

## **LICENSE AGREEMENT**

**THIS LICENSE AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Lawrence, Kansas, a municipal corporation, and Benjamin P. Gleeson.

### **RECITALS**

- A.** The City of Lawrence, Douglas County, Kansas ("City") is the holder of the Right of Way on which Illinois Street ("City's Right of Way") is located in the City of Lawrence, Douglas County, Kansas;
- B.** Benjamin P. Gleeson ("Licensee") is the owner of that real property ("Property"), commonly known as 415 Illinois Street, adjacent to and along the City's Right of Way, in the City of Lawrence, Kansas, and legally described as follows:

West Lawrence Block 37, Lot 103 City of Lawrence, Douglas  
County, Kansas.

- C.** In order to enhance the use and enjoyment of the Property, Licensee has requested a License from the City to maintain two underground storm water drainage pipes ("Pipes") on a portion of the City's Right of Way, as shown in Exhibit A, which document is adopted herein by reference and incorporated herein by reference.
- D.** The City has reviewed Licensee's request and has agreed to grant to the Licensee a License, subject to his execution of this License Agreement and compliance with its terms and conditions.

### **TERMS**

**NOW, THEREFORE**, in light of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

- 1. Grant of License.** The City hereby grants to Licensee the non-exclusive license, right, privilege, and permission ("License") to use, in common with others, that portion of the City's Right of Way for the purpose of installing and maintaining, at Licensees' sole cost and expense, the Pipes identified in subsection **(C)** of the Recitals section, above.
- 2. Covenants of the Licensee.** In exchange for this License, in addition to giving good and valuable consideration, the Licensee hereby covenants and warrants as follows:

- (a) To maintain the Pipes at the Licensee's sole cost and expense for the duration of the License Agreement.
  - (b) To move or remove the Pipes, at the Licensee's sole cost and expense, upon the City's request, if the City determines the Pipes needs to be moved or removed for the installation, repair, maintenance, or expansion of any streets or utilities located, or to be located in, on, under, or through the City's Right of Way, or if the Licensee fails to properly maintain the Pipes. The Licensee shall bear all costs associated with moving or removing the Pipes and Licensee hereby agrees that the City shall have no duty to replace the Pipes. If the Pipes have not been removed from the City's Right of Way within thirty days after the City's request, the City may have the Pipes removed and the cost for removal shall be assessed to the Licensee.
  - (c) To comply with all applicable laws and ordinances including all land use requirements and building standards of the City and, as applicable, Douglas County, Kansas.
  - (d) To refrain from causing any waste, damage, or injury to the City's Right of Way.
  - (e) The Licensee shall not have any right to enlarge, intensify, or increase the proposed scope of their use or occupancy of the City's Right of Way as described in this License Agreement without the prior written consent of the City.
3. **The City Makes No Representations.** The Licensee agrees that the City has made no representations to him with respect to the City's Right of Way or its condition, and that the Licensee is not relying on any representations of the City or the City's agents with respect to the use or condition of the City's Right of Way. This License Agreement grants the Licensee the privilege and permission to use that portion of the City's Right of Way described in Exhibit A of this License Agreement, in its present condition, "as is," without any warranties, representations, or assurances from the City.
4. **Accommodation.** The permission granted to the Licensee under the License Agreement is given for good and valuable consideration. However, the permission granted is also given as an accommodation to the Licensee and shall be made without requiring the payment of rent from the Licensee. The Licensee hereby acknowledges the City's right to the City's Right of Way and agrees never to assail, resist, or deny such right by the virtue of the Licensee's use or occupancy of the City's Right of Way under this License Agreement.

5. **Indemnification.** During the time that this License Agreement is in effect, the Licensee agrees to indemnify, defend, save, and hold harmless the City, its officers, commissioners, agents, employees, grantees, and assigns, from and against all claims, actions, liabilities, damages, costs, expenses, and judgments, including attorneys' fees, which relate to, arise out of, or are in any way related to the Licensees' use or occupancy of the City's Right of Way, on account of any injury to persons or damage to property. This indemnification clause shall not apply to any injury or damage caused by the City's own negligence.
6. **Termination.**
- (a) The City reserves the right to terminate the permission granted by this License Agreement at any time and for any reason, by giving the Licensee at least ninety (90) days written notice of such termination, except that the City may, at the City's election, terminate the permission immediately without such notice:
- (i) If the Licensee fails to comply with or abide by each and all of the provisions, including the Licensee's Covenants, of this License Agreement;
- (ii) If the Licensee's continued use or occupancy of the City's Right of Way presents a health or safety hazard.
- (b) Licensee reserves the right to terminate the permission granted by this License Agreement, if use of the Pipes is no longer needed and its service discontinued. Such termination shall not be effective until the City has been provided at least 30-days' written notice of the discontinuation of the use of the Pipes.
7. **Binding Effect.** This License Agreement shall, at all times, be binding upon the City and the Licensee and all owners of the Property and all parties claiming by, through, or under them, and shall run with the land, and shall be for the benefit of and shall oblige 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 their ownership of the Property, or portion thereof, except for the duties and obligations arising during the period of said ownership.
8. **Severability.** If any section, sentence, clause, or phrase of this License Agreement is found to be invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining provision of this License Agreement.
9. **Governing Law.** This License Agreement shall be construed and enforced in accordance with and shall be governed by the laws of the State of Kansas.

10. **Recitals**. The above-stated recitals are by reference incorporated herein and shall be as effective as if set forth herein *verbatim*.

*[SIGNATURE APPEAR ON THE FOLLOWING PAGES]*

**IN WITNESS WHEREOF**, the undersigned have caused this License Agreement to be executed as of the date noted above.

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

\_\_\_\_\_  
THOMAS M. MARKUS  
City Manager

**ACKNOWLEDGMENT**

THE STATE OF KANSAS            )  
  )       ss:  
THE COUNTY OF DOUGLAS        )

**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, 2016, before me the undersigned, a notary public in and for the County and State aforesaid, came Thomas M. Markus, as City Manager of the City of Lawrence, Kansas, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledged this instrument to be the act and deed of the aforementioned entity.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my notarial seal, the day and year last written above.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

**LICENSEE:**

\_\_\_\_\_  
BENJAMIN P. GLEESON  
Property Owner

**ACKNOWLEDGMENT**

THE STATE OF KANSAS            )  
  )  
THE COUNTY OF DOUGLAS        )       ss:

**BE IT REMEMBERED**, that on this \_\_\_\_ day of \_\_\_\_\_, 2016, before me the undersigned, a notary public in and for the County and State aforesaid, came Benjamin P. Gleeson, who is personally known to me to be the same person who executed this instrument in writing, and said person fully acknowledges this instrument to be his intentional acts and deed.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my notarial seal, the day and year last written above.

\_\_\_\_\_  
Notary Public

My Appointment Expires: