

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made this ____ day of _____, 2018, by and between the City of Lawrence, Kansas, a municipal corporation, and Brown Eyed Girl, L.L.C., a Kansas limited liability company

RECITALS

- A.** The City of Lawrence, Douglas County, Kansas ("the City"), is the holder of that Right of Way on which 12th Street ("City's Right of Way") is located in Lawrence, Douglas County, Kansas;
- B.** Brown Eyed Girl, L.L.C., a Kansas limited liability company ("the Owner"), owns certain real estate ("the Property"), commonly known as 1145 Pennsylvania Street, Lawrence, Douglas County, Kansas, and bearing the following legal description, to-wit:

Lot 109 on Pennsylvania Street in the Original Townsite of the City of Lawrence, Douglas County, Kansas.
- C.** In order to continue to enhance the use and enjoyment of the Property, the Owner wishes to locate a stone retaining wall and rock landscaped area in the City's Right of Way ("Licensed Area") (a map depicting the Licensed Area and is affixed hereto as Exhibit A); and
- E.** In order to protect the City's interest in the City's Right of Way, the Owner agrees to execute this License Agreement and to comply with its terms.

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 is hereby acknowledged by the parties, the parties agree as follows:

- 1. Grant of License.** In exchange for the sum of one dollar and no cents (\$1.00) and other good and valuable consideration, 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 City's Right of Way, as shown in the map affixed hereto as Exhibit A, for the Licensed Area, for the purpose of enhancing the use and enjoyment of the Property.
- 2. The Owner's Covenants.** In exchange for this License, in addition to giving good and valuable consideration, the Owner hereby covenants and warrants as follows:

- (a) To maintain that portion of the City's Right of Way set aside for the Licensed Area, as shown in Exhibit A, at the Owner's sole cost and expense and to remove all debris and other items placed thereon by the Owner or that may be caused to be deposited thereon as a result of the Owner's use and occupancy of the City's Right of Way.
 - (b) To move or to close, at the Owner's sole cost and expense, the Licensed Area in the event that the City needs to install, repair, or maintain any utilities that may be located or are to be located in the City's Right of Way. The owner may replace or reopen the Licensed Area in its former location once said installations, repairs, or maintenance are completed, except as may otherwise be provided in paragraph 6 of this License Agreement.
 - (c) To comply with all applicable laws and ordinances, including all land use requirements of the City and Douglas County, Kansas.
 - (d) To refrain from causing any waste, damage, or injury to the City's Right of Way.
 - (e) The Owner shall not enlarge, intensify, or increase the proposed scope of its use or occupancy of the City's Right of Way as described in this License Agreement without the prior written consent of the City.
 - (f) The Owner recognizes and acknowledges that existing License Agreement, dated June 16, 2016, by and between the City and the previous owners of the Property, which License Agreement governs the Owner's use of a portion Pennsylvania Street Right of Way for a Porch and Parking Area. The Owner reaffirms hereby that it is subject to that License Agreement and that it is bound by its terms (a copy of the existing License Agreement is affixed hereto as Exhibit B, the terms of which are incorporated herein by reference).
3. **The City Makes No Representations.** The Owner agrees that the City has made no representations to it with respect to the City's Right of Way or its condition, and that it is not relying on any representations of the City or its agents with respect to the City's Right of Way or its condition. This License Agreement grants the Owner the License to use the City's Right of Way in its present condition, "as is," without any warranties, representations, or assurances from the City.
4. **Accommodation.** The permission granted to the Owner under the License Agreement is given for good and valuable consideration. However, the permission granted is also given as an accommodation to the Owner and shall be made

without requiring the payment of rent from the Owner. The Owner hereby acknowledges the City's right to the City's Right of Way and agrees never to assail, resist, or deny such right by virtue of the Owner'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 Owner 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 Owner's use or occupancy of the City's Right of Way or any portion thereof as a Parking Area or the maintenance of the Parking Area, 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.** 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 180 days written notice of such termination, except that the City may, at the City's election, terminate the permission immediately without such notice:
 - (a) If the Owner fails to comply with or abide by each and all of the provisions, including the Owner's Covenants, of this License Agreement;
 - (b) If the Owner fails to comply with or abide by each and all provisions of the existing License Agreement, dated June 16, 2016; or
 - (b) If the continued use or occupancy of the City's Right of Way 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, 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 ownership of the Property, or portion thereof, except for those 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 *verbatim*.

[SIGNATURE PAGES FOLLOW]

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)
)
THE COUNTY OF DOUGLAS) ss:

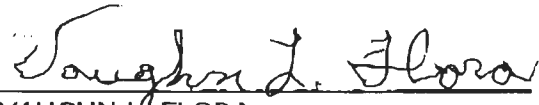
BE IT REMEMBERED, that on this ____ day of _____, 2018, before me the undersigned, a notary public in and for the County and State aforesaid, came Thomas M. Markus, as City Manager of the City of Lawrence, Kansas, who is personally known to me to be the same person who executed this instrument in writing, 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 commission expires:

**OWNER:
BROWN EYED GIRL, L.L.C., a Kansas
limited liability company**




VAUGHN L. FLORA
Member Owner


ACKNOWLEDGMENT

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

BE IT REMEMBERED, that on this 7th day of September, 2018, before me the undersigned, a notary public in and for the County and State aforesaid, came Vaughn L. Flora as Member Owner of Brown Eyed Girl, L.L.C., a Kansas limited liability company, 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.

 **Holly Allen**
Notary Public
State of Kansas
My Appt. Expires 3/7/22



Notary Public

My commission expires:



Exhibit A