



City of Chicago



O2017-8592

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	12/13/2017
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Right of Entry continuation agreement with Board of Trustees of University of Illinois
Committee(s) Assignment:	Committee on Housing and Real Estate



JOSEPH A. MOORE

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**CITY COUNCIL
CITY OF CHICAGO**

COUNCIL CHAMBER

CITY HALL, ROOM 200
121 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60602
TELEPHONE 312-744-3067

COMMITTEE MEMBERSHIPS

**HOUSING AND REAL ESTATE
CHAIRMAN**

BUDGET AND GOVERNMENT OPERATIONS

COMMITTEES, RULES AND ETHICS

EDUCATION AND CHILD DEVELOPMENT

FINANCE

HEALTH AND ENVIRONMENTAL PROTECTION

HUMAN RELATIONS

SPECIAL EVENTS, CULTURAL AFFAIRS AND RECREATION

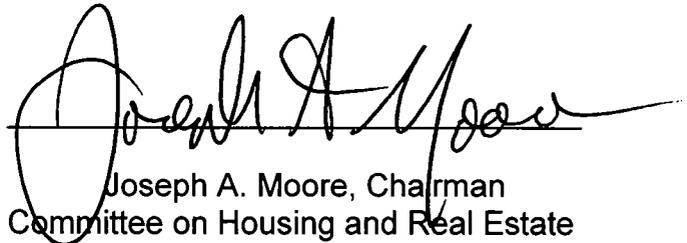
January 17, 2018

To the President and Members of the City Council:

Your Committee on Housing and Real Estate, for which a meeting was held on January 12, 2018, having had under consideration the ordinance introduced by Mayor Rahm Emanuel on December 13, 2017, this being the right of entry agreement for 7800-7840 S. Halsted St., begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of all committee members present with no dissenting votes.

Respectfully submitted,



Joseph A. Moore, Chairman
Committee on Housing and Real Estate



HSG.



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

December 13, 2017

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Fleet and Facility Management, I transmit herewith an ordinance authorizing the execution of a right of entry agreement with the University of Illinois.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Rahm Emanuel".

Mayor

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1: On behalf of the City of Chicago as Grantor, the Commissioner of the Department of Fleet and Facility Management is authorized to permit the continuation of the Term of an existing Right of Entry agreement with The Board of Trustees of the University of Illinois, as Licensee, beyond one hundred eighty (180) days, for access to an approximately 1,400 square foot area of property contained within the landscaped portion of the Police Department's 6th District Police Station, located at 7800 – 7840 South Halsted Street, to permit the continual monitoring of a precipitation gauge; such Right of Entry agreement has been approved as to form and legality by the Corporation Counsel in the following form:

**7800-7840 South Halsted Street
ROE # 3873**

SECTION 2: This Ordinance shall be effective from and after the date of its passage and approval.

RIGHT OF ENTRY AGREEMENT

This **RIGHT OF ENTRY AGREEMENT** (the "**Agreement**") is made as of 10/04, 2017 (the "**Effective Date**"), by and between the **CITY OF CHICAGO**, an Illinois municipal corporation and home rule unit of government (the "**City**"), having its principal offices located at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602, and **THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS**, a body corporate and politic of the State of Illinois (hereinafter referred to as "**Licensee**").

RECITALS

WHEREAS, City is the owner of the real property located at 7800-7840 South Halsted Street, Chicago, Cook County, Illinois, which is improved with a building and parking lot that are utilized as the 6th District Police Station (the "**Police Station**"); and

WHEREAS, Licensee seeks access to a seventy (70) foot by twenty (20) foot strip of green space located at the south end of the Police Station building and on the north end of the Police Station parking lot (the "**Property**"), as depicted on Exhibit A attached hereto, to install a precipitation gauge and conduct monthly monitoring of the gauge (the "**Activity**"); and

WHEREAS, the location and scope of the Activity shall be limited to the locations upon and within the Property as they are described herein and no other access or activity shall be permitted without written City consent; and

WHEREAS, the City has agreed to grant such access upon the terms and conditions set forth herein.

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

1. **Incorporation of Recitals.** The foregoing recitals constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

2. **Grant.** Subject to the terms and conditions set forth herein, the City hereby grants to Licensee a right of entry to the Property for the sole purpose of allowing Licensee to perform the Activity. The right of entry granted hereunder extends to, and Licensee shall be responsible for, its agents, employees, contractors, subcontractors, consultants, invitees, guests, vendors, patrons and any other parties who enter the Property at Licensee's direction or with Licensee's consent (collectively, "**Agents**"). Licensee shall be responsible for ensuring that all Agents comply with Licensee's obligations under this Agreement, and non-compliance by any Agent shall be deemed to be non-compliance by Licensee. This right of entry is subject to all easements, encroachments, covenants, restrictions of record and not shown of record, and any other title encumbrances or defects affecting the Property. Licensee acknowledges that the City has not performed any title or survey work in connection with the negotiation and execution of

this Agreement and agrees that it is Licensee's sole responsibility and obligation to confirm that the Activity occurs solely within the portions of the Property permitted by this Agreement.

3. **Term.** The term of this Agreement ("**Term**") shall begin on the Effective Date, and shall terminate on December 31, 2029. Licensee acknowledges that the City requires legislative approval from the City Council of the City of Chicago ("**City Council**") for continuation of this agreement beyond the first one hundred eighty (180) days, and that the City may terminate this Agreement, pursuant to Section 13 of this Agreement, if City Council has not approved. Prior to entering the Property, Licensee shall provide proof of insurance as required by Section 8 of this Agreement, and copies of any necessary permits or approvals as required under Section 6 of this Agreement.

4. **Cost.** Licensee shall be responsible for all costs and expenses associated with the Activity without City reimbursement.

5. **Compliance with All Laws.** Licensee and its Agents shall comply at all times with any and all applicable municipal, county, state, federal or other statutes, laws (including common law), ordinances, codes, rules and regulations (collectively, "**Laws**"). Contract provisions that are required to be included in this Agreement by any such Laws shall be deemed included.

6. **Permits.** Prior to entering the Property, Licensee must secure, or cause its Agents to secure, at its sole cost and expense, all necessary permits and governmental approvals required to perform the Activity. Licensee understands that this Agreement shall not act as a substitute for any such permits or approvals that may be required. Licensee shall provide copies of all required permits and approvals to the City prior to entering the Property.

7. **Liability.** It is understood and agreed that neither party to this Agreement shall be legally liable for any negligence or wrongful act either of omission or commission chargeable to the other unless such liability is imposed by law and that this Agreement shall not be construed as seeking either to enlarge or diminish any obligation or duty owed by one party against the other or against third parties. Licensee shall be responsible for all loss or damage to business property (including but not limited to materials, equipment, tools and supplies), owned or rented, by Licensee.

This Section 7 shall survive the expiration or termination of this Agreement (regardless of the reason for such termination).

8. **Insurance.** Licensee shall secure insurance coverages for each of the insurance requirements as incorporated herein under this Section 8 or Licensee may self-insure for the same types and amounts.

8.1 **Minimum Insurance Coverage.** Licensee shall procure and maintain at all times, at Licensee's own expense, or cause to be maintained at the expense of service providers, as applicable, at all times during the Term, the insurance coverages and requirements specified below, insuring all operations related to the Agreement. The kind and amounts of insurance required are as follows:

(a) Worker's Compensation and Employer's Liability. Workers Compensation as prescribed by applicable law, covering all employees who are to provide a service under this Agreement, and Employer's Liability Insurance with limits of not less than \$500,000 each accident, illness or disease.

(b) Commercial General Liability (Primary and Umbrella). Commercial General Liability Insurance or equivalent, with limits of not less than \$5,000,000 per occurrence, for bodily injury, personal injury, and property damage liability. Coverage shall include the following: All premises and operations, products/completed operations, defense, separation of insureds, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City of Chicago shall be named as a contracting party under the Licensee's self-insurance program for purposes of this Section 8.1(b) only. The contracting party coverage shall not have any language under the policy such as, but not limited to, Licensee's sole negligence or the contracting party's vicarious liability. Licensee's liability insurance shall be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

(c) Automobile Liability Insurance (Primary and Umbrella). When any motor vehicles (owned, non-owned and hired) are used in connection with the Agreement, Licensee shall provide and maintain Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage.

The Licensee is responsible for all loss or damage to City property at full replacement cost that results from the Activity.

City shall not be responsible for any loss or damage personal property (including, but not limited to materials, equipment, tools and supplies), owned, rented or used by Licensee.

8.2 Other Terms of Insurance. Licensee will furnish the City of Chicago, Department of Fleet and Facility Management, Office of Real Estate Management, 30 North LaSalle Street, Suite 300, Chicago, Illinois 60602, original Certificates of Insurance evidencing the required coverage to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the Term. Licensee shall submit evidence of insurance prior to execution of the Agreement. The receipt of any certificate does not constitute agreement by City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements in the Agreement. The failure of the City to obtain certificates or other insurance evidence from Licensee shall not be deemed to be a waiver by the City. Non-conforming insurance shall not relieve Licensee of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement and the City retains the right to terminate or suspend the Agreement until proper evidence of insurance is provided.

The Licensee shall provide for 30 days prior written notice to be given to the City in the event coverage is substantially changed, cancelled, or non-renewed.

Any and all deductibles or self-insured retentions on referenced insurance coverages shall be borne by Licensee.

Licensee hereby agrees that its commercial general liability insurers, and/or its liability self-insurance program (excluding Worker's Compensation and Auto Liability), shall waive any right of subrogation which any insurer of Licensee may acquire against the City by virtue of the payment of any loss under the insurance. Upon request by City, Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer(s).

Licensee expressly understands and agrees that any coverages and limits furnished by Licensee shall in no way limit the Licensee's liabilities and responsibilities specified in this Agreement or by law.

Licensee expressly understands and agrees that its general liability insurance is primary and any insurance or self-insurance programs maintained by the City shall not contribute with insurance provided by Licensee.

The required insurance coverages and limits to be carried shall not be reduced by any limitations expressed in this Agreement.

If Licensee maintains higher limits than the minimums shown above, the City shall be entitled to coverage for the higher limits maintained by Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City to the extent of City's loss.

The Licensee must require all contractors or subcontractors to provide the insurance required herein, or Licensee may provide the coverages for contractors or subcontractors. All contractors and subcontractors are subject to the same insurance requirements of Licensee unless otherwise specified in this Agreement. Licensee must ensure that the City is an additional insured on an Endorsement CG-2010 of the insurance required from contractors and subcontractors.

Notwithstanding any provision to the contrary, the City of Chicago, Department of Finance, Office of Risk Management, maintains the rights to modify, delete, alter or change these requirements at any time during the Term of Agreement, provided thirty (30) day advance notice has been provided to Licensee and this Agreement is modified as outlined under Article 16.

9. **Inspection and Work.** Licensee agrees to carefully inspect, or cause its Agents to carefully inspect, the Property prior to commencing any activities on the Property to ensure, as much as is reasonably possible, that such activities will not damage the Property or any

surrounding property, structures, utility lines, or subsurface lines or cables. Licensee and its Agents shall take all reasonable safety precautions to ensure that the Activity will not pose a danger to the public or have a negative impact on the neighboring community. Licensee and its Agents shall perform the Activity in a safe manner, and in accordance with all applicable Laws. Licensee and its Agents shall limit their activities to those reasonably necessary to perform the Activity. The City reserves the right to inspect the Activity throughout the Term. Neither Licensee nor its Agents shall conduct any activity on the Property that may in any manner injure the health, safety and welfare of the public, diminish the value of the Property, interfere with City operations, or violate any Laws, including, without limitation, any Environmental Laws (as hereinafter defined).

10. **Obligation to Restore the Property.** Upon completion of the Activity, Licensee shall promptly restore the Property to the same or better condition existing as of the Effective Date. Licensee shall remove all Personal Property, trash, wastes and debris placed on the Property by Licensee or its Agents. Licensee shall dispose of all trash, wastes and debris in accordance with all applicable Laws, including without limitation, all applicable Environmental Laws (as hereinafter defined). Any Personal Property, trash, wastes or debris left by Licensee on or about the Property shall be considered abandoned and may be disposed of in the City's sole discretion.

11. **No Liens.** Licensee shall not cause or permit any lien or encumbrance, whether created by act of Licensee or its Agents, operation of law or otherwise, to attach to or be placed upon the City's title or interest in the Property.

12. **No Representations or Warranties.** The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of the Property or the suitability of the Property for any purpose whatsoever. Licensee, on behalf of itself and its Agents, agrees to enter upon the Property in the Property's "as is," "where is" and "with all faults" condition and at the Licensee's own risk. Licensee, on behalf of itself and its Agents, acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or any of the City Parties with respect thereto.

13. **Right to Terminate.** Notwithstanding anything to the contrary contained herein, either party may terminate this Agreement for any reason upon prior written notice of at least thirty (30) days to the other party. In addition, in the event of any breach of this Agreement by Licensee the City shall have the right to order Licensee to immediately cease all activities on the Property and to immediately vacate the Property until such breach is cured, or the City may immediately terminate this Agreement and pursue any and all remedies available at law or in equity. The City also reserves the right to terminate this Agreement at any time if Licensee's use of the Property interferes with the City's use of the Property or with any other municipal purpose or interest, as determined by the City in City's sole discretion. Notwithstanding the cause of termination under this section, the City shall allow Licensee sufficient time and access to remove any Personal Property and restore the Property as required under this Agreement.

14. **Hazardous Substances.** Licensee shall not use or store any Hazardous Substances (defined below) on the Property. Licensee shall promptly notify the City if Licensee discovers any Hazardous Substances on the Property. As used in this Agreement, the term "**Hazardous Substances**" shall mean any toxic substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Laws (as defined hereunder), or any pollutant, toxic vapor, or contaminant, and shall include, but not be limited to, polychlorinated biphenyls (PCBs), crude oil, any fraction thereof, or refined petroleum products such as oil, gasoline, or other petroleum-based fuels, lead paint, asbestos or asbestos-containing materials, urea formaldehyde, any radioactive material or by-product material, radon and mold. "**Environmental Laws**" shall mean any and all Laws, permits and other requirements or guidelines of governmental authorities applicable to the Property and relating to the regulation and protection of human health, safety, the environment, natural resources or to any Hazardous Substances, including without limitation, any Laws requiring the filing of reports and notices relating to Hazardous Substances.

15. **Amendment.** This Agreement may not be amended, extended or modified without the written consent of the parties hereto.

16. **Captions.** The section headings in this Agreement are inserted for convenience of reference only and shall not in any way affect the meaning or construction of the Agreement.

17. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

18. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument and all of which together shall constitute one and the same instrument. A facsimile, electronic, or photocopy signature shall have the same legal effect as an original signature.

19. **No Other Rights.** This Agreement does not give Licensee any other right with respect to the Property, including, but not limited to, closure of streets, use of equipment, sidewalks or other public thoroughfares. Any rights not specifically granted to Licensee by and through this Agreement are reserved exclusively to the City.

20. **No Further City Obligations.** The execution of this Agreement does not obligate the City or the City Parties to provide Licensee or Licensee's Agents with any other assistance.

21. **Security; Full Liability.** Licensee assumes all legal and financial responsibility and liability for any and all uses of the Property by Licensee or its Agents entering the Property during the Term or upon the expiration of the Term where Licensee continues to access the Property. Licensee shall be responsible for properly securing and safeguarding its Personal Property under this Agreement. Licensee acknowledges that the City has no security responsibilities with respect to Licensee's Personal Property under this Agreement. This Section 20 shall survive the expiration or earlier termination of this Agreement.

22. **No Principal/Agent or Partnership Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

23. **Coordination and Oversight.** Licensee shall contact the Department of Fleet and Facility Management to coordinate access to the Property in order to undertake the Activity. Licensee acknowledges that any assistance or oversight provided by the City with respect to the Activity shall be provided at the City's sole and exclusive discretion and convenience.

24. **City Use Paramount.** Licensee shall refrain from undertaking any activities that interfere with the City's use of the Property as determined by the City in its sole discretion. Licensee acknowledges that the Property is an active police station and the City reserves the right to terminate Licensee's use of the Property as outlined under Article 13 in the event such use interferes with the City's use of the Property, public safety, or with any other municipal purpose or interest in the City's sole discretion.

25. **Time is of the Essence.** Time is of the essence for all obligations and deadlines contained in this Agreement.

26. **Assignment.** This Agreement may not be assigned by either party to this Agreement.

27. **Non-Discrimination.** Licensee shall not discriminate against any person in connection with its use of the Property based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code.

28. **Severability.** If any provision of this Agreement is deemed to be unenforceable by any court of competent jurisdiction, it shall not affect the enforceability of any other provision.

29. **Governing Law; Consent to Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois without reference to its conflicts of laws principles. Notwithstanding anything to the contrary contained in this Agreement, Licensee shall not be deemed to have waived the Licensee's sovereign immunity under the laws and Constitution of the State of Illinois for any purpose whatsoever, and Licensee hereby expressly reserves all rights and defenses afforded and available to it as a public body, corporate and politic, of the State.

30. **Licensee's Authority.** Licensee represents that it is duly organized, validly existing and qualified to do business in Illinois; that it has the right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that the person signing this Agreement on behalf of Licensee has the authority to do so; and that this Agreement shall be binding upon and enforceable against Licensee in accordance with its terms.

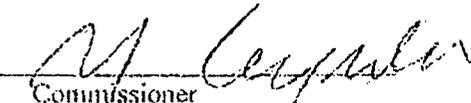
31. Access to Parking Lot. When accessing the Property to undertake the Activity, Licensee shall have non-exclusive access to the Police Station parking lot on a first-come first-served basis. Such use of the parking lot shall be subject to all rules in place, or hereinafter in place, governing the access to the parking lot.

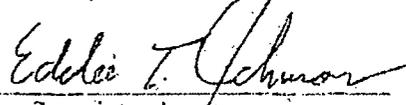
(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF CHICAGO,

an Illinois municipal corporation and home rule unit of government

By: 
Commissioner
Department of Fleet and Facility Management

By: 
Superintendent
Department of Police

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS,

a body corporate and politic of the State of Illinois

By: _____

Print Name: _____

Title: _____

Approved as to form and legality:


Chief Assistant Corporation Counsel
Department of Law

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF CHICAGO,
an Illinois municipal corporation and home rule unit of government

By: _____
Commissioner
Department of Fleet and Facility Management

By: _____
Superintendent
Department of Police

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS,
a body corporate and politic of the State of Illinois

By: Avijit Ghosh
Avijit Ghosh, Interim Comptroller
Print Name: _____
Title: _____

Approved as to form and legality:

Assistant Corporation Counsel
Department of Law

EXHIBIT A
(the Property, in bubbled area)

