

UNOFFICIAL COPY

**ENCROACHMENT
LICENSE
AND COVENANT**

Address:
1021 Linden Ave.
Oak Park, IL 60302

PIN: 16-06-217-021-0000

Return to:

Village Engineer
Village of Oak Park
201 South Boulevard
Oak Park, IL 60302



Doc#: 1612456126 Fee: \$46.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 05/03/2016 12:41 PM Pg: 1 of 5

(for Recorder's Use Only)

ENCROACHMENT LICENSE AND COVENANT AGREEMENT

THIS ENCROACHMENT LICENSE AND COVENANT AGREEMENT (hereinafter referred to as "Agreement"), made this 2nd day of May, 2016, between James R. Carey and Anne M. Carey (hereinafter collectively referred to as "Licensee") and the Village of Oak Park, an Illinois home rule municipal corporation (hereinafter called "Licensor").

WITNESSETH THAT:

WHEREAS, Licensee owns the following real estate (hereinafter referred to as "Licensee's Property"):

Lot 8 in Block 2 in Berkshire Highlands, being a Subdivision of the West 10 acres of the North 35 acres of the South 85 acres of the Northeast quarter of Section 6, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

P.I.N. 16-06-217-021-0000; and

WHEREAS, Licensor owns or otherwise has an interest in the real estate adjacent to or in Licensee's Property (hereinafter referred to as "the Licensor's Property"); and

WHEREAS, Licensee has requested permission to place an irrigation system (hereinafter referred to as the "Licensee's Encroachment") and otherwise use or encroach within a portion of Licensor's Property (hereinafter referred to as the "Encroachment Area ") as described herein; and

UNOFFICIAL COPY

WHEREAS, Licensor has determined that Licensee's Encroachment will not adversely impact the use of Licensor's Property or impair the public health, safety and welfare; and

WHEREAS, Licensee and Licensor desire to consent and agree to the construction of Licensee's Encroachment, subject to the terms and conditions hereinafter provided.

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

1. **Recitals Incorporated.** The above recitals are incorporated herein and made a part of this Agreement.
2. **License Grant.** To the extent of its authority, Licensor does hereby grant to Licensee, and Licensee's successors and assigns, a nonexclusive and revocable license for the benefit of Licensee's Property to encroach upon and to occupy and use, in the manner as set forth above. The following Exhibits are attached hereto and made a part hereof:
 - a. Exhibit A, a landscape plan that depicts Licensee's Encroachment and the Encroachment Area.
3. **License Purpose.** The license herein granted shall be limited to the use by Licensee of the Encroachment Area for the purposes of constructing, maintaining, repairing and replacing thereon Licensee's Encroachment.
4. **Existing Public Easement and Covenants of Record.** Licensee agrees that the grant of license to encroach provided for in Paragraph 1 above shall not otherwise modify or remove the requirements established in the public easement and covenants of record. The parties agree that this license is subject to any rights of third parties in the Property and Licensor makes no warranty regarding Licensee's right to use the Encroachment Area except as regards to the interest of Licensor.
5. **Acceptance of Encroachment Area.** Licensee accepts the Encroachment Area in its present condition.
6. **Indemnification.** Licensee assumes all liability and shall indemnify, hold harmless, defend and compensate Licensor, its officers and employees, for any injury or damage to personal property, including Licensor's property or employees, occasioned by or arising in connection with the use or occupancy of the above described Encroachment Area by Licensee, or the existence or condition of Licensee's Encroachment, and Licensee further agrees to indemnify, hold harmless and defend Licensor, its officers and employees, against (i) any actions which may be brought against Licensor, its officers and employees, arising out of this license, Licensee's Encroachment, the condition of the Encroachment Area or any act or omission of Licensee, Licensee's agents or assigns, or any independent contractor acting on Licensee's behalf, and (ii) any claim or expenses incurred by Licensor in enforcing the terms and provisions of this license against Licensee.

UNOFFICIAL COPY

7. **Encroachment to Conform to Plans and Specifications.** Licensee's Encroachment shall be constructed and maintained in substantial conformance with plans and specifications approved by Licensor. Licensee shall obtain all necessary permits for the construction of Licensee's Encroachment in the Encroachment Area, and Licensor shall issue Licensee a parkway construction permit in accordance with Chapter 22 of the Oak Park Village Code for the construction of Licensee's Encroachment. Licensee shall, upon completion of any work within the Encroachment Area, restore the surface of the Encroachment Area as required by Licensor to the same or better condition than that which existed prior to the beginning of any work.

8. **Insurance.** Licensee shall maintain a general liability insurance policy with minimum coverage of \$500,000 per occurrence applicable to the Encroachment Area and for the construction of Licensee's Encroachment. Licensor, its officers and employees shall be named as additional insureds on said policy. Licensee shall be responsible for the payment of any deductibles pursuant to said policy. The coverage shall contain no special limitations on the scope of protection afforded to Licensor, its officers and employees. Said policy shall be maintained as long as the Agreement remains in effect and Licensee's Encroachment remains in the Encroachment Area. Licensee shall provide the Village with a certificate of insurance evidencing Licensor, its officers and employees as an additional insureds. Licensee shall provide thirty (30) days written notice of any change in coverage or cancellation of coverage and shall provide Licensor with a new certificate of insurance meeting the requirements of this paragraph. Licensee shall provide a certificate of insurance at any time to Licensor while this Agreement remains in effect.

9. **Successors and Assigns.** The provisions and conditions of this License shall bind and inure to the benefit of the legal representatives, successors and assigns of the respective parties hereto, and shall run with the title of Licensee's Property.

10. **Covenant Running with the Land.** This License shall be a covenant running with the land and shall be recorded in the office of the Cook County Recorder of Deeds at Licensee's expense.

11. **Repair and Maintenance of Encroachment Area.** Licensee shall maintain Licensee's Encroachment in good repair and shall maintain the Encroachment Area in a clean and sightly manner, free of obstructions and debris. Upon demand from Licensor, Licensee shall immediately correct any defect or remove any debris from the Encroachment Area which, in the sole determination of Licensor, presents an unsightly or unsafe condition. Provided, however, nothing contained herein shall impose upon Licensor any duty or obligation to maintain the Encroachment Area or to effect any repairs on Licensee's Encroachment. Licensor shall have the right to enter upon the Encroachment Area and to remove or otherwise render safe Licensee's Encroachment or the Encroachment Area when, in the sole determination of the Licensor, such action is necessary to protect the public health, welfare or safety. Licensee shall remain responsible for all expenses incurred by the Licensor in effecting said repairs or removing said debris from the Encroachment Area as provided herein.

12. **Termination.** This license may be terminated by as follows:

UNOFFICIAL COPY

a. Licensor may terminate this license upon thirty (30) days notice if it determines that Licensee's Encroachment is not properly maintained; or the existence of this License or Licensee's Encroachment presents a danger to the public health safety or welfare; or if Licensee Encroachment is determined to interfere or potentially interfere with Licensor's use or proposed use of Licensor's Property or the Encroachment Area; or Licensee ceases using the Encroachment Area for Licensee's Encroachment.

b. Licensee may terminate this License upon thirty (30) days notice provided such termination shall not be effective until Licensee's Encroachment is removed and the Encroachment Area restored as provided herein.

13. **Removal of Encroachment upon Termination.** In the event of termination, Licensee shall cause the removal of Licensee's Encroachment and shall return the Encroachment Area to substantially the same condition as when this License was executed. In the event Licensee fails to effect such removal within thirty (30) days of notice of termination, Licensor shall have the right to enter upon the Encroachment Area and remove Licensee's Encroachment. All costs of said removal as provided herein shall be borne by Licensee and shall be paid to Licensor upon demand.

14. **Relocation of Encroachment.** Licensee, upon notice from Licensor, shall temporarily move or relocate Licensee's Encroachment to permit work or other activity within the Encroachment Area. Licensee assumes all risk in the placement of Licensee's Encroachment and shall be responsible for removal or relocation of Licensee's Encroachment in the event that any utility, including Licensor, requires access or to perform work within the Encroachment Area.

15. **Headings and Titles.** The headings and titles of any provisions of this Agreement are for convenience or reference only and are not to be considered in construing this Agreement.

16. **Entire Agreement.** This Agreement sets forth all the covenants, conditions and promises between the parties, and it supersedes all prior negotiations, statements or agreements, either written or oral, with regard to its subject matter. There are no covenants, promises, agreements, conditions or understandings between the parties, either oral or written, other than those contained in this Agreement.

UNOFFICIAL COPY

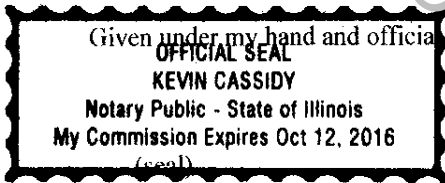
IN WITNESS WHEREOF, the parties hereto have executed this License and Covenant as of the day and year first above written.

LICENSOR

By: *John Wielebnicki*
John Wielebnicki
Director of Public Works

State of Illinois)
) ss
County of Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that John Wielebnicki, personally known to me to be the Director of Public Works of the Village of Oak Park, appeared before me this day in person and acknowledged that they signed this instrument in his respective capacity as the Director of Public Works of the Village of Oak Park pursuant to authority granted to him by the Board of Trustees of the Village of Oak Park.



Given under my hand and official seal this 2 day of May, 2014.
Kevin Cassidy
Notary Public

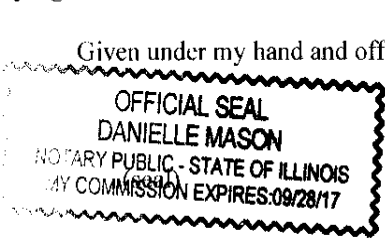
LICENSEE

By: *Anne M. Carey*
Property Owner Name

By: *John Carey*
Property Owner Name

State of Illinois)
) ss
County of Cook)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Property Owner Name and Property Owner Name appeared before me this day in person and acknowledged that they signed this instrument.



Given under my hand and official seal this 18th day of April, 2016.
Danielle Mason
Notary Public

This instrument prepared by: Paul L. Stephanides, Village Attorney, Village of Oak Park, 123 Madison Street, Oak Park, IL 60302