

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "License") is made this 12th day of June 2009 (the "Effective date") by the City of Lawrence, Kansas, a municipal corporation (the "City"), and the Lawrence Country Club ("Owner"), owner of property commonly located at 400 Country Club Terrace, Lawrence, Kansas, 66049 and known as the Lawrence Country Club.

RECITALS

1. The City is the holder of the Right-of-Way "ROW", along the north and west corner of the intersection of Rockledge Road and McDonald Drive, located in the City of Lawrence, Douglas County, Kansas.
2. Owner is the owner of certain real estate (the "Property"), located adjacent to and along the ROW, in the City of Lawrence, Kansas as depicted on Exhibit A attached hereto.
3. Owner wishes to install a fence in the right-of-way area of the City along Rockledge Road in Lawrence, Kansas as depicted on Exhibit A, to enhance the use and enjoyment of the Property. Accordingly, the Owner has requested permission from the City to maintain a fence on a portion of the right-of-way, and the City has agreed to provide a license to Owners for such purpose, all in accordance with the terms and conditions of this License.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the parties hereby agree as follows:

1. **Grant of License.** The City hereby grants to the Owner the non-exclusive license, right, privilege, and permission (the "License") to use in common with others that portion of the right-of-way, on which the fence will be located, for the purpose of construction and maintaining a fence as depicted on Exhibit A.
2. **No Representation by the City.** The Owner represents that the City has made no representations with respect to the right-of-way of its condition, and that the Owner is not relying on any representations of the City or the City's agents with respect to the use or condition of the right-of-way. This License Agreement grants the Owner the privilege and permission to use the right-of-way in its present condition "as is" without any warranties.
3. **Covenants of the Owner.** The Owner hereby covenants and warrants to the City, as follows:
 - a. To maintain the fence at the Owner's sole cost and expense and to remove all debris and other items placed thereon by Owner, or as a result of Owner's use of the right-of-way.

- b. If the fence needs to be moved for the installation, repair, or maintenance of any utilities located or to be located in, on, under or through the right-of-way the Owner shall, at his sole cost and expense, move the fence. The owner may replace the fence in its former location except as otherwise provided by paragraph 6 of this Agreement.
 - c. To comply with all applicable laws and ordinances, including land use requirements of the City of Lawrence and the County of Douglas, Kansas.
 - d. To refrain from causing any waste, damage, or injury to the right-of-way.
 - e. The Owner shall not have any right to enlarge the present scope of this License Agreement, without the prior written consent of the City.
 - f. Prior to and during installation of the fence, the Owner agrees to follow the conditions set forth in Exhibit B attached hereto as additional requirements from other users of the ROW.
4. **Indemnification of the City.** During the time this License Agreement is in effect, the Owner agrees to indemnify, defend, and save the City, and the City's officers, commissioners, agents, employees, grantees, and assignees, harmless from and against all claims, actions, liabilities, damages, costs, expenses, and judgments, including attorneys' fees, which relate to, arise from, or are in connection with the Owner's use or occupancy of the right-of-way, or any portion thereof or the maintenance of the fence on the right-of-way, on account of any injury to persons or damage to property, excluding there from such injury or damage caused by the negligence of the City.
5. **Accommodation.** The permission granted to the Owner under this License Agreement is given to the Owner as accommodation, and shall be without charge to the Owner. The Owner hereby acknowledges the City's rights to the right-of-way, and agrees to never assail, resist, or deny such rights by virtue of the Owner's occupancy or use under this License Agreement.
6. **Term and Termination.** The City reserves the right to terminate the permission granted by this License Agreement at any time and for any reason by giving the Owner at least 30 days written notice of such termination, except that the City may, at the City's election, terminate the permission immediately without such notice at any times, if (i) the Owner fails to comply with or abide by each and all of the provisions of this License Agreement, or (ii) if the continued use of the License presents a health or safety hazard.
7. **Binding Effect.** This License Agreement shall, at all times, be binding upon the City and the Owner and all owners of the Property and all parties claiming by, through, or under them, shall run with the land, and shall be for the benefit of and limitations upon all future owners of the Property; provided, however, that the rights, duties, and obligations, of each owner as set forth herein shall cease with the termination of his or its ownership of the Property, or portion

thereof, except for the duties and obligations arising during the period of his or its ownership.

8. **Governing Law.** This License Agreement shall be construed and enforced in accordance with, and governed by, the law of the State of Kansas.

IN WITNESS WHEREOF, the undersigned have caused this License Agreement to be executed as of the Effective Date.

OWNER: Lawrence Country Club

By: William D. Levine
(Print Name, Title) William D. Levine G.C. Superintendent

**THE CITY: CITY OF LAWRENCE, KANSAS a
municipal corporation**

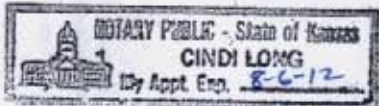
By: _____
Robert Chestnut, Mayor

ATTEST:

City Clerk

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 12th day of June 2009, by Cindi Long, acting on behalf of Lawrence Country Club in his capacity as Office Manager (title).



Cindi Long
Notary Public

My appointment expires: 08/06/12

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this _____ day of _____ 2009, by Robert Chestnut, Mayor of the City of Lawrence, Kansas, a municipal corporation, on behalf of the City of Lawrence, Kansas.

Notary Public

My appointment expires: _____

Exhibit A



Exhibit B
Fence Installation Requirements from Right-of-Way Users

Black Hills - Natural Gas

Crossing our 6" steel gas main. We want them to get locates through KS One Call before they begin their work. They have agreed to span our gas main with a fence panel, placing the nearest fence posts 4 ft from our gas main. They will hand dig the fence posts. They will not be using a post auger to dig the postholes. We do not have an issue with the fence being built on the ROW crossing our gas main if these safeguard are followed.

City Utility Department

The city utility department has a few issues. They require your fence post to be hand dug where there are within 5' of their water line. They require you to locate your fence so that where it crosses the water line your fence panel evenly straddles the water line. Where the fence parallels the water line they require you to be a minimum of 3' from the water line. They also require you to have locates for their infrastructure; there is a water line and sewer line in the area.

City Pubic Works Department

Public works will require that prior to any work being performed that a right of way permit be obtained. We will also require that the new fence location and post locations be located and that we (city and Black Hills) be allowed to come to the site and review the location of the fence with Lawrence Country Club staff prior to the fence installation.