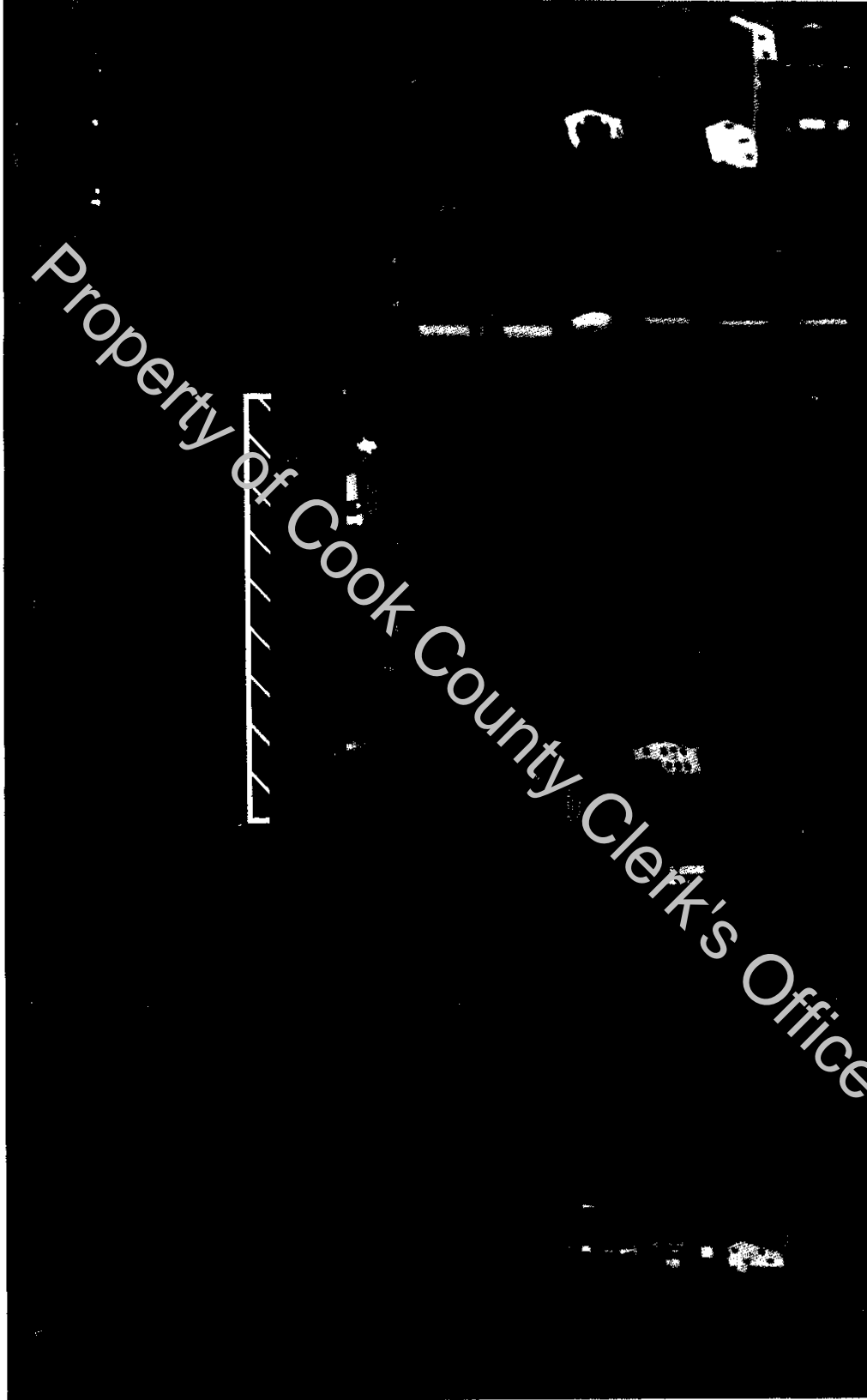
Lloyd Lett
NOTARY PUBLIC



UNOFFICIAL COPY



EXHIBIT A - CITY PROPERTY



Property of Cook County Clerk's Office

PIN NO.
13-36-420-001
and -051

ADDRESS
1759 N. Talman Ave.

LEGEND
BLOOMINGDALE AVE R.O.W
PROPERTY LINE
ENCROACHMENT AREA



CITY OF CHICAGO

BRUNNEN & COMPANY, INC.
AERIAL PHOTOGRAPHY
1000 N. LAUREL ST., CHICAGO, ILL. 60610



UNOFFICIAL COPY

EXHIBIT B – LICENSEE PROPERTY

PIN: 13-36-420-001

LOT 50 (EXCEPT THE EAST 9 FEET) IN S. E. GROSS' SUBDIVISION OF LOTS 1, 2, 3, 4 AND 5 IN BLOCK 5 IN BORDEN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 36, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT C – PERMITTED LICENSED EXCEPTIONS

Iron fence on west and east side of encroachment area and walkway improved with pavement over entire 6 foot encroachment area.

Property of Cook County Clerk's Office

