AGENDA

BASEHOR CITY COUNCIL
October 6, 2008
6:00 p.m.
Basehor City Hall

WORK SESSION - 6:00 p.m. Discussion of agenda items
Discuss MHS work within the city.
REGULAR MEETING – 7:00 p.m.

1. Roll Call by Mayor Chris Garcia and Pledge of Allegiance

2. Consent Agenda
(Consent Agenda Items will be acted upon by one motion unless a Council Member requests an item be removed for discussion and separate action.)

a. Approve Minutes
   1. September 8, 2008 Cedar Lake Public Hearing
   2. September 15, 2008 Work Session & Regular Meeting
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

3. Call to Public
Members of the public are welcome to use this time to comment about any matter relating to City business that is listed on this Agenda. The comments that are discussed under "Call to Public" may or may not be acted upon by the Council during this meeting. There is a five-minute time limit. (Please wait to be recognized by the mayor then proceed to the podium; state your name and address).

a. Lois Fulkerson, Steven Rosenthal – Street conditions at 2954-56 N. 155th Terr.

4. Scheduled Discussion Items
a. LCDC Quarterly Report by Steve Jack
b. Pinehurst Excise Tax Refund/Credit - Jeff Sutton representing Pinehurst Development
c. Consider request by USD 458 to waive excise tax fees.

5. Business
a. Consider approval of Authorization No. 3 for professional engineering services (resident observer) to Burns & McDonnell Engineering Company, Inc.
b. Consider approval of the revolving loan (KWPCRF) Agreement with KDHE for Wastewater Treatment Plant Expansion.
c. Consider starting the annexation process over again for the Cedar Lake Estates subdivision.

d. Consider a proposal to begin the effort in annexing the Cedar Lake Estates subdivision.
e. Consider ordinance adopting by reference proposed Zoning Regulations
f. Consider ordinance to revise guidance on use of right-of-way to include designated easements.
g. Reconsideration of lot split of Lot C-5, Pinehurst North, as requested by Gary Holst.
h. Consider approval of bids for street maintenance projects for 2008.
i. Consider ordinance and lease agreement with KDOT for certain communication equipment.

6. City Administrator Report
7. Mayor's Report
8. Council Member Reports
9. Executive Session
10. Adjournment

Basehor City Council reserves the right to amend the agenda following its publication in the Basehor Sentinel newspaper. Citizens are encouraged to attend all public meetings. Updates to the agenda may be viewed at *www.cityofbasehor.org*

Minutes
Cedar Lake Annexation Public Hearing

Basehor City Council
September 8, 2008
6:00 p.m.
Glenwood Ridge Elementary School

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Iris Dysart, Roger McDowell, Keith Sifford, Jim Washington
Members Absent: Terry Hill

Staff Present: Carl Slaugh, Lloyd Martley, Mary Mogle, Dustin Smith

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At 6:05 p.m. Mayor Garcia announced the meeting would be delayed explaining the Council required four members of the City Council to be in attendance in order to conduct a meeting. Councilmember Washington arrived at 6:20 p.m. Mayor Garcia announced a quorum was present and called the public hearing to order. Councilmember Hill was not in attendance. He further announced the purpose of the hearing was to hear comments from residents of Cedar Lakes regarding the proposed annexation and advised them that Council would consider action at their meeting on October 6th and, if necessary, move to October 29th.

Staff Comments

City Administrator Carl Slaugh reiterated the City Council would take action regarding the annexation of Cedar Lake Estates (Referred hereafter as "CLE") on October 6. The city administrator went over the sixteen criteria (PowerPoint presentation) required by State law for annexation.

A member of the audience asked if it mattered if the subdivision had not been platted correctly. Mr. Slaugh stated he would have to research the matter. He went on to explain the City does not propose to change any government services at this time.

A question was raised about the figures shown on the information sheet regarding the Fairmount Township Taxes and if the 11.617 mils would be dropped from the current mil levy. Mr. Slaugh stated that rate would drop to 3.988 mils.

The chief of police was asked how many calls were made in CLE last year. Chief Martley reported he was informed by Leavenworth County dispatch that 138 calls were logged; however, he did not have a breakdown of what the calls were for at this time.

Mr. Slaugh reported if there were any unresolved questions based on discussion during this meeting, staff would research and post answers on the website for CLE residents to view.

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The following residents of CLE spoke, on behalf of themselves and their spouses and family, in opposition of the proposed annexation and provided written statements:

Daniel Stueckemann	15501 Cedar Lane, Bonner Springs, KS 66012
Bob Workman	18210 153rd Street, Bonner Springs, KS 66012
	(also provided copy of Sewer Dist. 7 agreement)
Marsha Oyer	15506 Cedar Lane, Bonner Springs, KS 66012
Fred Farris	18376 155th Street, Bonner Springs, KS 66012
Kurt Torkelson	181225 Cypress Bend, Bonner Springs, KS 66012
Richard Stutzman	18392 154th Terr, Bonner Springs, KS 66012
Lisa Kane	15677 Cedar Lane, Bonner Springs, KS 66012
Jennifer Yanos	15768 Pine Court, Bonner Springs, KS 66012
Sharyl Clubb	15490 Bradfort Ct, Bonner Springs, KS 66012
Wanda Strange	18356 155th Street, Bonner Springs, KS 66012
Suzanne Bond	15549 Bradfort Ct, Bonner Springs, KS 66012
Catherine Moreland	18114 Cypress Bend, Bonner Springs, KS 66012
Paul Novak	18224 153rd Street, Bonner Springs, KS 66012
Brenda Murphy	15743 Pine Ct, Bonner Springs, KS 66012
Jennifer Espenshade	15539 Cedar Lane, Bonner Springs, KS 66012
David Kendrick	15317 Pine Ct, Bonner Springs, KS 66012
Bob Ellis	18137 Cypress Bend, Bonner Springs, KS 66012
David Walsh	15527 Pine Ridge Rd, Bonner Springs, KS 66012
	(notice sent to old address)
Lyle Lauritsen	18111 Cypress Bend, Bonner Springs, KS 66012
Craig Andernacht	15721 Pine Circle, Bonner Springs, KS 66012
Trevor Urban	15498 Cedar Lane, Bonner Springs, KS 66012
Ruth Hobbs	15715 Pine Circle, Bonner Springs, KS 66012
Kurt Bowers	15502 Bradfort Ct, Bonner Springs, KS 66012
Eldon Eikenbary	18184 Cypress Bend, Bonner Springs, KS 66012
Loren Gottschalk	18168 Cypress Bend, Bonner Springs, KS 66012
Vicki Darr	15724 Cedar Lane, Bonner Springs, KS 66012
Carol Tourtelotte	15551 Pine Ridge Rd, Bonner Springs, KS 66012
Glenda Keeler	15693 Cedar Lane, Bonner Springs, KS 66012

The following residents of CLE did not speak; however, did provide written statements on behalf of their spouse and family by way of a neighbor or in person, opposing the proposed annexation:

James Nile	15522 Bradfort Ct, Bonner Springs, KS 66012
	(statement read by David Stueckemann)
Christine Sifuentes-Futrell	18152 Cypress Bend, Bonner Springs, KS 66012
Roy Linhardt	15463 Cedar Lane, Bonner Springs, KS 66012
Wayne "Skip" Brunner	18380 154th Terr., Bonner Springs, KS 66012
Kirk Eidson	15519 Bradfort Ct, Bonner Springs, KS 66012
	(statement read by Marsha Oyer)

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Craig Smith	18100 Cypress Bend, Bonner Springs, KS 66012
Shawn Millies	18119 Cypress Bend, Bonner Springs, KS 66012
Joseph Ruskowitz	15748 Pine Court, Bonner Springs, KS 66012
Joe Norton	18131 Cypress Bend, Bonner Springs, KS 66012
Shannon Byers	15651 Pine Ridge, Bonner Springs, KS 66012
James Alldredge	15518 Pine Ridge, Bonner Springs, KS 66012
Constance Ershick	18200 Cypress Bend, Bonner Springs, KS 66012
Bob Patton	18388 155th St, Bonner Springs, KS 66012
Harold Nelson	15527 Cedar Lane, Bonner Springs, KS 66012
James Douglas	18363 155th Street, Bonner Springs, KS 66012
Roger DeLong	15561 Pine Ridge Rd, Bonner Springs, KS 66012
Gerald Greer	18180 153rd Street, Bonner Springs, KS 66012
Michael Shomin	18279 155th Street, Bonner Springs, KS 66012
Larry Gearheart	18236 153rd St, Bonner Springs, KS 66012

John Flower, 15515 Cedar Lane spoke as a resident of Cedar Lake Estates in opposition of the annexation. He suggested the City look at a negociated agreement that would phase in the tax increase and recommended five years. (No written statement provided.)

Randy Brilliantine, Bumpy Roads Disposal, stated the impact of losing 114 customers would devastate his company and employees. He requested the City be compassionate to his concerns and consider giving him time to make up the lost customer base. (Referenced letter provided to city administrator in August 2008.)

The residents of Cedar Lake Estates opposed the proposed annexation for the following reasons:

- Financial burden to residents due to increase in taxes.
- Do not support address change. This would also cause a financial burden to change legal documents, notification of insurance companies, utilities, families, friends, employment paperwork, and cost to have addresses changed that were built into their homes. They were concerned that emergency equipment and delivery service drivers would not be able to locate them since the address change would have an effect on GPS systems and other services that work off Zip Codes.
- Do not want Deffenbaugh as their solid waste provider. They receive good service from Bumpy Roads and wish to remain with them.
- County provides adequate services (i.e. snow removal, street maintenance, police protection)
- Only difference in services they currently receive; is that Basehor provides sewers at the rate of 125%. Residents of CLE paid a $2,000 sewer connection fee at time of hookup, as well as a upsize fee to connect to the Pinehurst lift station. Reduction in sewer bill did not offset the increase in taxes. Contractor currently takes care of grinder pumps. Pinehurst lift station emits horrific odors.
- Inadequate annexation plan provided by the City. Deficiency in the notification process. Resolution 2008-09 was excluded from the packet that was sent certified with return receipt. The resolution was mailed via regular mail.

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- Not all property owners were notified in accordance with State law; therefore, the annexation process was invalid.
- CLE Homes Association code enforcement is stricter than City codes.
- Sketch provided in annexation packet did not indicate location of utility lines.
- City's estimated cost was not clearly defined in the service plan.
- CLE felt the City should pay the outstanding State Revolving Loan balance.
- Annexation of CLE was considered "not to be reasonable".
- City has not addressed drainage issues caused by the development of Pinehurst Development. Silt control needs to be enforced and is causing silt to run into CLE lake. City should enforce weed control in Pinehurst subdivision.
- City should concentrate on economic development rather than annexation.
- Annexation by the City was for financial gain only.
- Lack of amenities such as sports programs and recreational facilities.
- Animal control would be inadequate. Residents currently control muskrat population by shooting them. If they are annexed this would cease because they would not be allowed to shoot weapons within city limits.
- Felt the City was not annexing Briarwood subdivision because they had septic tanks and would be too costly for the City of install sewer lines; whereas, CLE infrastructure was already in place.
- Lack of trust toward Basehor government.
- Basehor has a reputation for issuing an abundance of speeding tickets.
- Increase in taxes would impact the sell of homes in the future. Buyers would not want to pay the higher taxes.
- City funds and departments are spread too thin now; therefore, providing inadequate services.
- Annexation should build a community and by annexing CLE that would not build a good relationship.

Questions asked to staff:

1. Who provided the list of names? Mr. Slaugh stated the County provided the list of names and was currently being researched to find out why certain property owners were omitted.
2. How would the City assist CLE subdivision regarding a pending dispute with an adjoining property owner? Mr. Slaugh stated the City would provide information on how to pursue the situation. No funding would be available since it was a civil matter.
3. Would the City require Deffenbaugh to pick up trash in CLE. Mr. Slaugh stated that would be an issue for the City Council to decide. The current Deffenbaugh contract would allow the City to follow their municipal policy.
4. Would there be an amendment to the existing resolution and would CLE residents be notified? Mr. Slaugh did not comment at this time. Residents in the audience stated they did not want an amendment to the resolution; they merely did not want to be annexed.

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5. The mayor was asked if he was sitting on the other [CLE resident] would he want to be annexed? He answered no.
6. Would all council members be provided with copies of the written statements provided? The city clerk reported yes and that the written statements would become a part of the original minutes, scanned, and placed on the website.
7. A statement was made by the city administrator that the annexation was "all but a done deal", was that true. Mayor Garcia stated he did not have any idea how each council member was going to vote.
8. Would a cost of services be provided as stipulated in State statutes? Mr. Slaugh stated he would have to research the statute to see if more information needed to be provided.

Mr. Slaugh stated the City has followed the process as required by law.

In closing, the residents of CLE wanted reiterate that the City did not follow all requirements required by law by not notifying all CLE residents and not mailing Resolution 2008-09 by certified mail with return receipt. They also stated they would be willing to take legal action to fight the annexation.

There being no further residents wishing to speak, the mayor called the public portion of the meeting closed and adjourned the public hearing. Meeting adjourned at 9:25 p.m.

Submitted for Council approval with/without corrections or additions this 15th day of September, 2008.

_____
Mayor Chris Garcia

Attest:

_____
Mary A. Mogle, CMC, City Clerk

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Minutes

BASEHOR CITY COUNCIL
September 15, 2008
6:00 p.m.
Basehor City Hall

Official Presiding: Mayor Chris Garcia

Members Present: Pres. Iris Dysart, Terry Hill, Roger McDowell, Keith Sifford, Jim Washington
Members Absent: None

Staff Present: Carl Slaugh, Lloyd Martley, Mary Mogle, Gene Myracle David Lutgen, Patrick Reavey

Newspaper: Lara Hastings, *Basehor Sentinel*

WORK SESSION - 6:00 p.m.

Mayor Garcia called the work session to order at 6:07 p.m. with all members present. The city attorney was not in attendance at this time.

Discussion of agenda items

a. Bond issue for Basehor Town Center

(Patrick Reavey arrived at 6:08 p.m.)

Greg Vahrenberg, Piper Jaffray, reported the temporary notes for 155th Street Project and Basehor Boulevard have been finalized. On the day of closing proceeds would be delivered to the City on September 30th at which time the City could start paying construction costs. The total Purchase Price would be $3,780,366.66 with an annual rate of interest at 4% and a yield rate of 2.75%. The maturity date was set at September 1, 2010. He explained how the creation of special assessments would work noting the actual cost of construction plus interest on the temporary notes and reduced by earnings (Interest paid) would be used for the General Obligation Bond issuance.

b. Consider waiving building permit fees for the USD 458 building construction projects.

At the September 4th city council meeting Council directed the city administrator to research how other cities handle building permit fees for school districts. Mr. Slaugh reported he found that smaller cities typically waive building permit fees; however, larger cities treat a school district as any other enterprise. He explained the City has waived excise tax and building permits fees in the past in some cases. He questioned if the Council chose to waive inspection fees, should the City perform inspections in conjunction with school district inspectors.

City Attorney Patrick Reavey reported there were no legal impediments with charging the school district building permit and excise tax fees.

Councilmember Washington stated he spoke with the deputy superintendent from Olathe USD #233 and their position was that they were a government entity and not liable for the excise tax; however, they made a conscious decision that they would pay all fees as any other development. After his discussion, he felt the City should take the same stance, but supported waiving excise tax.

Mayor Garcia stated the purpose of the excise tax was to improve major streets. The school would create additional traffic on roads.

President Dysart stated she was in favor of waiving the excise tax since the school district was contributing to the benefit districts to improve 155th Street and construction of Basehor Boulevard.

Councilmember Washington stated the deputy superintendent informed him the school district did pay their portion of the benefit district and building permit fees, but do not pay excise tax..

c. ***Consider approval of Authorization No. 3 for professional engineering services (resident observer) to Burns & McDonnell Engineering Company, Inc.***

Mr. Slaugh reported normally an inspector would be under the jurisdiction of the engineering firm; however, he had a problem with the Burns & McDonnell contract since the amount was considerably higher than the other two bids. The city administrator reported Rod Geisler, KDHE, informed him the City had the authority to contract separate; however, with a project our size he did not recommend having a separate resident observer. Mr. Slaugh reported he changed the amount from $204,700 to $190,666 based on an email he received from engineer Jeff Keller.

Councilmember Washington asked why the matter was brought back up on the agenda. Mr. Slaugh reported the initial time was a proposal and this time the Council is taking action on the formal agreement. Councilmember Washington referenced Section 22 of the Code of Procedure which states motions to reconsider was prohibited and motions and substantive motions are ok. Mr. Reavey stated he spoke with legal counsel at League of Kansas Municipalities and a separate motion could be made and the original motion would stand on its own. Under Roberts Rules of Order, a member of the opposing side

could bring back up the original motion. Councilmember Washington stated he spoke with the Attorney Generals Office as well and felt the City should adopt a charter ordinance prohibiting Council to bring motions up time after time.

Councilmember Sifford did not feel this item was not a "reconsideration". Mr. Slaugh reiterated the agenda item was to take "formal" action on the agreement.

Councilmember Hill stated he voted no the last time because he wanted to look at the other two options that were less money than the one adopted.

President Dysart read the original motion from August 4, 2008. She stated in the past when a Council voted to approve something, it would not come back up for a vote.

Mayor Garcia asked the city attorney if he had already researched Councilmember Washington's request to draft an ordinance addressing how motions were to be handled. Mr. Reavey stated it is his understanding that he does not work on items that was not directed by the Governing Body as a whole; therefore, no work had been done regarding the issue.

Councilmember Hill felt that there should be an option that would allow Council to reconsider motions if presented in a different format.

Councilmember Washington read his email that he sent to the city attorney that in essence if circumstances change, a new motion may be presented at a later date.

Councilmember Sifford said he did agree with Councilmember's Washington and Hill that an item should be able to be brought back up if there was question about the original motion. He felt the taxpayers of the community would want the City to take another vote to reduce a contract by $60,000.

John Mitchell, Burns & McDonnell, reported the issue of construction inspector was a risk management issue. The reason for a resident inspector (RPR) would be to protect the City's interest during construction. From a risk management point of view, the design engineer would be the one to help reduce liability of a project because they would be familiar with the plans. Their proposal for the resident inspector included time for their engineers to assist the resident inspector on items they may not be familiar with. The RPR works with the engineer to make sure that change orders are limited. He explained the other bid for $142,950 does not include engineering costs. Burns & McDonnell would not be responsible for the RPR's actions. Mr. Slaugh pointed out the fee would be $190,666 since it already includes 80 hours for administrative assistance services. If the RPR is not under contract with Burns & McDonnell, they would not be able to certify the project to KDHE.

Patrick Reavey asked if the contract had limitations for damages for the RPR. Mr. Mitchell stated he thought it was contract value but would have to look at the contract for

make sure. Mr. Reavey stated the law would view the RPR as an independent contractor and Burns & McDonnell would not have the right to tell them how to do their job.

Councilmember Washington stated KDHE was the City's banker and since Rod Geisler with KDHE supported using Burns & McDonnell, the City should as well.

Councilmember Sifford informed Mr. Mitchell that Council would not be discussing the issue again if the price would have been closer to the other bids.

Councilmember McDowell asked the city attorney if he wanted to table the matter for additional research. Mr. Reavey said he would like to obtain a copy of Burns & McDonnell's insurance package to see what items were covered.

Five – minute break 7:10 p.m.

REGULAR MEETING – 7:15 p.m.

(Tape 1, Side B)

ROLL CALL BY MAYOR CHRIS GARCIA AND PLEDGE OF ALLEGIANCE

All members present including the city attorney.

CONSENT AGENDA

(Consent Agenda Items will be acted upon by one motion unless a Council Member requests an item be removed for discussion and separate action.)

a. Approve Minutes
   1. August 18, 2008 Work Session & Regular Meeting
   2. September 4, 2008 Work Session & Regular Meeting (No minutes – meeting not held due to lack of Quorum)
b. Approve Treasurer's Report & Vendor Payments
c. Approve investment recommendations
d. Approve calendar of events

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to approve the Consent Agenda as submitted. The city administrator explained the payment to Pursell Construction went over $68.00 due to increase in fuel costs. President Dysart felt the City would have paid less for grinding work if they would have went with Kerry and asked if Purcell estimated four hours to perform the work. The city superintendent responded yes. She also did not feel the City should pay the fuel costs since it was not listed on their original contract. She pointed out the other contractor had a larger grinder than the one that performed the work. A show of hands was taken with all members voting in favor with the exception of President Dysart. Motion carried 4-1. Dysart

CALL TO PUBLIC

Members of the public are welcome to use this time to comment about any matter relating to City business that is listed on this Agenda. The comments that are discussed under "Call to Public" may or may not be acted upon by the Council during this meeting. There is a five-minute time limit. (Please wait to be recognized by the mayor then proceed to the podium; state your name and address).

None – Public portion of the meeting closed.

SCHEDULED DISCUSSION ITEMS

None

BUSINESS

a. Consider a resolution authorizing and directing the issuance, sale and delivery of $3,760,000 principal amount of general obligation temporary notes, series 2008, of the city of Basehor, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to approve the resolution authorizing and directing the issuance, sale and delivery of $3,760,000 principal amount of general obligation temporary notes, series 2008, of the city of Basehor, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith. A show of hands was taken with all members voting in favor. Motion passed 5-0.

RES 2008-13. A resolution authorizing and directing the issuance, sale and delivery of $3,760,000 principal amount of general obligation temporary notes, Series 2008, of the city of Basehor, Kansas; providing for the levy and collection of an annual tax, if necessary, for the purpose of paying the principal of and interest on said notes as they become due; making certain covenants and agreements to provide for the payment and security thereof; and authorizing certain other documents and actions connected therewith.

b. Consider waiving building permit fees for the USD 458 building construction projects.

Dr. Albers, USD #458 Superintendent, requested City waive excise tax and building permit fees excluding the plan review fees since the work had already been performed.

The benefit district would pay for improvements to 155th Street, Basehor Boulevard, sewer, and water. Buses would not increase traffic since routes would not be increased and the number of students would not increase as well. The school district will contract with private inspectors required by Kansas School Board and the City would not incur additional expenses for a building inspector since he was already on the payroll. Dr. Albers reported most cities our size waive permit fees and requested Basehor do the same.

Councilmember Washington stated he understood the school district would be included in the benefit district; however, fees go with the cost of doing business. He supported charging all the fees with the exception of excise tax.

Mayor Garcia stated a developer has to build his own roads plus pay all the building permit fees and did not support waiving excise tax.

Councilmember Sifford cautioned Council that whatever they did at this point, they would set precedent for future projects. He supported the school pay for building permit fees and excise tax.

Councilmember McDowell asked if fees had been waived in the past. President Dysart stated excise tax had been waived for Fairmount Township, Holy Angels Church, First Baptist Church, and Wolf Creek Junction excise tax was paid by original developer. She went over the incentive package offered to Wolf Creek Junction by the City of Basehor.

Councilmember Hill stated the church was an expansion project. He felt it was an issue of principal.

Councilmember Washington stated Basehor Baptist had never been platted and since the church had not been platted, that triggered the excise tax charge. The City waived excise tax in lieu of the church platting.

Councilmember McDowell asked why these costs were not included in the bond issue. Dr. Albers stated projects that he had been involved in the past had not been anticipated that the fees would be so high.

A motion was made by Councilmember Sifford to require USD #458 pay all building permit fees and excise tax. Motion died for lack of second.

A motion was made by President Dysart to waive excise tax $43,128 and charge 50% of building permit fees. Motion died for lack of second.

No action taken on request.

c. Consider approval of Authorization No. 3 for professional engineering services (resident observer) to Burns & McDonnell Engineering Company, Inc.

A motion was made by Councilmember Sifford and seconded by Councilmember Hill to table action for further legal counsel review. A show of hands was taken with all members voting in favor with the exception of Councilmember Washington. Motion passed 4-1.

Mr. Reavey noted the contract that was on the agenda did not include insurance information and that he would like to make sure the parent contract has the necessary information pertaining to the resident inspector.

d. Consider accepting the low bid for the wastewater treatment plant project, pending KDHE approval.

Mr. Slaugh reported bids for the WWTP were opened on the 8th of September with seven companies bidding. CAS Construction was low bidder at $4,933,000. Engineers estimate was $4,500,000. Normally if the engineer's bid is lower, the project would be rebid; however, in this particular case a city of the Third Class was not required to rebid. If the project was rebid, there would be a possibility that the scope of the project could be in jeopardy.

John Mitchell, Burns & McDonnell, stated he felt part of the increase was due to increase in construction costs. Materials increased 30 to 70% since the project started a year ago. The EIMCO bid was pre-bid in the spring and locked in the prices. If the bid was to be re-opened, he felt the costs would be even higher.

Mayor Garcia asked how that would affect the budget. Mr. Slaugh stated that was the next agenda item. The City could increase the term of the loan in order to reduce payments.

Councilmember Washington asked for information regarding CAS Construction. Mr. Mitchell stated Burns & McDonnell has worked with CAS for twenty years and on about fifteen projects. Bonding capacity was adequate and safety record was very good.

The owner of CAS Construction explained that his company had been in business twenty-four years, performed work in Kansas, Nebraska, Iowa, and Missouri, and had a worth exceeding twenty-five million dollars. He noted his company works in water and wastewater only.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to award the bid for the construction of the wastewater treatment plant expansion to CAS Construction, LLC in the amount of $4,933,000 contingent on loan approval from KDHE. A show of hands was taken with all members voting in favor. Motion passed 5-0.

e. Consider approval of the revolving loan (KWPCRF) Agreement with KDHE for Wastewater Treatment Plant Expansion.

Mr. Slaugh asked to defer this item until October 6th and requested feedback from Council. He explained costs are higher than originally anticipated. Options were to increase years of loan or draw from reserve funds. The first payment comes due one year after the project was complete.

Loan Options (provided by KDHE)

- Increase loan amount to $7.6 million
- Repayment term
- Options for reduction

The new loan would have an interest rate of 2.82%. The two loans combined would exceed over one million dollars.

President Dysart referred to a report provided by Burns & McDonnell that showed payments were going to be around $407,000 and the payments shown by the city administrator was $639,045.

Mr. Slaugh reported a user charge study and growth study was performed, KDHE performed a study as well. Combined payments from both loans would be over $1.0 million per year from year 2010 to 2022. President Dysart was unsure how the payment escalated from original amount.

Mayor Garcia stated the City should not count on more than fifty building permits being issued per year.

Councilmember Washington suggested tabling action and bring back information showing a 20-year payback schedule along with adjusting some of the line items such as line rehabilitation and Administrative Fees. Council agreed.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to table action until the October 6th meeting. A show of hands was taken with all members voting in favor. Motion passed 5-0.

f. Consider renewal of FundBalance annual maintenance contract.

A motion was made by Councilmember Sifford and seconded by President Dysart to approve renew the annual maintenance contract in the amount of $3,188.00. A show of hands was taken with all members voting in favor. Motion passed 5-0.

g. Consider the first phase of a street maintenance plan prepared by McAfee Henderson Solutions, Inc. for the City of Basehor.

President Dysart questioned what fund would be used for the project and when phase II would start. Mr. Slaugh stated the Consolidate Highway Fund (01-000-771) would be used for repairs and that phase II would start next year. He explained the project was set

up in two phases because of the unsurety in weather. The Elm & 155th Street was set as a priority because of the pooling water by the post office. The PCI (pavement condition index) did not include a traffic study.

President Dysart asked if Iron Creek was included in the plan. Mr. Slaugh answered no. Project engineer Dave Lutgen stated MSH Solutions inspected ten miles of streets. Based on those inspections, a database was created encompassing street, pavement and curb and gutter conditions.

A motion was made by Councilmember Sifford and seconded by Councilmember Washington to approve the 2008 Street Maintenance projects totaling $139,900. A show of hands was taken with all members voting in favor. Motion passed 5-0.

h. Consider appointment of Park Advisory Board member.

A motion was made by Councilmember Sifford and seconded by Councilmember McDowell to approve the appointment of Patricia Massingill to the Park Advisory Board. A show of hands was taken with all members voting in favor. Motion passed 5-0.

[Mrs. Massingill will fill the vacant term of Mary Ohler.]

i. Consider purchase of remote cellular monitoring devices for lift stations.

A motion was made by Councilmember Dysart and seconded by Councilmember Sifford to approve the purchase of remote cellular monitoring devices for lift stations. A show of hands was taken with all members voting in favor. Motion passed 5-0.

The city superintendent questioned which bid Council approved.

A motion was made by Councilmember Washington and seconded by President Dysart to approve the purchase of remote cellular monitoring devices from Mission Communications in the amount of $6,345.60 with a monthly charge for monitoring of $25.00 as stipulated in the packet provided by the city superintendent. A show of hands was taken with all members voting in favor. Motion passed 5-0.

j. Consider appointment of (2) voting delegates for Annual League of Kansas Municipalities Conference, October 14, 2008.

A motion was made by Roger McDowell and seconded by Councilmember Washington to appoint city administrator Carl Slaugh as voting delegate. A show of hands was taken with all members voting in favor. Motion passed 5-0.

k. Consider transfer of $244,000 from Sewer Fund to Bond & Interest Fund for State Revolving Loan payment.

A motion was made by Councilmember Sifford and seconded by President Dysart to approve the transfer of $244,000 from the Sewer Fund to the Bond & Interest Fund for the State Revolving Loan payment. A show of hands was taken with all members voting in favor. Motion passed 5-0.

CITY ADMINISTRATOR REPORT

- Buffalo Bill bike ride – 9/28/08 which would require minimal support from the City.

- Jerry Younger, KDOT , has scheduled a follow up meeting on 9/17/08 to discuss the 150th Street intersection. KDOT has agreed to have in-house engineers do the design work.

- Library Gala – 9/18/08 at the Legends. Tickets are available at the library.

- League of Kansas Municipalities Conference will be held in Wichita, Kasnas from October 14-19

- Legislative Discussion – City Manager's from Leavenworth County are inviting council members to attend a meeting to discuss issues that affect cities within the County. The breakfast meeting is scheduled for December 2 at Lansing City Hall (7:30 a.m.)

- KDOT Agreement on Corridor Funds have been finalized and reviewed by the city attorney. The only caveat is that there should be some language in the agreement that requires the developer to stipulate when the project would start or be completed. KDOT would like a start date by July 1, 2009. Mr. Slaugh explained KDOT did not want to be tied in on legal action for right-in/right-out access. Council discussed issues the possibility of losing the Corridor funding for Wolf Creek Junction. Councilmember Washington stated he met with Mr. McIntosh to assure him he was not opposed to his project and sent a letter to legislative representatives. Mr. Slaugh informed the Council that he provided a letter of support to Benchmark Management regarding the incentive package.

  Mr. Slaugh reminded Council that he discussed the corridor management projects at the last council meeting and expressed a desire to have some type of wording in the agreement that would require action by a certain date. The council agreed in principal, but expressed concern; first that the funding would not be withdrawn; second, that the city would have an option of selecting another suitable project eligible for corridor funding, and third that the option of extending the funding deadline might be considered based on a vote of the city council.

- ZIP CODE Issue – The postal service has agreed to put to make changes in their computer system allowing residents in Basehor to use an address of Basehor with a 66012 Zip Code; however, they have refused to change the 66012 Zip Code unless

Bonner Springs agreed. It does not appear that Bonner Springs would agreed to the change.

- KCK Community College – Mr. Slaugh reported he was contacted by Kansas City Kansas Community College regarding the possibility of allowing ten student to canvas the town to see if there was support for a curbside recycling program. Council thought it was a good idea; however, they wanted to make sure there was ample publicity notifying residents.

EXECUTIVE SESSION

The city attorney explained he needed to leave early and requested an Executive Session at this time.

A motion was made by Councilmember Washington and seconded by President Dysart to convene into Executive Session for up to forty-five minutes to discuss attorney-client privileged matters and consider real estate right-of-way acquisition and invite the city administrator to participate in the session. A show of hands was taken with all members voting in favor. Motion passed 5-0. (8:42 p.m.) Note: Digital recording showed "Error Card at this time. Mr. Reavey left the session at 9:15 p.m.

The mayor called the regular meeting back to order at 9:25 p.m. announcing that no action had been taken in Executive Session.

OTHER BUSINESS

The city administrator reported he would be gone next week for ICMA Conference and two days of vacation. Pictures of Pin Oak Subdivision street repairs were provide.

MAYOR'S REPORT

Citizen Forum – 9/25/08 from 6:00 to 8:00 p.m.

COUNCIL MEMBER REPORTS

Iris Dysart

President Dysart asked if he had a good turn out at the forum. Mayor Garcia reported they were not consistent.

Jim Washington

- Councilmember Washington stated he had an issue with MHS Solutions acting as the engineer of record for the school district, Sewer District No. 3 (County) and City. He took exception and thought the Council should address possible problems and

suggested Mr. McAfee appear before them to discuss the matter. Mr. Lutgen stated Sewer Dist 3 was a county project and would be run by the county and paid by the county.

- Mr. Taylor, Prairie Garden resident, appeared at a meeting in August concerning the utility company digging up his property without notice. It was the consent of the Council that legislation be in acted requiring written notice to affected property owners. After Mr. Taylor appeared, he received a code enforcement violation that he had not obtained a permit for his sprinkler system. Councilmember Washington felt it was in retaliation for Mr. Taylor appearing at the Council meeting. Councilmember Washington requested Mr. Lee to provide him with all the information and email transmission regarding this matter.

  Mayor Garcia reported it was under his direction that Mr. Lee send the letter because Mr. Taylor stated at the meeting that he did not get a permit for his sprinkler system. He felt there was a duty to look into the situation. Councilmember Hill stated his water district requires him to have his backflow sprinkler system tested every year. Councilmember Washington said Mr. Taylor was not the individual responsible for obtaining the permit since his builder applied for the permit.

EXECUTIVE SESSION – Discussions prior to acquisition of real estate: Easement and Right-of-Way acquisition for 150th Street. (Discussed in aforementioned Executive Session)

ADJOURNMENT

There being no further business to discuss, a motion was made by Councilmember Sifford and seconded by President Dysart to adjourn the meeting. A show of hands was taken with all members in favor of adjourning. Meeting adjourned at 9:40 p.m.

Submitted for Council approval with/without corrections or additions this 6th day of October, 2008.

_____
Mayor Chris Garcia

Attest:

_____
Mary A. Mogle, CMC, City Clerk

CHECK REGISTER REPORT

AS OF 09/29/08

Date: 09/29/2008
Time: 12:40pm
Page: 1

City Of Basehor

BANK: First State Bank

Check Number	Check Date	Status	Vendor Number	Vendor Name	Check Description	Amount
15775	09/12/2008	Printed	CASEYS	CASEY'S GENERAL STORES	GAS CITY VEHICLES 08/08	3,642.10
15776	09/12/2008	Printed	EFTPS	EFTPS	FIT/SS/MEDI WITHHOLDING PYMT	9,687.27
15777	09/12/2008	Printed	GRIFFIN/WI	WILLIAM GRIFFIN	BANKRUPTCY WITHHOLDING PYMT	200.00
15778	09/12/2008	Printed	KS DOR WTH	KANSAS DEPARTMENT OF REVENUE	KS STATE WITHHOLDING PYMT	1,451.27
15779	09/12/2008	Printed	KANSAS PAY	KANSAS PAYMENT CENTER	CHILD SUPPORT WITHHOLDING PYMT	391.50
15780	09/12/2008	Printed	KPF EFT	KPF EFT PROGRAM	KPF RETIREMENT WITHHOLDING PYM	3,025.07
15781	09/12/2008	Printed	WESTAR GRP	WESTAR ENERGY	UTILITIES - ELECTRIC	4,566.20
15782	09/29/2008	Printed	ADVANCE IN	ADVANCE INSURANCE COMPANY	EMPL AD&D/LIFE INS PREMIUM	115.00
15783	09/29/2008	Printed	AFLAC	AFLAC	CAFETERIA PLAN WITHHOLDING PYM	826.70
15784	09/29/2008	Printed	APPRECIATE	APPRECIATED ADVERTISING, INC.	51 SHIRTS W/LOGO-SWR/ST/PLANNI	1,246.41
15785	09/29/2008	Printed	BASEHOR AW	BASEHOR AWARDS & TROPHIES	SIGN @ PARK-RECYCLING CENTER	98.00
15786	09/29/2008	Printed	BASEHOR CH	BASEHOR CHAMBER OF COMMERCE	MEMBERSHIP MEETING REGISTRATIO	14.00
15787	09/29/2008	Printed	BASEHOR VE	BASEHOR VETERINARY CLINIC	EUTHANIZE 2 CATS	40.00
15788	09/29/2008	Printed	BLUE CROSS	BLUE CROSS & BLUE SHIELD OF KS	MEDICAL INS WITHHOLDING PYMT	10,133.07
15789	09/29/2008	Printed	BRANDT TRK	BRANDT TRUCKING	HAULING ROCK FOR PWD	246.95
15790	09/29/2008	Printed	BRANDT	ROGER BRANDT	24 STRAW BAILS-YARD PROJECTS	120.00
15791	09/29/2008	Printed	BRIDGMAN	JENNIFER BRIDGMAN	REIMBURSEMENT VHS TAPES	7.52
15792	09/29/2008	Printed	CA ST UNIV	CALIFORNIA STATE UNIVERSITY	TRAINING-OPERATION WTP MANUALS	198.00
15793	09/29/2008	Printed	DATAMAX	DATAMAX	LEASE/MONTHLY RENTA/EXCESS COP	457.14
15794	09/29/2008	Printed	DEFFENBAUG	DEFFENBAUGH DISPOSAL SERVICE	DUMPSTERS/SOLID & SPEC WASTE	11,067.14
15795	09/29/2008	Printed	DELTA FORE	DELTA FOREMOST CHEMICAL CORP	4 GALLON SURE STOP SAFETY GRIP	496.00
15796	09/29/2008	Printed	DOCKERY T	TRACI JO DOCKERY	REIMBURSEMENT-TOLL/MILEAGE/MEA	179.28
15797	09/29/2008	Printed	EFTPS	EFTPS	FIT/SS/MEDI WITHHOLDING PYMT	9,401.10
15798	09/29/2008	Printed	FASTENAL	FASTENAL COMPANY	2 - 2 PACK DEWALT BATTERIES	286.30
15799	09/29/2008	Printed	FELDMANS	FELDMANS	STIHL FC110 EDGER/OIL ABSORBEN	496.08
15800	09/29/2008	Printed	GALLS INCO	GALLS INCORPORATED	BADGE-LIEUTENANT/NAMETAGS	119.57
15801	09/29/2008	Printed	GRASS PAD	GRASS PAD	SEED & FERTILIZER-LAWN REPAIR	238.85
15802	09/29/2008	Printed	GRIFFIN/WI	WILLIAM GRIFFIN	BANKRUPTCY WITHHOLDING PYMT	200.00
15803	09/29/2008	Printed	HAYNES EQU	HAYNES EQUIPMENT CO	REPAIR GRINDER PUMPS-CEDAR LAK	2,280.00
15804	09/29/2008	Printed	HEART TOW	HEARTLAND TOW INC	OIL CHANGES/MOUNT TIRES/REPAIR	494.79
15805	09/29/2008	Printed	HOME DEPOT	HOME DEPOT	SUMP PUMP/HAND DRYER@PARK	476.78
15806	09/29/2008	Printed	HUGO WALL	HUGO WALL SCHOOL	REGISTRATION KSGFOA SUMMER/FAL	535.00
15807	09/29/2008	Printed	ING LIFE	ING LIFE INSURANCE & ANNUITY	DEFERRED COMP WITHHOLDING PYMT	6,438.98
15808	09/29/2008	Printed	JOHN E REI	JOHN E REID ASSOCIATES	ADVANCED INTERVIEW/INTERROGATI	295.00
15809	09/29/2008	Printed	JOCO ENVIR	JOHNSON COUNTY ENVIRONMENTAL	SAMPLE TESTING 08/21-09/12/08	558.50
15810	09/29/2008	Printed	KS CHF POL	KANSAS ASSOC FOR CHIEF OF POL	2008 KACP FALL CONFERENCE REG	200.00
15811	09/29/2008	Printed	KBI LAB	KANSAS BUREAU OF INVESTIGATION	COURT COSTS FOR LAB FEES	800.00
15812	09/29/2008	Printed	KS DOR WTH	KANSAS DEPARTMENT OF REVENUE	KS STATE WITHHOLDING PYMT	1,424.91
15813	09/29/2008	Printed	KS EMPLOY	KANSAS EMPLOYMENT SECURITY FD	QTRLY WAGE REPORT/UNEMPLOYMENT	284.41
15814	09/29/2008	Printed	KANSAS PAY	KANSAS PAYMENT CENTER	CHILD SUPPORT WITHHOLDING PYMT	391.50
15815	09/29/2008	Printed	KPF EFT	KPF EFT PROGRAM	KPF RETIREMENT WITHHOLDING PYM	3,089.08
15816	09/29/2008	Printed	LEAV COOP	LEAVENWORTH COUNTY CO-OP	280.8 GALLONS DIESEL FUEL	1,030.26
15817	09/29/2008	Printed	LV SHERIFF	LEAVENWORTH COUNTY SHERIFF	BOARDING PRISIONERS 08/08	157.50
15818	09/29/2008	Printed	MARCIT	MARCIT	DENTAL INS WITHHOLDING PYMT	1,114.00
15819	09/29/2008	Printed	MILLER	MILLER SIGN SHOPPE	2-"MAX OCCUPANCY" SIGNS	50.00
15820	09/29/2008	Printed	MODERN MAR	MODERN MARKETING, INC.	STICKERS/PENS/PENCILS-PROMO IT	751.97
15821	09/29/2008	Printed	MOGENSON	MICHAEL S. MOGENSON	PROSECUTING ATTORNEY/ITEMIZED	927.00
15822	09/29/2008	Printed	MUDER	NELLIE MUDER	CITATION #8937 FINES REFUND	0.50
15823	09/29/2008	Printed	NAT SIGN	NATIONAL SIGN COMPANY INC	MISC STREET SIGNS/SAFETY ITEMS	1,231.38
15824	09/29/2008	Printed	NEXTEL	NEXTEL COMMUNICATIONS	CELLULAR PHONE SERVICES	554.44
15825	09/29/2008	Printed	OMBPOLLENE	OMB POLICE SUPPLY, INC	DRUG TESTING KITS/INK PADS	64.96
15826	09/29/2008	Printed	OMNI-SITE	OMNI-SITE.NET	MONTHLY WIRELESS SERVICES	200.00
15827	09/29/2008	Printed	PALENSKE	BRIAN PALENSKE	REMOVE/REPLACE CURBS&ASPHALT	7,424.00
15828	09/29/2008	Printed	PITNEY BOW	PITNEY BOWES	METER RENTAL/POSTAGE REFILL	543.68
15829	09/29/2008	Printed	SELECT IMA	SELECT IMAGING	FILEBOUND HOSTING FEE	300.00
15830	09/29/2008	Printed	SHAWNEE RO	SHAWNEE ROCK COMPANY	3/8 WASHED ROCK/AB-3 ROCK	2,379.72
15831	09/29/2008	Printed	SMITH VET	SMITH VETRINARY CLINIC INC	BOARDING ANIMALS - CATS	78.00
15832	09/29/2008	Printed	SPECTRA	SPECTRA	WEED SPRAY/KNOCKER LOOSE SPRAY	379.21
15833	09/29/2008	Printed	SUMMIT SUP	SUMMIT SUPPLY CORPORATION	STATIONARY BENCHES, ZEBRA RIDE	1,444.40
15834	09/29/2008	Printed	SUNFLOWER	SUNFLOWER BROADBAND	PHONE SERVICES-LIFT STATIONS	146.78
15835	09/29/2008	Printed	SUNFLOW EM	SUNFLOWER EMBROIDERY	EMBROIDERY-CITY LOGO SHIRTS	60.00
15836	09/29/2008	Printed	SUTTON-KOL	SUTTON-KOLMAN AUTOMOTIVE	SERVICE REPAIR-F250 4X4 TRUCK	1,015.08
15837	09/29/2008	Printed	TIRE TOWN	TIRE TOWN INC	4-UNILOADER TIRES/TRACTOR TIRE	774.56
15838	09/29/2008	Printed	U-SPRAY IN	U-SPRAY, INC.	LIVE TRAPS & BAIT	110.0
15839	09/29/2008	Printed	USA BLUE	USA BLUE BOOK	COREPRO SLUDGE JUDGE WWTF	130.2
15840	09/29/2008	Printed	USEMCO INC	USEMCO INC	6-LIFT STATION FLOAT SWITCHES	229.0

CHECK REGISTER REPORT

AS OF 09/29/08

City Of Basehor

BANK: First State Bank

Check Number	Check Date	Status	Vendor Number	Vendor Name	Check Description	Amount
15841	09/29/2008	Printed	VESTA LEE	VESTA LEE LUMBER COMPANY	42-80 LB BAGS CONCRETE MIX	126.00
15842	09/29/2008	Printed	VISA	VISA	2-DELL COMPUTER/SOFTWARE/TRAIN	3,710.94
15843	09/29/2008	Printed	WALMART MA	WALMART	BATTERIES/LOCKS/MISC SUPPLIES	370.47
15844	09/29/2008	Printed	WATTS UP	WATTS UP	FREIGT FOR LIGHT BULBS	5.00
15845	09/29/2008	Printed	WINGFOOT C	WINGFOOT COMMERCIAL TIRE	8-TIRES FOR PATROL VEHICLES	880.96
15846	09/29/2008	Printed	ZEE MED	ZEE MEDICAL SERVICE	MISC MEDICAL SUPPLIES PWD	32.56
15847	09/29/2008	Printed	LEVEL 4	LEVEL 4 ENGINEERING LLC	SERVICES-BASEHOR TOWN CENTER	137,150.00
15848	09/29/2008	Printed	OFFICE STA	OFFICE OF THE STATE TREASURER	TEMP NOTE SERIES 2008-BTC PROJ	625.00

Total Checks: 74 Bank Total: 240,217.10

Total Checks: 74 Grand Total: 240,217.10

REVENUE/EXPENDITURE REPORT
AS OF 09/29/08

City Of Basehor

For the Period: 1/1/2008 to 9/30/2008	Original Bud.	Amended Bud.	YTD Actual	CURR MTH
Fund: 01 - GENERAL FUND				
Revenues	2,467,360.00	2,467,360.00	1,581,729.24	144,685.02
Expenditures	2,178,959.00	2,178,959.00	1,362,167.20	171,455.07
Net Effect for GENERAL FUND	288,401.00	288,401.00	219,562.04	-26,770.05
Fund: 04 - SPECIAL PARK & RECREATION FUND				
Revenues	35,348.00	35,348.00	17,526.50	2,446.85
Expenditures	19,500.00	19,500.00	4,610.32	1,444.40
Net Effect for SPECIAL PARK & RECREATION FUND	15,848.00	15,848.00	12,916.18	1,002.45
Fund: 05 - SEWER FUND				
Revenues	5,851,539.00	5,851,539.00	618,317.14	5,578.35
Expenditures	5,715,259.00	5,715,259.00	1,176,985.86	270,607.75
Net Effect for SEWER FUND	136,280.00	136,280.00	-558,668.72	-265,029.40
Fund: 07 - CEDAR LAKES MAINTENANCE				
Revenues	14,119.00	14,119.00	10,864.31	0.00
Expenditures	10,500.00	10,500.00	8,338.11	2,280.00
Net Effect for CEDAR LAKES MAINTENANCE	3,619.00	3,619.00	2,526.20	-2,280.00
Fund: 08 - BOND & INTEREST FUND				
Revenues	890,969.00	890,969.00	1,040,758.73	256,403.40
Expenditures	1,011,084.00	1,011,084.00	1,010,963.97	244,000.00
Net Effect for BOND & INTEREST FUND	-120,115.00	-120,115.00	29,794.76	12,403.40
Fund: 09 - SOLID WASTE FUND				
Revenues	162,744.00	162,744.00	107,721.52	341.30
Expenditures	162,182.00	162,182.00	103,179.31	11,947.92
Net Effect for SOLID WASTE FUND	562.00	562.00	4,542.21	-11,606.62
Fund: 10 - CONSOLIDATED HIGHWAY FUND				
Revenues	787,548.00	787,548.00	349,342.79	4,394.07
Expenditures	588,700.00	588,700.00	164,789.24	42,595.57
Net Effect for CONSOLIDATED HIGHWAY FUND	198,848.00	198,848.00	184,553.55	-38,201.50
Fund: 11 - MUNICIPAL EQUIP RESERVE FUND				
Revenues	218,247.00	218,247.00	2,234.62	0.00
Expenditures	225,000.00	225,000.00	65,357.57	0.00
Net Effect for MUNICIPAL EQUIP RESERVE FUND	-6,753.00	-6,753.00	-63,122.95	0.00
Fund: 12 - CAPITAL IMPROVEMENT FUND				
Revenues	388,976.00	388,976.00	197,311.55	0.00
Expenditures	375,000.00	375,000.00	0.00	0.00
Net Effect for CAPITAL IMPROVEMENT FUND	13,976.00	13,976.00	197,311.55	0.00
Fund: 18 - BASEHOR TOWN CENTER PROJECT				
Expenditures	0.00	0.00	138,874.00	138,004.00
Net Effect for BASEHOR TOWN CENTER PROJECT	0.00	0.00	-138,874.00	-138,004.00

BALANCE SHEET

AS OF 09/29/08

City Of Basehor

As of: 9/30/2008

	Balances
Fund: 13 - SUMMATION OF ALL FUNDS	
Assets	
Acct Class: CA CURRENT ASSESTS	
001 FSB CHECKING ACCOUNT	74,924.62
002 FSB MONEY MARKET ACCOUNT	3,041,513.65
016 103-3 OVERNIGHT ACCT MIP	86,083.82
031 30433 CNB 3.10% DUE 10/18/08	800,000.00
045 418000021 COMMERCE 2.5% 11/10	1,400,000.00
Acct Class: CA CURRENT ASSESTS	5,402,522.09
Total Assets	5,402,522.09
Liabilities	
Acct Class: CL CURRENT LIABILITIES	
214 SEWER FUND MONTHLY BALANCE	361,935.82
215 SOLID WASTE MONTHLY BALANCE	81,637.54
216 GENERAL FUND MONTHLY BALANCE	1,594,627.36
218 MUNICIPAL EQUIP FUND MO BAL	139,951.21
219 CAPITAL IMPROVE FUND MO BAL	910,972.38
220 SPECIAL PARK & REC FUND MO BAL	135,576.33
221 CONS HIGHWAY FUND MONTHLY BAL	2,016,351.35
226 BOND & INTEREST MONTHLY BAL	96,520.31
230 TOWN CENTER PROJECT MO BALANCE	-1,099.00
300 CL MAINTENANCE MONTLY BALANCE	66,048.79
Acct Class: CL CURRENT LIABILITIES	5,402,522.09
Total Liabilities	5,402,522.09
Total Liabilities & Balances	5,402,522.09

INVESTMENT REPORT

as of October 1, 2008

The following recommendation is made for the October 6, 2008 Council meeting:

ITEM # 1

CD30433	**Community National Bank**	**$800,000.00**

This CD matures on **October 18, 2008**. It is recommended that the $800,000.00 be reinvested for a **six-month term** at the highest interest rate available.

City of Basehor
October 2008 Monthly Calendar of Events

Date	Time	Event	Location
1	8:00 a.m.	Chamber of Commerce Board Mtg	First State Bank & Trust
4	11:00 a.m.	Historical Museum Open House	Museum
6	6:00 p.m.	City Council Work Session & Meeting	City Hall Meeting Room
7	6:30 p.m.	Planning Commission Work Session and Meeting	City Hall Meeting Room
8	4:00 p.m.	Park Advisory Board Meeting	City Hall Meeting Room
9	11:30 a.m.	LCDC Board Meeting	LCDC Office
13	6:00 p.m.	City Council Work Session	City Hall Meeting Room
	1:00 p.m.	Municipal Court	City Hall Meeting Room
20	6:00 p.m.	City Council Work Session & Meeting	City Hall Meeting Room
23	Noon	Chamber Membership Meeting	Reece Nichols Office
28	3:00 p.m.	LCDC Infrastructure Meeting	LCDC Office
29	11:45 a.m.	Port Authority Meeting	Heritage Center, 109 Delaware
31	9-Noon	Halloween-Daycares & Preschools to Trick or Treat at City Hall	City Hall

Next Meetings:

November 3, 2008 Work Session & Regular Meeting
November 10, 2008 Work Session
November 17, 2008 Work Session & Regular Meeting

Mary Mogle

From: Lois Fulkerson [edlois@centurytel.net]
Sent: Wednesday, October 01, 2008 11:23 AM
To: cityclerk@cityofbasehor.org
Subject: request to be placed on agenda

We hereby request to be placed on the agenda for the October 20, 2008 meeting.
My request is regarding street work that was done and needs further attention so residents may access their drive This pertains to duplexes located at 2954-56 N. 155th Terr. and the adjacent
duplex to the north. These duplexes were granted access from the alley in the 1970's when they were built. Approximately a year or less, city crews came in and tore up the access from the street to the alley which was then washed beyond access. Since my phone conversations, City crews have temporarily placed some asphalt patch to allow residents access to their garages.

We request the city address this issue and permanently repair the area that has been torn up previously by the city.

Lois Fulkerson and Steven Rosenthal

Mary Mogle

From: Kelly Casey [kelly@LVCountyED.org]
Sent: Monday, September 29, 2008 9:21 AM
To: cityadmin@cityofbasehor.org; cityclerk@cityofbasehor.org
Subject: Quarterly Report Information
Attachments: Quarterly Report - June - August 2008.doc; Quarterly Report Attachment 9-08.pdf

Here is the information for Steve's quarterly report. I have on my calendar that he is sheduled to report at your council meeting on October 6th at 7pm.

Thanks,
Kelly

Kelly Casey

Administrative Assistant

Leavenworth County Development Corp.

1294 Eisenhower Rd.

Leavenworth, KS 66048

office: 913-727-6111 x 201

fax: 913-727-5515

kelly@lvcountyed.org

LEAVENWORTH COUNTY
AREA DEVELOPMENT PORT AUTHORITY
BUSINESS RETENTION, EXPANSION AND ATTRACTION

Leavenworth County Development Corporation (LCDC) Update

June - August 2008

Strategic Plan

✓ The LCDC Board hosted city and county elected officials at a meeting on Wednesday, June 18th at the Leavenworth Country Club in Lansing. The meeting was held to discuss LCDC's strategic plan and to get feedback from city and county commissioners and council members. Elected officials from Lansing, Leavenworth, Tonganoxie, and Basehor were in attendance as well as County Commissioners.

Feedback was excellent. Our plan now is to invite the cities and county to another joint meeting tentatively set for October 27th as an opportunity to share each other's approaches, lessons, and/or decisions from each entity's recent experiences of strategic and comprehensive planning.

Business Retention & Expansion

✓ **Victoria Rowley** began her new position with LCDC on August 11th. Victoria comes to us from Decatur County Iowa where she ran an Economic Development Corporation. Prior to that, she worked on marketing initiatives for the Iowa Department of Commerce.

Victoria will lead a more aggressive Business Retention & Expansion program which should significantly increase the number of businesses called on, improve informational pieces for those businesses, and result in the development of better reporting to our funding partners and citizens throughout the county.

Prospect Activity

✓ We have had **17 new leads** in the past three months (June – August) compared with **10 leads** in the previous quarter; **2 of these are still active**. We are currently working a total of **11 active projects**.

Marketing

- ✓ We continue to network with **national site location consultants** on behalf of the county. We plan to attend events in Kansas City, Chicago, and Orlando in the coming two months.

- ✓ LCDC participated in the **Central Veterinary Conference Animal Health Corridor "Homecoming" event** on August 25th sponsored by the Kansas City Area Development Council. Chris Donnelly and Steve Jack represented LCDC at the event which involved several hundred animal health companies. Also at the event Chris and Steve met with a prospect who is considering the Tonganoxie area.

- ✓ LCDC is planning to participate in **Ingram's Destination Leavenworth County** which is now planned for early 2009.

Leadership

- ✓ LCDC continues to host **Leavenworth County Air & Business Park Committee** meetings. Six engineering firms submitted proposals to do a feasibility study. Confirming the recommendation from a selection committee, on September 11th, the County Commission gave the group approval to negotiate with Coffman Associates who were the committee's selection.

Outreach & Networking

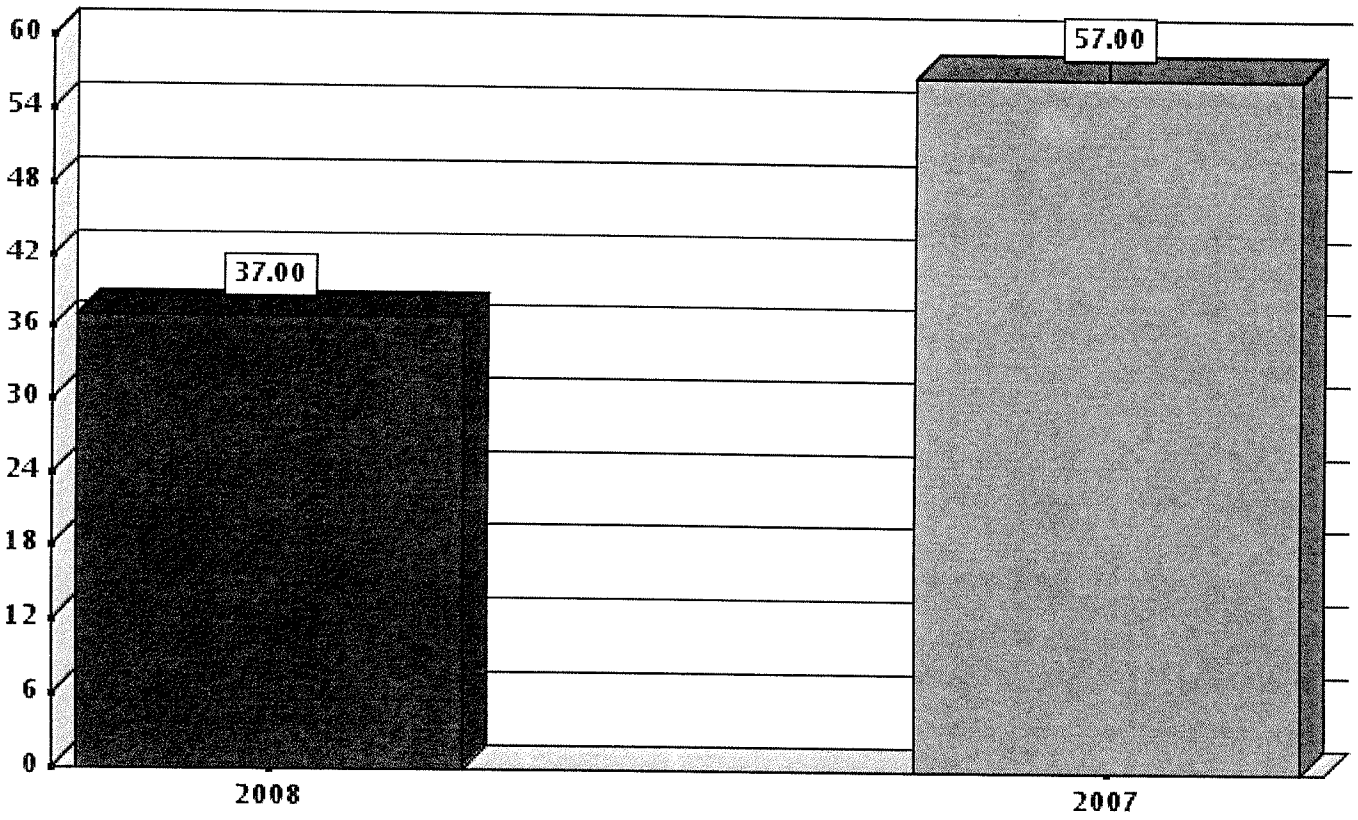
- ✓ The **Business & Industry Appreciation Dinner** was held on Wednesday evening, June 25th at the Riverfront Community Center in Leavenworth.

- ✓ Our annual **LCDC Golf Tournament** was held at Falcon Lakes on September 19th. Fifteen teams participated. We had 10 teams last year.

ANNUAL ECONOMIC DEVELOPMENT REPORT

Attraction

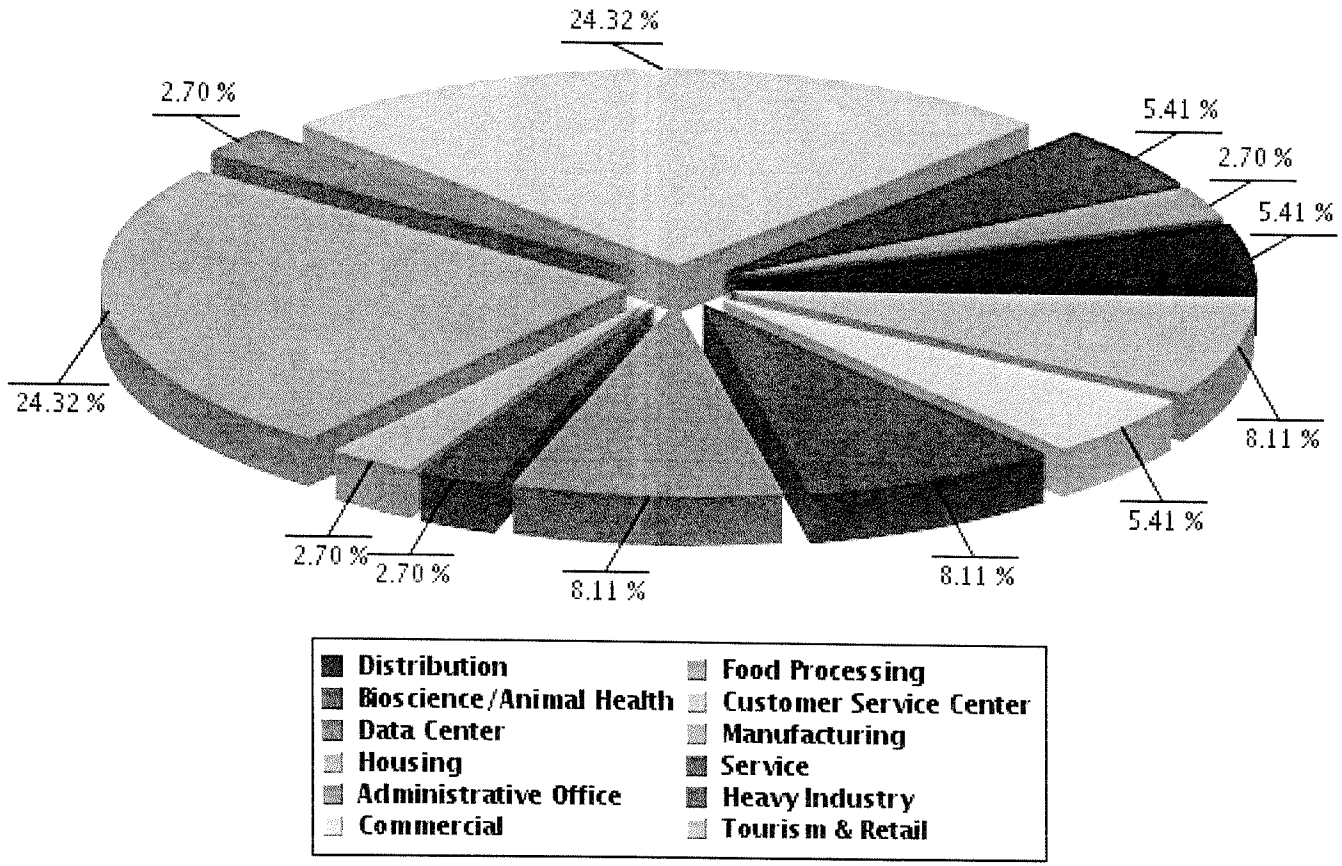
Business Prospects



2007-2008 Comparison

Attraction

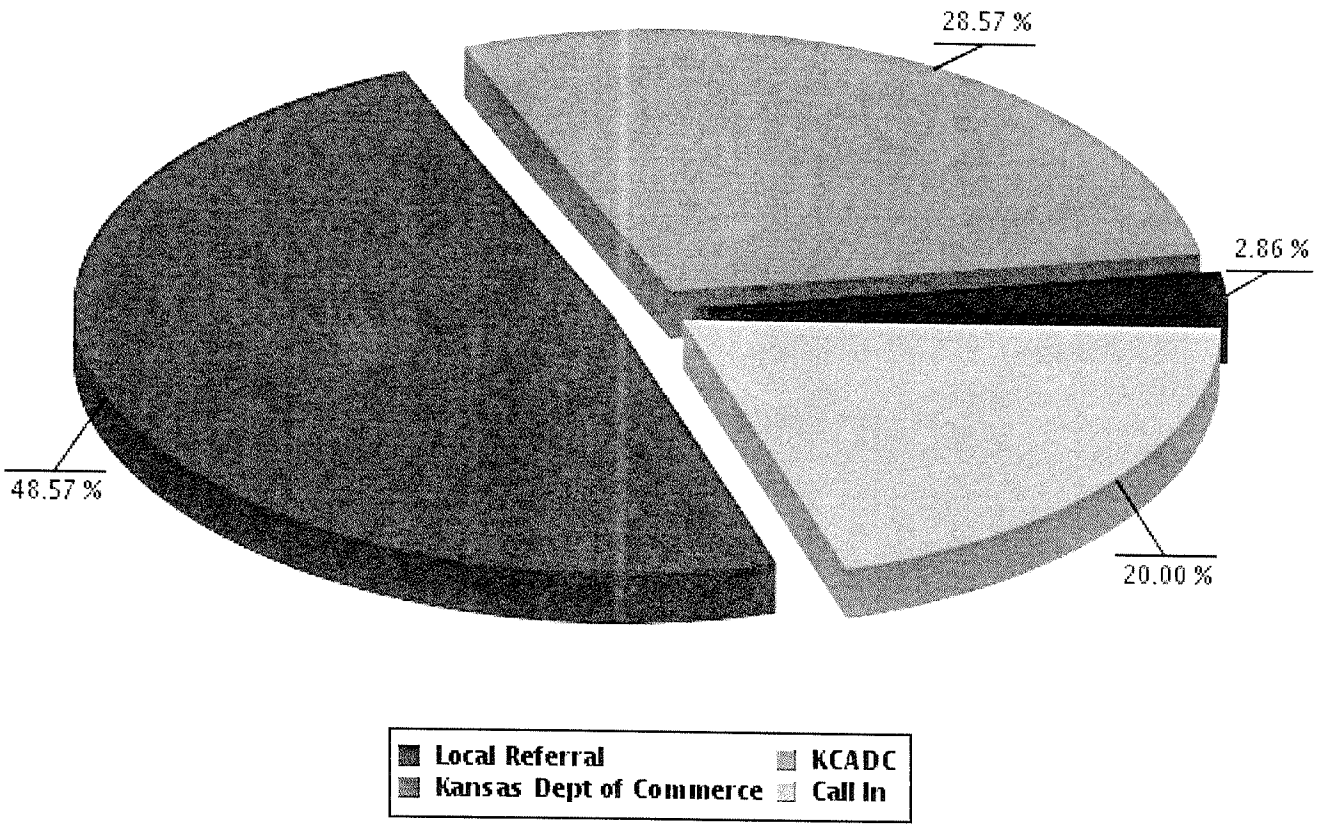
Prospects by Type



2008

Attraction

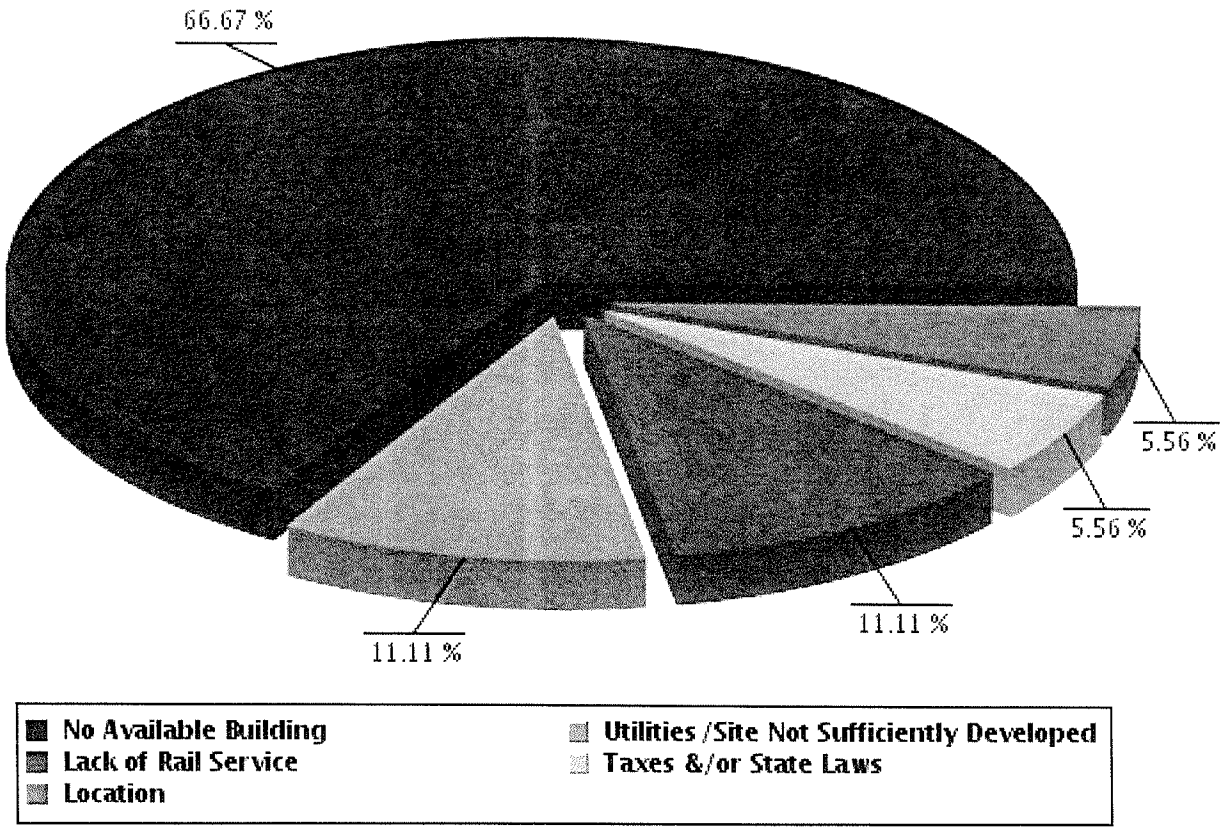
Prospect Lead Sources



2008

Attraction

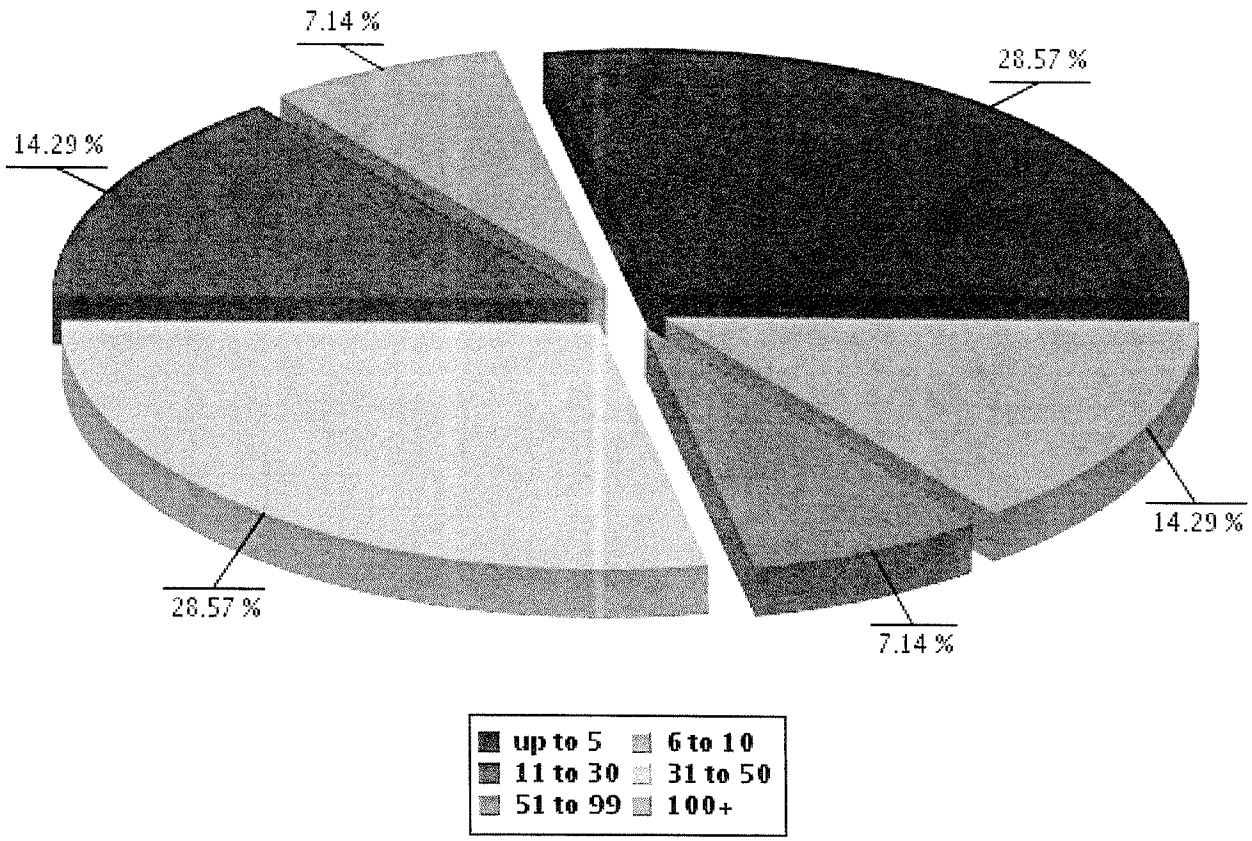
Reason for Project Elimination



2008

Attraction

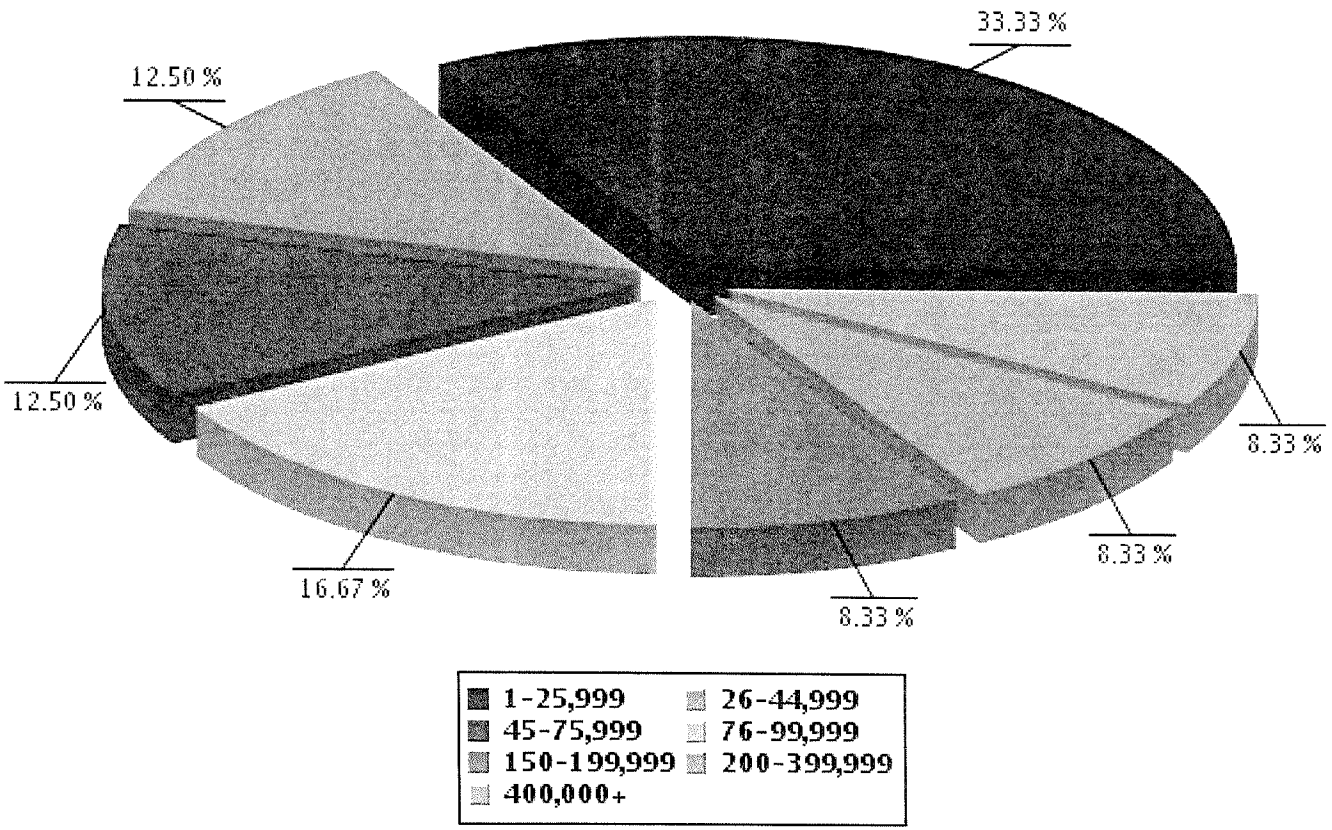
Prospect Acreage Requests



2008

Attraction

Prospect Square Foot Requests



2008

AGENDA ITEM INFORMATION FORM

Agenda Discussion Item: Hear a report from Jeff Sutton, legal council for Pinehurst Estates, on a request for refund of Pinehurst Excise tax.

Department: Administration

Background/Description of Item:
The city council previously considered on Feb. 4, 2008 a request for refund of a portion of the excise tax paid in the Pinehurst development on land that was previously zoned commercial and then rezoned to residential. The request was denied.

The developer felt that complete and adequate information regarding the issue may not have been presented and requested to have their legal counsel present additional information.

It will be up to the city council to decide if the additional information warrants placing the item back on an agenda for consideration.

Funding Source:

Recommendation: Listen to the additional information regarding refund of excise tax paid in the Pinehurst Development.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

f. Approval of excise tax refund payment to Pinehurst commercial and Medicine Store.

Planning Director Dustin Smith explained when Pinehurst North was developed, the commercial part paid excise tax up front. Last year, there was a rezoning of 11.15 acres from commercial to residential. The developer has requested excise tax reimbursement of $43,712.46. He explained commercial development pays excise tax up front; whereas, residential pays at the time of issuance of a building permit.

Councilmember Washington asked why the city should pay the amount back. Mr. Smith said it was policy and he was following the policy. Councilmember Washington asked if this parcel lost its identity stating it would be incumbent upon the City to keep the money.

Councilmember Dysart stated as she understood it, Pinehurst paid the entire tax when it was commercially platted, now homes are being built. Mr. Smith stated two homes were under construction in Pinehurst Estates, but he wasn't sure if either of those homes were within the area that was rezoned. Councilmember Dysart reported green space and sidewalks were removed in the original calculation and the excise tax should be recalculated excluding green space and sidewalks prior to reimbursement. She felt reimbursing the money was a complicated matter and should not be reimbursed.

Councilmember Hill asked, with the exception of the street, would the city loose any money. Councilmember Washington stated the city would lose the interest if they reimbursed the money. Mr. Smith stated the City would gain it back over time since it would be collected with the issuance of building permits.

Council discussed how and when staff collection of excise tax and if it was possible that some had doubled paid excise tax. Councilmember Dysart noted there was a payment from KAAZ Construction for $5,920.20 and wondered if that had been collected twice. Mr. Slaugh stated he would need to research the matter. Mr. McIntosh reported Casey's paid excise tax and he also paid so it was double paid. President Thomas said policy should be consistent. Councilmember Washington noted once the excise tax has been collected, there should not be a reimbursement. It should be up to the developer to collect their money back from those purchasing the property. Councilmember Washington asked for the auditors to come in and do a complete detailed audit on the excise tax fund. Councilmember Hill noted this was a separate issue and should not be confused with the question being discussed. Mr. Slaugh suggested performing an in-house audit. His past experience was that these types of audits were very costly. Councilmember Washington stated this was a complex matter and required auditors. Councilmember Hill said he was comfortable tabling action until all excise tax was reviewed.

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider waiving building permit or excise tax fees for USD 458 building construction projects.

Department: Administration, Planning

Background/Description of Item:
Superintendent Dr. Bob Albers, USD 458, has made a request to have the building permit and or excise tax fees waived for the new Basehor Elementary School.

Mark Lee, Basehor Building Inspector, computed the fees based on the schedule in use for commercial structures. "I worked on putting together a permit fee for the new school. I have started to receive calls from contractors; the bids are due in next Thursday. The permit fee I calculated was $81,108.86." [corrected to $69,592.61]

Base Fee:	19,459.06	
Plumbing Fee:	849.00	
Elect. Fee:	1,063.80	
HVAC Fee:	737.75	
Plan Review Fee:	13,721.25	Actual fee was $1,205.00 for initial review
based on 65% of permit fees		
Parkland fee:	200.00	
Sewer Connection:	2,950.00	
Trans. Excise Tax:	43,128.00	
based on 11 acres at .09 per square foot.		

Inspection fees are user fees designed to help the city recover costs associated with inspection. The inspections are a service the city provides to ensure structures are built according to building codes. The plan review fee is the estimated cost of having the plans reviewed by an outside agency. The plans have already been reviewed by Design Energy Group and the city received the $1,205.00 invoice for the initial review.

The Transportation Excise Tax is an impact fee that helps the city recover the cost of road improvements in the city at large. The Basehor Town Center benefit district will fund improvements just to 155th Street and Basehor Blvd.

At the Sept. 15 city council meeting a motion to require all permit fees and excise taxes to be paid died for lack of a second. A second motion to waive the excise tax and one-half of the building permit fees also died for lack of a second. After discussion a motion will need to be made to add the item to the agenda for consideration. A new motion different than the previous may be made to consider the proposal.

Funding Source: Planning

Recommendation: Consider waiving portions of the building permit fees or excise tax payment for the new USD 458 elementary school.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of authorization No. 3 for professional engineering services (resident observer) to Burns & McDonnell Engineering Company, Inc.

Department: Administration, Sewer

Background/Description of Item:
The city council voted on August 4, 2008 to go with option 1 (list below), resident observer supplied by Burns & McDonnell Engineers in the amount not to exceed $204,700. The formal agreement for the services was provided by Burns & McDonnell and presented at the Sept. 15 city council meeting, but approval action was deferred pending a review by the city attorney concerning liability coverage in the contract.

Resident Observer (Resident Project Representative RPR): Burns & McDonnell fee of $204,700 includes 1,760 hours @ $100 per hour, not to exceed $190,666, plus 80 hours for an administrative assistant.

Option 1 Burns & McDonnell Contract	$204,700	George Allaire
Option 2 City Contract with same individual	$143,000	George Allaire
Option 3 MHS Engineer observer	$92,575	Mike Stephan

The amount of the original proposal based on an email from July 29 was $204,700, but was subsequently changed to $190,666 (see explanation in attached letter dated Sept. 16, 2008 from Burns & McDonnell).

Liability Issue: There is no coverage for errors and omissions and Burns and McDonnell is not liable for any errors resulting from work by the RPR at the job site (see attached email from city attorney and response from Burns & McDonnell).

KDHE is holding up approval of the revolving fund loan until this agreement is signed. The award of the construction contract with CAS Construction LLC is also being held up until the loan is approved. The equipment bid prices are only good through Oct. 9, 2008.

7.14.2 If this Project involves construction, and ENGINEER does not provide engineering services during construction including, but not limited to, on-site observation, Site visits, submittals review, and design clarifications, OWNER agrees to indemnify and hold harmless ENGINEER from or against any liability arising from the Project or this Agreement.

Funding Source: Sewer Fund

Recommendation: Approve authorization #3 for resident project representative services with Burns & McDonnell in the amount of $190,666 and authorize the mayor to sign the necessary documents.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

CITY OF BASEHOR, KANSAS
AUTHORIZATION NO. 3
For
PROFESSIONAL ENGINEERING SERVICES
To
BURNS & McDONNELL ENGINEERING COMPANY, INC.
Kansas City, Missouri

In accordance with the AGREEMENT for PROFESSIONAL ENGINEERING SERVICES dated April 2, 2007 between the City of Basehor, Kansas (hereinafter called OWNER) and Burns & McDonnell Engineering Company, Inc. (hereinafter called ENGINEER), OWNER hereby authorizes ENGINEER to proceed with the following services:

SECTION 1 - SCOPE: The Scope of Services to be provided by ENGINEER, in connection with this Authorization, is as follows:

1.1 In accordance with Paragraph 3.2 of the Agreement, ENGINEER will provide a Resident Project Representative to act as directed by ENGINEER in order to provide more extensive representation at the Project site during the Construction Phase.

1.1.1 The Resident Project Representative, through more extensive on-site observations of the work in progress, field observations of materials and equipment, and maintenance of job-site records on conditions and activities, shall assist the ENGINEER in determining that the Project is proceeding in accordance with the Contract Documents. The furnishing of such resident project representation shall not make the ENGINEER responsible for construction means, methods techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor's failure to perform the construction work in accordance with the Contract Documents.

1.1.2 Resident services during construction shall not exceed a total of 1,760 man-hours for the Resident Project Representative and 80 hours for an administrative assistant, unless required by the Contractor's schedule and authorized by Client and agreed by ENGINEER. This is based on a construction schedule of 325 calendar days starting from Contractor's notice-to-proceed to ready for final payment.

SECTION 2 - RESPONSIBILITIES OF OWNER: OWNER will provide, in connection with this Authorization, the following:

2.1 As described in Section 4 of the Agreement.

SECTION 3 - TIME OF SERVICE

3.1 ENGINEER will proceed with providing the services set forth herein immediately upon execution of this Authorization. It is anticipated that the Resident Project Representative services will be completed before October 31st, 2009.

SECTION 4 - COMPENSATION

4.1 OWNER shall compensate ENGINEER for providing the Resident Project Representative services set forth herein in accordance with the terms of Paragraph 6.1 of the existing AGREEMENT.

4.1.1 Services shall be paid at the hourly rate indicated in the ENGINEER's "Schedule of Hourly Professional Service Billing Rates" as specified in the Agreement. For labor hours provided by the Resident Project Representative, the negotiated hourly rate shall be $100.00 per hour. Fee shall not exceed $190,666 without written authorization of the OWNER.

AUTHORIZATION BY:

CITY OF BASEHOR, KANSAS

By_____

Title _____

Date_____

ACCEPTED BY:
BURNS & McDONNELL ENGINEERING COMPANY, INC.

By _____
James L. Foil Vice President

By _____
Jeffrey J. Keller, Project Manager

END OF AUTHORIZATION

September 16, 2008

Mr. Carl Slaugh, City Administrator
City of Basehor, Kansas
2620 North 155th Street
Basehor, Kansas 66007

Supplemental Cost Breakdown and Comparison
Basehor WWTP Expansion and Upgrade Resident Services Contract
Burns & McDonnell Project No. 47632

Dear Mr. Slaugh:

In response to the various discussions and questions raised during previous City Council meetings regarding the proposed resident services contract for the Wastewater Treatment Plant Expansion and Upgrade, Burns & McDonnell provides the following additional information:

The resident services agreement provided by Burns & McDonnell provides three basic services:

1. Full-time on-site resident inspection as defined in our original Agreement as well as in Authorization #3 ($176,000 @ $100/hr over 1760 hours, assuming 11 month construction);
2. Office support for various administrative tasks as described in the Authorization ($5,500 for 80 hours); and,
3. Engineering support by the design engineering team to assist the Resident when needed ($9,166 for 60-70 hours).

In addition, for Burns & McDonnell to provide the final project certification as required by the State's Revolving Loan Fund Program, it is necessary for the Design Engineer to have frequent on-site observation of construction. Normally this is facilitated by hiring the Engineer as the resident, and this was assumed to be the case when our original Agreement and Authorizations 1 and 2 were drafted. If the City were to hire a resident separately, Burns and McDonnell will need to negotiate additional services to provide more hours for qualified engineers to visit the site at a frequency deemed adequate for the scale of the project, perhaps 2 times per month. The cost for these services could be approximately $12,000-$14,000. Therefore, a proper comparison of resident fees and services would be as follows:

9400 Ward Parkway
Kansas City, Missouri 64114
Tel: 816-333-9400
Fax: 816-333-3690
http://www.burnsmcd.com

Scope	Burns & McDonnell	Separate City Contract
Resident Services	$176,000	$143,000
Admin Support	$5,500	City Cost
Engineering Support	$9,166	$9,166
Site Visits to Allow Certification	Included in Fee	$12,000 - $14,000
TOTAL	$190,666	$164,166 – $166,166

The difference between these approaches is therefore between $24,500 and $26,500. What this difference represents is the project risk that is shouldered by Burns & McDonnell if our resident is utilized. If Burns & McDonnell is not hired, all liability for this project is contractually transferred to the City per Section 7.14.2 of the Agreement. This risk is equivalent to approximately 1/2 % of the total project construction cost and is most commonly seen in the form of change orders requested by the Contractor. Although change orders are inevitable in any large construction project such as this, one of the primary functions of the resident includes the mitigation of change orders. Therefore, if hiring Burns & McDonnell can help to avoid more than ½ % in change orders compared to hiring a resident separately, the City will see a cost savings. Because of the design engineer's familiarity with the intent of the design and the impact of this on our ability to mitigate change orders, it is highly recommended that Burns & McDonnell provide the Resident Project Representative for this work.

Thank you for your consideration Carl. I would appreciate it if you would distribute this to the members of the City Council for their consideration as well. If you wish to contact me I am available at 816-822-4371 or jkeller@burnsmcd.com .

Sincerely,

Jeffrey J. Keller, P.E.

CC: Basehor City Council (by City Administrator)
Gene Myracle
File

From: Patrick Reavey [mailto:patrick@reaveylaw.com]
Sent: Tuesday, September 23, 2008 8:30 AM
To: mkjpmitch@aol.com; Keller, Jeff
Cc: Carl Slaugh; cityclerk@cityofbasehor.org; citysuper@cityofbasehor.org
Subject: RE: Basehor

Jeff and John,

Please help me understand how the City benefits, from a liability standpoint, from using your employee as opposed to hiring the person as a city employee, or contractor. My review of the parent contract, and the resident observer contract ("ROC"), lead me to the conclusion that Burns & Mac cannot be held liable for any damages caused by failure of ROC's function at job site (i.e. to ensure project is built according to plans).

First, both parent agreement and ROC indicate Burns & Mac will not be responsible "for Contractor's failure to perform the construction work in accordance with the Contract Documents." Second, limitation of damages provisions in parent agreement indicate Burns & Mac cannot be held responsible for any "damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of OWNER, or governmental fines or penalties."

Because of the above provisions, it does not appear that the City gets any added benefit, at least from a liability standpoint, from using Burns & Mac ROC as opposed to ROC hired by City?? From the discussion at the Council meeting, it seemed like the biggest selling point for Burns & Mac ROC was from a liability standpoint. Given parent contract, I don't think Burns & Mac could be held liable for any failure of ROC so the liability issue appears to be a moot point.

As an illustration, suppose Contractor, despite being called for in construction documents, fails to place rebar in the concrete basin of some type of holding tank during the time that ROC is on the jobsite. Tank floor fails and everything above tank has to be torn out and rebuilt. Undoubtedly, Contractor would blame ROC, and vice versa. The way I read the contracts is that Burns & Mac would be completely off the hook except for any re-engineering costs to rebuild the tank according to the construction documents.

Does your company have any Errors and Ommissions insurance coverage that could be included in ROC contract to say that, in the event ROC is guilty of negligence, Burns & Mac is only liable up to maximum amount of insurance?? I was surprised to see that parent contract does not require any type of Errors and Omissions' coverage -- just Auto, Work Comp., Employers' Liability for Accidents, and General Liability for Bodily Injury and Property Damage. None of these coverages would extend to a mistake or negligence by ROC or Engineer.

I want to recommend to Council whatever is best for the City. Other than Jeff's discomfort in signing off on project without ROC employed by Burns & Mac, I'm not seeing benefit to City. Please let me know what I'm missing.

Patrick G. Reavey
REAVEY LAW LLC
Livestock Exchange Building
1600 Genessee, Suite 303
Kansas City, Missouri 64102
(816) 474-6300
(816) 474-6302 (FAX)
patrick@reaveylaw.com
www.reaveylaw.com

From: Patrick Reavey [mailto:patrick@reaveylaw.com]
Sent: Monday, September 29, 2008 10:03 AM
Cc: Carl Slaugh; cityclerk@cityofbasehor.org; citysuper@cityofbasehor.org
Subject: RE: Basehor

I just spoke with Jeff regarding his email. In reference to his second paragraph, he agrees this really is a moot point because, as pointed out in my email from last week, Burns & McDonnell essentially is free from any liability under the contract anyway. Jeff said he spoke with legal counsel at Burns & McDonnell and they confirmed that the language of the contract excuses Burns & McDonnell from liability consistent with my email.

From: Keller, Jeff [mailto:jkeller@burnsmcd.com]
Sent: Thu 9/25/2008 4:13 PM
To: Keller, Jeff; Patrick Reavey; mkjpmitch@aol.com
Cc: Carl Slaugh; cityclerk@cityofbasehor.org; citysuper@cityofbasehor.org
Subject: RE: Basehor

Patrick –

With regards to insurance coverage, our limitation is set at the contract amount for our design services.

If Burns & McDonnell is not retained to provide resident services, our contract relieves us from all risk, not just from actions of the resident and/or the Contractor. That is one of the biggest differences between the City's two choices.

I think that the discussion at the City Council meeting was talking about risk rather than liability. Risk encompasses liability but it is a broader concept. While many of your points about liability on the construction phase of this project are valid, it overlooks other risks the City is undertaking with respect to a direct hire. On its face, the cost difference between Burns & McDonnell as a subcontractor and a City direct hire is about $15 per hour; however, please recognize that such a comparison is not "apples to apples." Both B&MCD and the City pay a direct cost to the resident. In addition to that, each of us has general administrative overhead costs such as insurance, accounting, human resources, supervision, etc. I believe if consideration is given to all of the City's costs on this job, you will find our proposal is a good value.

Please also note that our current contract with the City doesn't include supervision of the resident. If the resident is a City employee, then he must be supervised, managed, etc by the City, not Burns & McDonnell. Is there someone with the City that will provide supervision? If the resident is unsure how he should handle a situation or perform some aspect of his job, is there someone with the City that can help him? As our employee, Burns & McDonnell can tap any of our people to help resolve the situation; but, were he a City employee, such services would be outside of the scope of our current agreement. The additional $15, in part, helps cover the cost of providing this sort of support.

So the element of risk we're talking about here is the City's need to cover all the elements of the inspection – supervision, coordination, and generally supporting the inspection when he needs it.

The certification issue, as well as our original agreement, were all clearly based on the presumption that the inspector and engineer were the same. The revolving loan fund program does this because they want continuity in the project they're funding to help promote success. It also makes it very hard for the engineer to certify work that he (or his representative) hasn't observed. Our contract scope was built around the efficiency of providing the resident as well as administrative and engineering support, and the extra $15/hr is coverage for that service. When the engineer and the resident are separate entities, the

relationship is clearly more complicated. The uncertainty regarding properly scoping out the services of a third party inspector is generally where the risk comes from.

Thanks

Jeff

Jeffrey J. Keller, P.E.
Burns & McDonnell
816-822-4371
jkeller@burnsmcd.com

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of an ordinance approving the Kansas Water Pollution Control Revolving Loan Fund (KWPCRLF) in the amount of $6,360,508 for the Wastewater Treatment Plant expansion and other system improvements.

Department: Administration, Sewer

Background/Description of Item:
Since this item was last considered by the city council on Sept. 15, the amount of the loan has been reduced from $7,668,550 to a principal amount of $6,360,508 with the elimination of the $1.2 million line rehabilitation expenses.

The loan payback schedule has two options, 12 or 20 years. The 12-year payment has semi-annual payments of $317,025.19 while the 20-year plan has semi-annual payments of $210,994.66. Using a 12-year payback saves approximately $905,000 in interest over the 20-year option. Attached documents show the current sewer account balance, customer base and projected revenues, giving an indication of the capability of the city to make the 12-year payback payments.

It does not appear that there are adequate reserves to make line rehabilitation improvements with projected revenues. There will be significant cash flow problems, deficits up to $2.8 million, from 2014 thru 2023 under the 12-year payback option and deficits from 2017-2019 under the 20-year payback proposal. These projections assume 50 new customers per year and a $100,000 transfer each year from the general fund into sewer fund to keep the account solvent.

Given the options it appears a 20-year payback will be necessary in order to keep the sewer fund solvent and be able to make line rehabilitation repairs. Annexations of Cedar Lake Estates and Glenwood Ridge Estates will improve the situation or growth greater than 50 units per year.

Payments begin one year after construction completion or two years after the first draw, whichever is earlier. Total repayment is based on the total amount of the loan. Once the project is completed a final amortization will be done based on the final project cost.

$ 741,566	Eng Design & Mngt
$ 4,933,000	Construction
$ -	Line Rehab
$ 10,000	Admin, legal, other
$ 739,950	Contingencies 15%
$ 6,424,516	Total Loan Amount

An ordinance authorizing the execution of a loan agreement between the City of Basehor, Kansas and the State of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Water Pollution Control Revolving Fund for the purpose of financing a wastewater treatment project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement.

Recommendation: Approve ~~Ordinance 2008-__ authorizing~~ filing an application with the KDHE for a Loan in the principal amount of approximately $6,424,516 and a 20-year payback under the Kansas Water Pollution Control Revolving Fund Act for the Wastewater Treatment Facility and authorize the Mayor to sign the necessary documents.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

Part III Budget Information Construction

Section A Loan Calculation Sheet for New Projects

Cost Classification	Total Cost	Non Allowable Cost	Loan Allowable
1. Administrative and legal expenses	$ 10,000	$ -	$ 10,000
2. Land, structure, rights-of-way, appraisal services, and related costs	$ -	$ -	$ -
3. Relocation expenses and payments to individuals, businesses and farm operations	$ -	$ -	$ -
4. Engineering fees	$ -	$ -	$ -
4a. Planning	$ Pd 52,400	$ -	$ 52,400
4 b. Design	$ Pd 362,000	$ -	$ 362,000
4 c. Basic Construction	$ 129,000	$ -	$ 129,000
4 d. Inspection	$ 190,666	$ -	$ 190,666
4 e. Other engineering fees	$ 7,500	$ -	$ 7,500
5. Site work	$ -	$ -	$ -
6. Demolition and removal	$ -	$ -	$ -
7. Construction	$ 4,933,000	$ -	$ 4,933,000
8. Equipment		$ -	$ -
9. Miscellaneous (Sewer line rehabilitation)	$ -	$ -	$ -
10. Subtotal	$ 5,684,566	$ -	$ 5,684,566
11. Interest During Construction	$ -	$ -	$ -
12. Contingencies (used 15% of item 7)	$ 739,950	$ -	$ 739,950
13. Total Project Costs	$ 6,424,516	$ -	$ 6,424,516
14. Total State Funding	----------	----------	$ 6,424,516

Revised 10-6-08

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of an ordinance approving the Kansas Water Pollution Control Revolving Loan Fund (KWPCRLF) in the amount of $6,360,508 for the Wastewater Treatment Plant expansion and other system improvements.

Department: Administration, Sewer

Background/Description of Item:
Since this item was last considered by the city council on Sept. 15, the amount of the loan has been reduced from $7,668,550 to a principal amount of $6,360,508 with the elimination of the $1.2 million line rehabilitation expenses.

The loan payback schedule has two options, 12 or 20 years. The 12-year payment has semi-annual payments of $317,025.19 while the 20-year plan has semi-annual payments of $210,994.66. Using a 12-year payback saves approximately $905,000 in interest over the 20-year option. Attached documents show the current sewer account balance, customer base and projected revenues, giving an indication of the capability of the city to make the 12-year payback payments.

It does not appear that there are adequate reserves to make line rehabilitation improvements with projected revenues. There will be significant cash flow problems, deficits up to $2.8 million, from 2014 thru 2023 under the 12-year payback option and deficits from 2017-2019 under the 20-year payback proposal. These projections assume 50 new customers per year and a $100,000 transfer each year from the general fund into sewer fund to keep the account solvent.

Given the options it appears a 20-year payback will be necessary in order to keep the sewer fund solvent and be able to make line rehabilitation repairs. Annexations of Cedar Lake Estates and Glenwood Ridge Estates will improve the situation or growth greater than 50 units per year.

Payments begin one year after construction completion or two years after the first draw, whichever is earlier. Total repayment is based on the total amount of the loan. Once the project is completed a final amortization will be done based on the final project cost.

$ 755,600	Eng Design & Mngt
$ 4,933,000	Construction
~~$ 1,200,000~~	Line Rehab
$ 40,000	Admin, legal, other
$ 739,950	Contingencies 15%
~~$ 7,668,550~~	
$ 6,360,508	Total Loan Amount

An ordinance authorizing the execution of a loan agreement between the City of Basehor, Kansas and the State of Kansas, acting by and through the Kansas Department of Health and Environment for the purpose of obtaining a loan from the Kansas Water Pollution Control Revolving Fund for the purpose of financing a wastewater treatment project; establishing a dedicated source of revenue for repayment of such loan; authorizing and approving certain documents in connection therewith; and authorizing certain other actions in connection with the loan agreement.

Recommendation: Approve Ordinance 2008-__ authorizing filing an application with the KDHE for a Loan in the principal amount of approximately $6,360,508 and a 20-year payback under the Kansas Water Pollution Control Revolving Fund Act for the Wastewater Treatment Facility and authorize the Mayor to sign the necessary documents.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

KANSAS WATER POLLUTION CONTROL REVOLVING LOAN FUND

Estimated Draws - Actual Interest Rate
Amortization of Loan Costs

Project Principal:	6,360,508.00
Interest During Const.:	51,498.43
Service Fee During Const.:	5,009.57
Gross Loan Costs:	6,417,016.00

Prepared for:
City of Basehor, Project No. C20 1767-01

9/17/2008

Gross Rate:	2.82%		
Service Fee Rate:	0.25%	1st Payment Date:	9/1/2010
Loan Interest Rate:	2.57%	Number of Payments:	24

Payment Number	Payment Date	Beginning Balance	Interest Payment	Principal Payment	Service Fee	Total Payment	Ending Balance
1	9/1/2010	6,417,016.00	82,458.66	226,545.26	8,021.27	317,025.19	6,190,470.74
2	3/1/2011	6,190,470.74	79,547.55	229,739.55	7,738.09	317,025.19	5,960,731.19
3	9/1/2011	5,960,731.19	76,595.40	232,978.88	7,450.91	317,025.19	5,727,752.31
4	3/1/2012	5,727,752.31	73,601.62	236,263.87	7,159.70	317,025.19	5,491,488.44
5	9/1/2012	5,491,488.44	70,565.63	239,595.20	6,864.36	317,025.19	5,251,893.24
6	3/1/2013	5,251,893.24	67,486.83	242,973.49	6,564.87	317,025.19	5,008,919.74
7	9/1/2013	5,008,919.74	64,364.62	246,399.42	6,261.15	317,025.19	4,762,520.33
8	3/1/2014	4,762,520.33	61,198.39	249,873.65	5,953.15	317,025.19	4,512,646.68
9	9/1/2014	4,512,646.68	57,987.51	253,396.86	5,640.82	317,025.19	4,259,249.81
10	3/1/2015	4,259,249.81	54,731.36	256,969.76	5,324.07	317,025.19	4,002,280.04
11	9/1/2015	4,002,280.04	51,429.30	260,593.04	5,002.85	317,025.19	3,741,687.01
12	3/1/2016	3,741,687.01	48,080.68	264,267.40	4,677.11	317,025.19	3,477,419.61
13	9/1/2016	3,477,419.61	44,684.84	267,993.57	4,346.78	317,025.19	3,209,426.04
14	3/1/2017	3,209,426.04	41,241.12	271,772.28	4,011.79	317,025.19	2,937,653.76
15	9/1/2017	2,937,653.76	37,748.85	275,604.27	3,672.07	317,025.19	2,662,049.49
16	3/1/2018	2,662,049.49	34,207.34	279,490.29	3,327.56	317,025.19	2,382,559.20
17	9/1/2018	2,382,559.20	30,615.89	283,431.10	2,978.20	317,025.19	2,099,128.10
18	3/1/2019	2,099,128.10	26,973.80	287,427.48	2,623.91	317,025.19	1,811,700.62
19	9/1/2019	1,811,700.62	23,280.35	291,480.21	2,264.63	317,025.19	1,520,220.41
20	3/1/2020	1,520,220.41	19,534.83	295,590.08	1,900.28	317,025.19	1,224,630.33
21	9/1/2020	1,224,630.33	15,736.50	299,757.90	1,530.79	317,025.19	924,872.43
22	3/1/2021	924,872.43	11,884.61	303,984.49	1,156.09	317,025.19	620,887.95
23	9/1/2021	620,887.95	7,978.41	308,270.67	776.11	317,025.19	312,617.28
24	3/1/2022	312,617.28	4,017.13	312,617.28	390.78	317,025.19	0.00
25	9/1/2022	0.00	0.00	0.00	0.00	0.00	0.00
26	3/1/2023	0.00	0.00	0.00	0.00	0.00	0.00
27	9/1/2023	0.00	0.00	0.00	0.00	0.00	0.00
28	3/1/2024	0.00	0.00	0.00	0.00	0.00	0.00
29	9/1/2024	0.00	0.00	0.00	0.00	0.00	0.00
30	3/1/2025	0.00	0.00	0.00	0.00	0.00	0.00
31	9/1/2025	0.00	0.00	0.00	0.00	0.00	0.00
32	3/1/2026	0.00	0.00	0.00	0.00	0.00	0.00
33	9/1/2026	0.00	0.00	0.00	0.00	0.00	0.00
34	3/1/2027	0.00	0.00	0.00	0.00	0.00	0.00
35	9/1/2027	0.00	0.00	0.00	0.00	0.00	0.00
36	3/1/2028	0.00	0.00	0.00	0.00	0.00	0.00
37	9/1/2028	0.00	0.00	0.00	0.00	0.00	0.00
38	3/1/2029	0.00	0.00	0.00	0.00	0.00	0.00
39	9/1/2029	0.00	0.00	0.00	0.00	0.00	0.00
40	3/1/2030	0.00	0.00	0.00	0.00	0.00	0.00
41	9/1/2030	0.00	0.00	0.00	0.00	0.00	0.00
		Totals	1,085,951.22	6,417,016.00	105,637.34	7,608,604.56	

KANSAS WATER POLLUTION CONTROL REVOLVING LOAN FUND

Estimated Draws - Actual Interest Rate
Amortization of Loan Costs

Project Principal:	6,360,508.00
Interest During Const.:	51,498.43
Service Fee During Const.:	5,009.57
Gross Loan Costs:	6,417,016.00

Prepared for:
City of Basehor, Project No. C20 1767-01

9/17/2008

Gross Rate:	2.82%		
Service Fee Rate:	0.25%	1st Payment Date:	9/1/2010
Loan Interest Rate:	2.57%	Number of Payments:	40

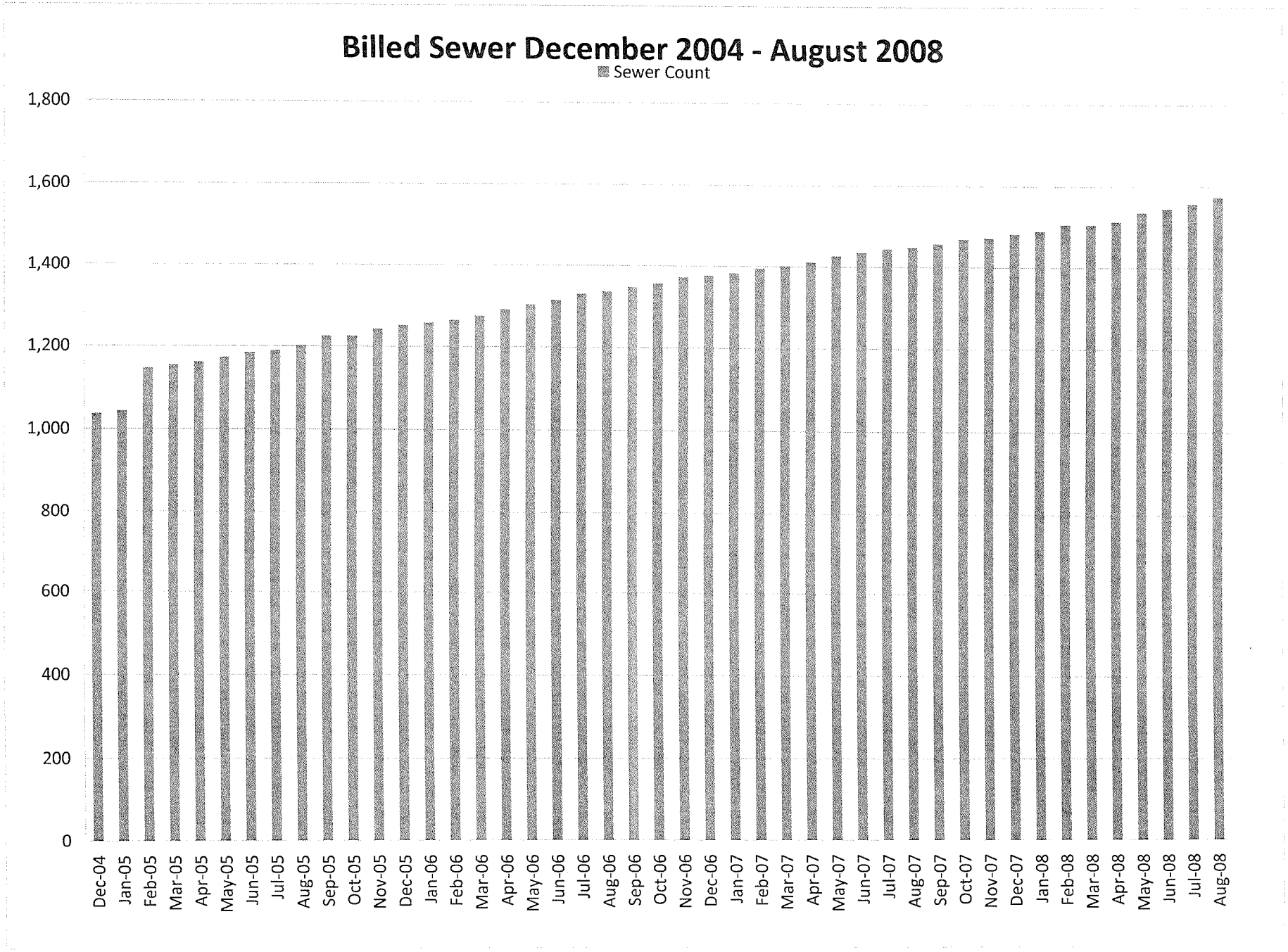
Payment Number	Payment Date	Beginning Balance	Interest Payment	Principal Payment	Service Fee	Total Payment	Ending Balance
1	9/1/2010	6,417,016.00	82,458.66	120,514.74	8,021.26	210,994.66	6,296,501.26
2	3/1/2011	6,296,501.26	80,910.04	122,214.00	7,870.62	210,994.66	6,174,287.26
3	9/1/2011	6,174,287.26	79,339.59	123,937.21	7,717.86	210,994.66	6,050,350.05
4	3/1/2012	6,050,350.05	77,747.00	125,684.72	7,562.94	210,994.66	5,924,665.33
5	9/1/2012	5,924,665.33	76,131.95	127,456.88	7,405.83	210,994.66	5,797,208.45
6	3/1/2013	5,797,208.45	74,494.13	129,254.03	7,246.50	210,994.66	5,667,954.42
7	9/1/2013	5,667,954.42	72,833.21	131,076.51	7,084.94	210,994.66	5,536,877.91
8	3/1/2014	5,536,877.91	71,148.88	132,924.69	6,921.09	210,994.66	5,403,953.22
9	9/1/2014	5,403,953.22	69,440.80	134,798.92	6,754.94	210,994.66	5,269,154.30
10	3/1/2015	5,269,154.30	67,708.63	136,699.59	6,586.44	210,994.66	5,132,454.71
11	9/1/2015	5,132,454.71	65,952.04	138,627.05	6,415.57	210,994.66	4,993,827.66
12	3/1/2016	4,993,827.66	64,170.69	140,581.69	6,242.28	210,994.66	4,853,245.97
13	9/1/2016	4,853,245.97	62,364.21	142,563.90	6,066.55	210,994.66	4,710,682.07
14	3/1/2017	4,710,682.07	60,532.26	144,574.05	5,888.35	210,994.66	4,566,108.02
15	9/1/2017	4,566,108.02	58,674.49	146,612.53	5,707.64	210,994.66	4,419,495.49
16	3/1/2018	4,419,495.49	56,790.52	148,679.78	5,524.36	210,994.66	4,270,815.71
17	9/1/2018	4,270,815.71	54,879.98	150,776.16	5,338.52	210,994.66	4,120,039.55
18	3/1/2019	4,120,039.55	52,942.51	152,902.11	5,150.04	210,994.66	3,967,137.44
19	9/1/2019	3,967,137.44	50,977.72	155,058.03	4,958.91	210,994.66	3,812,079.41
20	3/1/2020	3,812,079.41	48,985.22	157,244.35	4,765.09	210,994.66	3,654,835.06
21	9/1/2020	3,654,835.06	46,964.63	159,461.49	4,568.54	210,994.66	3,495,373.57
22	3/1/2021	3,495,373.57	44,915.55	161,709.90	4,369.21	210,994.66	3,333,663.67
23	9/1/2021	3,333,663.67	42,837.58	163,990.01	4,167.07	210,994.66	3,169,673.66
24	3/1/2022	3,169,673.66	40,730.31	166,302.27	3,962.08	210,994.66	3,003,371.39
25	9/1/2022	3,003,371.39	38,593.32	168,647.13	3,754.21	210,994.66	2,834,724.26
26	3/1/2023	2,834,724.26	36,426.21	171,025.05	3,543.40	210,994.66	2,663,699.21
27	9/1/2023	2,663,699.21	34,228.53	173,436.51	3,329.62	210,994.66	2,490,262.70
28	3/1/2024	2,490,262.70	31,999.88	175,881.96	3,112.82	210,994.66	2,314,380.74
29	9/1/2024	2,314,380.74	29,739.79	178,361.90	2,892.97	210,994.66	2,136,018.84
30	3/1/2025	2,136,018.84	27,447.84	180,876.80	2,670.02	210,994.66	1,955,142.04
31	9/1/2025	1,955,142.04	25,123.58	183,427.16	2,443.92	210,994.66	1,771,714.88
32	3/1/2026	1,771,714.88	22,766.54	186,013.48	2,214.64	210,994.66	1,585,701.40
33	9/1/2026	1,585,701.40	20,376.26	188,636.28	1,982.12	210,994.66	1,397,065.12
34	3/1/2027	1,397,065.12	17,952.29	191,296.05	1,746.32	210,994.66	1,205,769.07
35	9/1/2027	1,205,769.07	15,494.13	193,993.32	1,507.21	210,994.66	1,011,775.75
36	3/1/2028	1,011,775.75	13,001.32	196,728.63	1,264.71	210,994.66	815,047.12
37	9/1/2028	815,047.12	10,473.36	199,502.50	1,018.80	210,994.66	615,544.62
38	3/1/2029	615,544.62	7,909.75	202,315.49	769.42	210,994.66	413,229.13
39	9/1/2029	413,229.13	5,309.99	205,168.13	516.54	210,994.66	208,061.00
40	3/1/2030	208,061.00	2,673.58	208,061.00	260.08	210,994.66	0.00
41	9/1/2030	0.00	0.00	0.00	0.00	0.00	0.00
		Totals	1,843,446.97	6,417,016.00	179,323.43	8,439,786.40	

Prepared by DAAR

Part III Budget Information Construction

Section A Loan Calculation Sheet for New Projects

Cost Classification	Total Cost	Non Allowable Cost	Loan Allowable
1. Administrative and legal expenses	$ 10,000	$ -	$ 10,000
2. Land, structure, rights-of-way, appraisal services, and related costs	$ -	$ -	$ -
3. Relocation expenses and payments to individuals, businesses and farm operations	$ -	$ -	$ -
4. Engineering fees	$ -	$ -	$ -
4a. Planning	$ 52,400	$ -	$ 52,400
4 b. Design	$ 362,000	$ -	$ 362,000
4 c. Basic Construction	$ 129,000	$ -	$ 129,000
4 d. Inspection	$ 190,666	$ -	$ 190,666
4 e. Other engineering fees	$ -	$ -	$ -
5. Site work	$ -	$ -	$ -
6. Demolition and removal	$ -	$ -	$ -
7. Construction	$ 4,933,000	$ -	$ 4,933,000
8. Equipment		$ -	$ -
9. Miscellaneous (Sewer line rehabilitation)	$ -	$ -	$ -
10. Subtotal	$ 5,677,066	$ -	$ 5,677,066
11. Interest During Construction	$ -	$ -	$ -
12. Contingencies (used 15% of item 7)	$ 739,950	$ -	$ 739,950
13. Total Project Costs	$ 6,417,016	$ -	$ 6,417,016
14. Total State Funding	----------	----------	$ 6,417,016


Billed Sewer December 2004 - August 2008
Sewer Count
1,800
1,600
1,400
1,200
1,000
800
600
400
200
0
Dec-04
Jan-05
Feb-05
Mar-05
Apr-05
May-05
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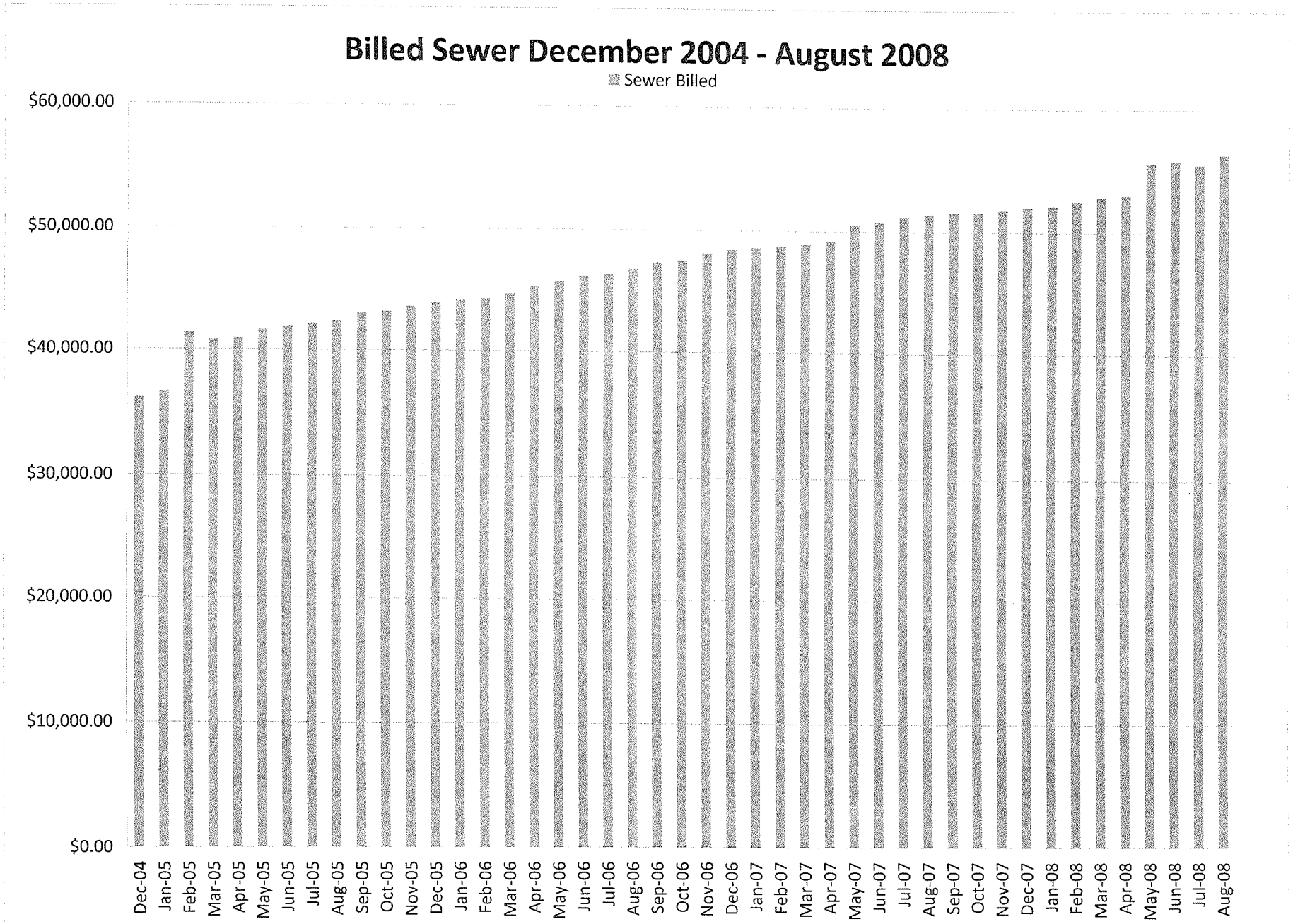
Billed Sewer December 2004 - August 2008
Sewer Billed
$60,000.00
$50,000.00
$40,000.00
$30,000.00
$20,000.00
$10,000.00
$0.00
Dec-04
Jan-05
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Jun-08
Jul-08
Aug-08

Sewer Customer Count
Revenue and Average Monthly Rate

MONTH	SEWER COUNT	SEWER BILLED	AVERAGE SWR BILL
December 2004 - December 2005			
January	1,044	$36,724.97	$35.18
February	1,147	$41,422.13	$36.11
March	1,155	$40,825.13	$35.35
April	1,162	$40,966.00	$35.25
May	1,174	$41,661.92	$35.49
June	1,185	$41,899.33	$35.36
July	1,190	$42,121.96	$35.40
August	1,203	$42,419.13	$35.26
September	1,226	$43,017.31	$35.09
October	1,226	$43,197.08	$35.23
November	1,244	$43,594.20	$35.04
December	1,252	$43,932.72	$35.09
TOTAL	14,208	$501,781.88	
AVERAGE	1,184		$35.32
January 2006 - December 2006			
January	1,259	$44,153.10	$35.07
February	1,265	$44,319.90	$35.04
March	1,276	$44,740.85	$35.06
April	1,292	$45,336.76	$35.09
May	1,304	$45,777.30	$35.11
June	1,315	$46,216.17	$35.15
July	1,331	$46,398.72	$34.86
August	1,337	$46,846.60	$35.04
September	1,348	$47,343.36	$35.12
October	1,357	$47,552.20	$35.04
November	1,373	$48,132.57	$35.06
December	1,378	$48,471.71	$35.18
TOTAL	15,835	$555,289.24	
AVERAGE	1,320		$35.07
January 2007 - December 2007			
January	1,384	$48,643.98	$35.15
February	1,396	$48,781.22	$34.94
March	1,402	$48,946.94	$34.91
April	1,412	$49,247.95	$34.88
May	1,427	$50,548.05	$35.42
June	1,436	$50,838.61	$35.40
July	1,445	$51,187.73	$35.42
August	1,449	$51,450.98	$35.51
September	1,459	$51,629.71	$35.39
October	1,470	$51,626.69	$35.12
November	1,473	$51,823.25	$35.18
December	1,483	$52,064.34	$35.11
TOTAL	17,236	$606,789.45	
AVERAGE	1,436		$35.20
January 2008 - December 2008			
January	1,490	$52,198.89	$35.03
February	1,507	$52,600.53	$34.90
March	1,506	$52,949.04	$35.16
April	1,514	$53,133.58	$35.09
May	1,537	$55,715.24	$36.25
June	1,546	$55,918.76	$36.17
July	1,558	$55,633.75	$35.71
August	1,575	$56,449.34	$35.84
September			
October			
November			
December			
TOTAL	12,233	$434,599.13	
AVERAGE	1,529		$35.53

	Planning Data						Sewer Fund																					
Ending Date	Users	Fee Jan-May	%+	Fee Jun-Dec	# New	Conn Fee	Conn Fees	Cap Imp Fee	Dev Fees	Billing Charges	Late Fees	Trans In Gen	Trans In Ced Lak	Trans In Sw Cap Imp	Reimburse	KDHE 08 Loan	Interest Income	TOTAL REVENUE	Operation & Maint.	New Plant Engineer	New Plant Exp	Developer Reimb	Cap Imp Cap Outlay	Trans Out	Loan Payment	2008 Loan Payment	TOTAL EXPENSES	CASH BALANCE
12/31/03	915				73	$1,500	$174,900	$12,500		$349,188	$2,514						$6,983	$536,971	$179,506					$262,000			$441,506	**$308,437**
12/31/04	1037	$33.58	4.00%	$35.60	122	$1,600	$167,900	$11,200		$407,232	$6,242						$5,240	$597,815	$237,698				$46,815	$412,000			$696,513	**$209,738**
12/31/05	1252	$35.60	3.25%	$36.76	208	$2,100	$238,050	$11,600		$460,452	$7,465						$10,594	$728,161	$303,606					$450,000			$753,606	**$184,293**
12/31/06	1378	$36.76	0.00%	$36.76	119	$2,350	$295,063	$12,500	$38,486	$551,591	$5,473	$137,220	$228,000	$171,620			$20,516	$1,460,468	$423,300			$381,220		$244,000			$1,048,520	**$596,242**
12/31/07	1608	$36.76	3.00%	$37.86	101	$2,600	$316,335	$11,100		$603,257	$16,771	$100,000			$82,714		$23,250	$1,153,426	$295,698				$115,260	$488,000			$898,958	**$850,710**
12/31/08	1658	$37.86	2.50%	$38.81	50	$2,850	$154,375	$5,100		$726,439	$21,556					$6,417,016	$16,500	$7,340,986	$307,526	$396,375	$5,553,525		$32,461	$488,000			$6,777,886	**$1,413,810**
12/31/09	1708	$38.81	2.50%	$39.78	50	$3,100	$150,000	$5,100		$767,404	$13,174						$42,414	$978,092	$319,827						$488,000		$807,827	**$1,584,075**
12/31/10	1758	$39.78	2.50%	$40.77	50	$3,350	$162,500	$5,100		$809,958	$13,917						$47,522	$1,038,997	$332,620						$527,000	$317,025	$1,176,645	**$1,446,427**
12/31/11	1808	$40.77	2.50%	$41.79	50	$3,500	$170,000	$5,100		$854,160	$14,688						$43,393	$1,087,341	$345,925						$566,000	$634,050	$1,545,975	**$987,792**
12/31/12	1858	$41.79	2.50%	$42.84	50	$3,500	$170,000	$5,100		$900,065	$15,490						$29,634	$1,120,289	$359,762						$566,000	$634,050	$1,559,812	**$548,269**
12/31/13	1908	$42.84	2.50%	$43.91	50	$3,500	$170,000	$5,100		$947,732	$16,322						$16,448	$1,155,603	$374,152						$566,000	$634,050	$1,574,203	**$129,669**
12/31/14	1958	$43.91	2.50%	$45.01	50	$3,500	$170,000	$5,100		$997,220	$17,187						$3,890	$1,193,397	$389,118						$566,000	$634,050	$1,589,169	**($266,102)**
12/31/15	2008	$45.01	2.50%	$46.13	50	$3,500	$170,000	$5,100		$1,048,590	$18,084						-$7,983	$1,233,792	$404,683						$672,565	$634,050	$1,711,298	**($743,609)**
12/31/16	2058	$46.13	2.50%	$47.29	50	$3,500	$170,000	$5,100		$1,101,906	$19,016						-$22,308	$1,273,713	$420,870						$779,130	$634,050	$1,834,051	**($1,303,947)**
12/31/17	2108	$47.29	2.50%	$48.47	50	$3,500	$170,000	$5,100		$1,157,231	$19,983						-$39,118	$1,313,195	$437,705						$779,130	$634,050	$1,850,886	**($1,841,637)**
12/31/18	2158	$48.47	2.50%	$49.68	50	$3,500	$170,000	$5,100		$1,214,634	$20,986						-$55,249	$1,355,471	$455,213						$779,130	$634,050	$1,868,394	**($2,354,560)**
12/31/19	2208	$49.68	2.50%	$50.92	50	$3,500	$170,000	$5,100		$1,274,184	$22,027						-$70,637	$1,400,675	$473,422						$779,130	$634,050	$1,886,602	**($2,840,487)**
12/31/20	2258	$50.92	2.50%	$52.20	50	$3,500	$170,000	$5,100		$1,335,953	$23,107						-$85,215	$1,448,945	$492,359							$634,050	$1,126,409	**($2,517,951)**
12/31/21	2308	$52.20	2.50%	$53.50	50	$3,500	$170,000	$5,100		$1,400,013	$24,227						-$75,539	$1,523,802	$512,053							$634,050	$1,146,104	**($2,140,253)**
12/31/22	2358	$53.50	2.50%	$54.84	50	$3,500	$170,000	$5,100		$1,466,442	$25,389						-$64,208	$1,602,723	$532,535							$634,050	$1,166,586	**($1,704,115)**
12/31/23	2408	$54.84	2.50%	$56.21	50	$3,500	$170,000	$5,100		$1,535,317	$26,594						-$51,123	$1,685,887	$553,837								$553,837	**($572,065)**
12/31/24	2458	$56.21	2.50%	$57.61	50	$3,500	$170,000	$5,100		$1,606,719	$27,843						-$17,162	$1,792,500	$575,990								$575,990	**$644,445**
12/31/25	2508	$57.61	2.50%	$59.05	50	$3,500	$170,000	$5,100		$1,680,732	$29,137						$19,333	$1,904,303	$599,030								$599,030	**$1,949,718**
12/31/26	2558	$59.05	2.50%	$60.53	50	$3,500	$170,000	$5,100		$1,757,441	$30,480						$58,492	$2,021,512	$622,991								$622,991	**$3,348,239**

City of Basehor Sewer Fund Projections

Ending Date	Planning Data Users	Fee Jan-May	%+	Fee Jun-Dec	# New	Interest Income	TOTAL REVENUE	Operation & Maint.	New Plant Engineer	New Plant Exp	Developer Reimb	Cap Imp Cap Outlay	Trans Out	Loan Payment	2008 Loan Payment	TOTAL EXPENSES	CASH BALANCE
12/31/03	915				73	$6,983	$536,971	$179,506					$262,000			$441,506	**$308,437**
12/31/04	1037	$33.58	4.00%	$35.60	122	$5,240	$597,815	$237,698				$46,815	$412,000			$696,513	**$209,738**
12/31/05	1252	$35.60	3.25%	$36.76	208	$10,594	$728,161	$303,606					$450,000			$753,606	**$184,293**
12/31/06	1378	$36.76	0.00%	$36.76	119	$20,516	$1,460,468	$423,300			$381,220		$244,000			$1,048,520	**$596,242**
12/31/07	1608	$36.76	3.00%	$37.86	101	$23,250	$1,153,426	$295,698				$115,260	$488,000			$898,958	**$850,710**
12/31/08	1658	$37.86	2.50%	$38.81	50	$16,500	$7,340,986	$307,526	$396,375	$5,553,525		$32,461	$488,000			$6,777,886	**$1,413,810**
12/31/09	1708	$38.81	2.50%	$39.78	50	$42,414	$978,092	$319,827						$488,000		$807,827	**$1,584,075**
12/31/10	1758	$39.78	2.50%	$40.77	50	$47,522	$1,038,997	$332,620						$527,000	$210,995	$1,070,615	**$1,552,457**
12/31/11	1808	$40.77	2.50%	$41.79	50	$46,574	$1,090,522	$345,925						$566,000	$421,989	$1,333,914	**$1,309,065**
12/31/12	1858	$41.79	2.50%	$42.84	50	$39,272	$1,129,927	$359,762						$566,000	$421,989	$1,347,751	**$1,091,241**
12/31/13	1908	$42.84	2.50%	$43.91	50	$32,737	$1,171,892	$374,152						$566,000	$421,989	$1,362,142	**$900,991**
12/31/14	1958	$43.91	2.50%	$45.01	50	$27,030	$1,216,537	$389,118						$566,000	$421,989	$1,377,108	**$740,420**
12/31/15	2008	$45.01	2.50%	$46.13	50	$22,213	$1,263,987	$404,683						$672,565	$421,989	$1,499,237	**$505,170**
12/31/16	2058	$46.13	2.50%	$47.29	50	$15,155	$1,311,177	$420,870						$779,130	$421,989	$1,621,990	**$194,357**
12/31/17	2108	$47.29	2.50%	$48.47	50	$5,831	$1,358,145	$437,705						$779,130	$421,989	$1,638,825	($86,323)
12/31/18	2158	$48.47	2.50%	$49.68	50	-$2,590	$1,408,131	$455,213						$779,130	$421,989	$1,656,333	($334,525)
12/31/19	2208	$49.68	2.50%	$50.92	50	-$10,036	$1,461,276	$473,422						$779,130	$421,989	$1,674,541	($547,791)
12/31/20	2258	$50.92	2.50%	$52.20	50	-$16,434	$1,517,726	$492,359							$421,989	$914,348	**$55,587**
12/31/21	2308	$52.20	2.50%	$53.50	50	$1,668	$1,601,008	$512,053							$421,989	$934,043	**$722,553**
12/31/22	2358	$53.50	2.50%	$54.84	50	$21,677	$1,688,608	$532,535							$421,989	$954,525	**$1,456,636**
12/31/23	2408	$54.84	2.50%	$56.21	50	$43,699	$1,780,710	$553,837								$553,837	**$2,683,509**
12/31/24	2458	$56.21	2.50%	$57.61	50	$80,505	$1,890,167	$575,990								$575,990	**$3,997,686**
12/31/25	2508	$57.61	2.50%	$59.05	50	$119,931	$2,004,900	$599,030								$599,030	**$5,403,556**
12/31/26	2558	$59.05	2.50%	$60.53	50	$162,107	$2,125,128	$622,991								$622,991	**$6,905,692**

City of Basehor Sewer Fund Projections 12 Year Pay Out Plan for New KDHE Loan

	Planning Data						Sewer Fund															
Ending Date	Users	Fee Jan-May	%+	Fee Jun-Dec	# New	Conn Fee	Conn Fees	Billing Charges	Trans In Proceeds	08 Loan Reimburse	Interest Income	TOTAL REVENUE	Operation & Maint.	New Plant	Developer Reimb	Cap Imp Cap Outlay	Trans Out	Loan Payment	2008 Loan Payment	TOTAL EXPENSES	CASH BALANCE
12/31/03	915				73	$1,500	$187,400	$351,702			$6,983	$536,971	$179,506				$262,000			$441,506	**$308,437**
12/31/04	1037	$33.58	4.00%	$35.60	122	$1,600	$179,100	$413,474			$5,240	$597,814	$237,698			$46,815	$412,000			$696,513	**$209,738**
12/31/05	1252	$35.60	3.25%	$36.76	208	$2,200	$249,650	$467,917			$10,594	$728,161	$303,606				$450,000			$753,606	**$184,293**
12/31/06	1378	$36.76	0.00%	$36.76	119	$2,450	$346,049	$557,064	$536,840		$20,516	$1,460,469	$423,300		$381,220		$244,000			$1,048,520	**$596,242**
12/31/07	1608	$36.76	3.00%	$37.86	101	$2,700	$327,435	$620,028	$182,714		$23,250	$1,153,427	$295,698			$115,260	$488,000			$898,958	**$850,711**
12/31/08	1658	$37.86	2.50%	$38.81	50	$2,950	$147,500	$747,995	$100,000	$6,756,883	$16,500	$7,768,878	$307,526	$396,375		$32,461	$488,000			$1,224,361	**$7,395,228**
12/31/09	1967	$38.81	2.50%	$39.78	50	$3,200	$589,225	$780,578	$100,000		$221,857	$1,691,660	$319,827	$5,964,133				$488,000		$6,771,960	**$2,314,928**
12/31/10	2017	$39.78	2.50%	$40.77	50	$3,450	$172,500	$944,924			$69,448	$1,186,872	$332,620					$527,000	$317,025	$1,176,645	**$2,325,154**
12/31/11	2067	$40.77	2.50%	$41.79	50	$3,700	$185,000	$995,119			$69,755	$1,249,874	$345,925					$566,000	$634,050	$1,545,975	**$2,029,053**
12/31/12	2117	$41.79	2.50%	$42.84	50	$3,950	$197,500	$1,044,983			$60,872	$1,303,355	$359,762					$566,000	$634,050	$1,559,812	**$1,772,595**
12/31/13	2167	$42.84	2.50%	$43.91	50	$4,200	$210,000	$1,096,719			$53,178	$1,359,897	$374,152					$566,000	$634,050	$1,574,203	**$1,558,289**
12/31/14	2217	$43.91	2.50%	$45.01	50	$4,450	$222,500	$1,150,387			$46,749	$1,419,636	$389,118					$566,000	$634,050	$1,589,169	**$1,388,756**
12/31/15	2267	$45.01	2.50%	$46.13	50	$4,700	$235,000	$1,206,054			$41,663	$1,482,717	$404,683					$672,565	$634,050	$1,711,298	**$1,160,174**
12/31/16	2317	$46.13	2.50%	$47.29	50	$4,950	$247,500	$1,263,786			$34,805	$1,546,091	$420,870					$779,130	$634,050	$1,834,051	**$872,215**
12/31/17	2367	$47.29	2.50%	$48.47	50	$5,200	$260,000	$1,323,650			$26,166	$1,609,816	$437,705					$779,130	$634,050	$1,850,886	**$631,146**
12/31/18	2417	$48.47	2.50%	$49.68	50	$5,450	$272,500	$1,385,717			$18,934	$1,677,151	$455,213					$779,130	$634,050	$1,868,394	**$439,903**
12/31/19	2467	$49.68	2.50%	$50.92	50	$5,700	$285,000	$1,450,061			$13,197	$1,748,258	$473,422					$779,130	$634,050	$1,886,602	**$301,559**
12/31/20	2517	$50.92	2.50%	$52.20	50	$5,950	$297,500	$1,516,755			$9,047	$1,823,302	$492,359						$634,050	$1,126,409	**$998,451**
12/31/21	2567	$52.20	2.50%	$53.50	50	$6,200	$310,000	$1,585,878			$29,954	$1,925,832	$512,053						$634,050	$1,146,104	**$1,778,179**
12/31/22	2617	$53.50	2.50%	$54.84	50	$6,450	$322,500	$1,657,509			$53,345	$2,033,354	$532,535						$634,050	$1,166,586	**$2,644,948**
12/31/23	2667	$54.84	2.50%	$56.21	50	$6,700	$335,000	$1,731,731			$79,348	$2,146,079	$553,837							$553,837	**$4,237,191**
12/31/24	2717	$56.21	2.50%	$57.61	50	$6,950	$347,500	$1,808,628			$127,116	$2,283,244	$575,990							$575,990	**$5,944,444**
12/31/25	2767	$57.61	2.50%	$59.05	50	$7,200	$360,000	$1,888,287			$178,333	$2,426,620	$599,030							$599,030	**$7,772,035**
12/31/26	2817	$59.05	2.50%	$60.53	50	$7,450	$372,500	$1,970,799			$233,161	$2,576,460	$622,991							$622,991	**$9,725,504**

2009 Annexation of Cedar Lakes Estates (112 lots)
2009 Glenwood Estates 97 lots with connection fees of $4,425

2006 Trans in from General $137,220; Cedar Lakes $228,000; Sw Cap Imp $171,620
2007 Trans in from General $100,000; Loan Proceeds $82,714
2008 Loan funding $6,360,508 and reimbursement for sewer reserve for payments paid out before loan funding $396,375

2009 Sewer connection fees for 50 permits plus Glenwood Estates connection fees
Sewer Connection fee $250 increase each year

City of Basehor Sewer Fund Projections 20 Year Pay Out Plan for New KDHE Loan

	Planning Data						Sewer Fund														
Ending Date	Users	Fee Jan-May	%+	Fee Jun-Dec	# New	Conn Fee	Conn Fees	Billing Charges	Trans In Proceeds	08 Loan Reimburse	Interest Income	TOTAL REVENUE	Operation & Maint.	New Plant	Developer Reimb	Cap Imp Cap Outlay	Trans Out	Loan Payment	2008 Loan Payment	TOTAL EXPENSES	CASH BALANCE
12/31/03	915				73	$1,500	$187,400	$351,702			$6,983	$536,971	$179,506				$262,000			$441,506	**$308,437**
12/31/04	1037	$33.58	4.00%	$35.60	122	$1,600	$179,100	$413,474			$5,240	$597,814	$237,698			$46,815	$412,000			$696,513	**$209,738**
12/31/05	1252	$35.60	3.25%	$36.76	208	$2,200	$249,650	$467,917			$10,594	$728,161	$303,606				$450,000			$753,606	**$184,293**
12/31/06	1378	$36.76	0.00%	$36.76	119	$2,450	$346,049	$557,064	$536,840		$20,516	$1,460,469	$423,300		$381,220		$244,000			$1,048,520	**$596,242**
12/31/07	1608	$36.76	3.00%	$37.86	101	$2,700	$327,435	$620,028	$182,714		$23,250	$1,153,427	$295,698			$115,260	$488,000			$898,958	**$850,711**
12/31/08	1658	$37.86	2.50%	$38.81	50	$2,950	$147,500	$747,995	$100,000	$6,756,883	$16,500	$7,768,878	$307,526	$396,375		$32,461	$488,000			$1,224,361	**$7,395,228**
12/31/09	1967	$38.81	2.50%	$39.78	50	$3,200	$589,225	$780,578	$100,000		$221,857	$1,691,660	$319,827	$5,964,133				$488,000		$6,771,960	**$2,314,928**
12/31/10	2017	$39.78	2.50%	$40.77	50	$3,450	$172,500	$944,924			$69,448	$1,186,872	$332,620					$527,000	$210,995	$1,070,615	**$2,431,184**
12/31/11	2067	$40.77	2.50%	$41.79	50	$3,700	$185,000	$995,119			$72,936	$1,253,055	$345,925					$566,000	$421,989	$1,333,914	**$2,350,325**
12/31/12	2117	$41.79	2.50%	$42.84	50	$3,950	$197,500	$1,044,983			$70,510	$1,312,993	$359,762					$566,000	$421,989	$1,347,751	**$2,315,567**
12/31/13	2167	$42.84	2.50%	$43.91	50	$4,200	$210,000	$1,096,719			$69,467	$1,376,186	$374,152					$566,000	$421,989	$1,362,141	**$2,329,612**
12/31/14	2217	$43.91	2.50%	$45.01	50	$4,450	$222,500	$1,150,387			$69,888	$1,442,775	$389,118					$566,000	$421,989	$1,377,107	**$2,395,280**
12/31/15	2267	$45.01	2.50%	$46.13	50	$4,700	$235,000	$1,206,054			$71,858	$1,512,912	$404,683					$672,565	$421,989	$1,499,237	**$2,408,955**
12/31/16	2317	$46.13	2.50%	$47.29	50	$4,950	$247,500	$1,263,786			$72,269	$1,583,555	$420,870					$779,130	$421,989	$1,621,989	**$2,370,520**
12/31/17	2367	$47.29	2.50%	$48.47	50	$5,200	$260,000	$1,323,650			$71,116	$1,654,766	$437,705					$779,130	$421,989	$1,638,824	**$2,386,462**
12/31/18	2417	$48.47	2.50%	$49.68	50	$5,450	$272,500	$1,385,717			$71,594	$1,729,811	$455,213					$779,130	$421,989	$1,656,332	**$2,459,940**
12/31/19	2467	$49.68	2.50%	$50.92	50	$5,700	$285,000	$1,450,061			$73,798	$1,808,859	$473,422					$779,130	$421,989	$1,674,541	**$2,594,258**
12/31/20	2517	$50.92	2.50%	$52.20	50	$5,950	$297,500	$1,516,755			$77,828	$1,892,083	$492,359						$421,989	$914,348	**$3,571,993**
12/31/21	2567	$52.20	2.50%	$53.50	50	$6,200	$310,000	$1,585,878			$107,160	$2,003,038	$512,053						$421,989	$934,042	**$4,640,989**
12/31/22	2617	$53.50	2.50%	$54.84	50	$6,450	$322,500	$1,657,509			$139,230	$2,119,239	$532,535						$421,989	$954,524	**$5,805,703**
12/31/23	2667	$54.84	2.50%	$56.21	50	$6,700	$335,000	$1,731,731			$174,171	$2,240,902	$553,837							$553,837	**$7,492,768**
12/31/24	2717	$56.21	2.50%	$57.61	50	$6,950	$347,500	$1,808,628			$224,783	$2,380,911	$575,990							$575,990	**$9,297,689**
12/31/25	2767	$57.61	2.50%	$59.05	50	$7,200	$360,000	$1,888,287			$278,931	$2,527,218	$599,030							$599,030	**$11,225,877**
12/31/26	2817	$59.05	2.50%	$60.53	50	$7,450	$372,500	$1,970,799			$336,776	$2,680,075	$622,991							$622,991	**$13,282,961**

2009 Annexation of Cedar Lakes Estates (112 lots)
2009 Glenwood Estates 97 lots with connection fees of $4,425

2006 Trans in from General $137,220; Cedar Lakes $228,000; Sw Cap Imp $171,620
2007 Trans in from General $100,000, Loan Proceeds $82,714
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2009 Sewer connection fees for 50 permits plus Glenwood Estates connection fees
Sewer Connection fee $250 increase each year

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider starting the annexation process over again for the Cedar Lake Estates subdivision.

Department: Administration

Background/Description of Item:
The city council on July 7, 2008 approved Resolution 2008-09 which set a public hearing date of September 8, 2008 as part of the process in the proposed annexation of Cedar Lake Estates subdivision in accordance with K.S.A. 12-520.

Prior to the public hearing on July 17 notices were mailed to the affected property owners. An open house was also held on August 25 to give an opportunity to discuss the issues surrounding the annexation.

During the public hearing on September 8 questions were raised concerning the sufficiency of the legal process required by K.S.A. 12-520a. After considering the alleged deficiencies there were recommendations to start the process over again rather than take the chance that a legal appeal would result in the same recommendation.

The deficiencies included the following:
1. Three of the 112 property owners were not sent certified notices.
2. Resolution 2008-09 was not sent with the original certified notifications
3. Claims that the detail on extension of services required by K.S.A. 12-520a (3) was insufficient.

If the council votes to start the process over again a new resolution would be approved setting a new public hearing date.

Funding Source: Planning, 807 Printed Materials/Publications $4,000 balance 1,667.73

Recommendation: Approve starting the process over on the annexation of Cedar Lake Estates subdivision.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

July 7, 2008

a. Consider annexation of Cedar Lake subdivision and set a public hearing.

RES. 2008-09. A RESOLUTION OF THE CITY OF BASEHOR, KANSAS, REGARDING PUBLIC HEARING TO CONSIDER ANNEXATION OF CERTAIN PROPERTY ADJOINING THE CITY.

Mr. Slaugh stated Council needed to make the decision where to hold the public hearing, (school, library, VFW Hall). The public hearing would need to be held between September 8 and the 15th.

Mr. Slaugh reported K.S.A 12-535 referenced by Mr. Flower was for the purpose of negotiating services; however, services were already provided. Mr. Reavey stated the Council was following legal protocol.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to pass the Resolution as written and direct staff to set final date and location of hearing as stipulated in Section 3 and to authorize the mayor to sign the Resolution. A roll call vote was taken with members Sifford, Washington, and Dysart voting in favor. Members Hill and McDowell voted nay. Motion passed 3-2.

(a/k/a Cedar Lake Estates)

RESOLUTION NO. 2008-09

A RESOLUTION OF THE CITY OF BASEHOR, KANSAS, REGARDING PUBLIC HEARING TO CONSIDER ANNEXATION OF CERTAIN PROPERTY ADJOINING THE CITY.

WHEREAS, the Governing Body is considering annexation of the Cedar Lake Estates Subdivision, which is a platted subdivision adjoining the City, generally located in the Southwest ¼ of Section 11, Township 11S, Range 22E.

WHEREAS, the Governing Body has prepared a report regarding the annexation that contains all of the information required by K.S.A. 12-520a (1), including a plan for extension of services to the area proposed to be annexed, which report is available for inspection in the City Clerk's office during normal business hours; and

WHEREAS, a public hearing on the proposed annexation will be held pursuant to K.S.A. 12-520a.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

SECTION 1. The Governing Body of the City of Basehor, Kansas is considering the annexation of the following described land:

> A tract of land located in Southwest Quarter of Section 11, Township 11 South, Range 22 East, and being all of Cedar Lake Estates, Cedar Lake Estates – Phase 2, Cedar Lake Estates Phase 3, and Cedar Lake Estates Phase 4 Subdivision, all subdivisions in the County of Leavenworth, Kansas according to the recorded plats thereof and being more particularly described as follows:
>
> COMMENCING at the Southeast corner of the Southwest Quarter of said Section 11; thence North 00°19'04" East, along the East line of said Southwest Quarter, a distance of 706.58 feet to the POINT OF BEGINNING; thence continuing North 00°19'04" East, along said East line, a distance of 1932.89 feet to the Northeast corner of the Southwest Quarter of said Section 11; thence North 89°13'03" West, along the North line of the Southwest Quarter of said Section 11, a distance of 2286.87 feet; thence South 00°00'43" West, a distance of 725.99 feet; thence South 89°13'03" West, a distance of 125.00 feet; thence South 00°00'43" West, a distance of 275.00 feet; thence South 89°13'03" West, a distance of 200.00 feet to the East right-of-way line of 158th Street as shown on the recorded plat; thence South 00°00'43" West, along said right-of-way line, a distance of 150.00 feet; thence South 89°59'17" East, a distance of 300.00 feet; thence South 00°00'43" West, a distance of 829.00 feet; thence South 90°00'00" East, a distance of 843.87 feet; thence South 01°36'23" East, a distance of 174.00 feet; thence South 17°13'37" West, a distance of 164.54 feet; thence South 03°22'07" West, a distance of 134.25

feet; thence South 90°00'00" East, a distance of 51.56 feet; thence North 13°43'52" East, a distance of 134.52 feet; thence North 46°47'14" East, a distance of 278.31 feet; thence North 68°12'43" East, a distance of 103.13 feet; thence South 70°56'34" East, a distance of 169.45 feet; thence South 14°02'43" East, a distance of 75.39 feet; thence North 86°52'48" East, a distance of 91.62 feet; thence South 51°41'08" East, a distance of 91.16 feet; thence South 45°26'02" West, a distance of 106.06 feet; thence South 44°27'07" East, a distance of 252.25 feet; thence North 84°10'39" East, a distance of 290.03 feet; thence North 43°06'36" East, a distance of 99.95 feet; thence North 29°54'56" East, a distance of 108.63 feet; thence North 19°36'26" East, a distance of 386.05 feet; thence North 89°53'53" East, a distance of 143.97 feet to the point of beginning and containing 5,021,508.21 square feet or 115.28 acres more or less.

SECTION 2. The Governing Body finds that the above described property adjoins the City of Basehor.

SECTION 3. To properly consider the proposed annexation of the land described above, the Governing Body orders the following:

a. A public hearing on the proposed annexation will be held on September 8, 2008 beginning at 6:00 p.m. at the Glenwood Ridge Elementary School, located at 17550 157th Terrace, Bonner Springs, KS 66012 for the purpose of the Governing Body determining the advisability of such annexation.

b. A copy of this Resolution, and a sketch of the land proposed to be annexed, shall be sent by certified mail to each owner of the land proposed to be annexed.

c. A copy of this Resolution, and a sketch of the land proposed to be annexed, shall be published in the official City newspaper not less than one week, but no more than two weeks, before the public hearing.

d. A copy of this Resolution shall also be sent, no later than 10 days following its adoption, by certified mail to the following (if applicable):

    1. The board of county commissioners.

    2. The governing body of any township where the land to be annexed is located.

    3. Any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts.

    4. Any utilities having facilities within the area proposed to be annexed.

5. The governing body of any school district in the area proposed to be annexed.

6. Any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed.

7. Any other political or taxing subdivision located within the area proposed to be annexed.

SECTION 4. At the public hearing, a representative of the City will present the City's proposal for annexation, including the plan of the City for the extension of services to the land proposed for annexation. In determining the advisability of annexation, the Governing Body will consider the criteria set forth in K.S.A. 520a(e).

ADOPTED AND APPROVED by the Governing Body of the City of Basehor, Kansas, this 7th day of July, 2008.

Chris Garcia – Mayor

ATTEST:

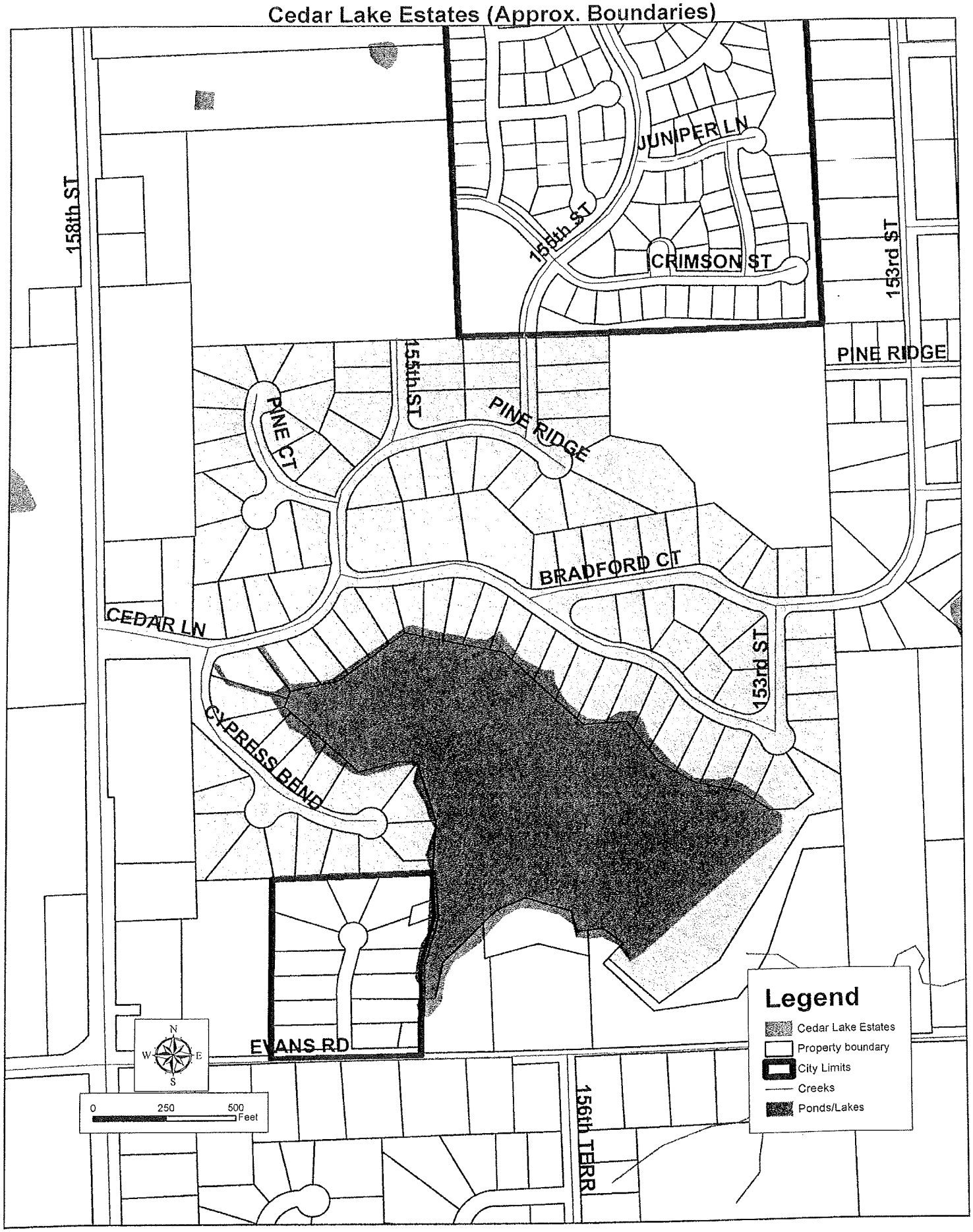
Mary Mogle – City Clerk

THE CITY OF BASEHOR, KANSAS
CORPORATE SEAL

APPROVED AS TO FORM:

Patrick G. Reavey – City Attorney

Cedar Lake Estates (Approx. Boundaries)



AGENDA ITEM INFORMATION FORM

Agenda Item: Consider a proposal to begin the effort in annexing the Cedar Lake Estates subdivision.

Department: Administration

Background/Description of Item:
In accordance with K.S.A. 12-520 the city is authorized to annex certain properties if one of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.
(2) The land is owned by or held in trust for the city or any agency thereof.
(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).
(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.
(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.
(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.
(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

Cedar Lake Estates subdivision falls into category (1). It is a platted subdivision and part of the land adjoins the city.

K.S.A. 12-520a contains the procedures to be followed to pursue the annexation.
(a) The governing body of any city desiring to annex land under the authority of K.S.A. 12-520, and amendments thereto, shall adopt a resolution stating that the city is considering the annexation of the land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the annexation of the land and fix the date, hour and place of the public hearing. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at the time determined by the governing body to be the most convenient for the greatest number of interested persons;
(2) describe the boundaries of the land proposed to be annexed; and
(3) state that the plan of the city for the extension of services to the area proposed to be annexed, which is required under the provisions of K.S.A. 12-520b, and amendments thereto, is available for inspection during regular office hours in the office of the city clerk.

Item (3) above requires a plan for extension of services. McAfee Henderson Solutions (MHS) was requested to submit a proposal for preparing the plan. Prior to adopting a resolution a formal proposal for extension of services should be prepared and approved. Following approval of the service plan a public hearing date would be set with the adoption of a resolution.

Funding Source: Planning, 765 Engineering Services Budget 20,000 Balance $5,389.55

Recommendation: Approve using MHS to prepare documents and a service extension plan for Cedar Lake Estates in the estimated amount of $2,630.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

Annexation Information

12-520

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520. Conditions which permit annexation; ordinance; severability of ordinance where annexation invalid. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city except that no city may annex land owned by a county without the express permission of the board of county commissioners of the county other than as provided in subsection (f).

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city

boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

History: L. 1967, ch. 98, § 2; L. 1974, ch. 56, § 4; L. 1980, ch. 62, § 1; L. 1986, ch. 70, § 2; L. 1987, ch. 66, § 2; L. 1993, ch. 147, § 1; L. 2005, ch. 166, § 11; L. 2005, ch. 186, § 6; L. 2007, ch. 142, § 1; April 26.

12-520a

Chapter 12.--CITIES AND MUNICIPALITIES
Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE

12-520a. Resolution; hearing; notice; publication; sketch of area; criteria considered at hearing; consent, effect. (a) The governing body of any city desiring to annex land under the authority of K.S.A. 12-520, and amendments thereto, shall adopt a resolution stating that the city is considering the annexation of the land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the annexation of the land and fix the date, hour and place of the public hearing. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at the time determined by the governing body to be the most convenient for the greatest number of interested persons;

(2) describe the boundaries of the land proposed to be annexed; and

(3) state that the plan of the city for the extension of services to the area proposed to be annexed, which is required under the provisions of K.S.A. 12-520b, and amendments thereto, is available for inspection during regular office hours in the office of the city clerk.

(b) The date fixed for the public hearing shall be not less than 60 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(c) A copy of the resolution providing for the public hearing shall be mailed by certified mail to each owner of land proposed to be annexed not more than 10 days following the date of the adoption of the resolution. The resolution shall be published in the official newspaper of the city not less than one week and not more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with the resolution. A copy of such sketch also shall be mailed to the owner of the property with the resolution.

(d) A copy of the resolution providing for the public hearing shall be sent by certified mail not more than 10 days following the date of the adoption of the resolution to:

(1) The board of county commissioners;

(2) the governing body of the township where the land to be annexed is located;

(3) any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts;

(4) any utilities having facilities within the area proposed to be annexed;

(5) the governing body of any school district in the area proposed to be annexed;

(6) any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed; and

(7) any other political or taxing subdivision located within the area proposed to be annexed.

(e) At the public hearing, a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed. Following the explanation, all interested persons shall be given an opportunity to be heard. The governing body may recess, for good cause shown, the hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

At such hearing or at any continuation of such hearing, the city shall determine the advisability of the annexation. As a guide in determining the advisability of such annexation, the city shall consider the:

(1) Extent to which any of the area is land devoted to agricultural use;

(2) area of platted land relative to unplatted land;

(3) topography, natural boundaries, storm and sanitary sewers, drainage basins, transportation links or any other physical characteristics which may be an indication of the existence or absence of common interest of the city and the area proposed to be annexed;

(4) extent and age of residential development in the area to be annexed and adjacent land within the city's boundaries;

(5) present population in the area to be annexed and the projected population growth during the next five years in the area proposed to be annexed;

(6) extent of business, commercial and industrial development in the area;

(7) present cost, methods and adequacy of governmental services and regulatory controls in the area;

(8) proposed cost, extent and the necessity of governmental services to be provided by the city proposing annexation and the plan and schedule to extend such services;

(9) tax impact upon property in the city and the area;

(10) extent to which the residents of the area are directly or indirectly dependent upon the city for governmental services and for social, economic, employment, cultural and recreational opportunities and resources;

(11) effect of the proposed annexation on the city and other adjacent areas, including, but not limited to, other cities, sewer and water districts, improvement districts, townships or industrial districts and, subject to the provisions of K.S.A. 12-521a, and amendments thereto, fire districts;

(12) existing petitions for incorporation of the area as a new city or for the creation of a special district;

(13) likelihood of significant growth in the area and in adjacent areas during the next five years;

(14) effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan;

(15) economic impact on the area; and

(16) wasteful duplication of services.

(f) No resolution, notice and public hearing required under the provisions of this section shall be required as a prerequisite to the annexation of land owned by or held in trust for the city or any agency thereof or land all of the owners of which petition for or consent thereto in writing.

(g) Any resolution, adopted pursuant to this section, which includes territory subsequently incorporated pursuant to K.S.A. 15-115 et seq., and amendments thereto, shall be invalid.

History: L. 1974, ch. 56, § 2; L. 1984, ch. 66, § 1; L. 1987, ch. 66, § 3; L. 1993, ch. 147, § 2; L. 2005, ch. 155, § 2; July 1.

McAFEE HENDERSON SOLUTIONS

CIVIL ENGINEERING ✦ LAND SURVEYING

September 18, 2008

Mr. Carl Slaugh, City Administrator
City of Basehor
PO Box 406
Basehor, KS 66007

RE: Basehor Annexation Services

AGREEMENT FOR ENGINEERING & SURVEYING SERVICES

1. SCOPE OF WORK

McAfee Henderson Solutions, Inc. (MHS) will provide civil engineering and surveying service assistance for the City of Basehor annexation of the Cedar Lakes and ~~Cedar Falls~~ subdivisions. This proposal is based on discussions with the City of Basehor staff. The Scope of Work is identified below.

A. MHS shall meet with Leavenworth County staff and acquire a registered listing of property owners within the annexation area. The list shall be imported into an excel spreadsheet and mail merging Microsoft Office software to create the mailings for all affected residents. MHS staff shall provide all mailings to the City of Basehor staff for final registered mailing. Reimbursable expenses anticipated for this task include Leavenworth County staff charges for the property owner search and paper materials.

B. MHS shall provide legal description documents and resolution information for the annexation notice. All materials shall be included in the certified mailings.

C. MHS shall provide a cost breakdown on a property by property basis to extend services to the annexation properties. The cost breakdown shall include engineering estimates of cost to provide gravity sanitary sewer service, roadway, street lighting, storm drainage and any other city service that the City of Basehor staff deems necessary for annexation.

D. MHS staff shall attend Public Information meetings to represent the technical interest of the City at the request of staff or Council. Meeting attendance shall be staffed by a Senior Engineer level at the hourly rate of $100/hour, corresponding with the Standard MHS/City of Basehor rates.

15323 W. 95th Street • Lenexa, KS 66219 • 913.888.4647 fax: 913.390.9865

2. COMPENSATION FOR PROFESSIONAL SERVICES

A. **Hourly Not to Exceed Fee:** The Engineer will provide professional services for this project in accordance with the Scope of Work, Basic Services and Terms and Conditions of Agreement listed herein on an hourly basis for the following not to exceed professional hourly fees, excluding reimbursable expenses.

Item A	$540
Item B	$810
Item C	$1,280
Total Project Not to Exceed Fee	**$2,630**

Professional fees shall be invoiced on a monthly basis using the schedule of rates listed below. The Engineer shall receive all payments no later than thirty (30) calendar days after invoice date.

B. **Additional Services:**

Additional services provided by the Engineer shall commence only upon authorization by the Client and shall be paid for by the Client as hereinafter provided. Fees will be billed on a time and expense basis for any Additional Services authorized in writing by the Client, and will be billed separately at the 2008 Standard MHS City Engineer Hourly Rates on record with the City of Basehor.

GENERAL PROVISIONS

Services performed by MHS under this Agreement will be conducted in a manner consistent with level of care, diligence and skill ordinarily possessed and exercised by members of the profession currently practicing in the same locality under similar conditions. IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED. The parties' rights, liabilities, responsibilities and remedies with respect to the Services, whether in contract or otherwise, shall be exclusively those expressly set forth in this Agreement. To the fullest extent permitted by law, MHS shall not in any event, be liable to the Client for any special, indirect, incidental or consequential damages, including, but not limited to, damages from delay, distribution, loss of product, loss of use, loss of profits or revenue or increased cost of operation. MHS' total liability to the Client for all claims, losses, damages and expenses resulting or arising in any way from the performance of the Services shall not exceed the total compensation received by MHS under this Agreement or the limits of any professional liability insurance maintained by MHS, whichever is less. This Agreement shall be governed by and interpreted in accordance with the laws of Kansas.

The proposal outlined in this Letter is valid for sixty (60) days.

This proposal represents the entire agreement between the Client and McAfee Henderson Solutions, Inc. and supersedes all prior negotiations, representations or agreements, whether written or oral. This agreement may be amended only by written instrument signed by both the Client and McAfee Henderson Solutions, Inc. If this agreement is acceptable, please sign and return one copy to serve as notice to proceed. We look forward to working with you on the successful completion of this project.

Carl Slaugh, City Administrator CITY OF BASEHOR	Date
Joseph McAfee, PE, President McAFEE HENDERSON SOLUTIONS, INC	9/18/08 Date

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of revised Zoning Regulations for the City of Basehor.

Department: Administration, Planning

Background/Description of Item:
At the strategic planning session in 2007 a priority was established for revising the Zoning Regulations for the City of Basehor. The current document is dated April 1, 2003 and was in need of an update since the various copies in circulation were inconsistent due to changes not being added and an accurate original was not available. A thorough review had not been made for over 10 years. The Comprehensive Plan on page 17 adopted in June 2006 contained recommendations for revision.

Staff and the Planning Commission have worked over the previous two years to revise the regulations.

The proposed changes include major revisions to the zoning categories. The new regulations contain only one standard residential category, R-1 and Planned Residential, PR. Most of the recent subdivisions have been mixed use or planned unit developments.

One of the frequent comments made about the planning review process is that criteria changes depending on who the city planner is. The goal is to have guidelines that are clearly understood and consistently followed. Consistent use of the PR category tends to give a wide variety in the layout and features approved for each subdivision.

One area that has not been highlighted in the attached list of changes is Appendix A, containing a list of zoning district uses. In addition to updating the categories to use standard SIC codes, two categories were changed from permitted to conditional uses: #2 Churches, Synagogues and Temples and #10 Schools, Primary and Secondary. This provision places an undue burden on churches and schools for the additional review, plus a provision that a conditional use permit is only valid for a period of five years.

Funding Source:

Recommendation: Consider the options for approval of the revised Zoning Regulations according to the attached summary sheet.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

Zoning and Overlay Zoning

Zoning is the legal tool for regulating growth, land use, and design and development specifications. Additionally, zoning regulations are a key to implementing the goals of the comprehensive plan. Because the community will continue to experience growth, the City must establish zoning laws and polices which expand on the goals and principles developed by the community. The laws and policies will provide direction for property owners, elected and appointed officials, and City staff in making decisions regarding growth, land use, location, and design of development.

Goal: Create City regulations which improve the development process.

Strategy: Provide zoning regulations which are up-to-date and reflect the goals of the community

Action Steps:

1. Update the Zoning Ordinance and Subdivision Regulations:
   a. Create and implement design standards.
   b. Establish a zoning district that will ensure that the community's vision of a mixed use downtown may be realized.
   c. Establish highway corridor overlay zoning districts for Highways 24/40 and 7.
   d. Create regulations that will integrate commercial and institutional uses with residential development while protecting the integrity of the residential properties.
   e. Adopt codes that will improve the physical image of Basehor.
2. Consider zoning for the long term and beyond the City limits.
3. Tie zoning to the Future Land Use Map and Comprehensive Plan.
4. Correct existing zoning, specifically, down zone (rezone to a less intensive district) certain properties.

Strategy: Provide an improved development application process

Action Steps:

1. Establish a set process which is consistently used for each application.
2. Create a checklist for development applications which lists required submittals and provides an overview of the process.

Zoning and Overlay Zoning Measures:

It is recommended that applicants be surveyed biennially to obtain their perception of the Zoning Ordinance and development application process.

Narrative – City Council
October 6, 2008
Dustin Smith, Planning Director

Consider amending Article 1 of Chapter XVI of the Basehor Municipal Code to incorporate revised Zoning Regulations

The Planning Commission considered the Zoning Regulations in a public hearing on August 5, 2008, which was continued to the September 2, 2008 Planning Commission meeting pending the Council review at the work session on August 11, 2008. At the September 2 Planning Commission meeting, the proposed regulations were recommended for approval by a vote of 6-0, with several changes (noted in the minutes), which have been incorporated into the document. Excerpts of minutes from both Planning Commission meetings are provided with this item. In addition, a summary of all changes is attached, which provides a timeline from the first Planning Commission review on July 1, 2008 up to and including recommended changes from the Planning Commission at their meeting on September 2, 2008.

In addition, minor modifications have been made to the numbering format to coincide with the format used in the Municipal Code. The section numbering in previous drafts was 16-101 thru 16-1321. The numbering has been changed to 1-101 thru 1-1321.

The City Attorney has reviewed and approved the ordinance for approval by the City Council. The ordinance repeals the existing zoning regulations.

The City Council has three options, which include:

1. Approve the Zoning Regulations by approval of the attached ordinance;

2. Override the Planning Commission's recommendations by a 2/3 majority vote of the membership of the Governing Body; or

3. May return the proposed regulations to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve.

The mayor is a voting member for this item.

A final draft of the Zoning Regulations is provided on the city web site. Upon adoption, we will print hard copies of the final document for the City Clerk's office and for distribution to the City Council, Planning Commission and staff members.

RECOMMENDATION

The Planning Commission and the Planning Department recommend approval of the proposed zoning regulations.

Summary of Changes to the Zoning Regulations
October 6, 2008
Dustin Smith, Planning Director

Changes Discussed at the July 1, Planning Commission Meeting

1. List of zoning districts has been changed as proposed. See item 5, below.

2. Now has chart relating to zoning of annexed property. Will allow zoning to be changed to the district within the city that is most similar to what it was in the County.

3. The following sections have been relocated here or have been added to address:

    a. the height of non-residential buildings in residential areas such as churches, etc.

    b. utilities.

    c. Improvements not requiring building permits.

    d. Fees.

    e. Development rights – Added to apply generally, but the basic language came from the Planned development requirements. .

    f. Severability.

4. Definitions – Several added with several changes as noted.

5. Zoning Districts

    a. R-O, R-2, R-3, MH-1, MH-2, RV Park and I-2 districts have been removed.

    b. MU-1 and MU-2 (Mixed Use) districts have been consolidated.

    c. CP-1 district contains criteria for determining appropriate uses to be used in conjunction with list in Appendix A.

6. Conditional Uses – added regulations for wind energy conversion systems (WECS).

7. Application and Procedures –

a. This section will replace the current Plan Review Procedures section an will include descriptive text of the development process for various types of applications (i.e. zoning change, preliminary and final development plans, conditional uses, etc.)

b. Provides for applications procedures for preliminary development plan, final development plan for planned and conventional development. Eliminated procedures for site plans.

c. New criteria for what constitutes substantial change.

d. Plan review procedures for improvements that do not require building permits.

8. Non-Conforming Situations – significantly expanded.

9. Completion of restoration of buildings – removed

10. Prohibited uses – Moved to General Provisions.

11. Building Permits – relocated to the Administration section.

12. Board of Zoning Appeals – relocated to Administration section.

13. Rules of Procedure for Rezoning – Moved to Applications and Procedures.

14. Supplementary District Regulations – significantly expanded to address.

    a. Number of structures on a zoning lot.
    b. Provisions for several specific temporary and permanent uses.
    c. Clarification on home occupation requirements.
    d. Outside storage associated with commercial and industrial uses.
    e. does not allow slatted chain link for screening.

15. Utilities – moved to General Provisions section and expanded.

16. Parking and Loading – significant changes.

    a. Incorporates more detail for determining shared parking.
    b. Parking ratio decreased for funeral homes since we saw the existing ratio was too much for the Gorup Funeral home.
    c. Clarification on parking requirements for changes in use.
    d. Requirements for expansions/enlargements of parking areas.
    e. Detail on parking space dimensions providing for 9' x 18' and smaller compact spaces.

f. Alternative surfaces have been specifically identified that may be used for environmental purposes.
g. Revised regs on off-street loading, but removed requirement for number of loading berths.

17. Administration – section relocated to end of document.

    a. Planning Commission section has been relocated here.

    b. Building permits section has been relocated here.

       Building permit section – added a requirement for single-family and two-family site plans to be prepared by a professional architect, although not requiring a seal.

    c. Board of Zoning Appeals section has been relocated here.

Changes Made After the July 1, 2008 Planning Commission Meeting

18. Updated Table of Contents.

19. Modified section 1-306 based on City Attorney's comments.

20. Added section 1-307b in the General Provisions to address building permit requirements.

21. Added section 1-308 to address coordination of development with other plan documents, such as the Comprehensive Plan, U.S. 24/40 Corridor Plan, Commercial Design Policy, etc.

22. Include most recently adopted definition of "Open space, usable" into section 1-406.

23. Added section 1-515 to address low-density, planned development since the proposed sliding scale for higher density development will not work for low-density.

24. Section 1-521 - Included two (2) acre maximum property area for uses in the CP-1 zoning district.

25. Removed a large portion of Section 5 (old numbers 1-661 thru 1-767 due to it being duplicated in Section 7, Application and Procedures).

26. Added section 1-605 to clarify the procedure for Conditional Use Permit applications.

27. Modified language in Section 1-607A (8) based on the City Attorney's recommendation due to vague language.

28. Section 1-703 thru 1-716 relocated from the Administration section (12).

29. Section 1-725 – changed the re-application period after plan denial from 18 months to 180 days, which is more reasonable. Also changed re-application period for all other denied plans to 180 days for consistency.

30. Section 1-731 – changed language to a more positive connotation to say "Period of Validity" as opposed to "Voiding…"

31. Removed section 1-733, modified language and placed in section 1-307.

32. Removed (old number) section 1-733 due to redundancy.

33. Removed portion of section 1-736 due to redundancy, which is addressed in section 1-739.

34. Removed (old number) section 1-820 (pg. 103) due to redundancy.

35. Modified section 1-807 based on City Attorney recommendation.

36. Included section 1-905 E based on Planning Commission recommendation.

37. Modified Section 1-1013 C to address parking of RV's on residential property.

38. NOTE: Section 1-1013 D limits parking of large vehicles in residential districts, including school buses.

39. Included section (11) on stream bank setbacks (buffers), which are largely based on the Kansas City Chapter of the American Public Works Association (APWA)guidelines.

40. Section 1-1202 – modified language requiring two Planning Commissioners from the unincorporated County to say "may", which is only required if we have extra-territorial zoning jurisdiction.

41. Other minor changes – mostly typographical errors and clarifications throughout the documents.

42. Changed Appendix A, the list of zoning district uses, to be based on the Standard Industrial Classification (SIC) Code.

43. Appendix B added to include application process flow charts.

Changes made after the August 11, 2008 City Council Work Session

44. A local resident indicated their concern with removing the R-O district due to its effect on parking RV's on residential property. He requested that RV parking not be required on concrete or asphalt on larger residential properties. Change made to Section 1-1113C.

45. Provisions for a timeline by which developers would be required to have the amenities (ball fields, tennis courts, etc.) installed in relation to the progress of the development. Section 1-517A.

Changes Recommended by the Planning Commission on September 2, 2008

46. Section 1-510 A: allowing no less than 8,000 square foot lots in any case.

47. Section 1-510 C: allowing no less than 25 feet front setback and 7 ½ feet side yard separation.

48. Section 1-510 D to be added that will limit the reduction of lot widths to 65 feet wide.

A change in the section numbering will occur to be consistent with the Municipal Code. Currently the section numbering is 16-101 thru 16-1321. The numbering will be changed to 1-101 thru 1-1321.

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 1 OF CHAPTER XVI OF THE CITY CODE TO INCORPORATE REVISED ZONING REGULATIONS FOR THE CITY OF BASEHOR, KANSAS.

WHEREAS, the Planning Commission has recommended that the City's Zoning Regulations should be updated and amended; and

WHEREAS, all newspaper notifications were performed and a public hearing was properly held before the City Planning Commission.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1. **ZONING REGULATIONS INCORPORATED**. Article 1 of Chapter XVI of the City Code is hereby adopted to incorporate by reference as if set out fully herein, the zoning regulations considered and approved at the October 6, 2008 City Council meeting by the governing body of the City of Basehor, Kansas, as prepared by the city entitled "Zoning Regulations of the City of Basehor, Kansas." At least one copy of the zoning regulations shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours.

Section 2. This ordinance shall take effect and be enforced from and after its publication once in the official city newspaper.

Section 3. This ordinance shall repeal existing Article 1 of Chapter XVI of the City Code, and any and all existing zoning regulations that are in effect and inconsistent herewith in the City of Basehor.

PASSED by the Governing Body of the City of Basehor, Kansas on the ____ day of

_____ 2008.

(Seal) _____
Chris Garcia, Mayor

ATTEST:

_____
Mary A. Mogle, City Clerk

APPROVED AS TO FORM:

_____
Patrick G. Reavey, City Attorney

Excerpt of Minutes
Basehor Planning Commission Meeting
September 2, 2007
Basehor City Hall

D. Unfinished Business –

1. D1-Public Hearing (continued from August 5, 2008) – Consideration of proposed Zoning Regulations.

Chair Flower opened public hearing at 7:05 p.m. Mr. Smith reviewed the zoning regulations and recommended a couple of word modifications. The Commissioners and Mr. Smith had a lengthy discussion on the proposed Zoning Regulations. Chair Flower then closed the public hearing at 8:05 p.m.

Commissioner Logsdon made the motion to recommend approval the Zoning Regulations with the following modifications:

1. Section 16-510 A: allowing no less than 8,000 square foot lots in any case.

2. Section 16-510 C: allowing no less than 25 feet front setback and 7 ½ feet side yard separation.

3. Section 16-10 D to be added that will limit the reduction of lot widths to 65 feet wide.

Commissioner Matthews seconded. Chair Flower asked for a vote. Motion passed 6-0.

Excerpt of Minutes
Basehor Planning Commission Meeting
August 5, 2007
Basehor City Hall

E. New Business –

E1- Public Hearing – Consideration of proposed Zoning Regulations.

Chair Flower introduced the item and opened the public hearing. Commissioner Logsdon motioned to continue the public hearing for consideration of proposed zoning regulations until September 2, 2008 Planning Commission Meeting. Commissioner Bush seconds. Chair Flower called for a vote. Motion passed 5-0.

Affidavit in Proof of Publication

STATE OF KANSAS
Leavenworth County

Erika Gray of the Legal Dept. of the Basehor Sentinel being first duly sworn, deposes and says:

That this weekly newspaper printed in the State of Kansas, and published in and of general circulation in Leavenworth County, Kansas, with a general paid circulation on a weekly basis in Leavenworth County, Kansas, and that said newspaper is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as periodicals class matter in said County, and that a notice of which is hereto attached, was published in the regular and entire issue of the Basehor Sentinel

Said newspaper is published weekly 52 weeks a year; has been so published continuously and uninterruptedly in said county and state for a period of more than one year prior to the first publication of said notice and been admitted at the post office of Basehor in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive weeks the first publication thereof being made as aforesaid on 07/10/2008 with publications being made on the following dates:

7/10/2008

Erika Gray

Subscribed and sworn to before me this 7-10-08

Notary Public

My Appointment expires: 3-15-2011

Publication Charges	$24.00
Notary And Affidavit	$0.00
Additional Copies	$0.00
	$24.00

(First published in the Basehor Sentinel, Thursday, July 10, 2008)

PUBLIC HEARING NOTICE
PLANNING COMMISSION
CITY OF BASEHOR, KANSAS

Notice is hereby given that the Planning Commission of the City of Basehor, Kansas, will hold the following public hearing on Tuesday, August 5, 2008, beginning at 7:00 p.m. in the meeting room of City Hall, located at 2620 N. 155th Street, Basehor, Kansas, for the following items.

1. Consideration of proposed Zoning Regulations for the City of Basehor.

All persons who desire to comment for or against said applications are invited to appear at the time and place mentioned above. Questions about the subject of the hearing may be directed to Dustin Smith, Planning Director, at (913) 724-1370 ext. 24

PLANNING COMMISSION
CITY OF BASEHOR

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider ordinance to revise guidance on use of right-of-way to include designated easements.

Department: Administration

Background/Description of Item:
At a recent city council meeting a citizen raised concerns about utility work that was performed next to his property in a public right-of-way and a hole that was dug on his property in a designated utility easement.

A request was made to revise the guidance on use of the right-of –way and designated utility easements.

Ordinance number 477 regulates work performed within a street right-of-way within the boundaries of the City of Basehor. Work within designated utility easements is normally covered by notes in the plat for each subdivision.

The main issues appear to be the notification of a property owner prior to work being performed on or next to their property and the timely clean-up or restoration of the property after the work is performed.

Two sample dedications of easements are attached.

Below is an example of guidance on use of the right-of-way from the City of De Soto.

h. At the discretion of the Right-of-Way Official, the permittee may be required to notify the occupants of all properties within two hundred feet (200') of the excavation prior to the commencement of such excavation. Door hangers shall be sufficient to satisfy such notification requirement.
i. At the discretion of the Right-of-Way Official, the permittee may be required to notify the Johnson County Sheriff's Office, the local Fire and Ambulance Department and Johnson County Med-Act of the schedule and location of such excavation prior to the commencement of such excavation.

Funding Source:

Recommendation: Direct staff on the preparation of an ordinance to revise current guidance relating to the use of the public right-of-way or prepare new guidance on the use of designated utility easements.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008

W1/4 er Section 11, T11S, R22E
Found 2" Alum KDOT Monument
1) 24.16' W to Top Center of Corner Post;
2) 37.88' NE to Top Center of Fence Post;
3) 25.76' E to "+" cut in to centerline of S.Headwall;
4) 30.74' NE to "+" cut in to centerline of N. Headwall.

DEDICATION:

The undersigned proprietors of the above described tract of land have caused the same to be subdivided in the manner as shown on the accompanying plat which hereafter shall be known as **Pinehurst South**.

The undersigned proprietors of said property shown on this plat do hereby dedicate for public use and public ways and thoroughfares, all parcels and parts of land indicated on this plat as streets, terraces, places roads, drives, lanes, avenues and alleys not heretofore dedicated.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, water, gas, sewer pipes, poles, wires, drainage facilities, ducts and similar facilities, upon, over and under those areas outlined an designated on this plat at "U/E" or "Utility Easement", "D/E" or "Drainage Easement" and "S/E" or "Sanitary Easement" to the City of Basehor, Kansas, and other governmental entities as may be authorized by state law to use such easements for said purposes.

An easement is hereby dedicated to the public for the use of ingress/egress over those areas designated as "A/E" or "Access Easement".

Tract 'A' to be owned and maintained by owner/purchaser, assigns of LOT PR-2, and is to be utilized as Drainage Easement and Open Green Space.

Tract 'B' to be owned and maintained by the PINEHURST SOUTH - HOME OWNERS ASSOCIATION, and is to be utilized as Drainage Easement and Open Green Space.

Tract 'C' to be owned and maintained by owner/purchaser, assigns of LOT PR-3, and is to be utilized as Drainage Easement and Open Green Space.

EXECUTION:

IN TESTIMONY WHEREOF, the undersigned proprietors of the above described tract of land have hereunto subscribed their hands this 12th day of Aug 2003

NORTH, 870.00 feet; thence, EAST 730.00 feet, along the North line of Meyers Second Addition, to the POINT OF BEGINNING of this tract;

Thence, EAST, 145.00 feet;
Thence, SOUTH, 870.00 feet, parallel to the East line of Meyers Second Addition;
Thence, WEST, 145.00 feet, to the Southeast corner of Meyers Second Addition;
Thence, NORTH, 870.00 feet, along the East line of Meyers Second Addition, to the POINT OF BEGINNING.

Contains 2.90 acres, more or less.

The herein signed owners state that all taxes on the above described tract of land have been paid, and that they have caused the same to be subdivided in the manner shown on the accompanying plat, which shall be known as "COUNTRY MEADOWS SUBDIVISION".

STREETS :

All streets on the accompanying plat and not heretofore dedicated to public use are hereby so dedicated.

BUILDING SETBACK :

Building lines or setback lines are hereby so established as shown on the accompanying plat and no building or portion thereof shall be built or constructed between this line and the street line.

EASEMENTS :

Easements are hereby dedicated to public use, the right of way of which is shown with a dashed line on the accompanying plat and said easements may be employed to locate and maintain sewers, waterlines, gas lines, poles and wires, and any other form of public utility now and hereafter used by the public under, over and along the strips marked utility easements. An additional (8') eight feet temporary construction easement is also provided on each side of the aforementioned easement for the initial construction of all utilities.

RESTRICTIONS :

1. On street parking of passenger cars, trucks and vans shall be limited to one side of the street for a period of time not to exceed 72 hours per parking occurance.
2. All houses within the subdivision shall have front yards of 40 feet.
3. All homes shall have hard surfaced 20' × 40' driveway.
4. Each homeowner shall have installed, at his expense, a driveway pipe, the size of which is to be determined by the city engineer.
5. No mobile home, basement home or any residence of a temporary character shall be permitted to be built in this subdivision.

ERROR OF CLOSURE : 1:10,000

BENCHMARK :

Top of Manhole at the corner of Lots 8 and 7.
Elevation = 960.24

ORIGINAL

ORDINANCE NO. 477

AN ORDINANCE ESTABLISHING A STREET RIGHT-OF-WAY MANAGEMENT PROGRAM REGULATING WORK PERFORMED WITHIN THE BOUNDARIES OF THE CITY OF BASEHOR, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1. Definitions.

(a) "Public right-of-way" means only the area of real property in which the city has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below or above the present and future streets, alleys, avenues, roads, highways, parkways or boulevards dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by utilities or private easements in platted subdivisions or tracts.

(b) "Occupant" means any person, firm, corporation, association, utility, or entity, which enters upon the right-of-way of the City, or in any manner establishes a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto.

Section 2. Authorization From City Required.

(a) No person, firm, corporation, association, utility, or entity, shallenter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 et seq. or by such other agreement as the governing body determines best protects the public interest in the right-of-way.

(b) Nothing in this ordinance shall be interpreted as granting an occupant the authority to construct, maintain or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.

(c) The city shall process each valid and administratively complete application for use of the right-of-way within 30 days.

Section 3. **Health, Safety, and Welfare Regulations.**

The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety and welfare requirements and regulations of the city.

Section 4. **Specific Portions of Right-of-Way Restricted.**

(a) The city hereby prohibits the use or occupation of the following specific portions of public right-of-way.

Pursuant to K.S.A 17-1902, the city shall have the authority to prohibit the use or occupation of a specific portion of public right-of-way by a provider due to a reasonable public interest necessitated by public health, safety, and welfare so long s the authority is exercised in a competitively neutral manner and is not unreasonable or discriminatory. A reasonable public interest shall include the following: (1) The prohibition is based upon a recommendation of the city engineer, is related to public health, safety and welfare and is nondiscriminatory among providers, including incumbent providers; (2) the provider has rejected a reasonable, competitively neutral and nondiscriminatory justification offered by the city for requiring an alternate method or alternate route that will result in either unreasonable additional installation expense nor a diminution of service quality; (3) the city reasonably determines, after affording the provider reasonable notice and an opportunity to be heard, that a denial is necessary to protect the public health and safety and is imposed on a competitively neutral and nondiscriminatory basis; or (4) the specific portion of the public right-of-way for which the provider seeks use and occupancy is environmentally sensitive as defined by state or federal law or lies within a previously designated historic district as defined by local, state or federal law.

(b) If the city denies a request to use or occupy a specific portion of the public right-of-way, the requester shall be served a notice of such denial by first class mail. The notice shall indicate that the requester shall have 10 days from the date of receipt of the notice to request a public hearing by the city governing body concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the denial before the governing body. The hearing shall be held by the governing body denies a potential occupant's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to district court.

Section 5. **Compliance With, Manual of Uniform Traffic Control Devices.**

Any occupant of the public right-of-way shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI

of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated herein by reference as if fully set forth herein.

Section 6. Additional Requirements.

(a) All occupants shall provide to the city clerk, and maintain current point of contact information; and

(b) Provide notice of a transfer within 60 days.

Section 7. Emergencies.

If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association, utility, or entity notifies the city promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency.

Section 8. Repair.

Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing or maintaining facilities in a public right-of-way and to return the right-of-way, to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the city. If the occupant fails to make the repairs required by the city, the city may effect those repairs and charge the occupant the cost of those repairs.

Section 9. Relocation.

Whenever requested by the city, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the city for such relocation or adjustment. Any damages suffered by the city or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant.

Section 10. **Fees.**

The following fees shall be assessed against occupants of the public right-of-way:

(a) A permit fee of $50.00 plus a copy of current liability insurance and completion of work application.

(b) An excavation fee of ___(none)_____.

(c) An inspection fee of ___(none)_____.

(d) Repair and restoration costs associated with repairing and restoring the public right-of-way because of damage caused by the provider, its assigns, contractors, and/or subcontractors in the right-of-way; and

(e) A performance bond, in a form acceptable to the city, from a surety licensed to conduct surety business in the state of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way.

Section 11. **Indemnity.**

(a) Occupants shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind of nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way.

(b) The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the city, its officers, employees, contractors of subcontractors. If an occupant and the city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the city under state law and without waiving any defenses of the parties under state of federal law.

(c) This section is solely for the benefit of the city and occupant and does not create or grant any rights, contractual or otherwise, to any other person or entity.

Section 12. **Claim Notification.**

An occupant shall promptly advise the other in writing of any known claim or demand against the provider or the city related to or arising out of the occupant's activities in a public right-of-way.

Section 13. **Penalty Provision.**

Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a maximum fine of $500.00. Each day of violation shall constitute a separate and distinct offense.

Section 14. **Effective**

This ordinance shall take effect immediately following publication in the official city newspaper.

Approved by City Council this 8th day of Spetember, 2005.

Approved and signed by the Mayor this 8th day of September, 2005.

SEAL OF THE CITY OF BASEHOR, KANSAS
CORPORATE
SEAL

Chris Garcia, Mayor

Attest:

Mary A. Mogle, City Clerk

City of Basehor Permit No. _____
Company W.O. No. _____

TO THE CITY OF BASEHOR DEPARTMENT OF PUBLIC WORKS

RE: Application of _____
(Applicant)

FOR AUTHORITY TO _____ IN BASEHOR, KANSAS.
(Type of Construction)

APPLICATION

_____, with offices at
(Applicant)

_____, hereby petitions the
(Address)

City of Basehor, Kansas, to construct _____ along and across the public streets of Basehor, Kansas, according to the details and route shown on plans and standards for said construction, submitted herewith.

In support of its application, the Applicant states that it is in the best interest of the residents of the City of Basehor to allow construction of said facility and that the construction thereof will promote the public safety, health, welfare, and convenience. In addition, Applicant agrees as follows, to-wit:

1. The Director of Public Works and/or his authorized representative shall have the authority to supervise any needed repairs resulting from such construction in the roadway for a period of one year from date of completed construction. This shall include the authority to supervise the initial and any subsequent backfills which may be required for said construction, and the Applicant agrees by virtue of this application to be responsible for all costs of said repairs.
2. Installation shall conform to all applicable codes for this type of construction.
3. That said construction location, if on public right-of-way, shall be as near to right-of-way line as possible, and meet minimum clearances complying with attached standards. Any request for variance shall be an addendum to this application.
4. In the event of road improvements and/or maintenance in the area within the right-of-way where Applicant has its facility and the facility interferes with said improvements or maintenance, the Applicant or its assigns shall be responsible for movement of the facility in a timely manner at no expense to the City of Basehor.
5. Applicant shall be sufficiently insured, and shall assume all risk and liability for accidents and damages that may accrue to persons or property on account of this work, and shall hold the City of Basehor harmless for any damages claimed as a result of defects in the construction or design of the facility.

6. Facility shall be installed in conformance with all items on attached standards, and all backfill and restoration shall be done in conformance with the current City of Basehor Technical Specifications.
7. Applicant shall furnish the Director of Public Works a complete set of plans "as-built" showing the actual location of the entire facility as constructed within 90 days after construction is completed.
8. Traffic shall be free from interference and/or hazard when possible, and when not, Applicant shall provide proper traffic protection in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highway, current edition.
9. Applicant shall provide 72 hours notice prior to closure of any road, and shall avoid closures if possible.
10. Applicant shall use platted utility easements where available.
11. Applicant shall furnish notification to the Department of Public Works no less than 24 hours prior to the beginning of construction.
12. Applicant shall furnish notification to the Department of Public Works immediately upon completion of construction.
13. All areas disturbed by construction shall be fertilized and sodded in accordance with the City of Basehor Technical Specifications.
14. A copy of the approved permit shall be available at the construction site during any work activity and said permit shall be made available for review by any City of Basehor employee upon verbal request.
15. Applicant is responsible for determining locations of all existing utilities in work area prior to work and shall abide by all provisions of the Kansas One Call Law.

Applicant further represents that it shall in all things comply with and abide by any rule, regulation, or condition of permit made by the City of Basehor and/or the Director of Public Works.

$50 Permit Fee Received. Date: _____

Bond Received or Verified on File and Current. Date: _____

Insurance Certificate Received or Verified on File and Current. Date: _____

_____
(Applicant)

_____
(Title)

APPROVED:

BY: _____
Department of Public Works Official

Date: _____

Restoration Work Accepted. Date: _____

As-built Plans Received. Date: _____

Bond Released. Date: _____

Narrative – City Council
October 6, 2008
Dustin Smith, Planning Director

Reconsideration of Lot Split of Lot C-5, Pinehurst North, as requested by Gary Holst.

Narrative

In April, 2008, the Planning Commission approved the lot split for Lot C-5 of the Pinehurst North Subdivision. As part of that approval, the Planning Commission attached a condition that the access to Lots C-5A and C-5B from Pinehurst Drive be provided by a shared driveway. The applicant objected to this condition and appealed to the City Council to have the condition nullified. The City Council upheld the Planning Commission's approval of the lot split with the condition for the shared access.

Upon further discussion among staff, the Planning Commission chairman and the applicant, the item was placed on the September 2, 2008 Planning Commission agenda for reconsideration pursuant to omitting the condition for the shared driveway. This was in part due to the lack of consideration regarding the approved final development plan for the Pinehurst Subdivision, which indicates that there were four (4) driveways approved for Lots C-5 and C-6 (shown on the sheet provided.)

The Planning Commission voted to nullify the condition for the shared driveway, therefore the item is being forwarded to the City Council to request their concurrence with the removal of the condition related to the shared access. However, as part of their decision to remove the condition, they indicated that only two additional driveways will be allowed on Pinehurst Drive east of 155 Street in the Pinehurst Subdivision. This will provide - in addition to the access to Lot C-5A - one access to Lot C-5B and one to Lot C-6. The applicant's representative agreed.

The original staff report, reduced copy of the lot split, copy of the pertinent section of the approved final development plan showing the access points to Pinehurst Drive, drawing of the approximate boundaries of the access easement and other supporting information is included as part of the agenda packet.

Staff will be available for discussion at the meeting.

<u>Recommendation</u>

The Planning Commission voted to remove the condition that required a shared access between Lot C-5A (The Medicine Store) and Lot C-5B.

Excerpt of Minutes
Basehor Planning Commission Meeting
September 2, 20072008
Basehor City Hall

***E. New Business* - E1 – Reconsideration of the lot split for Lot C-5, Pinehurst North.**

Chair Flower asked applicant if they wish to speak. Mark Breuer with Schlagel & Associates spoke on behalf of the application.

Commissioner Bush made the motion to remove the restriction of the shared access Lot C5 A & B and to restrict access points two additional (total of three) on the south side of Pinehurst Drive, east of 155th Street to Pinehurst property line. Commissioner Matthews seconds. Chair Flower asked for a vote. Motion passed 6-0.

Excerpt of Minutes
Basehor City Council Meeting
May 19, 2008
Basehor City Hall

i. Appeal to Planning Commission determination on the lot split for Lot C-5, Pinehurst North Subdivision relating to the condition for shared access.

Mr. Smith reported this was an item proposed by the property owner related to lot split for Lot C-5, Medicine Store. Easements are required to surround the property to include two access points and parking lots on both sides. Pinehurst Drive has become a reserve frontage road which was not anticipated during development.

A motion was made by Councilmember Washington and seconded by Councilmember Sifford to affirm action of the Planning Commission.

Mark Breuer, Schlagel & Associates, representing the owner of the project reported they went through the development plan without consideration to an additional access. He did not feel it was an appropriate time to make changes since they had already moved forward with construction. He explained the property had about a 4% grade and would require significant filling of the adjacent lot. To change now would be a significant cost to the property owner through grading and filling of dirt. Mr. Smith stated the Planning Commission did not anticipate that the access would line up with the existing road and was not aware of the lot split at the time of approval.

Councilmember Washington stated Council was provided with a Master Development Plan and generally follow through with the plan; however, it was up to the Council to assure there was a natural flow of traffic.

A roll call vote was taken with members Dysart and Hill voting no and members Washington, McDowell, and Sifford voting in favor. Motion passed 3-2.

Narrative – City Council
May 19, 2008
Dustin Smith, Planning Director

Appeal of Planning Commission determination on the Lot Split of Lot C-5, Pinehurst North, relating to the condition for shared access.

Narrative

The Planning Commission approved a lot split for Lot C-5, Pinehurst North on April 1, 2008. This property was recently approved for the construction of The Medicine Store and is located at the southeast corner of the roundabout in Pinehurst. The conditions attached to the lot split by the Planning Commission are as follows:

1. Further division of either lot will require a replat.

2. Mylar drawings shall be submitted to the City for addressing and the applicant shall have the lot split recorded at the Register of Deeds Office, with a recorded copy provided to the City.

3. C-5A & C-5B have a shared access to Pinehurst Drive.

4. Utility easements to be provided by deed along the new lot line.

The purpose of the appeal is to request nullification of condition number 3 related to the requirement for shared access to Pinehurst Drive.

The applicant requested a lot split of the Lot C-5 to divide the property into Lot C-5A and C-5B. The original lot C-5 had approximately 345 feet of frontage on Pinehurst Drive, which was approved by the Pinehurst preliminary development plan. The lot split divided the lot and created one lot with approximately 185 feet of frontage and one lot with approximately 161 feet of frontage. As a condition of the lot split approval, the Planning Commission required the use of shared access for the lots due to the functionality of Pinehurst Drive as a reverse frontage collector street that is part of the US 24/40 Corridor and the desire for better access management to the street.

Shared access for the two lots will require an access easement to be recorded that will provide legal access across a portion of Lot C-5A to the new lot. A drawing of the approximate location of the easement is provided.

Lot splits are subject only to the approval by the Planning Commission unless the applicant appeals the Planning Commission decision. Upon approval by the Planning Commission, the Planning Director is responsible for ensuring that the conditions of the

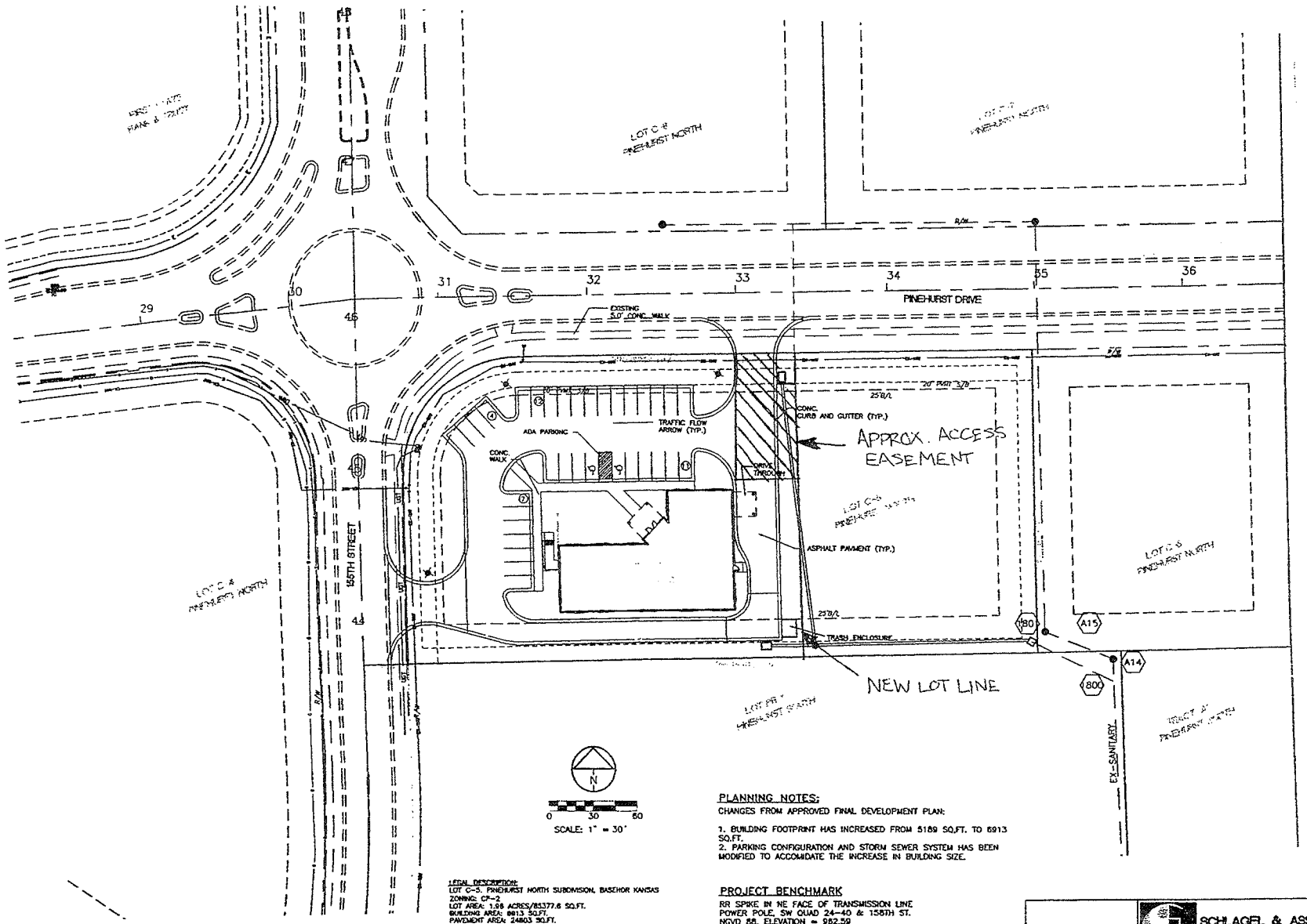
Planning Commission are provided on the lot split document that is recorded at the County. Appeals to the Planning Commission or Planning Director's approval are subject to City Council review and consideration.

The original staff report that was prepared for the lot split application and provided to the Planning Commission, a reduced copy of the lot split drawing and other supporting information is included as part of the agenda packet. A full-size or 11" x 17" copy of the lot split is also provided separately in the packet in addition to an 8 ½ x 11" copy of the section of the Pinehurst preliminary development plan containing the subject property.

Staff will be available for discussion at the meeting.

Staff Recommendation

Staff recommends that the City Council adhere to the Planning Commission approval of lot split, including the requirement for shared access to Lots C-5A and C-5B.



LEGAL DESCRIPTION:
LOT C-5, PINEHURST NORTH SUBDIVISION, BASEHOR KANSAS
ZONING: CP-2
LOT AREA: 1.98 ACRES/85377.6 SQ.FT.
BUILDING AREA: 6913 SQ.FT.
PAVEMENT AREA: 24803 SQ.FT.

PARKING SUMMARY

6913 SQ.FT (3810 OFFICE/3103 RETAIL)
5.5 STALLS/1000 SQ.FT (OFFICE)
4 STALLS/1000 SQ.FT. (RETAIL)
TOTAL REQUIRED = $\frac{3810(5.5) + 3103(4)}{1000}$ = 32 STALLS
PARKING PROVIDED = 33 STALLS (2 H.C.)

PLANNING NOTES:

CHANGES FROM APPROVED FINAL DEVELOPMENT PLAN:

1. BUILDING FOOTPRINT HAS INCREASED FROM 5189 SQ.FT. TO 6913 SQ.FT.
2. PARKING CONFIGURATION AND STORM SEWER SYSTEM HAS BEEN MODIFIED TO ACCOMIDATE THE INCREASE IN BUILDING SIZE.

PROJECT BENCHMARK

RR SPIKE IN NE FACE OF TRANSMISSION LINE POWER POLE, SW QUAD 24-40 & 155TH ST.
NGVD 88, ELEVATION = 982.59

GENERAL NOTES:

ALL CONSTRUCTION ON THIS PROJECT SHALL CONFORM TO THE CITY OF BASEHOR REQUIREMENTS AND SPECIFICATIONS.

THE CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL EXISTING UTILITY LOCATIONS PRIOR TO EXCAVATION.

REV 5-23-07	REV.
REV. 8-22-07	REV.

SCHLAGEL & ASSOCIATES, P. A.
Engineers • Planners • Surveyors • Landscape Architects
14920 West 107th Street • Lenexa, Kansas 66215
(913) 492-5158 • Fax: (913) 492-8400

DATE	5-14-07
DESIGN	MAB
DRAWN BY	MAB
PROJ. NO.	07-061

FINAL DEVELOPMENT PLAN
MEDICINE STORE
GENERAL LAYOUT

SHEET NO. 2 OF 6

STAFF REPORT

Date: **April 1, 2008**

Subject: **Lot Split for Pinehurst North Lot C-5, as submitted by Mark Breuer/Schlagel & Associates on behalf of Gary Holst, property owner**

File No: **LS-01-08**

GENERAL INFORMATION

Applicant: **Mark Breuer/Schlagel & Associates**
14920 W. 107th St.
Lenexa, KS 66215

Owner: **Gary Holst**

Address: **11131 W. 79th St.**
Lenexa, KS 66214

Engineer/ Architect: **Schlagel & Associates**

SITE INFORMATION

Location: Pinehurst North Lot C-5

Current Zoning: CP-2, General Business

PROJECT BACKGROUND

Schlagel & Associates has filed a request for a lot split of Pinehurst North lot C-5. The lot is currently 1.92 acres and zoned CP-2, General Business. The proposed lot split will create Lot C-5A and Lot C-5B. It is located on the southeast corner of the intersection of 155 Street and Pinehurst Drive. The lot is currently vacant. The Medicine Store will be located on the western portion of the property (Lot C-5A).

As the Medicine Store will not occupy the entire lot, the property owners have asked that the lot be divided into two lots. The western lot would consist of 1.18 acres, while the eastern lot would be .74 acres. Additionally, the Medicine Store has been approved as 6,913 square feet, with 33 parking spaces.

Access to the new lot will be from Pinehurst Drive. The Medicine Store will have one access on Pinehurst Drive and one on 155 Street.

FACTORS FOR CONSIDERATION

1. **Character of the Immediate Area** – The immediate area is commercial in nature. Pinehurst North also occupies all properties surrounding the intersection of 155 Street and Pinehurst drive. However, the only property that is currently developed is that on the northwest corner of the intersection.

2. **The Zoning and Uses of the Property Nearby** – The lot is zoned CP-2, general business district. The Pines of Pinehurst subdivision is located south of the property, and is zoned PR-1, Planned Residential. If the lot split is approved, both lots would meet the CP-2 requirements for lot size and width.

3. **The Extent to which Splitting the Lot will Detrimentally Affect Nearby Property** – The lot split is not expected to adversely impact nearby property.

4. **Extent of the Impact on Traffic Flow and Parking** – The Medicine Store is the only known development on this property at this time. Since the development that would occupy the eastern lot is unknown, it is impossible to determine if the lot split would lead to higher density or increased traffic along Pinehurst Drive. However, because the lots will be separately owned, it is likely that a barrier along the new lot line will separate the parking lots, preventing drivers from accessing the two lots through the parking lot. Drivers wishing to access the eastern lot after visiting the Medicine Store may have to re-enter Pinehurst Drive, rather than drive across the parking lot.

5. **Impact on Utilities** – Utility companies have been notified of the intent to split the lot, and no comments have been received that would indicated a problem with providing services to either lot.

STAFF RECOMMENDATION

Staff recommends approval of the lot split for Pinehurst North lot C-5, with the following condition:

1. Further division of either lot will require a replat.

2. Mylar drawings shall be submitted to the City for addressing and the applicant shall have the lot split recorded at the Register of Deeds Office, with a recorded copy provided to the City.

CERTIFICATE OF SURVEY

LOT SPLIT OF LOT C-5, PINEHURST NORTH

(A SUBDIVISION IN THE CITY OF BASEHOR, LEAVENWORTH COUNTY, KANSAS)

N

0 30' 60'

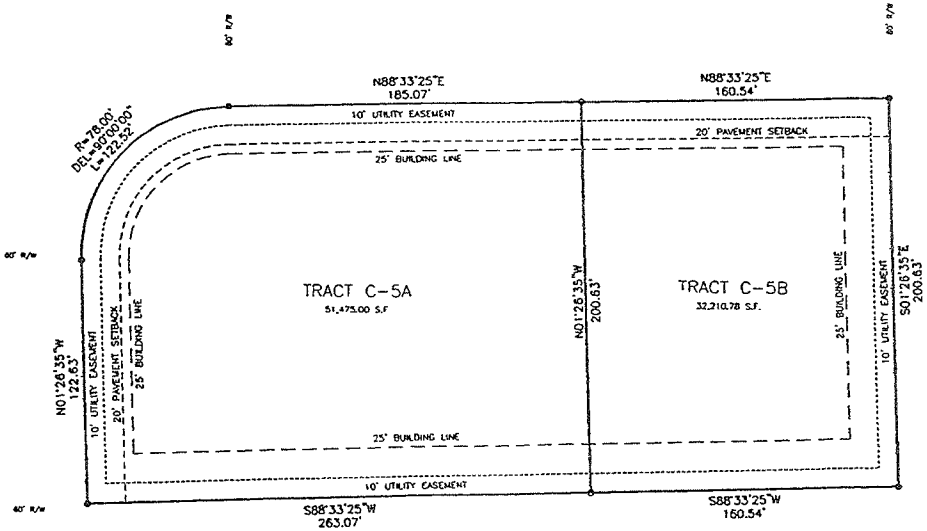
SCALE: 1" = 30'

■ DENOTES MONUMENT BOX FOUND

● DENOTES 1/2" RE-BAR FOUND UNLESS OTHERWISE NOTED

○ DENOTES 1/2" REBAR W/LS-54 CAP SET UNLESS OTHERWISE NOTED

THE BASIS OF THE BEARINGS FOR THIS SURVEY IS THE PLAT OF PINEHURST NORTH



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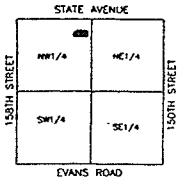
SCALE 1" = 2000'

LOCATION MAP

SECTION 11-11-22



COGO# 04-133-478

Parent Tract:

Lot C-5, PINEHURST NORTH, a subdivision in the City of Basehor, Leavenworth County, Kansas.

Recommended Description: (TRACT C-5A)

Part of Lot C-5, Pinehurst North, a subdivision in the City of Basehor, Leavenworth County, Kansas, being more particularly described as follows:

Beginning at the Southeast corner of said Lot C-5; thence North 01 degree 26 minutes 35 seconds West, along the West line thereof, a distance of 122.63 feet to a point of curvature; thence Northeasterly, along the said West line, along the North line of said lot C-5, and along a curve to the right, having a radius of 78.00 feet, a central angle of 90 degrees 00 minutes 00 seconds and an arc length of 122.52 feet to a point; thence North 88 degrees 33 minutes 25 seconds East, along the said North line, a distance of 185.07 feet to a point; thence South 01 degree 26 minutes 35 seconds East a distance of 200.63 feet to a point on the South line of said Lot C-5, thence South 88 degrees 33 minutes 25 seconds West, along the said South line, a distance of 263.07 feet to the POINT OF BEGINNING and containing 51,475.00 square feet, more or less.

Recommended Description: (TRACT C-5B)

Part of Lot C-5, Pinehurst North, a subdivision in the City of Basehor, Leavenworth County, Kansas, being more particularly described as follows:

Beginning at the Southeast corner of said Lot C-5; thence South 88 degree 33 minutes 25 seconds West, along the South line thereof, a distance of 160.54 feet to a point; thence North 01 degree 26 minutes 35 seconds West a distance of 200.63 feet to a point on the North line of said Lot C-5; thence North 88 degrees 33 minutes 25 seconds East, along the said North line, a distance of 160.54 feet to the Northeast corner of said Lot C-5; thence South 01 degree 26 minutes 35 seconds East, along the East line of said Lot C-5, a distance of 200.63 feet to the POINT OF BEGINNING and containing 32,210.78 square feet, more or less.

GENERAL NOTES:

1. This survey was prepared for Legal Description and Lot split purposes only.
2. There was no Title Commitment or Report supplied.
3. There was no Utility Information or Topography required for this survey.

CERTIFICATION:

This is to certify that this survey was performed in the field on 2-05-08 and was prepared by me or under my direct supervision and the results of this survey are correctly represented herein to the best of my knowledge and belief.

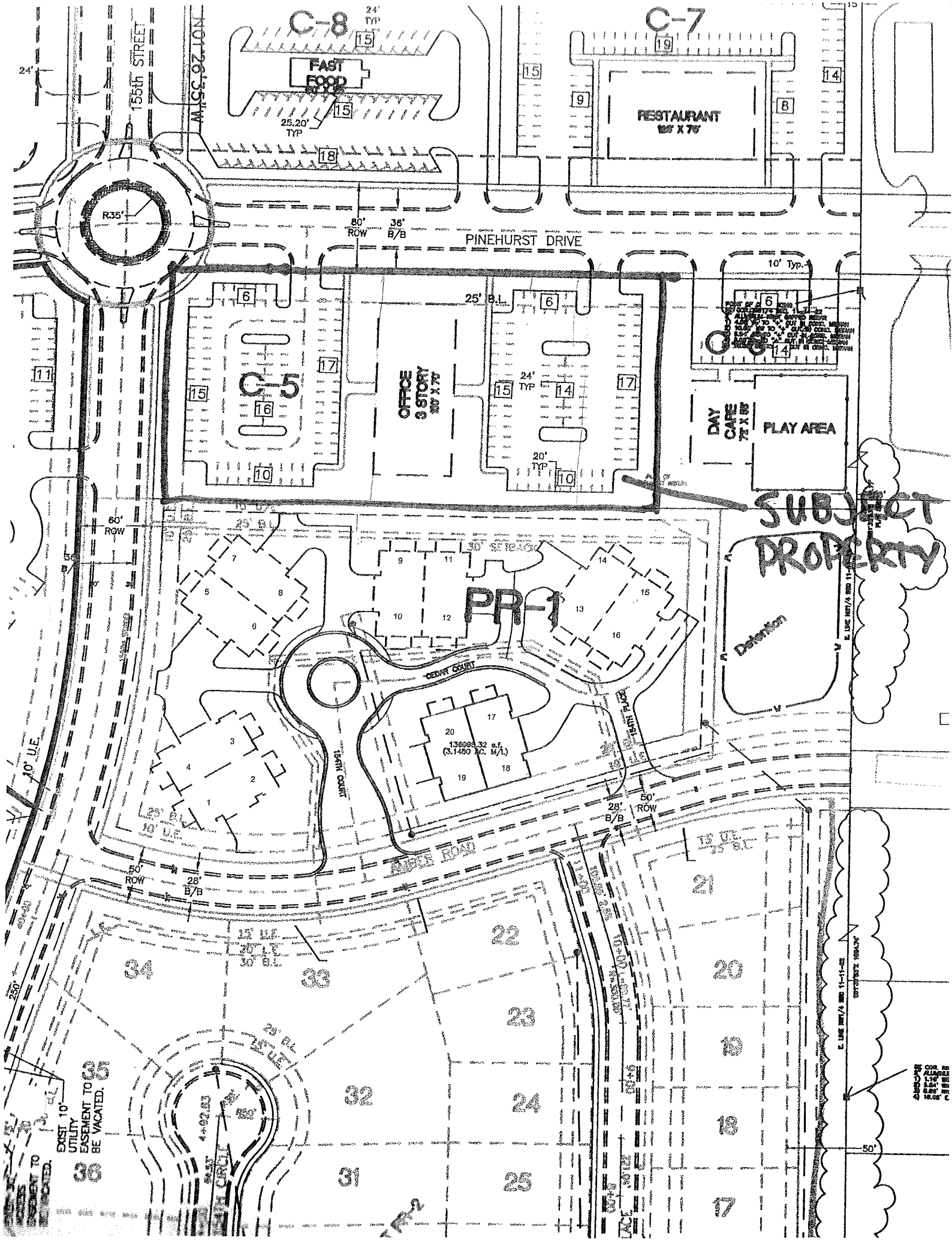
Gary H. Loumaster, Kansas L.S. # 976

PREPARED FOR:
GARY HOLST
GREAT PLAINS COMPOUNDING CENTER
11131 W. 79TH STREET
LENEXA KS. 66214
PH. (913) 234-4679

SCHLAGEL & ASSOCIATES, P. A.
Engineers • Planners • Surveyors • Landscape Architects
14920 West 107th Street • Lenexa, Kansas 66215
(913) 492-5158 • Fax: (913) 492-8400

DATE 02-08-08	CERTIFICATE OF SURVEY LOT C-5, PINEHURST NORTH CITY OF BASEHOR
DESIGN GL	
DRAWN BY HJ	
PROJ. NO. 08-020	SHEET NO. 1 OF 1

FILED _____ BOOK _____ PAGE _____



C-8
C-7
FAST FOOD
RESTAURANT
155th STREET
NOT 26'35"W
PINEHURST DRIVE
80' ROW
36' B/B
25.20' TYP
R35'
10' Typ.
25' B.L.
C-5
OFFICE 3 STORY
24' TYP
20' TYP
DAY CARE
PLAY AREA
SUBJECT PROPERTY
60' ROW
PR-1
Detention
CEDAR COURT
154TH COURT
154TH PLACE
AMBER ROAD
50' ROW
28' B/B
10' U.E.
EXIST 10' UTILITY EASEMENT TO BE VACATED.

Basehor Planning

From: Mark Breuer [mab@schlagelassociates.com]
Sent: Tuesday, August 12, 2008 1:41 PM
To: Basehor Planning
Cc: Debbie Breuer; Randy Coble; gary@holstpharmacy.com

Dustin-

Per our recent discussions with the City Planning Department, I would like to request a position on the September 2nd, 2008 Planning Commission Agenda for the reconsideration of the access for Tract C-5B, Pinehurst North. As you are aware, as a stipulation of the approval of the Lot Split for this Tract, the Planning Commission required it's access to Pinehurst Drive be shared with the adjacent Tract C-5A (a.k.a. the Medicine Store). This differs from the originally approved access arrangement of the Pinehurst Development Plan. We would like the opportunity to present this information to the Planning Commission so they may reconsider their stipulation for the access for Tract C-5B, so that it is consistent with the overall access plan to Pinehurst Drive.

Please feel free to contact me should you have any questions or concerns.

Thanks,

Mark

Mark A. Breuer, I.E.
Design Engineer
SCHLAGEL & ASSOCIATES, P.A.
Engineers · Planners · Surveyors · Landscape Architects

14920 W 107th St • Lenexa, KS 66215
(913) 322-7154 Direct • (913) 492-5158 Main • (913) 492-8400 Fax
mab@schlagelassociates.com www.schlagelassociates.com

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of bids for street maintenance projects for 2008.

Department: Public Works

Background/Description of Item:
The city council authorized MHS to develop a street maintenance plan. The first phase of the plan has been prepared and four street sections selected for repair. Two alternates were also selected and would be completed if weather permits.

The city council gave approval for preparation of the projects and letting for bid on September 15, 2008. The detailed estimate of project costs is attached with the estimated cost of $148,645.00. The estimated cost is based on approximate major quantities of work and will vary according to actual conditions encountered during construction.

The bid opening has been set for Oct. 3 at 10:00 a.m. The bid tabulation will be sent by e-mail to council members after the bid opening.

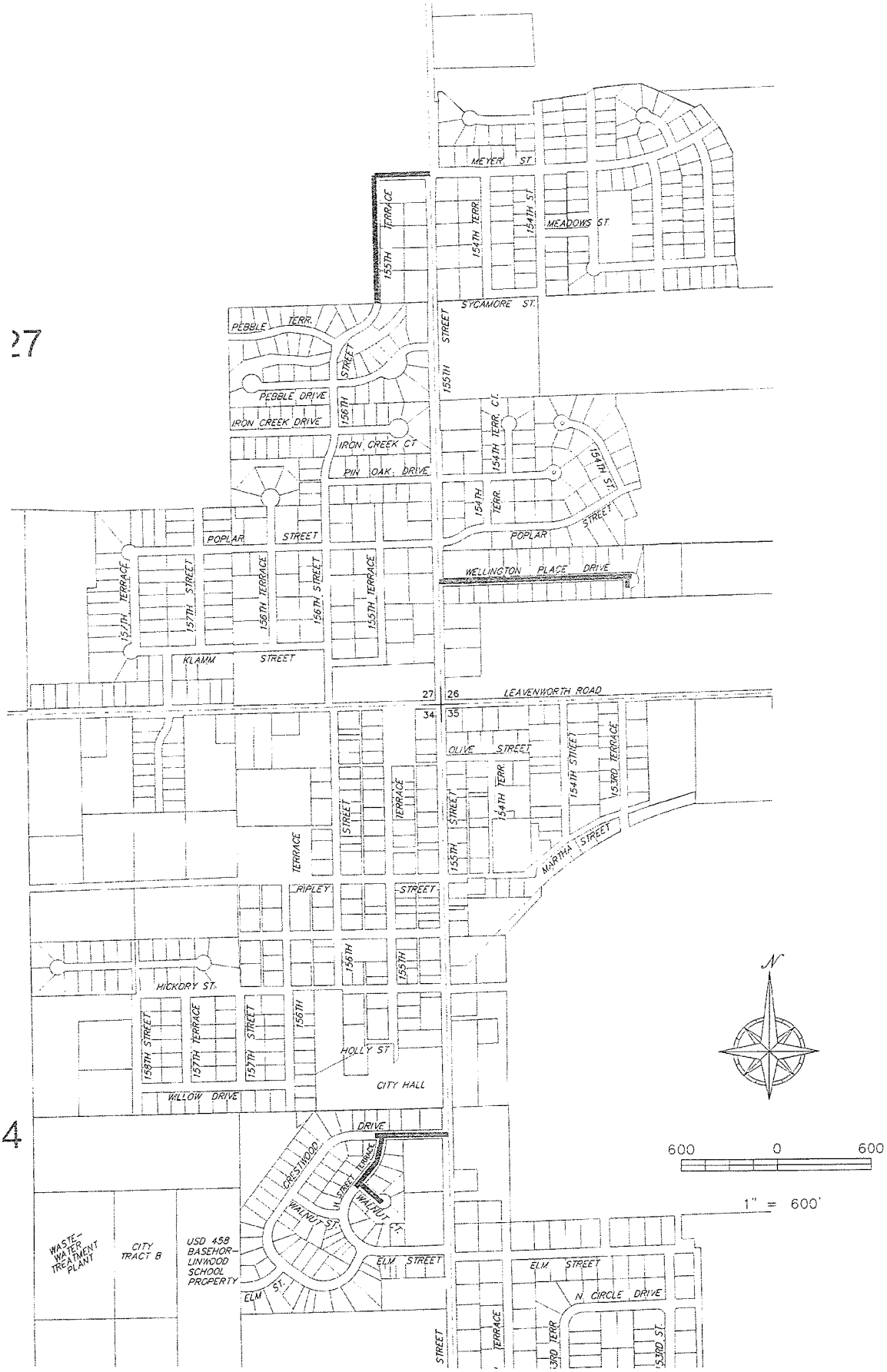
Depending on the dollar amount of the bids received the council may want to add or delete portions of the desired work.

There is a balance of $112,641 in Fund 10-771 street repairs and maintenance after payments for 158th Street and Parallel Road. Since there is no major street project for 2008, Fund 10-849 Street Improvements will be overrun slightly to make up the shortage in Fund 10-771.

Funding Source: Fund 10 Consolidated Highway Budget $588,700, balance $435,886.93

Recommendation: Approve the low bid for street maintenance projects totaling $148,645 for 2008 and authorize the mayor to sign notice of award.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: October 6, 2008



Sheet No. 1	Proj. No. 2008/009	Approved	Checked: DRL	Drawn: DRL	Designed: DRL	Date: 9/4/08	2008 Recommended Segments

McAFEE HENDERSON SOLUTIONS, INC.
Civil Engineering + Land Surveying
15323 W. 95th Street Lenexa, KS 66219 Ph: (913) 888-4647 Fax: (913) 390-9865
360 Santa Fe Leavenworth, KS 66048 Ph: (913) 651-6100 Fax: (913) 651-4178

CITY OF BASEHOR - 2008 PAVEMENT MANAGEMENT
BID TABULATION

10/3/2008

ITEM NO.	ITEM DESCRIPTION	UNIT	QTY.	Harbour Construction UNIT PRICE	Harbour Construction TOTAL	McAnany Construction UNIT PRICE	McAnany Construction TOTAL	Holland Corporation UNIT PRICE	Holland Corporation TOTAL	O'Donnell & Sons UNIT PRICE	O'Donnell & Sons TOTAL
1	Mobilization	LS	1	4,000.00	4,000.00	2,500.00	2,500.00	5,600.00	5,600.00	3,500.00	3,500.00
2	Traffic Control	LS	1	4,000.00	4,000.00	2,500.00	2,500.00	3,300.00	3,300.00	5,000.00	5,000.00
3	Edge Milling (2" for 6')	SY	2,460	3.10	7,626.00	2.50	6,150.00	2.85	7,011.00	1.75	4,305.00
4	Milling (Headers)	LF	275	6.00	1,650.00	5.00	1,375.00	8.00	2,200.00	20.00	5,500.00
5	Marify Geofabric Material	SY	2,540	3.05	7,747.00	2.65	6,731.00	2.55	6,477.00	3.09	7,848.60
6	Surface Course HMA Commercial Grade (Class A)	TON	916	90.00	82,440.00	93.00	85,188.00	87.00	79,692.00	83.15	76,331.70
7	Base Course HMA Commercial Grade (Class A)	TON	59	135.00	7,965.00	105.00	6,195.00	125.50	7,404.50	145.00	8,555.00
8	Surface HMA Patch	SY	2	150.00	300.00	20.00	40.00	80.00	160.00	215.00	430.00
9	Preparation for Full Depth Replacement	SY	85	68.00	5,780.00	50.00	4,250.00	34.65	2,945.25	18.50	1,572.50
10	Curb Removal & Replacement	LF	195	59.64	11,629.80	35.00	6,825.00	31.00	6,045.00	40.00	7,800.00
	TOTAL BASE BID				**$133,137.80**		**$121,754.00**		**$120,834.75**		**$120,842.80**
	ALTERNATE #1 - 155th St Ter (Walnut Crt to Crestwood)										
1	Edge Milling (2" for 6')	SY	457	3.10	1,416.70	2.50	1,142.50	2.85	1,302.45	1.75	799.75
2	Milling (Headers)	LF	24	6.00	144.00	5.00	120.00	8.00	192.00	20.00	480.00
3	Surface Course HMA Commercial Grade (Class A)	TON	112	90.00	10,080.00	93.00	10,416.00	89.50	10,024.00	95.15	10,656.80
	TOTAL ALTERNATE #1				**$11,640.70**		**$11,678.50**		**$11,518.45**		**$11,936.55**
	ALTERNATE #2 - Walnut Crt (155th St Ter to Cul-De-Sac)										
1	Edge Milling (2" for 6')	SY	323	3.10	1,001.30	2.50	807.50	2.85	920.55	1.75	565.25
2	Milling (Headers)	LF	60	6.00	360.00	5.00	300.00	8.00	480.00	20.00	1,200.00
3	Surface Course HMA Commercial Grade (Class A)	TON	95	90.00	8,550.00	93.00	8,835.00	89.50	8,502.50	95.15	9,039.25
	TOTAL ALTERNATE #2				**$9,911.30**		**$9,942.50**		**$9,903.05**		**$10,804.50**
	TOTAL BID W/ALTERNATES				**$154,689.80**		**$143,375.00**		**$142,256.25**		**$143,583.85**
					$12,433.55		$1,118.75		$0.00		$1,327.60

CITY OF BASEHOR - 2008 PAVEMENT MANAGEMENT
STREET CONSTRUCTION COSTS

CONTRACTOR - HOLLAND CORPORATION

10/3/2008

ITEM NO.	ITEM DESCRIPTION	UNIT	QTY.	UNIT PRICE	TOTAL	155th Terrace (Iron Creek Sub - Meyer Dr) QTY	155th Terrace (Iron Creek Sub - Meyer Dr) TOTAL	Meyer Drive (155th Ter - 155th St) QTY	Meyer Drive (155th Ter - 155th St) TOTAL	Wellington Place (155th St - Culdesac) QTY	Wellington Place (155th St - Culdesac) TOTAL	Crestwood Drive (155th Ter - 155th) QTY	Crestwood Drive (155th Ter - 155th) TOTAL	ALTERNATE #1 155th St Ter (Walnut Crt - Crestwood) QTY	ALTERNATE #1 155th St Ter (Walnut Crt - Crestwood) TOTAL	ALTERNATE #2 Walnut Court (155th Ter - End) QTY	ALTERNATE #2 Walnut Court (155th Ter - End) TOTAL
1	Mobilization	LS	1	$ 5,600.00	5,600												
2	Traffic Control	LS	1	$ 3,300.00	3,300												
3	Edge Milling (2" for 6')	SY	3,240	$ 2.85	9,234		-		-	1,749	4,985	711	2,026	457	1,302	323	921
4	Milling (Headers)	LF	359	$ 8.00	2,872	24	192	47	376	76	608	128	1,024	24	192	60	480
5	Marify Geofabric Material	SY	2,540	$ 2.55	6,477	1,830	4,667	710	1,811		-		-		-		-
6	Surface Course HMA Commercial Grade (Class A)	TON	1,123	$ 87.00	97,701	192	16,704	80	6,960	458	39,846	186	16,182	112	9,744	95	8,265
7	Base Course HMA Commercial Grade (Class A)	TON	59	$ 125.50	7,405			40	5,020	1	126	18	2,259		-		-
8	Surface HMA Patch	SY	2	$ 80.00	160	1	80		-	1	80		-		-		-
9	Preparation for Full Depth Replacement	SY	85	$ 34.65	2,945		-	28	970	4	125	53	1,850		-		-
10	Curb Removal & Replacement	LF	195	$ 31.00	6,045		-		-	162	5,022	33	1,023		-		-
	Total Bid Including Alternates				$142,256.25		21,642.50		15,136.70		50,790.89		24,364.66		11,518.45		9,903.05

Invitation to Bid

2008 Pavement Management
Basehor, Kansas

You are invited to bid for the construction of the following project:

Project: Public Roadway Improvements for

2008 Pavement Management
Basehor, KS

Owner: City of Basehor
2620 N. 155th Street
Basehor, KS 66007

Bids will be received at the City of Basehor, c/o Gene Myracle, 2620 N. 155th Street, Basehor, KS 66007 until **10:00 A.M. on Friday, October 3, 2008.**

The project will include the following approximate major quantities of work:

3,240 SY Edge Milling
1,123 Tons Surface Course HMA Commercial Grade (Class A)
59 Tons Base Course HMA Commercial Grade (Class A)

Interested bidders may secure a bid package (set of drawings, specifications and all other contract documents) after **Monday, September 22, 2008** from McAfee Henderson Solutions, Inc., 15323 W. 95th Street, Lenexa, KS 66219, for a non-refundable fee of $25.00.

The Owner reserves the right to waive any informalities or to reject any or all bids.

Carl Slaugh

From: Dave Lutgen [dave.lutgen@mhs-eng.com]
Sent: Thursday, September 18, 2008 11:13 AM
To: 'Carl Slaugh'; 'Gene Myracle Jr.'
Subject: Pavement Managment

Attachments: DOC091808.pdf

DOC091808.pdf
(353 KB)

After measuring areas that need to be repaired, curb that needs replaced, etc I have been able to prepare a more detailed cost estimate for the project. We are on track to get this out to bid on Monday. I'll have a set of plans to Gene for review later today or tomorrow.

Let me know if you have any questions.

Thanks,

David Lutgen, P.E.
McAfee Henderson Solutions, Inc.
15323 W. 95th Street
Lenexa, KS 66219
913-888-4647
913-390-9865 (fax)

McAFEE HENDERSON SOLUTIONS

CIVIL ENGINEERING ✦ LAND SURVEYING

	2008 Pavement Management - Engineer's Estimate				9/18/2008
Item No.	**Item Description**	**Unit**	**Quantity**	**Unit Price**	**Total**
1	Mobilization	LS	1	10,000.00	$10,000.00
2	Traffic Control	LS	1	2,000.00	$2,000.00
3	Edge Milling (2" for 6')	SY	2460	2.90	$7,134.00
4	Milling (Headers)	LF	275	16.00	$4,400.00
5	Marify Geofabric Material	SY	2540	2.25	$5,715.00
6	Surface Course HMA Commercial Grade (Class A)	TON	916	90.00	$82,440.00
7	Base Course HMA Commercial Grade (Class A)	TON	57	85.00	$4,845.00
8	Surface HMA Patch	SY	2	70.00	$140.00
9	Preparation for Full Depth Replacement	SY	77	24.00	$1,848.00
10	Curb Removal & Replacement	LF	239	33.00	$7,887.00

Total Base Bid	**$126,409.00**

Alternate: 155th St Ter - Walnut Crt to Crestwood

Item No.	**Item Description**	**Unit**	**Quantity**	**Unit Price**	**Total**
1	Edge Milling (2" for 6')	SY	457	2.90	$1,325.30
2	Milling (Headers)	LF	24	16.00	$384.00
3	Surface Course HMA Commercial Grade (Class A)	TON	112	90.00	$10,080.00

Total Alternate #1	**$11,789.30**

Alternate: Walnut Crt - 155th St Ter to Cul-De-Sac

Item No.	**Item Description**	**Unit**	**Quantity**	**Unit Price**	**Total**
1	Edge Milling (2" for 6')	SY	323	2.90	$936.70
2	Milling (Headers)	LF	60	16.00	$960.00
3	Surface Course HMA Commercial Grade (Class A)	TON	95	90.00	$8,550.00

Total Alternate #2	**$10,446.70**

Total **$148,645.00**

15323 W. 95th Street · Lenexa, KS 66219 913.888.4647 fax: 913.390.9865

Mary Mogle

From: jon small [jpsmall@nomb.com]
Sent: Monday, September 29, 2008 4:31 PM
To: cityclerk@cityofbasehor.org; chief@basehorpolice.org; patrick@reaveylaw.com
Cc: Amber Watson
Subject: KDOT Communications System Equipment Lease
Attachments: KDOT CSRF 080053 Ordinance.pdf; KDOT CSRF 080053 Equipment Lease Agreement.pdf

All:

I have attached the following two documents for your review and consideration for the lease of certain communications system equipment by the City from the Kansas Department of Transportation (EL # 080053) as follows:

a. Governing Body Ordinance with Minute Excerpt;
b. Lease Agreement and Exhibits A and B and Form DA-146a;

It is our understanding that the Governing Body will review and take action on the Resolution and Lease Agreement soon. Three original signed copies of each need to be delivered to this office once adopted and executed.

A lease closing date will be established as soon as we have received your Ordinance (and Affidavit of Publication) and the executed Lease Agreement (with three original signature pages).

Please carefully review the enclosed documents to ensure that they are accurate and complete. Please advise should you have any questions. Please note that the Ordinance allows the Mayor and City Clerk to approve changes necessary to the Lease Agreement regarding the highlighted blanks for the data relating to interest rate which will not be finalized until following the bond issue pricing set for Kansas department of Transportation's bond issue later in October.

Please call should you have any questions or comments. Thank you.

Jonathan P. Small, Chartered
Special Counsel, Kansas Department of Transportation
800 SW Jackson Street, Suite 808
Topeka, Kansas 66612

785-234-3686
785-234-3687 (fax)

mailto:jpsmall@nomb.com

NOTICE OF CONFIDENTIALITY, ATTORNEY-CLIENT PRIVILEGE AND/OR ATTORNEY WORK PRODUCT: The information contained in this e-mail message, including any attachments, is confidential information intended only for the use of the recipient(s) named above. The information is privileged and/or protected by the attorney-client privilege, the attorney work-product doctrine, or other similar privileges and limitations on disclosure. If you are not the named or intended recipient of this message, please do not read, rely upon, save, copy, print or retransmit, but rather, destroy it immediately and permanently delete the message from your computer or network system. Any unauthorized retransmission, retention, distribution, printing or copying of this message or any attachments is strictly prohibited. If you have received this e-mail message in error, please immediately contact cwhitlock@nomb.com or call 785/234-3686 immediately. Unless otherwise specifically stated herein, any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. Thank you.

(Published in *The Basehor Sentinel* on October ___, 2008.)

ORDINANCE NO. ___

AN ORDINANCE AUTHORIZING THE EXECUTION OF A CERTAIN EQUIPMENT LEASE AGREEMENT BETWEEN THE CITY OF BASEHOR, KANSAS, AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF LEASING CERTAIN COMMUNICATION EQUIPMENT; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE EQUIPMENT LEASE AGREEMENT.

WHEREAS, K.S.A. 2007 Supp. 75-5073 *et seq.*, (the "Act") authorizes the Secretary of Transportation (the "Secretary") of the State of Kansas (the "State" or "Lessor") to establish a communication revolving fund to provide assistance to governmental units for certain communications projects; and

WHEREAS, the City of Basehor, Kansas (the "Lessee"), is a "Governmental Unit" and a "Public Safety Agency" as said terms are defined in the Act; and

WHEREAS, the governing body of the Lessee hereby finds and determines that it is necessary and desirable to enter into a certain equipment lease agreement with the State for the purposes as expressly described and set out therein (the "Equipment Lease Agreement"), and to complete and execute certain other documents relating thereto, and to take certain actions required in order to implement the Equipment Lease Agreement; and

Deleted: to be dated effective October 1, 2008

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1. Authorization of Equipment Lease Agreement. The Lessee is hereby authorized to enter into the Equipment Lease Agreement with the State of Kansas acting by and through the Kansas Department of Transportation to lease certain communication equipment (as described and defined in said Equipment Lease Agreement) from the Lessor. The Mayor and City Clerk are hereby authorized to execute the Equipment Lease Agreement in substantially the form presented to the governing body at its meeting held on the date of this Ordinance, with such changes or modifications thereto as may be approved by the Mayor and the Lessee's legal counsel, the Mayor's execution of the final Equipment Lease Agreement being conclusive evidence of such approval.

Deleted: , with an effective date of October 1, 2008,

Section 2. Further Authority. The Mayor, City Clerk, other officials and legal counsel of the Lessee are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance, and to make alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 3. Governing Law. This Ordinance and the Equipment Lease Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

Deleted: Loan

Section 4. Effective Date. This Ordinance shall take effect and be in full force from and after its adoption by the governing body and publication in the official city newspaper.

PASSED by the governing body of the City of Basehor, Kansas on October 6, 2008, and approved by the Mayor.

(SEAL)

Chris Garcia, Mayor

ATTEST:

Mary A. Mogle, City Clerk

APPROVED AS TO FORM AND LEGALITY

Patrick Reavey, City Legal Counsel

Deleted: KDOT CSRF 080053 Amend Ordinance with edits.doc

Deleted: KDOT CSRF 080053 Ordinance

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF BASEHOR, KANSAS,
HELD ON OCTOBER 2, 2008

The Governing Body met in regular session at the City Governing Body chambers in City Hall, at Basehor, Kansas, the following members being present and participating, to-wit:

_____

_____

Absent:

_____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF BASEHOR, KANSAS, AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS TRANSPORTATION REVOLVING FUND TO FINANCE A QUALIFIED TRANSPORTATION PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

Thereupon, _____ moved that said Ordinance be adopted. The motion was seconded by _____. Said document was duly read and considered, and upon being put, the motion for the said adoption of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yes: _____.

No: _____.

Thereupon, the Mayor declared said Ordinance duly adopted and was then duly numbered No. ___, and was signed by the Mayor and attested by the City Clerk

* * * * * * * * * * * * * *

(Other Proceedings)

On motion duly made, seconded and carried, the meeting thereupon adjourned.

(SEAL)

_____
Mary A. Mogle, City Clerk

Deleted: KDOT CSRF 080053 Amend Ordinance with edits.doc

Deleted: KDOT CSRF 080053 Ordinance

EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF BASEHOR, KANSAS,
HELD ON OCTOBER 2, 2008

The Governing Body met in regular session at the City Governing Body chambers in City Hall, at Basehor, Kansas, the following members being present and participating, to-wit:

_____

_____

Absent:

_____

The Mayor declared that a quorum was present and called the meeting to order.

* * * * * * * * * * * * * *

(Other Proceedings)

Thereupon, there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE CITY OF BASEHOR, KANSAS, AND THE STATE OF KANSAS, ACTING BY AND THROUGH THE KANSAS DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF OBTAINING A LOAN FROM THE KANSAS TRANSPORTATION REVOLVING FUND TO FINANCE A QUALIFIED TRANSPORTATION PROJECT; ESTABLISHING A DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF SUCH LOAN; AUTHORIZING AND APPROVING CERTAIN DOCUMENTS IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION WITH THE LOAN AGREEMENT.

Thereupon, _____ moved that said Ordinance be adopted. The motion was seconded by _____. Said document was duly read and considered, and upon being put, the motion for the said adoption of said Ordinance was carried by the vote of the Governing Body, the vote being as follows:

Yes: _____.

No: _____.

Thereupon, the Mayor declared said Ordinance duly adopted and was then duly numbered No. ___, and was signed by the Mayor and attested by the City Clerk

* * * * * * * * * * * * * *

(Other Proceedings)

On motion duly made, seconded and carried, the meeting thereupon adjourned.

(SEAL)

_____
Mary A. Mogle, City Clerk

COMMUNICATION EQUIPMENT

EQUIPMENT LEASE AGREEMENT

BETWEEN

KANSAS DEPARTMENT OF TRANSPORTATION
AS LESSOR

AND

CITY OF BASEHOR, KANSAS
AS LESSEE

Dated: October 1, 2008

(KANSAS DEPARTMENT OF TRANSPORTATION
COMMUNICATIONS SYSTEM INFRASTRUCTURE)

CSEL Project No. 080053

KANSAS DEPARTMENT OF TRANSPORTATION
COMMUNICATION SYSTEM INFRASTRUCTURE

COMMUNICATION EQUIPMENT

EQUIPMENT LEASE AGREEMENT

This Equipment Lease Agreement, hereinafter referred to as the "Lease Agreement" and dated the Effective Date as hereinafter defined is between the **KANSAS DEPARTMENT OF TRANSPORTATION** as Lessor ("Lessor") and the **CITY OF BASEHOR, KANSAS**, as Lessee ("Lessee"), and a Public Safety Agency as defined in K.S.A. 2007 Supp. 75-5073.

WITNESSETH:

WHEREAS, the Kansas Development Finance Authority (the "Authority") and Lessor have entered into the hereinafter defined Pledge of Revenues Agreement pursuant to which Lessor agrees to enter into equipment lease agreements with Public Safety Agencies, including Lessee, for the purpose of financing certain communication system equipment and to pledge the lease payments received pursuant to such equipment lease agreements and other revenues and /or funds to the Authority as security for the hereinafter defined Bonds and to grant and assign security interests in and to the Communication Equipment (as such term is hereinafter defined) to the Authority as additional security for the Bonds; and

WHEREAS, Lessor, pursuant to K.S.A. 2007 Supp. 75-5073 *et seq.*, hereinafter referred to as the "Act," does hereby propose to the certain Communication Equipment to Lessee for the lease payments and upon the terms and conditions hereinafter set forth; and

WHEREAS, pursuant to the foregoing, Lessor desires to lease the Communication Equipment to Lessee and Lessee desires to lease the Communication Equipment from Lessor, for the Lease Payments and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants, and agreements herein contained, Lessor and Lessee do hereby represent, covenant, and agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Definitions of Words and Terms. In addition to any words and terms defined elsewhere in this Lease Agreement, capitalized words and terms used in this Lease Agreement shall have the meanings given to such words and terms in this **Section 1.1**.

"Additional Lease Payments" means those payments required to be made by Lessee by **Section 4.2**.

"Authority" means the Kansas Development Finance Authority.

"Bond Resolution" means the resolution adopted by the Authority on September 11, 2008, authorizing the issuance of the Bonds for the purpose of financing certain communication system equipment (including the Communication Equipment subject to this Lease Agreement) and the Authority's execution and delivery of the Pledge of Revenues Agreement.

"Bonds" means the Kansas Development Finance Authority Revenue Bonds (Kansas Department of Transportation Communication System Lease Program) Series 2008G-5.

"Business Day" means a day other than (a) a Saturday, Sunday or legal holiday, (b) a day on which banks located in Topeka, Kansas, are required or authorized by law to remain closed, or (c) a day on which the New York Stock Exchange is closed.

"City" means City of Basehor, Kansas.

"Communication Equipment" means the Department's facilities, improvements, fixtures, equipment, furnishings and related support facilities constituting the communication equipment described on *Exhibit A*, attached to this Lease Agreement and incorporated herein and referred to in **Article VI**, and to be located on a site owned or leased by Lessee or which is subject to a shared use agreement or other use agreement in favor of the Lessee.

"Communication Equipment Documents" means this Lease Agreement and all documents necessarily related thereto that are required by the Authority and the Department to complete and close the transaction contemplated by this Lease Agreement, the security provided by the Pledge of Revenues Agreement and the issuance of the Bonds.

"Cost" or **"Costs"** means all reasonable or necessary expenses incidental to the acquisition, of the Communication Equipment, including the expenses of studies, surveys, architectural and engineering services, legal and other special services related thereto and all other necessary and incidental expenses.

"Counsel" means an attorney duly admitted to practice law before the highest court of any state and, without limitation, may include legal counsel for either Lessee or Lessor.

"Department" means the Kansas Department of Transportation.

"Department Communication System" means that certain communication system owned, operated and maintained to support the purposes of the Department and Public Safety Agencies.

"Effective Date" means October 1, 2008.

"**FCC**" means the United States Federal Communications Commission.

"Event of Default" or **"Default"** means any Event of Default as defined in **Section 13.1**.

"Fiscal Year" means the fiscal year of Lessee for financial and budgetary purposes as set forth on *Exhibit B*.

"Impositions" means those Impositions defined as such in **Article VII**.

"Lease Agreement" means this Equipment Lease Agreement between Lessor and Lessee, as from time to time supplemented and amended in accordance with **Article XIV**.

"Lease Payment Date" means the date during the Lease Term on which a Lease Payment is due as set forth on *Exhibit B*.

"Lease Payments" means those payments required to be made by Lessee by **Section 4.1** as described on *Exhibit B*.

"Lease Term" means the Original Term and any Renewal Terms.

"Lessee Representative" means the person or persons at the time designated to act on behalf of Lessee in matters relating to the Communication Equipment and this Lease Agreement as evidenced by a written certificate furnished to Lessor containing the specimen signature of such person or persons and signed on behalf of Lessee by its presiding official. Such certificate may designate an alternate or alternates each of whom shall be entitled to perform all duties of Lessee Representative.

"Lessor Representative" means the person or persons at the time designated to act on behalf of Lessor in matters relating to the Communication Equipment and this Lease Agreement as evidenced by a written certificate furnished to Lessee containing the specimen signature of such person or persons and signed on behalf of Lessor by its authorized officer. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Lessor Representative.

"Maximum Lease Term" means the Original Term and all Renewal Terms through the final Lease Payment Date listed on *Exhibit B*.

"Net Proceeds" when used with respect to any insurance proceeds or any condemnation award or amounts received from the sale of property under the threat of condemnation, means the amount remaining after deducting all expenses (including attorneys' fees and any expenses of Lessee and Lessor) incurred in the collection of such proceeds or award from the gross proceeds thereof.

"Notice Address" means:

(1). With respect to the Lessor:

Attention: Deputy Secretary for Finance and Administration
Kansas Department of Transportation
700 SW Harrison Street
Topeka, Kansas 66612-3754

with a copy to its Chief Counsel at the same address; and

(2). With respect to the Lessee:

That address as provided at *Exhibit B*, attached hereto.

"Original Term" means the initial term of this Lease Agreement beginning as of the Effective Date and ending on the last day of Lessee's current Fiscal Year, subject to earlier termination as provided herein.

"Opinion of Bond Counsel" means the written opinion of Gilmore & Bell, P.C. or other nationally recognized firm of bond counsel, which must conclude that the action or proposed action for which an opinion is required will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

"Owners of the Bonds" means initially the Original Purchaser (as such term is defined in the Bond Resolution) and the Owners (as such term is defined in the Bond Resolution) and any beneficial owner of the Bonds so long as the Bonds are in book-entry form as provided in the Bond Resolution.

"Pledge of Revenues Agreement" means that certain Pledge of Revenues Agreement entered into in connection with the issuance of the Bonds between the Authority and the Lessor, dated as of September 1, 2008, and any agreement or agreements amendatory or supplemental thereto.

"Public Safety Agency" means any governmental agency providing law enforcement, emergency management, fire fighting, ambulance, emergency medical, or other emergency services as described in the Act.

"Purchase Price" means the amount designated as such on *Exhibit B* that Lessee may, in its discretion, pay to Lessor to purchase the Communication Equipment free and clear of any interest of Lessor, the Authority or the Owner of the Bonds pursuant to **Section 11.1**.

"Qualified User" means a state, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but which does not include the United States or any agency or instrumentality of the United States.

"Renewal Terms" means the renewal terms of this Lease Agreement during which the Lease Term is extended in accordance with **Section 3.2**, each having a duration of one year and a term coextensive with Lessee's Fiscal Year except as otherwise provided in said **Section 3.2**, subject to earlier termination as provided herein.

"Secretary" means the Kansas Secretary of Transportation.

"State" means the State of Kansas.

Section 1.2. Rules of Interpretation.

a. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations, and corporations, including public bodies, as well as natural persons.

b. All references in this Lease Agreement to designated "Articles," "Sections," and other subdivisions are, unless otherwise specified, to the designated Articles, Sections, and subdivisions of this instrument as originally executed. The words "herein," "hereof," "hereunder," and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section, or other subdivision.

ARTICLE II
REPRESENTATIONS

Section 2.1. Representations by the Lessor. The Lessor makes the following representations:

a. Lessor is a duly created state agency existing under the Constitution and laws of the State. Under the provisions of the Act, Lessor has the power to enter into and perform the transactions contemplated by this Lease Agreement and to carry out its obligations hereunder and thereunder.

b. Lessor, except as and to the extent this Lease Agreement is pledged to and a security interest in the Communication Equipment is granted or assigned pursuant to the Pledge of Revenues Agreement, and except as otherwise provided herein, will not, during the Lease Term, in whole or in part, assign, lease, hypothecate, or otherwise create any other interest in, or dispose of, or cause or permit any lien, claim, or encumbrance to be placed against the leasehold interest in the Communication Equipment conveyed hereby to the Lessee, provided and for so long as Lessee's use of the leasehold interest in the Communication Equipment conveyed by Lessor hereunder does not interfere with or otherwise reduce Lessor's ability to use the Communication System, or any prior existing Public Safety Agency's use of the Communication System.

c. Lessor owns fee title to the Communication Equipment.

d. The Secretary has duly authorized the execution and delivery of this Lease Agreement.

e. The lease of the Communication Equipment by Lessor to Lessee, as provided in this Lease Agreement, is necessary, desirable and in the public interest.

Section 2.2. Representations by the Lessee. The Lessee makes the following representations as the basis for the undertakings on its part herein contained:

a. The Lessee is a Qualified User and Public Safety Agency as defined in the Act and is a public body corporate and politic duly organized and existing as a municipal corporation of the State under the constitution and laws of the State with full power and authority to enter into each of the Communication Equipment Documents and the transactions contemplated hereby and to perform all of its obligations hereunder. During the Lease Term, the Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a Public Safety Agency.

b. The Lessee by proper action of its duly elected or appointed governing body has lawfully authorized the execution and delivery of this Lease Agreement to the Lessor.

c. The Lessee will not use the Communication Equipment in any manner, whether directly or indirectly, which will or may tend to interfere with or otherwise reduce Lessor's or any prior existing Public Safety Agency's use of the Department's Communication System.

d. The lease of the Communication Equipment by Lessor to Lessee, as provided in this Lease Agreement, is necessary, desirable and in the public interest, and Lessee hereby declares its current need for the Communication Equipment;

e. Lessee has duly authorized the execution and delivery of each of the Communication Equipment Documents by proper action by its governing body at a meeting duly called, regularly convened and attended throughout by the requisite majority of the members thereof, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of each of the Communication Equipment Documents;

f. Neither the execution and delivery of any Communication Equipment Document, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessee is a party or by which Lessee is bound;

g. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal challenging the validity of the authorization or the power or authority of Lessee to enter into any Communication Equipment Document or the validity or enforceability of any Communication Equipment Document or which, if adversely determined, would adversely affect the transactions contemplated by any Communication Equipment Document or the interest of Lessor or its assigns under any Communication Equipment Document;

h. Lessee has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer, any act or thing whereby Lessee's interests in any property now or hereafter included in the Communication Equipment shall be or may be impaired, changed or encumbered in any manner whatsoever, except as contemplated by this Lease Agreement;

j. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof;

k. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current Fiscal Year to make the Lease Payments scheduled to come due during the Original Term, and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes;

l. Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic and a municipal corporation of the State; and

m. Lessee has not failed to appropriate in the ten (10) years preceding the Effective Date of this Lease Agreement for any obligation of the Lessee subject to annual appropriation under the laws of the State.

ARTICLE III
GRANTING PROVISIONS

Section 3.1. Granting of Leasehold Estate. Lessor, subject to and in consideration of the Lease Payments, agreements, covenants, and terms of this Lease Agreement hereinafter set forth (including specifically Section 3.5 hereof), does hereby rent, lease and let to Lessee, and Lessee does hereby rent, lease and take from Lessor, the Communication Equipment, as described at *Exhibit A* attached hereto and incorporated herein by reference

Section 3.2. Lease Term.

The Original Term shall commence as of the Effective Date and shall terminate on the last day of Lessee's current Fiscal Year. The Lease Term may be continued, at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional one (1) year Renewal Term; provided that the final Renewal Term shall not extend beyond the final Lease Payment Date set forth on *Exhibit B.* Lessee shall be deemed to have exercised its option to continue this Lease Agreement for the next Renewal Term unless Lessee shall have terminated this Lease Agreement pursuant to **Section 3.3** or **11.1**. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term.

Lessee currently intends, subject to the provisions of **Section 3.3**, to continue this Lease Agreement through the Maximum Lease Term and to pay the Lease Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to pay all Lease Payments during the Original Term and each of the Renewal Terms through the Maximum Lease Term can be obtained. The responsible financial officer of Lessee shall do all things lawfully within his or her power to obtain and maintain funds from which the Lease Payments may be made, including making provision for such Lease Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision to budget and appropriate funds or to extend this Lease Agreement for any Renewal Term is to be made in accordance with Lessee's normal procedures for such decisions, and the then current governing body of Lessee will have the final responsibility for that decision.

Section 3.3. Nonappropriation. Lessee is obligated only to pay such Lease Payments under this Lease Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current Fiscal Year. Should Lessee fail to budget, appropriate or otherwise make available funds sufficient to pay Lease Payments following the then current Original Term or Renewal Term, this Lease Agreement shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least ninety (90) days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Lease Agreement is terminated in accordance with this Section, Lessee agrees to transfer possession of the Communication Equipment to Lessor (subject to the rights and interests of the Owners of the Bonds as provided in **Section 3.5** hereof) at the end of the then current Original Term or Renewal Term.

Section 3.4. Use of Equipment.

a. Lessee shall have the right to use the Communication Equipment for any essential governmental or proprietary purpose of Lessee, subject to the limitations contained in the Communication Equipment Documents.

b. Lessee acknowledges, understands, and agrees that the Department's Communication System was built and is operated by the Department to support the Department and public safety communication for the citizens of the State and Lessee's interest shall be subordinate to that public interest.

c. Lessor reserves the right to terminate this Lease Agreement and may exercise such right to so terminate at its sole discretion (but only with the prior written consent of one hundred percent (100%) of the Owners of the Bonds) if Lessee fails to comply with FCC regulations or if Lessee's use of the Communication Equipment interferes with Lessor's or any other prior existing Public Safety Agency's use of the Department's Communication System; provided, however, Lessor shall notify Lessee in writing (with a copy to the Authority) of any failure under this subsection and if Lessee fails within thirty (30) days after the date Lessor deposits in United States Mail, postage prepaid and restricted delivery addressed to Lessee a notice to cure such failure, Lessor will notify the Lessee that this Lease Agreement will be terminated thirty (30) days from the date of such notice so long as the Owner of the Bonds consent to such termination). If this Lease Agreement is terminated in accordance with this Section, Lessee agrees to transfer possession of the Communication Equipment to Lessor (subject to the rights and interests of the Owners of the Bonds as provided in **Section 3.5** hereof) on the date of such termination.

d. Lessor covenants and agrees that as long as the Lessee is not in default under this Lease Agreement and an event of nonappropriation under **Section 3.3** has not occurred, the Lessee shall have sole and exclusive possession of the Communication Equipment and shall and may peaceably and quietly have, hold, and enjoy the Communication Equipment during the Lease Term.

Section 3.5. Subordination and Attornment Agreement; Lessee Waiver and Disclaimer.

a. Lessee hereby acknowledges that Lessor intends (i) to pledge its rights to receive the Lease Payments and the Late Payment Charges under the Pledge of Revenues Agreement to the Authority for the benefit of the Owners of the Bonds; (ii) to grant to the Authority a security interest constituting a first lien on the Communication Equipment financed with the proceeds of the Bonds, including all additions, attachments and accessions thereto and substitutions thereof, and proceeds therefrom under the Pledge of Revenues Agreement; and (iii) to assign the security interest that Lessor retains pursuant to **Section 14.4** hereof in the Communication Equipment financed with the proceeds of the Bonds under the Pledge Agreement to the Authority for the benefit of the Owners of the Bonds. Lessee hereby consents to such pledge and grant and assignment of security interests as provided in this subsection a.

b. This Lease Agreement and Lessee's leasehold estate in the Communication Equipment and its interest as lessee hereunder shall at all times be subject and subordinate to the pledge, assignment and security interests under the Pledge of Revenues Agreement and the Bond Resolution and to all the terms, conditions and provisions thereof, whether now existing or hereafter created and without the need for any further act or agreement by Lessee; *provided, however*, that so long as an Event of Default with respect to the Bonds under the Bond Resolution has not occurred and is then continuing and an event of nonappropriation has not occurred under the Pledge Agreement or this Lease Agreement, this Lease Agreement shall remain in full force and effect notwithstanding such subordination and Lessee shall not be disturbed by Lessor, the Authority or the Owners of the Bonds in its possession, use and enjoyment of the Communication Equipment during the term of this Lease Agreement or in the enjoyment of its rights hereunder. Lessee shall not subordinate its interests hereunder or in the Communication Equipment to any other lien or encumbrance without the prior written consent of one hundred percent (100%) the Owners of the Bonds. Any such unauthorized subordination by Lessee shall be void and of no force or effect whatsoever.

c. In the event of any sale, assignment or transfer of Lessor's interest under this Lease Agreement or in the Communication Equipment, including any such disposition resulting from the occurrence of an Event of Default under the Bond Resolution or an event of nonappropriation by Lessor under the Pledge Agreement, Lessee shall attorn to the Authority and shall recognize the Authority as Lessor under this Lease Agreement, said attornment to be effective and self-operative without the execution of any other instruments on the part of either party hereto immediately upon the Authority succeeding to the interest of Lessor hereunder, and this Lease Agreement shall continue in accordance with its terms between Lessee, as lessee, and such Authority, as Lessor.

d. Lessee hereby consents to the location of the Communication Equipment on the sites owned by Lessee (the *"Sites"*) and agrees, subject to the attornment agreement provided in subsection (c) of this **Section 3.5**, that the Authority may, at any time after the occurrence and during the continuation of an Event of Default under the Bond Resolution or an event of nonappropriation under the Pledge Agreement or this Lease Agreement, enter upon the Sites and remove and use the Communication Equipment located there without any liability whatsoever to Lessee, except for any damages caused to Lessee's buildings or other improvements on the Sites directly caused by any failure of the Authority to remove and use the Communication Equipment with reasonable care. Lessee hereby waives, relinquishes and releases all interest in, right or claim to or lien on the Communication Equipment, including (without limitation) any right of levy or distraint upon the Communication Equipment for rent with respect to the Sites.

e. Lessee agrees not to take any action to terminate Lessor's right to have the Communication Equipment located on the Sites without thirty days' prior written notice to the Authority during which the Authority shall be entitled to exercise remedies with respect to the Communication Equipment as provided in the Pledge Agreement and this Lease Agreement. Lessee shall notify any purchaser of any Site, or any party obtaining a mortgage or other lien on any Site, of the waiver and disclaimer contained in this **Section 3.5**. Such waiver and disclaimer shall be binding upon the successors and assigns of Lessee and inure to the benefit of the Authority.

f. The foregoing waiver and disclaimer shall be continuing, absolute and unconditional, with no act of any kind taken or not taken by the Authority at any time to affect or impair such waiver and disclaimer. Such waiver and disclaimer shall remain in full force and effect so long as any of the Bonds are Outstanding under the Bond Resolution.

ARTICLE IV
PROVISIONS FOR PAYMENT OF LEASE PAYMENTS

Section 4.1. Lease Payments. Lessee shall promptly make Lease Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor on each Lease Payment Date in such amounts as are described on *Exhibit B*. Lessee shall pay Lessor a charge on any Lease Payment not paid on the Lease Payment Date such Lease Payment is due at the rate of (i) the interest rate set forth under the heading "Blended Interest Rate" on *Exhibit B* plus four hundred (400) basis points per annum or (ii) the maximum rate permitted by law, whichever is less, from such due date until paid. A portion of each Lease Payment is paid as, and represents payment of, interest, as set forth on *Exhibit B*.

Section 4.2. Additional Lease Payments. Lessee shall pay, subject to the provisions of **Section 3.3**, as Additional Lease Payments (i) all Impositions (as defined in **Article VII**); (ii) all amounts required under **Section 4.5** or **14.5** and all other payments of whatever nature which Lessee has agreed to pay or assume under this Lease Agreement; and (iii) all expenses, including attorneys' fees, incurred in connection with the enforcement of any rights under this Lease Agreement by or on behalf of Lessor. Amounts required to be paid under this Section shall be paid directly by Lessee to the person or entity owed.

Section 4.3. Lease Payments and Additional Lease Payments Constitute Current Expense. The obligation of Lessee to pay the Lease Payments and the Additional Lease Payments and other amounts payable hereunder is subject to the provisions of **Section 3.3**, constitutes a current expense of Lessee and does not constitute a general obligation or indebtedness of Lessee for which Lessee is obligated to levy or pledge any form of taxation or for which Lessee has levied or pledged any form of taxation; such obligation shall not be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement, but in each Fiscal Year shall be payable solely from the amounts budgeted or appropriated therefor out of the income and revenue provided for such Fiscal Year, any proceeds of the Communication Equipment and the Net Proceeds of any insurance or condemnation awards.

Section 4.4. Lease Payments and Additional Lease Payments Payable without Abatement or Set-Off; Lessee's Obligations. Subject to the provisions of **Section 3.3**, Lessee covenants and agrees that all payments of Lease Payments and Additional Lease Payments shall be made by Lessee on or before the date

the same become due, and Lessee shall perform all of its other obligations, covenants and agreements hereunder (including the obligation to pay Lease Payments and Additional Lease Payments) without notice or demand and without abatement, deduction, setoff, counterclaim, recoupment or defense or any right of termination or cancellation arising from any circumstance whatsoever, whether now existing or hereafter arising and irrespective of whether the acquisition or construction of the Communication Equipment shall have been started or completed.

Nothing in this Lease Agreement shall be construed as a waiver by Lessee of any rights or claims Lessee may have against Lessor under this Lease Agreement or otherwise, but any recovery upon such rights and claims shall be from Lessor separately, it being the intent of this Lease Agreement that Lessee shall be unconditionally and absolutely obligated to perform fully all of its obligations, agreements and covenants under this Lease Agreement, including its obligation to pay Lease Payments and Additional Lease Payments when due. Lessee may, however, at its own cost and expense and in its own name or in the name of Lessor, prosecute or defend any action or proceeding or take any other action involving third persons which Lessee deems reasonably necessary in order to secure or protect its right of possession, occupancy and use hereunder or Lessor's use of the Sites for purposes of location of the Communication Equipment, and in such event Lessor hereby agrees to reasonably cooperate with Lessee, at the expense of the Lessee, and to take all action necessary to effect the substitution of Lessee for Lessor in any such action or proceeding if Lessee shall so request.

Section 4.5. Advances. In the event Lessee shall fail to either maintain the insurance required by this Lease Agreement or keep the Communication Equipment in good repair, Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums therefor and maintain and repair the Communication Equipment and pay the cost thereof. All amounts so advanced by Lessor shall constitute Additional Lease Payments for the then current Original Term or Renewal Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced by Lessor until paid at the rate of (i) the interest rate set forth under the heading "Blended Interest Rate" on *Exhibit B* plus four hundred (400) basis points per annum or (ii) the maximum rate permitted by law, whichever is less, from such date until paid.

Section 4.6. Prepayments. The Lessee may prepay from time to time the Lease Payments, which prepayments shall be deposited by the Lessor in the subaccount of the Principal and Interest Account established with respect to the Bonds pursuant to the Bond Resolution and applied to redeem all or part of the Bonds as provided in **Section 7.4** of the Pledge of Revenues Agreement pursuant to the terms of the Bond Resolution. The Lessee shall specify the maturities of the Bonds to be redeemed with such prepayments. The Lessee acknowledges and agrees that the Lessee's interest in the Communication Equipment shall continue to be governed by the terms of this Lease Agreement following any prepayments that may be made by the Lessee under this **Section 4.6**, and no portion of the Lessor's interest in the Communication Equipment shall be transferred to the Lessee as a result of any such prepayment.

ARTICLE V
OBLIGATIONS OF LESSOR AND LESSEE

Section 5.1. Obligations or Requirements of Lessor.

a. Lessor during the Lease Term at Lessee's cost shall keep the Communication Equipment in compliance with all applicable FCC rules and regulations or the rules and regulations of any other agency having proper jurisdiction over said Communication Equipment.

b. Lessor during the Lease Term agrees to coordinate manufacturer's warranty repairs, including shipping the Communication Equipment back to the manufacturer thereof, and provide comparable loaner communication equipment to Lessee if available but all expenses incurred by Lessor which are related thereto shall paid for by Lessee.

c. Lessor agrees to provide initial programming of the leased Communication Equipment and any reprogramming of leased Communication Equipment, at no charge to the Lessee, when updates are issued from the manufacturer thereof.

Section 5.2. Obligations or Requirements of Lessee.

a. Lessee shall bear the risk of any loss or damage to any of the Communication Equipment during the Lease Term and, and in the event of loss or damage to any of the Communication Equipment during the Lease Term, Lessee shall remain obligated pursuant to the terms of this Lease Agreement.

b. Lessee shall make no alteration, addition, or improvement to the Communication Equipment in any way without the prior written approval and authorization of Lessor (with the prior written approval of the Authority and one hundred percent (100%) of the Owners of the Bonds). Any such alterations, additions, and/or improvements made by the Lessee shall be paid for by Lessee and shall become the property of the Lessor upon termination of this Lease Agreement pursuant to **Section 3.3 or Section 13.2** hereof, but otherwise shall be and remain the property of Lessee upon payment of all Lease Payments pursuant to **Section 4.1** for the Maximum Lease Term or purchase of the Communication Equipment pursuant to **Section 11.1** hereof. Lessor shall have the right to remove, or require Lessee to remove, all alterations, fixtures, and improvements at the Lessee's cost upon termination of this Lease Agreement pursuant to **Section 3.3 or Section 13.2** hereof.

c. Subsequent to the expiration of any applicable warranty period, Lessee shall be responsible for and shall pay the costs incurred by it in operating or using the Communication Equipment and for all necessary maintenance and repairs to the Communication Equipment, except such maintenance and repairs as may be necessitated by or as a result of the fault or negligence during the Lease Term of Lessor or any agent of Lessor.

d. Lessee agrees to allow Lessor to perform an annual inventory, inspection, and audit of the Communication Equipment at such reasonable times as shall be determined by Lessor, and Lessee shall make such Communication Equipment available to Lessor at the Lessor's regional radio facility or shop then closest in proximity to the location of the Communication Equipment required to be inventoried all so as to effect the completion of such requirements of Lessor and to otherwise cooperate with Lessor to the fullest extent required by Lessor to perform such inventory.

e. Lessee during the Lease Term shall be responsible for paying all of any costs necessary to keep the Communication Equipment in compliance with all applicable FCC rules and regulations or the rules and regulations of any other agency having proper jurisdiction over said Communication Equipment.

f. During the Lease Term, the Lessee will not permit the use of any portion of the Communication Equipment in a trade or business carried on by any person other than a Qualified User without first obtaining an Opinion of Bond Counsel.

g. The Lessee (to the extent within its power or direction) shall not use or permit the use of the Communication Equipment, directly or indirectly, in any manner, and shall not take or permit to be taken any other action or actions, which would adversely affect the exclusion of the interest on any of the Bonds from gross income for federal income tax purposes.

ARTICLE VI
COMMUNICATION EQUIPMENT

Section 6.1. Warranties. Lessor shall convey to Lessee at the termination of the Lease Term and upon full compliance by Lessee of all of its duties, obligations and responsibilities under this Lease Agreement, all of its interest in all warranties, guarantees or other contract rights against any contractor, subcontractor or supplier, expressed or implied, issued on or applicable to the Communication Equipment, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such

warranties, guarantees or other contract rights at Lessee's expense. Lessee's sole remedy for the breach of such warranties, guarantees or other contract rights shall be against any contractor, subcontractor or supplier, and not against Lessor, nor shall such matter have any effect whatsoever on the rights of Lessor with respect to this Lease Agreement, including the right to receive full and timely Lease Payments, Additional Lease Payments and other payments hereunder. Lessee expressly acknowledges that Lessor does not make nor has it made any representation or warranty whatsoever as to the existence or availability of such warranties, guarantees or other contract rights of the manufacturer or supplier of any portion of the Communication Equipment.

Section 6.2. DISCLAIMER OF WARRANTIES.

THE COMMUNICATION EQUIPMENT IN ITS ENTIRETY, THE SUBJECT OF THIS LEASE AGREEMENT, IS PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NOTHING IN THIS LEASE AGREEMENT SHALL BE CONSTRUED AS A REPRESENTATION OR WARRANTY BY LESSOR THAT LESSOR WILL MAINTAIN THE OPERATIONAL CAPABILITY OF THE COMMUNICATION EQUIPMENT THROUGHOUT THE TERM OF THIS LEASE AGREEMENT. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE COMMUNICATION EQUIPMENT OR ANY PART THEREOF, OR WARRANTY WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OF THE COMMUNICATION EQUIPMENT OR ANY PART THEREOF.

ARTICLE VII
IMPOSITIONS

Section 7.1. Impositions. Lessee shall bear, pay and discharge, before the delinquency thereof, as Additional Lease Payments , all taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Communication Equipment, including any taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the security of Lessor or encumber the Communication Equipment (all of the foregoing being herein referred to as "Impositions").

Section 7.2. Contest of Impositions. Lessee shall have the right, in its own name or in Lessor's name, to contest the validity or amount of any Imposition which Lessee is required to bear, pay and discharge pursuant to the terms of this Article by appropriate legal proceedings instituted at least ten (10) days before the Imposition complained of becomes delinquent and may permit the Imposition so contested to remain unpaid during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Counsel, by nonpayment of any such items the interest of Lessor in the Communication Equipment will be materially endangered or the Communication Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay such taxes, assessments or charges or provide Lessor with full security against any loss which may result from nonpayment, in form satisfactory to Lessor. Lessor agrees to cooperate with Lessee in connection with any and all administrative or judicial proceedings related to Impositions. Lessee shall hold Lessor whole and harmless from any costs and expenses Lessor may incur with respect to any Imposition.

ARTICLE VIII
INSURANCE; INDEMNITY

Section 8.1. Insurance Required. Lessee shall, during the Lease Term, cause the Communication Equipment to be kept continuously insured against such risks customarily insured against for facilities and equipment such as the Communication Equipment and shall pay (except as otherwise provided herein), as the same become due, all premiums in respect thereof, such insurance to include the following policies of insurance:

a. Insurance insuring the Communication Equipment against loss or damage by fire, lightning and all other risks covered by the extended coverage insurance endorsement then in use in the State in an amount not less than the lesser of an amount equal to the full insurable value thereof or the then applicable purchase price under **Section 11.1** (subject to reasonable loss deductible clauses) issued by such insurance company or companies authorized to do business in the State as may be selected by Lessee. The full insurable value of the Communication Equipment may be determined from time to time at the request of Lessee or Lessor (but not less frequently than every five years) by an architect, contractor, appraiser, appraisal company or one of the insurers, to be selected, subject to Lessor's approval, and paid by Lessee. The policy or policies of such insurance shall name Lessee and Lessor as insureds and loss payees. All proceeds from such policies of insurance shall be applied as provided in **Article XII; and**

b. Comprehensive general accident and public liability insurance (including coverage for all losses whatsoever arising from the ownership, maintenance, operation or use of any automobile, truck or other motor vehicle), under which Lessee and Lessor are named as insureds, in an amount not less than the amount which the Lessor shall reasonably request for a combined single limit for bodily injuries and property damage.

Not less than fifteen (15) days prior to the expiration dates of the expiring policies, originals or copies of the policies required by this Section or certificates evidencing such insurance shall be delivered by Lessee to Lessor with a copy to the Authority. All policies of such insurance, and all renewals thereof, shall contain a provision that such insurance may not be cancelled by the issuer thereof without at least ten (10) days written notice to Lessee, Lessor and the Authority.

Nothing in this Lease Agreement shall be construed as preventing Lessee from satisfying the insurance requirements herein set forth by using blanket policies of insurance provided each and all of the requirements and specifications of this Lease Agreement respecting insurance are complied with.

Section 8.2. Release and Indemnification. To the extent permitted by law, Lessee shall indemnify, protect, hold harmless, defend, save and keep Lessor harmless from and against any and all liability, obligation, loss, claim, tax and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith (including counsel fees and expenses) arising out of or as the result of (i) the entering into of this Lease Agreement or any sublease, (ii) the acquisition, construction, equipping and installation of the Communication Equipment, (iii) injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Communication Equipment during the Lease Term or otherwise arising during the Lease Term because of Lessor's interest in the Communication Equipment, and/or (iv) the breach of any covenant by Lessee herein or any material misrepresentation by Lessee contained herein. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease Agreement or the termination of this Lease Agreement for any reason.

ARTICLE IX
ASSIGNMENT AND SUBLEASING

Section 9.1. Assignment by Lessor. Lessor's right, title and interest in, to and under this Lease Agreement and the Communication Equipment shall be assigned and pledged solely to the Authority for the benefit of the Owners of the Bonds pursuant to the Pledge of Revenues Agreement and shall not otherwise

be assigned, pledged, transferred or otherwise disposed of by Lessor so long as any of the Bonds are Outstanding under the Bond Resolution. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor.

Section 9.2. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Lease Agreement and in the Communication Equipment may be assigned or encumbered by Lessee for any reason to any person or entity that is not a Qualified User, and any assignment, encumbrance or sublease of this Lease Agreement shall not be permitted without Lessor's prior written consent with the prior written approval of one hundred percent (100%) of the Owners of the Bonds in each instance. Any sublease of all or part of the Communication Equipment shall be subject to this Lease Agreement and the rights of Lessor in, to and under this Lease Agreement and the Communication Equipment and the rights and interests of the Authority and the Owners of the Bonds with respect thereto.

ARTICLE X
MAINTENANCE, REPAIRS AND MODIFICATIONS

Section 10.1. Maintenance, Repairs and Modifications. Lessee shall, at its own expense, maintain, preserve and keep the Communication Equipment in good repair, working order and condition, and shall from time to time make all repairs, replacements and improvements necessary to keep the Communication Equipment in such condition. Lessor shall have no responsibility for any repairs, replacements or improvements to the Communication Equipment except as shall be expressly set forth in this Lease Agreement. All such repairs, replacements and improvements shall thereafter comprise part of the Communication Equipment and be subject to the provisions of this Lease Agreement. Such repairs, replacements and improvements shall not in any way damage the Communication Equipment nor cause it to be used for purposes other than those permitted by this Lease Agreement and authorized under the provisions of municipal, state and federal law. The Communication Equipment, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value which is not substantially less than the value of the Communication Equipment immediately prior to the making of such additions, modifications and improvements. Any property for which a substitution or replacement is made pursuant to this Section with Lessor's prior express written consent (with the prior written consent of one hundred percent (100%) of the Owners of the Bonds) may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any mechanic's or other lien to be established or remain against the Communication Equipment for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor and the Authority of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Communication Equipment, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal there from unless Lessor or the Authority shall notify Lessee that, in the opinion of Counsel, by nonpayment of any such item the interest of Lessor and the Authority in the Communication Equipment will be materially endangered or the Communication Equipment or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon request and at the expense of Lessee.

Section 10.2. Liens. Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Communication Equipment, other than the respective rights of Lessor and Lessee as herein provided and the respective rights and interests of the Authority under the Pledge of Revenues Agreement and of the Owners of the Bonds under and with respect to the Pledge of Revenues Agreement and the Bond Resolution. Except as expressly provided in this Article, Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor, the Authority and any Owner of the Bonds for any expense incurred by any of them in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

ARTICLE XI
LESSEE'S OPTION TO PURCHASE THE COMMUNICATION EQUIPMENT

Section 11.1. Lessee's Option to Purchase the Communication Equipment. Lessee shall have the option to purchase Lessor's interest in the Communication Equipment, free and clear of any right or interest of Lessor, the Authority or the Owners of the Bonds, upon giving written notice to Lessor at least thirty (30) days before the date of purchase (which notice shall state the date of purchase), at the following times and upon the following terms:

a. On any Lease Payment Date upon payment in full of the Lease Payments then due hereunder plus the then applicable Purchase Price to Lessor; or

b. In the event of substantial damage to or destruction or condemnation (other than condemnation by Lessee or any entity controlled by or otherwise affiliated with Lessee) of substantially all of the Communication Equipment, on the Lease Payment Date Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option given pursuant to **Section 12.1**, upon payment in full of the Lease Payments then due hereunder plus the Purchase Price to Lessor.

Section 11.2. Determination of Fair Purchase Price. Lessee and Lessor hereby agree and determine that the Lease Payments hereunder during the Original Term and any Renewal Term represent the fair value of the use of the Communication Equipment, and that the amount required to exercise Lessee's option to purchase Lessor's interest in the Communication Equipment pursuant to **Section 11.1** represents, as of the end of the applicable Lease Payment Date, the fair purchase price of the Communication Equipment. Lessee hereby determines that the Lease Payments do not exceed a reasonable amount so as to place Lessee under an economic practical compulsion to renew this Lease Agreement or to exercise its option to purchase the Communication Equipment hereunder. In making such determinations, Lessee and Lessor have given consideration to the Costs of the Communication Equipment, the uses and purposes for which the Communication Equipment will be employed by Lessee, the benefit to Lessee by reason of the acquisition, construction, equipping and installation of the Communication Equipment and the use and occupancy of the Communication Equipment pursuant to the terms and provisions of this Lease Agreement and Lessee's option to purchase the Communication Equipment. Lessee hereby determines and declares that the acquisition, construction, equipping and installation of the Communication Equipment and the leasing of the Communication Equipment pursuant to this Lease Agreement will result in a Communication Equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition, construction, equipping and installation of the Communication Equipment were performed by Lessee other than pursuant to this Lease Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Communication Equipment.

ARTICLE XII
DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS

Section 12.1. Damage, Destruction and Condemnation. Unless Lessee shall have exercised its option to purchase the Communication Equipment and terminate this Lease Agreement as provided in **Article XI**, if (i) any component of the Communication Equipment is destroyed (in whole or in part) or is damaged by fire or other casualty or (ii) title to or the temporary use of such component of the Communication Equipment or the interest of Lessee or Lessor in the component of the Communication Equipment, shall be taken under the exercise of the power of eminent domain, or the threat of such exercise, by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee shall cause the Net Proceeds of any insurance or condemnation award or any sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Communication Equipment by Lessee. Any balance of the Net Proceeds remaining after such work has been completed shall be held and appropriated by Lessee for the exclusive purpose of paying Lease Payments under this Lease Agreement.

If Lessee determines that the replacement, repair, restoration, modification or improvement of the Communication Equipment is not economically feasible or in the best interest of Lessee, then, in lieu of making such replacement, repair, restoration, modification or improvement, and if permitted by law and the Bond Resolution, Lessee shall purchase the Communication Equipment by promptly giving Lessor the required notice as provided in **Section 11.1** and paying the Purchase Price to Lessor on the purchase date specified in such notice, and the Net Proceeds shall be applied by Lessee to such payment to the extent required for such payment and in accordance with the terms of the Bond Resolution with respect to redemption of the Bonds. Any balance of the Net Proceeds remaining after paying the Purchase Price for application to redemption of the Bonds in accordance with the Bond Resolution shall belong to Lessee.

Section 12.2. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement of any component of the Communication Equipment in accordance with **Section 12.1**, subject to appropriation of sufficient funds, Lessee shall complete the work and pay any cost in excess of the amount of the Net Proceeds, and Lessee agrees that if by reason of any such insufficiency of the Net Proceeds Lessee shall make any payments pursuant to the provisions in this **Section 12.2**, Lessee shall not be entitled to any reimbursement therefor from Lessor or to any reduction in Lease Payments then due or thereafter coming due.

Section 12.3. Cooperation of Lessor. Lessor shall cooperate fully with Lessee, at the expense of Lessee, in filing any proof of loss with respect to any insurance policy covering the events described in **Section 12.1** and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Communication Equipment or any part thereof and will, to the extent it may lawfully do so, permit Lessee to litigate in any proceeding resulting there from in the name of and on behalf of Lessor. In no event will Lessor voluntarily settle, or consent to the settlement of, any proceedings arising out of any insurance claim or any prospective or pending condemnation proceeding with respect to the Communication Equipment or any part thereof without the written consent of Lessee and one hundred percent (100%) the Owners of the Bonds in each instance.

ARTICLE XIII
DEFAULT PROVISIONS

Section 13.1. Events of Default Defined. The following shall be "Events of Default" under this Lease Agreement and the term "Events of Default" shall mean, whenever it is used in this Lease Agreement, any one or more of the following events:

a. Failure by Lessee to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein;

b. Failure by Lessee to observe and perform any covenant, condition or agreement under any Communication Equipment Document on its part to be observed or performed, other than as referred to in clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor or the Authority; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor and the Authority shall consent to an extension of such time if Lessee certifies that corrective action has been instituted by Lessee within the applicable period and will be diligently pursued until such failure is corrected;

c. Any statement, representation or warranty made by Lessee in or pursuant to any Communication Equipment Document or any instrument or certificate related thereto or to the Communication Equipment shall be incorrect, untrue or misleading in any material respect;

d. Any provision of any Communication Equipment Document shall at any time for any reason cease to be valid and binding on Lessee, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of

Lessor, or Lessee shall deny that it has any further liability or obligation under this Lease Agreement; or

e. The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its essential functions, or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of any applicable federal bankruptcy law.

Section 13.2. Remedies. Whenever any Event of Default shall have happened and be continuing, Lessor shall have the right, at its option and without any further demand or notice (except that Lessor shall deliver written notice promptly to the Authority with respect to any remedies that it expects to exercise), to take any one or more of the following remedial steps:

a. By written notice to Lessee, Lessor may (and, at the written direction of the Authority or one hundred percent (100%) of the Owners of the Bonds, shall) declare all Lease Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due;

b. With or without terminating this Lease Agreement, take possession of the Communication Equipment or sell or lease the Communication Equipment to a third party Public Safety Agency and Qualified User and collect lease payments therefor for all or any portion of the remainder of the Original Lease Term or then current Renewal Term upon such terms and conditions as it may deem satisfactory in its sole discretion (but with the prior written consent of of one hundred percent (100%) of the Owners of the Bonds), with Lessee remaining liable for the difference between the Lease Payments, Additional Lease Payments and other amounts payable by Lessee hereunder during the Original Term or then current Renewal Term, as the case may be, and the net proceeds of any purchase price, rents or other amounts paid by a purchaser, new lessee or sublessee of the Communication Equipment, and, provided further, that, in such event, if Lessor shall receive a payment for sale of the Communication Equipment or total Lease Payments for lease of the Communication Equipment that are, after payment of Lessor's expenses and expenses of the Authority and the Owners of the Bonds in connection therewith, in excess of the then applicable Purchase Price, then such excess shall be paid to Lessee either by Lessor, its assigns, or by its sublessee; or

c. Take whatever action at law or in equity may appear necessary or desirable to collect the Lease Payments then due and thereafter to become due during the Original Term or then current Renewal Term, or enforce performance and observance of any obligation, agreement or covenant of Lessee under this Lease Agreement.

Notwithstanding anything in this Lease Agreement to the contrary, so long as any of the Bonds are Outstanding under the Bond Resolution, the Majority Owner of the Bonds (as such term is defined in the Bond Resolution) shall be entitled to direct the remedies that shall be exercised under this Lease Agreement upon the occurrence of an Event of Default.

Section 13.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor or the Majority Owner of the Bonds is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor or Lessee to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

Section 13.4. **No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Lease Agreement shall be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 14.1. **Kansas Required Statements Pursuant to K.S.A. 10-1116c(d).** The following is provided at *Exhibit B*:

a. The amount of capital cost required to acquire the Communication Equipment if paid for by cash;

b. The annual average effective interest cost for the Lease Payments; and

c. The amount included in the Lease Payments and Additional Lease Payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost

Section 14.2. **Notices.** It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Lease Agreement to be given or filed with Lessor or Lessee if the same shall be duly mailed by registered or certified mail with postage prepaid addressed to the Notice Address for Lessor and Lessee and to such addresses as the respective Owners of the Bonds (including the Majority Owner of the Bonds (as such term is defined in the Bond Resolution)) may provide in writing to the parties hereto. Lessor, Lessee and any Owner of the Bonds may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 14.3. **Title to Personal Property.** Lessor and Lessee intend that all of the Communication Equipment constitutes personal property, and as such, title to the Communication Equipment shall vest immediately upon installation in Lessee subject to Lessor's rights under this Lease Agreement and subject to the rights and interests of the Authority and the Owners of the Bonds as provided in this Lease Agreement including (without limitation) **Section 3.5** and **Section 14.4** hereof; provided that title thereto shall thereafter immediately and without any action by Lessee vest in Lessor (subject to the rights and interests of the Authority and the Owners of the Bonds as provided in this Lease Agreement, including **Section 3.5** hereof) and Lessee shall immediately surrender possession thereof to Lessor or the Authority, as the case may be, upon (i) any termination of this Lease Agreement without Lessee exercising its option to purchase pursuant to **Section 10.1**(ii) the occurrence of an Event of Default or (iii) the occurrence of an event of nonappropriation as provided in **Section 3.3** hereof. It is the intent of the parties hereto that any transfer of title to Lessor or the Authority pursuant to this Section shall occur automatically without the necessity of any deed, bill of sale, certificate of title or other instrument of conveyance. Nevertheless, Lessee shall execute and deliver any such instruments as Lessor, the Authority or any Owner of the Bonds may request to evidence such transfer.

Section 14.4. **Security Interest.** To secure the payment of all of Lessee's obligations under this Lease Agreement, Lessor retains a security interest in the Communication Equipment and on all additions, attachments, accessions thereto, substitutions therefor and on any proceeds therefrom. Lessee consents to the filing and recording of financing statements with respect to the Communication Equipment and shall execute such additional documents, including affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain its security interest.

Section 14.5. **Net Lease.** It is the understanding and agreement of the parties hereto that, subject to **Sections 3.3** and **4.3**, this is a clear "net" lease obligation and that Lessee shall bear all expenses and make all payments consistent with the principle of the "net" Lease Agreement. Lessee hereby assumes and agrees to perform all duties and obligations relating to the Communication Equipment, as well as the use,

operation, and maintenance thereof, even though such duties and obligations may otherwise be construed to be those of Lessor.

Section 14.6. No Pecuniary Liability. No provision, covenant or agreement contained in this Lease Agreement or any obligation herein imposed upon Lessor, or the breach thereof, shall constitute or give rise to or impose upon Lessor a pecuniary liability.

Section 14.7. Access to Communication Equipment. Lessee agrees that Lessor, Authority and any Owner of the Bonds or any agent or representative of Lessor, the Authority or any Owner of the Bonds shall have the right at all reasonable times to examine and inspect the Communication Equipment. Lessee further agrees that Lessor, the Authority and any Owner of the Bonds and any such agent or representative of any of them shall have such rights of access to the Communication Equipment as may be reasonably necessary (i) to cause the proper maintenance of the Communication Equipment in the event of failure by Lessee to perform its obligations hereunder and (ii) for any other reason Lessor, the Authority or any Owner of the Bonds determines appropriate and necessary, including removal of the Communication Equipment, after failure by Lessee to perform its obligations hereunder

Section 14.8. Financial Statements. Throughout the Lease Term, Lessee shall deliver to Lessor, the Majority Owner of the Bonds (as such term is defined in the Bond Resolution), upon request, and the Authority, as soon as available, a copy of Lessee's annual audited statement of income and expense and Lessee's annual audited balance sheet.

Section 14.9. Surrender of Possession. Upon accrual of the Lessor's right of possession to the Communication Equipment because of the Lessee's default or nonappropriation hereunder or upon the cancellation or termination of this Lease Agreement for any reason prior to the payment or prepayment in full of all Lease Payments hereunder, the Lessee shall peacefully surrender possession of the Communication Equipment to the Lessor or the Authority, as the case may be, in good condition and repair, ordinary wear and tear excepted.

Section 14.10. Liability for Damages and Losses. Notwithstanding any language to the contrary, Lessor shall not be responsible for any damages or economic or non-economic losses, including, but not limited to, loss of profits, caused by the public, Lessor's employees, agents, or contractors, or use or failure of the Lessor's Communication System or Equipment, except as provided in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, as amended.

Section 14.11. Responsibility for Impositions. Lessor shall not be responsible for, nor indemnify Lessee for, any Impositions which may be imposed or levied upon the subject matter of the Lease Agreement. Lessee shall be solely responsible for any Impositions which may be imposed or levied upon the subject matter of the Lease Agreement, and shall promptly pay and discharge the same when due.

Section 14.12. Third Party Beneficiaries. It is expressly agreed that no third party beneficiaries are intended to be created by this Lease Agreement, other than the Authority and the Owners of the Bonds as provided in **Section 3.5** hereof, nor do the parties herein authorize anyone not a party to this Lease Agreement to maintain a suit for damages pursuant to the terms or provisions of this Lease Agreement except the Authority and Owners of the Bonds as provided in **Section 13.2** hereof.

Section 14.13. Binding Effect. This Lease Agreement shall inure to the benefit of and shall be binding upon Lessor and the Lessee and their respective successors and permitted assigns.

Section 14.14. Severability. In the event any provision of this Lease Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable, or otherwise affect any other provision hereof.

Section 14.15. Amendments, Supplements, and Modifications. This Lease Agreement may not be amended, supplemented, or modified without the prior written consent of the parties and with the express prior written consent of one hundred percent (100%) of the Owners of the Bonds in each instance; provided, however, that the consent of the Owners of the Bonds shall not be required for any amendment that is not inconsistent with the terms and provisions hereof and is made to cure any ambiguity or formal defect or omission in this lease Agreement or to make any other change not prejudicial to the Owners of the Bonds..

Section 14.16. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

Section 14.17. Governing Law and Regulations. This Lease Agreement shall be governed by and construed in accordance with the laws of the State, including the Act and the Regulations that are incorporated herein as a part of this Lease Agreement.

Section 14.18. Consents and Approvals. Whenever the written consent or approval of the Lessor shall be required under the provisions of this Lease Agreement, such consent or approval may only be given by the Secretary, or his or her designee, in writing.

Section 14.19. Further Assurances. The Lessee shall, at the request of Lessor, authorize, execute, acknowledge, and deliver such further resolutions, conveyances, transfers, assurances, financing statements, continuation statements and other instruments as may be reasonably necessary or desirable for better assuring, conveying, granting, assigning, and confirming the rights, security interests, and agreements granted or intended to be granted by and pursuant to this Lease Agreement.

Section 14.20. Waiver. The waiver of any condition or of the breach of any condition of this Lease Agreement shall not be a waiver of any subsequent breach or condition. It is expressly understood if at any time Lessee is in default of any of the terms of this Lease Agreement, an acceptance by the Lessor of any Lease Payment, or part thereof, during such time of default shall not be construed as a waiver in any respect of the default.

Section 14.21. Accounting Terms. Accounting terms used herein and not otherwise specifically defined shall have the meaning ascribed to such terms by generally accepted accounting principles as from time to time in effect.

Section 14.22. Form DA-146a. The "*Contractual Provisions Attachment Form DA-146a*" is attached hereto, agreed to by the Lessee in total, and is incorporated herein by reference.

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IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Agreement to be executed, sealed, and delivered, effective as of the Effective Date set forth above.

THE KANSAS DEPARTMENT OF TRANSPORTATION
"Lessor"

(Seal)

By: _____
Joseph J. Erskine
Deputy Secretary for Finance and Administration
Kansas Department of Transportation

APPROVED AS TO FORM AND LEGALITY

_____

Jonathan P. Small, Chtd.
Special Counsel to Kansas Department of Transportation

Date: _____

Formatted: Font: 8 pt

CITY OF BASEHOR, KANSAS
"Lessee"

By: _____
Chris Garcia
Mayor
City of Basehor, Kansas

Attest:

[Seal]

By: _____
Mary A. Mogle
City Clerk
City of Basehor, Kansas

ACKNOWLEDGMENT

STATE OF KANSAS)
) **SS**
COUNTY OF SHAWNEE)

BE IT REMEMBERED, that on this _____ day of October, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Joseph J. Erskine, Deputy Secretary for Finance and Administration, Kansas Department of Transportation, a duly recognized and existing agency of the State of Kansas under the constitution and laws of the state of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said body, and such person duly acknowledged the execution of the same to be the act and deed of said body.

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

_____
Printed Name: _____
Notary Public in and for said State
Commissioned in Shawnee County

My commission expires: _____

ACKNOWLEDGMENT

STATE OF KANSAS)
) **SS**
COUNTY OF LEAVENWORTH)

BE IT REMEMBERED, that on this _____ day of October, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Chris Garcia, Mayor, City of Basehor, City of Basehor, Kansas, a Public Safety Agency, and a duly recognized and existing municipal corporation of the State of Kansas under the constitution and laws of the state of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said body, and such person duly acknowledged the execution of the same to be the act and deed of said body.

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

_____
Printed Name: _____
Notary Public in and for said State
Commissioned in Leavenworth County

My commission expires: _____

ACKNOWLEDGMENT

STATE OF KANSAS)
) **SS**
COUNTY OF LEAVENWORTH)

BE IT REMEMBERED, that on this _____ day of October, 2008, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came by came Mary A. Mogle, City Clerk, City of Basehor, Leavenworth County, Kansas, a Public Safety Agency, and a duly recognized and existing municipal corporation of the State of Kansas under the constitution and laws of the state of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument on behalf of said body, and such person duly acknowledged the execution of the same to be the act and deed of said body.

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

_____
Printed Name: _____
Notary Public in and for said State
Commissioned in Leavenworth_County

My commission expires: _____

EXHIBIT A

To
COMMUNICATION EQUIPMENT
EQUIPMENT LEASE AGREEMENT
CSEL Project No. 080053
Basehor Police Department

Description of Lessor's Communication Equipment:

Portable Radio	Dash Mount Radio	Remote Mount Radio	Fixed Radio Equip-ment	Model Type	Model #	Qty	Inventory #	Serial #
X				XTS2500	H46UCF9PW6BN	1	192-6411	205CJM5858
X				XTS2500	H46UCF9PW6BN	1	192-6412	205CJM5859
X				XTS2500	H46UCF9PW6BN	1	192-6413	205CJM5860
X				XTS2500	H46UCF9PW6BN	1	192-6414	205CJM5861
X				XTS2500	H46UCF9PW6BN	1	192-6415	205CJM5862
X				XTS2500	H46UCF9PW6BN	1	192-6416	205CJM5863
X				XTS2500	H46UCF9PW6BN	1	192-6417	205CJM5864
X				XTS2500	H46UCF9PW6BN	1	192-6418	205CJM5865
X				XTS2500	H46UCF9PW6BN	1	192-6419	205CJM5866
X				XTS2500	H46UCF9PW6BN	1	192-6420	205CJM5867
X				XTS2500	H46UCF9PW6BN	1	192-6421	205CJM5868
X				XTS2500	H46UCF9PW6BN	1	192-6422	205CJM5869
X				XTS2500	H46UCF9PW6BN	1	192-6423	205CJM5870
X				XTS2500	H46UCF9PW6BN	1	192-6424	205CJM5871
X				XTS2500	H46UCF9PW6BN	1	192-6425	205CJM5872
		X		XTL2500	M21URM9PW1AN	1	192-1031	514CJM4232
		X		XTL2500	M21URM9PW1AN	1	192-1032	514CJM4233
		X		XTL2500	M21URM9PW1AN	1	192-1033	514CJM4234
		X		XTL2500	M21URM9PW1AN	1	192-1034	514CJM4235
		X		XTL2500	M21URM9PW1AN	1	192-1035	514CJM4236
		X		XTL2500	M21URM9PW1AN	1	192-1036	514CJM4237
		X		XTL2500	M21URM9PW1AN	1	192-1037	514CJM4238
		X		XTL2500	M21URM9PW1AN	1	192-1038	514CJM4239
		X		XTL2500	M21URM9PW1AN	1	192-1039	514CJM4240

PRICING INFORMATION:

Cost of Communication Equipment **$77,462**

Basehor Police Department

Existing Equipment:		N/A		
Financing Items:				
Radios / Radio Equipment - 10 Year Replacement Cycle				
15 - Motorola XTS2500 Portables (10 year)		$44,044.80		
KDOT Administration Fee		$3,750.00		
	Subtotal		$47,794.80	*10 Year Lease Amount*
Radios / Radio Equipment - 12 Year Replacement Cycle				
9 - Motorola XTL2500 Mobiles (12 year)		$27,417.20		
KDOT Administration Fee		$2,250.00		
	Subtotal		$29,667.20	*12 Year Lease Amount*
Total Cost		$77,462.00		

Lessor / KDOT Administrative fee:

.25% of the outstanding balance shall be charged the Borrower in addition to the interest rate charged as described herein. Said annual fee shall be paid at the time the principal and interest is to be paid.

EXHIBIT B-1

COMMUNICATION EQUIPMENT
EQUIPMENT LEASEAGREEMENT
CSEL Project No. 080053

Lessee's Notice Address is: City of Basehor, Kansas
City Hall
2620 North 155th Street
Basehor, Kansas 66007

Attn: City Clerk

Kansas Required Statements Pursuant to K.S.A. 10-1116c(d):

a. The amount of capital cost required to acquire the Communication Equipment if paid for by cash; $71,462

b. The annual average effective interest cost for the Lease Payments: _____; and

c. The amount included in the Lease Payments and Additional Lease Payments for service, maintenance, insurance or other charges exclusive of the capital cost and interest cost: $6,000.

Blended Interest Rate: _____

Lessee's Fiscal Year: January 1 to the next succeeding December 31.

Lease Payment Date: Each March 1 and September 1, commencing March 1, 2009;

Final Lease Payment Date: March 1, 2020

Lease Payments: The sum of:

(1) the amount of interest becoming due on the Bonds then outstanding on the next succeeding April 1 or October 1;

(2) the amount of principal becoming due on the Bonds then outstanding by maturity, mandatory redemption or otherwise on the next succeeding April 1 or October 1; and

(3) the amount of moneys required to redeem Bonds then outstanding on the next succeeding April 1 or October 1 to the extent such Bonds have been called for redemption pursuant to the terms of the Bond Resolution; and

(4) the amount of all fees and expenses of the Bond Registrar and Paying Agent relating to the Bonds and any other fees and expenses relating to the Bonds due on or before the next succeeding April 1 or October 1;

provided, however, that the amount of such payments will be reduced by any amounts on deposit in the subaccount of the Principal and Interest Account established with respect to the Bonds pursuant to the Bond Resolution and available to be applied for such purpose on the date such payment is made.

Purchase Price: The sum of:

(1) the amount of money required to redeem the Bonds then outstanding on the next succeeding April 1 or October 1;

(2) the amount of all fees and expenses of the Bond Registrar and Paying Agent relating to the Bonds and any other fees and expenses relating to the Bonds due on or before the next succeeding April 1 or October 1; and

(3) the amount of all other fees and expenses payable in connection with the redemption of the Bonds on the next succeeding April 1 or October 1;

provided, however, that such amount will be reduced by any amounts on deposit in the subaccount of the Principal and Interest Account established with respect to the Bonds pursuant to the Bond Resolution and available to be applied for such purpose on the date such payment is made.

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State of Kansas
Department of Administration
DA-146a (Rev 1-01)

KDOT FORM CSEL DA-146a

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof"

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being dated October 1, 2008.

1 **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

3 **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

4 **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).

5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq. and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities, (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer'; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total $5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8 **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss of damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or Lessor shall bear the risk of any loss or damage to any personal property in which vendor or Lessor holds title.

11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.

12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

2009 Joint Legislative Agenda

Leavenworth County, City of Basehor, City of Lansing, City of Leavenworth, and the City of Tonganoxie

Leavenworth County along with the cities of Basehor, Lansing, Leavenworth, and Tonganoxie have agreed upon the following state Legislative priorities for the upcoming legislative session. While each government may have issues specific to their municipality, consensus has been reached that these policy statements are critical to all citizens residing in Leavenworth County.

Date: December 2, 2008 Time: 7:30 AM Breakfast will be catered.
Place: Lansing Community Center, 800 1st Terrace, Lansing (east of K-7 and 4H Road, basement of City Hall)

General Policy

1. **Unfunded Mandates/Cost Shifting-** We oppose any unfunded mandates or cost shifting to local governments. Unfunded mandates handed down from the state transfer costs from the state to local level. Local levels of government do not have the resources to handle such mandates. When you review a bill, we urge you to consider the impact the bill may have on local governments back home and if the bill creates an unfunded mandate.
2. **Revenue Sharing-** Demand transfers have not been in place for a number of years. We encourage the resurrection of demand transfers to local governments. Additionally, revenues from the Special City-County Highway Fund must continue to flow to local units of government. While the return to demand transfers seems unlikely, we encourage you to ensure resources being passed from the state to local levels of government are not further reduced or diluted through unfunded mandates.
3. **Tax Limitations-** We do not support any attempts to limit the levying of taxes, such as the Taxpayers Bill of Rights (TABOR).
4. **Local Sales Taxes-** We support the existing statutory authority for local governments to impose local sales taxes and also support the existing statutory distribution for all sales taxes.
5. **Property Appraisals-** We encourage a in-depth review of the current property appraisal system in Kansas to ensure it is a fair and equitable system. We support fair and equal taxation based upon fair market appraisals.
6. **Recycling-** We encourage the State to take a proactive approach in developing programs to make recycling a cost-effective option for communities and their citizens.

Transportation

1. **Adoption of a new Comprehensive Transportation Plan (CTP)** during the 2009 Legislative Session is critical. We encourage you to become engaged in the CTP debate and to also review and advocate for our transportation priorities. We have worked hard to build consensus around projects that will benefit

all residents in Leavenworth County and projects which will provide a framework for future economic development in the State of Kansas. Listed below are the projects being endorsed by the different governmental entities, listed in rank order for each individual entity.

Leavenworth County

A. Expressway connection from K-7 at McIntyre Road to I-435 at Wolcott
B. Leavenworth County Regional Airport
C. West Bypass from K-7 at McIntyre Road to K-92 north of Leavenworth
D. K-92 Bridge over the Missouri River
E. 30th Street Trafficway west of the City of Leavenworth

City of Basehor

A. Widen the intersection and add turn lanes at 155th Street and Parallel Road
B. Widen the intersection and add turn lanes at 155th Street and Leavenworth Road
C. Leavenworth County Regional Airport and associated road construction
D. Alternate transportation such as sidewalks or trails along all state highways
E. New cloverleaf intersection at K-7 and I-70 to reduce congestion, with emphasis that no new signal lights be added to the K-7 Corridor
F. Completion of the South Lawrence Trafficway from Iowa Street east to K-10
G. Intersection improvements to US 24-40 and 150th Street
H. Widening 155th Street north of US 24-40 for 800 linear feet to include turn lanes
J. New reverse frontage road on the north side of US 24-40 from 155th to 158th Street
K. New reverse frontage road on the north side of US 24-40 from 153th to 150th Street

City of Lansing

A. Expressway connection from K-7 at McIntyre Road to I-435 at Wolcott
B. Leavenworth County Regional Airport
C. West Bypass from K-7 at McIntyre Road to K-92 north of Leavenworth
D. K-92 Bridge over the Missouri River

City of Leavenworth

A. K-92 Bridge over the Missouri River
B. Widening of Eisenhower from 155th Street to 20th Street
C. Leavenworth County Regional Airport
D. 30th Street Trafficway
E. Alternate transportation such as sidewalks or trails along all state highways
F. Expressway connection from K-7 at McIntyre Road to I-435 at Wolcott
G. West Bypass from K-7 at McIntyre Road to K-92 north of Leavenworth

City of Tonganoxie

A. East 14th Street from 24/40 East to East Street
B. Laming Road from 24/40 South to 4th Street
C. Pleasant Street Bridge replacement over Tonganoxie Creek
D. East Street from 7th Street South to 14th Street
E. Church Street from 6th Street to Washington Street

2. **EDIF dollars for Airports-** We support the continued use of state Economic Development Initiative Fund (EDIF) dollars to enhance airport facilities and services.
3. **Alternative Transportation-** We support legislation that would allow local governments to choose whether to allow alternate motor vehicles, such as golf carts, mules, or gators, on city streets.

Home Rule

1. **Annexation-** We oppose any change which limits the authority of growth through annexation.
2. **Eminent Domain-** We support local governmental power to use eminent domain. We support increased flexibility for the local use of eminent domain for economic development purposes without seeking legislative approval.
3. **Right-of-Way-** We oppose any legislative which would restrict the ability of local government to control public property and right-of-ways.
4. **Air Quality-** We oppose any legislation or administrative regulation from the state or federal governments which mandate air quality standards and penalties. We believe the current mandates and measurement methods being advocated could hurt local economies and local economic development options.

Public Employees

5. **Collective Bargaining/PEERA-** We oppose any legislation that would remove the local option provision from the Public Employer-Employee Relations Act. We oppose any federal or state mandate which would require collective bargaining at the local level.
6. **KPERS/KP&F-** We support achieving a fully funded public employees retirement system. The local KPERS system should remain separate from the state and school systems. It is critical the system accumulate the resources to pay all promised benefits upon retirement.
7. **Personnel Mandates-** We oppose any state or federal mandates regarding public personnel.

Public Safety

1. **911 Services-** Cities and counties should maintain local control of the 911 system and the 911 fees should continue to include wireline and wireless communications.

Community Development

1. **Tax Incentives-** We support the authority of cities to offer tax incentives to encourage business investment in their communities.
2. **Tax Increment Finance (TIF)-** We support TIF's to promote economic development. TIF laws should allow maximum flexibility for governments of all sizes.
3. **STAR Bonds-** We support the ability to utilize STAR bonds to promote economic development. We also support lowering the amount of minimum investment needed to qualify for STAR bonds, which would better allow smaller communities to utilize this funding mechanism.

Water Issues

1. **Water Planning-** We support a regional approach to water quality and quantity issues. The State should adequately fund the State Water Plan.
2. **Infrastructure Funding-** We support increased funding to assist local governments with their water, wastewater, levee, and dam infrastructure.
3. **Stormwater Management-** We encourage KDHE to provide technical support in the implementation of reasonable regulations related to stormwater management.

From: Morgan, Heather
Sent: Wednesday, September 10, 2008 11:21 AM
To: 'J Miller'; Carl Slaugh; 'Michael Smith'; 'City Admin'
Subject: Legislative Meeting

Attached is the Legislative Agenda I developed from our discussions last week. I also incorporated everyone's transportation priorities into the agenda. Please have the packet reviewed by your governing bodies and get me any changes they want back.

Please also inform your governing bodies of the meeting date and time. Lansing Community Center, 7:30 am on December 2nd. I have contacted Dorothy who will provide breakfast. Mike she needs to get into the community center at 6:30 that morning. The County will pay Dorothy and bill the cities the 7 dollars per person for breakfast based upon attendance from each city.

If you have any questions let me know. I look forward to your comments on the draft agenda. Once the elections are over the County will send out invitations. Thanks.

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