

RESOLUTION NO. 2012-19

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN AGREEMENT BETWEEN BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, REGARDING THE RESURFACING OF 142ND STREET FROM STATE AVENUE TO PARALLEL PARKWAY, IN BASEHOR, LEAVENWORTH COUNTY, KANSAS.

WHEREAS, K.S.A. 12-2908 et seq., allows municipalities to contract with each other to perform any governmental service, activity or undertaking which each contracting municipality is authorized by law to perform; and

WHEREAS, 142nd Street from State Avenue (US-24 Highway) to Parallel lies along the boundary between Wyandotte County and Leavenworth County and along the city limits between Kansas City, Kansas and Basehor, Kansas; and

WHEREAS, the maintenance of the road is, therefore a shared responsibility of both jurisdictions and provides benefits to the property owners within both municipalities; and

WHEREAS, both the Unified Government of Wyandotte County/Kansas City, Kansas (the "UG") and the City of Basehor, Kansas have determined the road is in need of resurfacing to improve its ride and provide for future durability; and

WHEREAS, the City of Basehor, Kansas wishes to enter into the Funding Agreement with the UG to provide for such resurfacing of 142nd Street from State Avenue to Parallel, attached hereto as **Exhibit A**.

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

Section 1. That the Governing Body approves and hereby authorizes the Mayor to execute the Funding Agreement with the UG, attached as **Exhibit A**.

Section 2. That this resolution shall become effective upon passage.

PASSED by the Governing Body this 15th day of October, 2012.

APPROVED by the Mayor this 15th day of October, 2012.

[SEAL]


David K. Breuer, Mayor

Exhibit A

Funding Agreement 142nd Street Resurfacing, State Avenue to Parallel Avenue

This agreement is made this _____ day of _____, 2012, between the Unified Government of Wyandotte County /Kansas City, Kansas, a municipal corporation, hereinafter referred to as "UG;" and the City of Basehor, Kansas, a municipal corporation, hereinafter referred to as "Basehor".

WHEREAS, K.S.A. 12-2908 *et seq.*, allows municipalities to contract with each other to perform any governmental service, activity or undertaking which each contracting municipality is authorized by law to perform; and

WHEREAS, 142nd Street from State Avenue (US-24 Highway) to Parallel lies along the boundary between Wyandotte County and Leavenworth County and along the city limits between Kansas City, Kansas and Basehor, Kansas; and

WHEREAS, maintenance of the road is, therefore, a shared responsibility of both jurisdictions and provides benefits to property owners within both Municipalities; and

WHEREAS, both UG and Basehor have determined the road is in need of resurfacing to improve its ride condition and provide for future durability.

NOW, THEREFORE, THE UG AND BASEHOR, IN CONSIDERATION OF THE TERMS, COVENANTS, AND CONDITIONS HEREIN CONTAINED, HEREBY AGREE AS FOLLOWS:

Section 1. The UG shall prepare plans and contract to have the existing two-lane 142nd Street roadway resurfaced with an additional 2-inch lift of asphalt from north of the intersection with State Avenue to south of the intersection with Parallel Avenue (hereinafter "the Work"). It is anticipated that the work shall commence in the fall of 2012 or spring of 2013, with a completion date no later than August 31, 2013.

Section 2. The UG shall follow its own purchasing and procurement policies in obtaining a competitive price for the Work, including the option of change order to existing contracts, and shall administer and inspect the construction under its standard procedures and general conditions, including the provision of a 1-year guarantee period. The UG will ensure that the contractor hired to perform the work shall indemnify both the UG and Basehor and name the UG and Basehor as additional insured parties.

Section 3. The cost of the work, including construction and incidental items, is estimated at approximately **Seventy-Thousand Dollars (\$70,000.00)**. The UG and Basehor shall equally share in the cost of the work, meaning that each jurisdictions share is estimated to be **Thirty-Five Thousand Dollars (\$35,000.00)**. The UG shall process and pay all invoices and will invoice Basehor for its share of the work upon completion. Basehor shall prepare a payment to the UG in a timely manner, but not to exceed 60 days from receipt of the invoice.

Section 4. Although no right-of-way, easements or rights-of-entry are anticipated, each jurisdiction shall be responsible for obtaining said instruments from properties within their jurisdiction if the need arises.

Section 5. Although no utility conflicts are anticipated, the UG shall notify all known utilities of the Work at least 30 days prior to commencement. If any conflicts are relocations are required, each jurisdiction shall utilize its right-of-way management authorities to order and coordinate such work.

Section 6. Each jurisdiction shall be responsible for communication with the public and for subsequent communications or follow-up with their individual property owners or citizens. Any special expenses or incidental work related to special requests of neighboring owners would be the responsibility of the applicable jurisdiction.

Section 7. Notices. All notices required by this Agreement shall be in writing sent by regular U.S. mail, postage prepaid, commercial overnight courier, or facsimile to the following:

To Basehor:
City of Basehor
Mitch Pleak, P.E., City Engineer
2620 N. 155th St.
P.O. Box 406
Basehor, KS 66007
(913) 724-3388 (fax)

To Unified Government:
Unified Government of Kansas City, Kansas
and Wyandotte County, Kansas
Bill Heatherman, P.E., County Engineer
701 N. 7th Street, Rm 712
Kansas City, KS 66101
(913) 573-5727 (fax)

All notices are effective 3 days after mailing if sent by U.S. mail or upon receipt if delivered by a courier or facsimile. Either party may provide the other party a change of address which change shall be effective ten (10) days after delivery.

Section 8. Ownership/Maintenance. All improvements shall be owned and maintained by the Municipality within whose boundaries they lie.

Section 9. Governing Law. This Agreement shall be construed and governed in accordance with the law of the State of Kansas.

Section 10. Compliance with Laws. The parties shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this Agreement.

Section 11. Waiver. No consent or waiver, express or implied, by any party to this Agreement or any breach or default by any other party in the performance of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or

default in the performance of the same or any other obligations hereunder. Failure on the part of any party to complain of any act or failure to act or to declare any of the other parties in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights under this Agreement. The parties reserve the right to waive any term, covenant, or condition of this Agreement; provided, however, such waiver shall be in writing and shall be deemed to constitute a waiver only as to the matter waived and the parties reserve the right to exercise any and all of their rights and remedies under this Agreement irrespective of any waiver granted. Waiver by either party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition.

Section 12. Default and Remedies. If a party shall be in default or breach of any provision of this Agreement, the other party may terminate this Agreement, suspend their performance and invoke any other legal or equitable remedy after giving the other party thirty (30) days written notice and opportunity to correct such default or breach.

Section 13. Headings; Construction of Contract. The headings of each section of this Agreement are for reference only. Unless the context of this Agreement clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender. In the event of any conflict between this Agreement and any incorporated Attachments, the provisions of this Agreement shall control.

Section 14. Modification. Unless stated otherwise in this Agreement, no provision of this Agreement may be waived, modified or amended except by written consent of both parties to this Agreement.

Section 15. Severability of Provisions. Except as specifically provided in this Agreement, all of the provisions of this Agreement shall be severable. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Agreement shall be valid unless the court finds that the valid provisions of this Agreement are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Agreement could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intention of the parties.

Section 16. Force Majeure. The term "Force Majeure Event" means acts or omissions of any governmental authority (other than, with respect to Basehor and UG), fires, storms, natural disasters, strikes, riots, terrorist attack, power failures and any other event or occurrence, irrespective of whether similar to the foregoing, that is beyond the reasonable control of the party claiming that the Force Majeure Event affects its ability to perform any of its obligations under this Agreement. No party shall be liable for any delay in performance of any obligation under this Agreement (other than the payment of money owed) or any inability to perform any obligation under this Agreement (other than the payment of money) if and to the extent that such delay in performance or inability to perform is caused by a Force Majeure Event, so long as the party claiming the Force Majeure Event is working diligently, to the extent reasonably possible, to terminate the Force Majeure Event. A party claiming a Force Majeure Event as an excuse for delay or nonperformance under this Agreement shall provide the other party with prompt notice

of the initiation of the Force Majeure Event, when it is expected to terminate, and of the termination of such Force Majeure Event. A Force Majeure Event shall be deemed to be terminated with respect to a particular delay or nonperformance when its effects on such future performance have been substantially eliminated. Notwithstanding the foregoing provisions, settlement of a strike or lockout shall be deemed beyond the control of the party claiming excuse thereby regardless of the cause of, or the ability of such party to settle, such strike or lockout.

Section 17. Counterparts. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

Section 18. Future appropriations. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by either party.

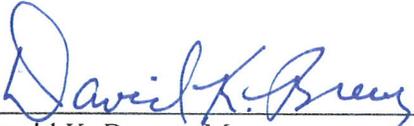
Section 19. Further Acts. Subject to the appropriation of funds, the parties agree to perform or cause to be performed any and all such further acts as may be reasonably necessary to fulfill the terms and conditions of this Agreement.

Section 20. Merger. This Cooperative Agreement, including any referenced Attachments, constitutes the entire agreement between Basehor and the UG with respect to this subject matter, and supersedes all prior agreements between Basehor and the UG with respect to this subject matter, and any such prior agreement shall be void and of no further force or effect as of the date of this Cooperative Agreement.

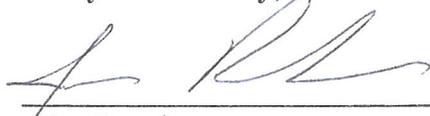
Section 21. Term. This Agreement shall begin upon its execution and shall continue until all the services to be provided are completed subject to the terms and conditions set forth in this Cooperative Agreement.

City of Basehor

**Unified Government of Wyandotte
County/Kansas City, Kansas**



David K. Breuer, Mayor
Date



Joe Reardon
Mayor, CEO
Date

Attest: 

City of Basehor Clerk

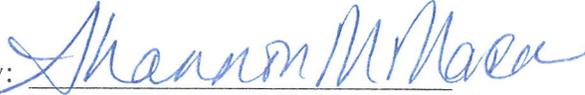


Attest: 

Unified Government Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: 

Shannon Marcano, City Attorney

By: _____
Misty S. Brown, Assistant Counsel

RESOLUTION NO. R-65-12

**BE IT RESOLVED BY THE UNIFIED GOVERNMENT OF WYANDOTTE
COUNTY/KANSAS CITY, KANSAS:**

That the Mayor of the Unified Government of Wyandotte County/Kansas City, Kansas, is hereby authorized and directed to execute in the name of the Unified Government as the voluntary act of the Unified Government the attached Funding Agreement between the Unified Government and the City of Basehor, Kansas, concerning the resurfacing of 142nd Street from State Avenue (U.S. 24 Highway) to Parallel Avenue.

**ADOPTED BY THE UNIFIED GOVERNMENT OF WYANDOTTE
COUNTY/KANSAS CITY, KANSAS,
THIS 4 DAY OF October 2012.**



Joe Reardon, Mayor/CEO

ATTEST:



Unified Government Clerk

Approved as to Form:

Unified Government Counsel



The City of Basehor

November 7, 2012

Bill Heatherman, P.E.
Unified Government
701 N. 7th Street, Rm 712
Kansas City, KS 66101

Mr. Heatherman,

Enclosed are two (signed) signature pages. Please complete signature pages and return one signature page for the City's records.

Also enclosed for your file is a copy of Basehor, Kansas Resolution No. 2012-19 approving Funding Agreement between Unified Government and the City for the joint maintenance of 142nd Street from State Avenue (US 24 Highway) to Parallel Avenue.

Sincerely,

Mitch Pleak, P.E.
City Engineer

2620 N. 155th St.
P.O. Box 406
Basehor, KS 66007

of the initiation of the Force Majeure Event, when it is expected to terminate, and of the termination of such Force Majeure Event. A Force Majeure Event shall be deemed to be terminated with respect to a particular delay or nonperformance when its effects on such future performance have been substantially eliminated. Notwithstanding the foregoing provisions, settlement of a strike or lockout shall be deemed beyond the control of the party claiming excuse thereby regardless of the cause of, or the ability of such party to settle, such strike or lockout.

Section 17. Counterparts. This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument.

Section 18. Future appropriations. Nothing herein shall constitute, nor be deemed to constitute, an obligation of future appropriations by either party.

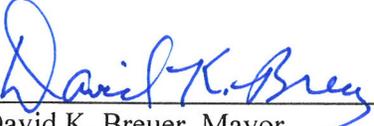
Section 19. Further Acts. Subject to the appropriation of funds, the parties agree to perform or cause to be performed any and all such further acts as may be reasonably necessary to fulfill the terms and conditions of this Agreement.

Section 20. Merger. This Cooperative Agreement, including any referenced Attachments, constitutes the entire agreement between Basehor and the UG with respect to this subject matter, and supersedes all prior agreements between Basehor and the UG with respect to this subject matter, and any such prior agreement shall be void and of no further force or effect as of the date of this Cooperative Agreement.

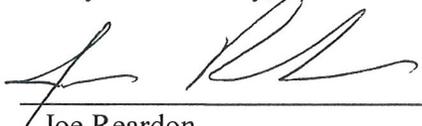
Section 21. Term. This Agreement shall begin upon its execution and shall continue until all the services to be provided are completed subject to the terms and conditions set forth in this Cooperative Agreement.

City of Basehor

**Unified Government of Wyandotte
County/Kansas City, Kansas**



David K. Breuer, Mayor
Mayor Date



Joe Reardon
Mayor, CEO Date

Attest: 

City of Basehor Clerk



Attest: 

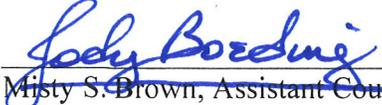
Unified Government Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: 

Shannon Marciano, City Attorney

By: 

Misty S. Brown, Assistant Counsel