

Gilsenan, Michael

From: Schiano, Frank [NYCDEP/QUEENS/FRANKS]
Sent: Tuesday, March 12, 2002 9:48 AM
To: Gilsenan, Michael
Subject: FW: License to enter property for cleanup in lower Manhattan

Robin said that you were looking for this draft.

-----Original Message-----

From: Schwartz, Barry
Sent: March 6, 2002 16:02
To: Hoffer, Mark; Gilsenan, Michael (ex); Levine, Robin
Cc: Schiano, Frank
Subject: License to enter property for cleanup in lower Manhattan



ENTRYPER.WPD

Attached is a draft license to enter property for the proposed cleanup in lower Manhattan, the use of which, is dependent upon receiving approval of funding from the federal government. Please let me know if you have any comments. Thanks.

March 10, 2003

draft

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LICENSE AGREEMENT

This License Agreement made this _____ day of _____ 2002 by and between the CITY OF NEW YORK (hereinafter called "the City"/Licensee), acting by and through the the Department of Environmental Protection of the City of New York (hereinafter called "DEP"), with an office at 59-17 Junction Boulevard, Corona, New York 11368-5107 and _____ ("Landowner/Licenser"), the owner of the premises at _____ (Premises").

WHEREAS, the facades, roofs and setbacks ("exterior areas") of many structures in close proximity to the site of the former World Trade Center have been found to contain debris, refuse and other deposits ("the foreign material") of unknown origin;

WHEREAS, the owners of said structures are desirous of having the foreign material removed but, in many cases, do not have the funds or means to do so;

WHEREAS, the City believes that it is in the interest of the public to undertake a clean up of these exterior areas (the "Activities");

WHEREAS, the City's willingness to assist in the Activities to be undertaken should not, in any way be construed as an acknowledgment or admission that the City is any way responsible for any condition, environmental or otherwise, that may exist in or on the exterior areas or that the foreign material is a risk to the public health or safety;

NOW THEREFORE, it is hereby agreed by and between the parties to this agreement, for an in consideration of One Dollar and other good and valuable consideration, the receipt of which is hereby acknowledged,

1. **Grant:** Licensee and its agents, contractors or subcontractors shall have the right, from time to time, to enter on and cross Licenser's property, with men, material, and equipment, for the purpose of gaining access to the exterior areas of the building or structure in connection with the Activities to be undertaken.

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2. Use of Premises:

- a) Licensee and its agents, contractors, or subcontractors, shall have the right, from time to time, to temporarily occupy the exterior structures of the Licensor's property and those area(s) adjacent thereto as may be necessary to access the exterior, with men, material, and equipment in order to perform the Activities.
- b) Licensee and its agents, contractors, or subcontractors, shall have the right to perform all work on the exterior areas as may, in the opinion of the Licensee, be deemed necessary in order to fully complete the Activities.

3. Limitations or conditions:

- a) In no event shall the Licensee, its agents, contractors, or subcontractors enter the Licensor's property for the purposes of performing work other than during weekdays beginning at 8:00 a.m. and ending at 4:00 p.m. and excluding Saturdays, Sundays, and Holidays.[do you foresee the need to do work at other times or during emergencies?]
- b) Licensee shall provide the Licensor with written notification of its intention to begin the clean up at least five (5) days prior to the commencement of such work.
- c) Licensee shall pay the entire cost of all work, labor, and material in connection with the Activities undertaken by them except that the Licensor shall supply and pay for all power and water usage in connection with the Activities.
- d) Licensee, its agents, subcontractors, and assigns, shall perform all Activities promptly and in a workmanlike manner with a minimum of disturbances to the Licensor's property.
- e) Licensee shall be maintain such flags, lights, barricades and enclosures as required for the safety of persons, property and traffic flow.

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- f) All activities shall be performed by qualified contractors in accordance with applicable federal, state and local rules and regulations;
- g) The Licensee is self-insured. Any contractor or subcontractors performing the Activities on behalf of the Licensee shall obtain, prior to the commencement of any Activities, insurance in the amounts and types as set forth herein in Exhibit A;
- h) All City employees, and any contractor or subcontractor performing any activities on the City's behalf, shall, at all times, wear proper identification which, at a minimum shall include, an identification card with the name, address, telephone number and photograph of the person and such other information as may be agreed upon by the Licensee and Licensor.

4. **Indemnification:** Licensee, as indemnitor, agrees to indemnify and hold harmless the Licensor, as indemnitee, from and against any claims or causes of action for personal injury or property damage arising out of or resulting from the Licensee's use, occupation, or possession of the licensed premises, except that the indemnitor shall not be responsible for the pre-existing condition of the licensed premises or for that portion of injury or damage which may be caused by or result from the negligent or willful conduct of the indemnitee or its agents or employees.

5. **Termination:** This license shall be terminable by the Licensor or Licensee on ten days written notice to the address set forth below by fax or certified mail. In the event of a default by either party, the license may be terminated immediately, without any prior notice.

6. **Waiver of Claims:** In the event of termination or revocation, the Licensee and Licensor agree that no claims or cause of action for damages of any nature whatsoever shall accrue by reason of such revocation or termination.

7. **Term:** This license shall commence as of the latest date appearing at the end of the signature page and remain effect for a period of ninety (90) days unless or until terminated or revoked as hereinabove provided.

8. **Notices:** Notices and correspondence regarding this License shall be directed by Certified Mail, Return Receipt Requested to the Licensor, at the following address:

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and notices to the Licensee shall be addressed to :

with copy to New York City Department of Environmental Protection,
General Counsel
59-17 Junction Boulevard
19th floor
Corona, New York 11368-5643

IN WITNESS WHEREOF, the parties have caused this Licensee Agreement to be
executed to and acknowledged on the day and year which first appears above.

Licensor
By: _____
Dated: _____

Licensee
By: _____
Dated: _____

Approved as to Form

Acting Corporation Counsel

March 10, 2003

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DATED: _____

March 10, 2003

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STATE OF NEW YORK)
)s.:
COUNTY OF)

On this day of 2002, before me personally
came the individual described in and who executed the foregoing instrument and acknowledged
to me that he/she resides at _____ and that he/she executed
the foregoing instrument as the owner/licensor of the property

NOTARY PUBLIC
STATE OF NEW YORK

March 10, 2003

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STATE OF NEW YORK)
)s.:
COUNT OF QUEENS)

On this day of 2002, before me personally came
_____ and acknowledged to me that he/she is the First Deputy
Commissioner of the New York City Department of Environmental Protection, and that he/she
authorized to executed the foregoing instrument and that he/she did so on behalf of the City of
New York pursuant to authority of law duly delegated.

NOTARY PUBLIC
STATE OF NEW YORK

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March 10, 2003

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INSERT APPLICABLE INSURANCE PROVISIONS