

LEASE AGREEMENT

Bright Beginnings Day Care Lease

This Lease Agreement entered into this 1st day of September, 2016, by and between the City of Kirksville, Missouri, a municipal corporation, hereinafter referred to as the "City," and Bright Beginnings, LLC., hereinafter referred to as the "Lessee."

WITNESSETH:

WHEREAS, the City owns the Lambert Building, 1123 N. Osteopathy, hereinafter referred to as the "Facility," which is located at 1123 Osteopathy; and

WHEREAS, the Lessee desires to lease space at the Facility to operate a day care; and

WHEREAS, the City and the Lessee desire to enter into an agreement for leasing such space.

NOW, THEREFORE, the City and the Lessee do hereby agree as follows:

1. Premises and Purpose

The City does hereby lease unto the Lessee that area shaded in the attached Exhibit A for a total leased space of approximately 6,120 square feet, hereinafter referred to as the "Premises." The Premises shall be used for the sole and exclusive use of operating a day care; however, the Lessee shall also be permitted to use the Premises for conducting day care business and related activities. No other uses and no personal uses are permitted without the advanced express written consent of the City.

2. Term

This Lease Agreement shall be for a base term of twelve (12) months beginning on September 1, 2016 and ending on August 31, 2017. Renewal options are specified in Section 12.

3. Payments

A. Rent

As rent for the Premises for the base term, the Lessee shall pay to the City \$500.00 each month. Rent payments are due and payable in advance on or before the first day of every month with the first payment due on or before September 1, 2016. In the event of renewal, rent is adjusted in accordance with Section 12.

B. Custodial Services

The Lessee is responsible for paying for the cost of custodial services for the Premise.

C. Utilities Payment Upon Renewal

The Lessee shall be responsible for paying the costs of the utilities for the Lessee's portion of the Facility.

D. Telephone

The Lessee is responsible for obtaining and paying for any telephone, facsimile, cable, or similar service the Lessee desires to have. These services are not provided by the City.

4. Compliance with Laws and Regulations

The Lessee hereby covenants to use the Premises in a manner which does not violate the laws Of the United States, the State of Missouri, the ordinances of the City of Kirksville, and the laws or regulations of any other applicable governmental authority. The Lessee hereby covenants to comply with any regulations as are or may be established by the City for the general convenience of all tenants of the Facility and the public.

5. Entry by the City

The City has the right to enter onto the Premises at all reasonable times to ensure compliance with this Lease Agreement and to inspect the Premises for damages and to make any necessary repairs that are the City's responsibility.

6. Maintenance and Repairs

The Company has inspected and knows the condition of the Leased Premises and accepts them in their present "As Is" condition, including all defects, latent or otherwise, existing as of the Commencement Date. The City hereby assigns to the Company any and all warranties that it has with respect to the roof and all other improvements, on or about the Leased Premises.

- A. The City shall maintain and repair damage to the structure of the Facility including outer walls, foundation, and roof, and the Lessee shall maintain, keep in good condition and repair improvements located upon on the Leased Premises, and every part thereof, including all plumbing, heating, electrical, air conditioning and ventilating systems whether or not the need for such maintenance or repair occurs as a result of the Lessee's use, or any prior use, the elements or other casualty. The City, shall, at the City's sole cost to expense, be responsible for all costs and expenses in connection with the replacement of the HVAC, the roof, the structural elements of the walls of the building, and the foundation of the building. In such event that repair is needed to the Facility due to damage caused by the Lessee or anyone under the Lessee's control, the Lessee shall be responsible for reimbursing the City for said repair and such payment shall be made within thirty (30) days of receipt of an invoice specifying such repair and cost.
- B. The Lessee shall be responsible for maintaining the Premises in such a state of repair as the Premises existed at the time of occupancy, normal wear and tear excepted. Any damage caused to the Premises as a result of the Lessee's occupancy shall be repaired at the Lessee's cost.
- C. The Lessee is solely responsible for the maintenance and upkeep of the fenced in playground area including the fence itself and the grounds, play features, and all other components found within the fenced in area.
- D. In the event the Premises and/or the Facility are so damaged as to render the Premises or the Facility untenable or unsafe as determined by the City, the Lessee shall immediately move from the Premises and all requirements to make payments shall cease; however, this does not relieve the Lessee of any responsibilities under the terms and conditions of this Lease Agreement for costs for repairs or damages caused by the Lessee. In the event the Premises or the Facility is rendered untenable or unsafe through no fault of the Lessee,

the City will support the Lessee's efforts in obtaining space at other facilities in order to ensure continued operations; however, in no event shall this support be construed as financial support.

7. Taxes

The Lessee shall be responsible for any taxes that are assessed as a result of *the Lessee's use* of the Premises, including but not limited to real property taxes.

8. Alterations and Improvements

The Lessee shall not make any alterations or improvements to the Premises without the advance express written permission of the City, including any alterations or improvements that may be required as a result of their use of the Premises (i.e. health law requirements). Any alterations or improvements shall be paid by the Lessee, shall become property of the City, and shall remain with the Premises upon termination of this Lease Agreement.

9. Assignment

This Lease Agreement and/or any responsibilities hereunder may not be assigned or sublet in whole or in part by the Lessee without the advance express written permission of the City.

10. Insurance

The Lessee shall at all times during the term(s) of this Lease Agreement obtain, acquire, and maintain in full force and effect Comprehensive General Liability Insurance in an amount of \$300,000 and Fire and Property Damage Insurance in an amount of \$300,000, or if higher, the minimum limits established by the State of Missouri for day care facilities; further, the Lessee shall obtain Workers' Compensation Insurance in accordance with State law, if applicable.

The Lessee shall maintain policies providing the above-stated insurance protection, and shall name the City as an additional insured, as its interest may appear, consistent with this Lease Agreement, with each policy containing a requirement that, in the event of change or cancellation, thirty (30) days' prior written notice be sent by mail to the City. Certificates of Insurance describing the coverage shall be furnished by the Contractor and shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is issued and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days' prior written notice will be given the certificate holder."

The Lessee may purchase at its own expense such additional or other insurance protection as it may deem necessary. Maintenance of the required minimum insurance protection does not relieve the Lessee of responsibility for any losses not covered by the above-required policies. The Lessee agrees to furnish to the City of Kirksville Risk Manager, 201 South Franklin Street, Kirksville MO 63501) a Certificate of Insurance(s) or other evidence satisfactory to the City to the effect that such insurance has been procured and is in force prior to the beginning of the term(s).

11. Indemnification

The Lessee hereby agrees to protect, indemnify and hold harmless the City from and against any and all loss, expense, damage, charges and costs (including court costs and counsel fees) for injury to or death of persons and injury to or destruction of property suffered or alleged to have been suffered as a result of any act or omission on the part of the Lessee or anyone

directly or indirectly employed or controlled by the Lessee as a result of the Lessee's occupation or use of the Premises.

12. Renewal Options

A. Timing and Method

This Lease Agreement is renewable upon the mutual written consent of both parties for up five (5) additional one-year terms beginning on September 1 and ending on August 31 of the subsequent year. In the event one party desires to renew this Lease Agreement, the requesting party shall notify the other party in writing of such request to renew within sixty (60) days of the termination date of the current term. The other party shall respond to the requesting party within thirty (30) days of receipt of said request to renew.

B. Rent Adjustment Upon Renewal

The rent adjustment for the first year will be an additional \$100 per month. For subsequent years, if both parties mutually agree to renew this Lease Agreement, the annual rent payment for the renewal term shall be adjusted modifying the current term's rent by an amount equal to one hundred percent (100%) of the Annual "Unadjusted Percent Change" in the Consumer Price Index (CPI) (all items, all urban consumers, United States, as published by the Bureau of Labor Statistics), using the CPI figure for the month of March. If publication of the CPI is discontinued, a comparable publication agreed upon by both parties shall be used.

13. Termination

- A. If the Lessee desires to terminate this Lease Agreement prior to the expiration of the initial term, the Lessee shall be responsible for payment of all rents due through the end of the initial term.
- B. This Lease Agreement may be terminated by either party at any time after the expiration of the initial term upon thirty (30) days' advance written notice to the other party.
- C. Upon failure of the Lessee to comply with the terms and conditions of this Lease Agreement, the City may terminate this Lease Agreement immediately upon notice to the Lessee.

14. Anti-Discrimination

- A. The Lessee shall not discriminate against any person seeking employment with or by the Lessee or seeking day care services from the Lessee at the Premises because of race, color, creed, national origin, age, sex, sexual orientation, religion, disability or any other legally protected status.

15. Notices

- A. All notices or other writings required to be given under this Lease Agreement shall be sent to the parties at the following addresses, or to each party at such other address as shall be designated by such party in a written notice to the other party in accordance with this section. All notices and other writings shall be effective when deposited in the mail (first class mail, postage prepaid).

If to City:
Mari E. Macomber
City Manager

201 South Franklin
Kirksville, MO 63501
If to Lessee:

Bright Beginnings, LLC
Andrea Orwig

1123 Osteopathy Street, Suite A
Kirksville, MO 63501

16. Governing Law

This Lease Agreement shall be governed by the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties have caused this Lease Agreement to be executed as of the date first above written.

APPROVED AS TO FORM AND LEGALITY:

CITY OF KIRKSVILLE, MISSOURI

City Attorney

City Manager

BRIGHT BEGININGS, LLC.

Andrea J. Orwig, Owner

Raymond Orwig, Owner

EXHIBIT A

