

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 108-14

AN ORDINANCE

authorizing a license agreement with Stephen A. and Nicole A. Johnson to allow installation and maintenance of a fence on City-owned property located on the southwest corner of Worley Street and Woodlawn Avenue; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a license agreement with Stephen A. and Nicole A. Johnson to allow installation and maintenance of a fence on City-owned property located on the southwest corner of Worley Street and Woodlawn Avenue. The form and content of the license agreement shall be substantially in the same form as set forth in "Attachment A" attached hereto.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

LICENSE AGREEMENT

THIS license agreement and special permit (hereinafter "Agreement") is entered into on this _____ day of _____, 2014, between the City of Columbia, Missouri, a municipal corporation (hereinafter "City") Stephen A. Johnson and Nicole A. Johnson (hereinafter "Licensee").

WHEREAS, Licensee wishes to cross and has placed a fence aboveground on unimproved City property, managed by City's Public Works Department; and

WHEREAS, the fence is already installed on property at the southwest corner of Worley Street and Woodlawn Avenue; and

WHEREAS, City, through City's Public Works Department, has plans in the future to utilize this property; and

WHEREAS City is willing to grant Licensee a revocable license that is only a privilege to enter the property for this limited specific purpose and this license does not vest any title, interest or estate in the Licensee with terms and conditions required by City; and

WHEREAS Licensee understands and agrees that it is the intention of City only to grant a license; and

WHEREAS Licensee understands and agrees that it is the intention of City that this Agreement does not grant a lease or an easement, and does not create any type of transferable business interest in City property for the benefit of Licensee, and does not subordinate City's use of the property to Licensee; and

WHEREAS, City and Licensee desire to enter into this Agreement specific to the particular circumstances of this project only.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Agreement by reference, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of License

City owns unimproved property at Parcel Number **16-315-00-16-021.00**, Columbia, Missouri, more particularly described in "**Exhibit A**," attached hereto and incorporated herein by reference. City agrees to allow Licensee to maintain their fence on this property and Licensee shall mow the property until City decides to terminate this license.

2 Term Of License

This license shall be effective as of the day and year first above written and shall continue in effect until revoked as provided herein or by operation of law.

3. Non-exclusive Use Of The Premises

The property may be used on a nonexclusive basis by Licensee for the sole purposes of the installation of a fence, maintenance and mowing of the property by Licensee. The fence erected, located, placed or constructed by Licensee shall remain the personal property of Licensee and may be removed by Licensee at its sole option at any time during the term of this license, unless as otherwise stated in this Agreement. The license granted is as an accommodation to Licensee and is not an agreement by City to create a transferable business interest in City property for the benefit of Licensee, or to subordinate City's use of the property to Licensee. Licensee's use of the property is contractual only. This Agreement does not grant Licensee any easement rights over City property.

4. Conditions and stipulations of the License

The Licensee is subject to the following conditions and stipulations:

4.1. This license is for the exclusive purpose of construction, improvement, operation and maintenance of Licensee's fence and above ground use of mowing the property. This license is transferable.

4.2. Licensee will be responsible for the costs of any future repairs, maintenance or replacements to the fence from Licensee's use under this license and any costs in mowing the property.

4.3. Licensee will relocate its fence, if requested to do so by City. Any cost of such relocation of fence shall be paid by Licensee.

4.4. Licensee shall, at its own expense, during the term of this Agreement, license, maintain the fence in a safe condition acceptable to City.

4.5. If Licensee's fence is abandoned, all rights herein granted shall terminate and Licensee shall have no further rights under this Agreement.

4.6. Licensee agrees by exercising its rights under this permit that it shall waive any claim it may otherwise have against City for damage to Licensee's fence due to the negligent acts of employees of City in the construction, repair, modification or relocation of City facilities located on or adjacent to the Area.

5. License Revocation

The City may revoke this license at will, at any time, for any reason or no reason at all. The City Manager and Director shall have the authority to revoke the license and revocation shall be in writing and shall immediately terminate the Agreement from the date notice is sent. Licensee shall immediately comply with section 6.2. under

Termination of Agreement.

6. Termination Of Agreement

6.1. Except as otherwise provided herein, this Agreement may be terminated:

1) By either Licensee or City, upon three (3) months written notice to the other,
Or

(2) Upon a default of any covenant or term hereof by the other party, which default is not cured within thirty (30) days of receipt of written notice of default.

6.2. Upon termination of this Agreement, whether by revocation of the license, cancellation, forfeiture or otherwise, Licensee shall have the right to remove from the property all fencing installed or placed on the property by Licensee unless otherwise stated in this Agreement. Licensee shall have thirty (30) days after termination of this Agreement within which to dismantle and remove the fence and improvements it has made and, upon removal, Licensee shall be responsible to City for any damage to the property, or any equipment on the property, or to any neighboring land or property on neighboring land, caused by Licensee, its employees, contractors or agents. Licensee shall ensure the damage to the land is repaired, the land restored and any damaged property is repaired or replaced, to the satisfaction of the property's owner. At the conclusion of dismantling and removing the fence and improvements, Licensee will restore the ground around the property to its original contour, removing all ruts and reseeding or resodding or repouring any surface; replace any trees or landscaping; replace any improvements of City or others; all to the satisfaction of City. If Licensee fails to remove its fence and improvements within the Thirty (30) day period, such fence and improvements shall become the property of City and City may remove fence and improvements. Any costs of removal of fence and improvements shall be borne by Licensee; any costs to restore the land shall be borne by the Licensee. Licensee shall reimburse City within five (5) days of Licensee's receipt of an invoice from City, for all costs incurred by City for removal of fence, restoration and other costs to City under this provision. This provision shall survive revocation of the license and termination of the Agreement.

7. Compliance With Laws

Licensee shall install and operate fence and improvements and use the site in a manner which complies with all laws, regulations and rules of federal, state and municipal agencies governing the installation, operation, and use of the site.

8. Liens and Encumbrances

Pursuant to this Agreement, Licensee has no power, authority or right to create or permit any lien or encumbrance, including, without limitation, tax liens, mechanics liens, or other liens or encumbrances with respect to work performed or equipment furnished, in connection with the installation, repair, maintenance, or operation of its fence and improvements.

9. Indemnification and Hold Harmless

To the fullest extent not prohibited by law, Licensee shall indemnify and hold harmless the City of Columbia, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to attorney's fees) arising by reason of any negligent act or failure to act, or willful misconduct, of Licensee, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Licensee or a subcontractor for part of the services), of anyone directly or indirectly employed by Licensee or by any subcontractor, or of anyone for whose acts the Licensee or its subcontractor may be liable, in connection with providing these services except as provided in this Agreement. This provision does not, however, require Licensee to indemnify, hold harmless or defend the City of Columbia from its own negligence, except as set out herein. City shall have the right to elect in writing to direct the defense of any such suits or actions, with notice and consultation to Licensee, in which case Licensee shall pay the reasonable legal expenses of City.

10. Notice

All notices must be in writing and are effective when deposited in the U.S. Mail certified and postage prepaid, or when sent via overnight delivery, to the address set forth below or as otherwise provided by law.

For Notice to Licensee
Property owner
503 Woodlawn Avenue
Columbia, MO 65203
Columbia MO 65202

For Notice to City:
City of Columbia
Public Works Director
PO Box 6015
Columbia, MO 65205-6014

Either party may change the address to which or official to whom notice is to be given by giving notice of the change to the other party.

11. Governing Law/Jurisdiction

This Agreement shall be construed in accordance with the laws of Missouri. Should any part of this Agreement be litigated, venue shall be proper only in the Circuit Court of Boone County, Missouri or the United States District Court for Western Missouri. If any term of this Agreement is found by a court of competent jurisdiction to be void or invalid, such finding shall not affect the remaining terms of this Agreement, which shall remain in effect.

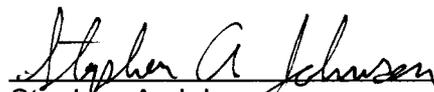
12. Sole benefit of parties

This Agreement is for the sole benefit of City and Licensee. Nothing in this Agreement is intended to confer any rights or remedies on any third party.

13. Entire Agreement

This Agreement constitutes the entire Agreement and understanding of the parties. No modification, amendment or waiver of any provisions of this Agreement or

Owners
503 Woodlawn
Columbia, MO 65203

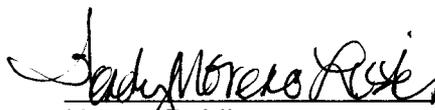

Stephen A. Johnson

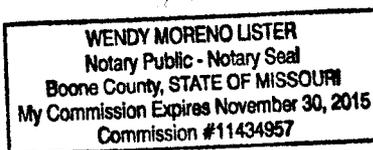

Nicole A. Johnson

STATE OF Missouri)
) ss.
COUNTY OF Boone)

On this 11 day of April, 2014, before me, a notary public,
appeared Stephen A. Johnson and Nicole A. Johnson, husband and wife, known to me
to be the persons described in and who executed the foregoing instrument, who being
by me duly sworn, acknowledged that they executed the same as a free act and deed
for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.


Notary Public



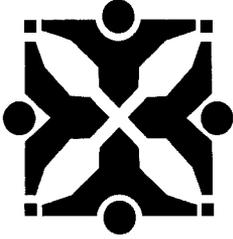
Boone County Internet Parcel Map

Prepared by the Boone County Assessor's Office, (573) 886-4262



ATTENTION!!

DISCLAIMER; READ CAREFULLY: These maps were prepared for the inventory of real property based on the utilization of deeds, plans, and/or supportive data. In addition, map files are frequently changed to reflect changes in boundaries, lot lines and other geographic features resulting from changes in ownership, development and other causes. The existence, dimension, and location of features, as well as other information, should not be relied upon for any purpose without actual field verification. The County of Boone makes no warranty of any kind concerning the completeness or accuracy of information contained on these



Source: Public Works

goh

Agenda Item No:

To: **City Council**
From: **City Manager and Staff**

MM

Council Meeting Date: Apr 21, 2014

Re: License Agreement for Fence Installed on City Property

EXECUTIVE SUMMARY:

Staff has prepared for Council consideration legislation authorizing the City Manager to execute a license agreement to allow a fence, and maintenance of the fence, on unimproved City-owned property located at the southwest corner of Worley Street and Woodlawn Avenue.

DISCUSSION:

The license agreement allows for the licensee to maintain a fence installed on unimproved City-owned property located adjacent to their home, at the Southwest corner of Worley Street and Woodlawn Avenue. The licensee purchased their home about nine years ago, and installed a fence on City-owned property believing that they had permission to do so in exchange for mowing that same property. This license agreement formalizes the location of the fencing and allows the licensee to maintain their fence, and mow the property until the City, or licensee, decides to terminate this agreement.

FISCAL IMPACT:

None

VISION IMPACT:

<http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php>

None

SUGGESTED COUNCIL ACTIONS:

Approve the legislation authorizing the City Manager to execute a license agreement to allow a fence, and maintenance of the fence, on City-owned property located at southwest corner of Worley Street and Woodlawn Avenue.

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		Program Impact		Mandates	
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact	
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		Resources Required		Vision Impact?	No
One Time	\$0.00	Requires add'l FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?	No	Fiscal year implementation Task #	