



CITY OF NAPERVILLE

Transportation, Engineering, & Development (T.E.D.) Business Group

RIGHT-OF-WAY ENCROACHMENT AGREEMENT

From time to time, the City of Naperville will permit property owners to install private improvements in the publicly owned land adjacent to their property, commonly referred to as the public right-of-way or parkway. These improvements are made with the understanding that the public right-of-way is used by the City and many different entities to provide the general public with services such as transportation and utilities. The installation of a private improvement may not interfere with the lawful use of the public right-of-way by others. A right-of-way encroachment agreement is required to ensure that the property owner acknowledges this and takes responsibility for installing, maintaining, and removing any improvements constructed in the right-of-way. This responsibility extends to any future owners of the property as well.

AGREEMENT INSTRUCTIONS

1. The attached agreement must be filled out completely.
 - PIN: Enter the 10 digit parcel ID number assigned by the county assessor's office.
 - Address: Enter the full address, city, state and ZIP for your property.
 - Owner(s) must be the legal owners of record.
 - Legal description must match the legal description of the parcel as shown on the plat of survey. If the legal description exceeds the allowable space on the document, please type "Attached hereto as Exhibit A" and attach the legal description on a separate page with the heading "EXHIBIT A" at the top.
 - Encroachments: Check all boxes that apply to the requested encroachments. If the encroachment is not listed, type a description of the proposed improvement that will be located in the right-of-way and check the adjacent box.
 - Upon completion of all of the fields, print the document on single-sided, 8-1/2"x11" paper.
2. The legal owner of the property must sign the agreement.
3. The document must be signed and sealed by an Illinois Notary Public.
4. The following must be submitted to the City prior to issuance of a building permit:
 - The original signed and notarized agreement document
 - The County recording fees as determined by the City
 - A copy of the plat of survey for the property to verify the legal description

P.I.N.(s):

ADDRESS:

RETURN TO:

City Clerk/City of Naperville
Attention: T.E.D.
400 South Eagle Street
Naperville, IL 60540

RIGHT-OF-WAY ENCROACHMENT LICENSE AGREEMENT

This Right-of-Way Encroachment License Agreement ("**Agreement**") is entered into between the City of Naperville ("**City**") and _____, owner(s) of the real property described herein ("**Licensee**"). The City and Licensee are together hereinafter referred to as "**Parties**" and individually as "**Party**".

A. **WHEREAS**, Licensee owns the following real property within the corporate limits of the City of Naperville ("**Licensee's Property**") described as:

Address:

PIN(s):

Legal Description:

B. **WHEREAS**, Licensee desires to install the improvements described in paragraph 2 below upon City right-of-way located adjacent to Licensee's Property ("**City Right-of-Way**"); and

C. **WHEREAS**, the City herein agrees to allow such improvements to be located on City Right-of-Way as provided herein.

NOW THEREFORE, in consideration of the premises and mutual promises contained herein, the Parties hereto agree and acknowledge that:

1. Recitals Incorporated. The foregoing Recitals are substantive and are incorporated by reference in this paragraph 1 as though fully set herein.

2. License. To the extent of its authority, and subject to the terms, conditions, and limitations set forth herein, the City grants to Licensee, for the benefit of Licensee's Property, a nonexclusive license for Licensee to locate the following improvements ("**Improvements**") on the City Right-of-Way:

Automatic sprinkler system

Decorative driveway apron or service walk

Other/Please describe:

3. Limitations.

3.1 The rights granted to Licensee herein do not abrogate or nullify the City's rights and interests in and to City Right-of-Way. Further, the license granted herein is subject to any rights of third parties in the City Right-of-Way and the City makes no warranty regarding Licensee's right to use said City Right-of-Way except as regards to the rights the City retains therein.

3.2 The license granted herein shall not be construed as a waiver of the requirements of the Naperville Municipal Code, as amended from time to time, including but not limited to the City Zoning Code, subdivision regulations, and building codes.

3.3 The City shall not be liable to Licensee or any third party for any damage to real or personal property or personal injury that may result from or arise out of the construction, repair, maintenance, or use of the Improvements.

3.4 Licensee shall be subject to all the risks and liabilities associated with encroaching on City property, including but not limited to the risk that the City may remove all or a portion of the Improvements without prior notice to Licensee. Licensee shall be solely responsible for the City's cost to remove the Improvements to gain access to City's right-of-way for any purpose.

3.5 The City shall not be responsible for any costs incurred by Licensee to repair or replace the Improvements if they are damaged or destroyed by the City, or City's subcontractors, employees, or agents in accessing or otherwise using City Right-of-Way on which the Improvements are located.

3.6 Licensee accepts the City Right-of-Way AS-IS in its present condition.

4. Defense, Indemnification, and Hold Harmless. Licensee shall defend, indemnify, and hold harmless the City and its officers, agents, and employees from and against all losses, liability, claims, demands, and causes of action, including but not limited to loss, injury, death, or damage to person or property, arising out of or related to the Improvements constructed in the City Right-of-Way.

5. Termination. This Agreement and the license contained herein may be terminated by either Party upon not less than thirty (30) days' written notice to the other Party. Upon termination of this Agreement, Licensee shall cause the removal of the Improvements from the City Right-of-Way and shall return the City Right-of-Way to good condition. If Licensee fails to remove the Improvements and restore City Right-of-Way within thirty (30) days of termination, the City shall have the right to remove the Improvements from the City Right-of-Way. All costs of said removal and restoration shall be paid by Licensee within sixty (60) days of an invoice from the City sent to Licensee's Property Address on page 1.

6. General Provisions.

6.1 The laws of the State of Illinois shall govern the terms of this Agreement both as to interpretation and performance. Venue for any action arising out of the terms or conditions of this License shall be in the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois.

6.2 This Agreement shall be recorded in the office of the County Recorder in the county where Licensee's Property is situated.

6.3 The effective date of this Agreement shall be the date on which it is fully executed by both Parties hereto.

IN WITNESS WHEREOF, the Parties set their hands as seals as of the date first written above.

LICENSEE(S)

By: _____
[signature]

By: _____
[signature]

[print name]

[print name]

State of Illinois)
) ss
County of _____)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that _____ and _____, appeared before me this day in person and acknowledged the signature(s) set forth above.

Given under my hand and official seal this _____ day of _____, 20____.

Notary Public

-seal-

My Commission Expires: _____

CITY OF NAPERVILLE

By: _____

City Manager

Attest:

By: _____

City Clerk

Date: _____

PREPARED BY: This instrument was prepared by the Legal Department of the City of Naperville, 400 South Eagle Street, Naperville, Illinois 60540.