

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “**License**”) is made this 15th day of March 2011 (the “**Effective date**”) by the City of Lawrence, Kansas, a municipal corporation (the “**City**”), and Diane M. B. Trybom (“**Owner**”), owner of property legally described as:

RECITALS

1. The City is the holder of the Right of Way along 333 Johnson Avenue 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 and legally described above.
3. Owner wishes to install a small retaining wall in the right-of-way along 333 Johnson Avenue in Lawrence, Kansas to enhance the use and enjoyment of the Property. Accordingly, the Owner has requested permission from the City to maintain a retaining wall 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 a small retaining wall will be located, for the purpose of construction and maintaining that wall.
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 retaining wall 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 retaining wall 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 retaining wall. The owner may replace the retaining wall in its

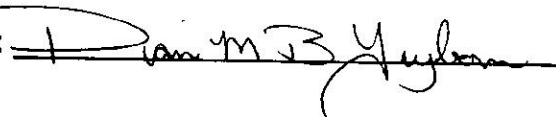
former location except as otherwise provided by paragraph 6 of this Agreement.

- 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.
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 assigns, 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 a retaining wall on the right-of-way, on account of any injury to persons or damage to property, excluding therefrom 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.

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OWNER:

By: 

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ___ day of _____ 2011, by _____, _____, on his behalf.

Notary Public

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

By: _____
Mike Amyx, Mayor

ATTEST:

Jonathan M. Douglass, City Clerk