

Agenda

Basehor City Council

Work Session

May 6, 2013 7:00 p.m.

Basehor City Hall



1. Basehor Historical Society Proposal
2. Resolution 2013-09 - Grinder Pump Agreement
3. Ordinance No. 623 – Meeting Dates/Times
4. Repeal of Ordinance No. 545 – Sidewalks (Pay in Lieu of Construction)
5. Wolf Creek Junction, City of Basehor & First State Bank Property Agreement
6. Leavenworth County Sewer District No. #3 Sewer Service Rates
7. City Council Appointments
8. Fireworks Exemptions
9. Employee Benefit Renewals
10. Purchase of Karbon Arms Tasers
11. Ordinance No. 582 - Sewer Service Rates
12. City Prosecutor Contract
13. Comprehensive Plan Review
14. Executive Session (If Needed)

Per K.S.A. 75-438 the City Council Meeting agenda is available for review at Basehor City Hall, 2620 North 155th

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 1

Topic:

Reuben Basehor Library (circa 1905)

Action Requested:

Consider possible sites for relocating the Rueben Basehor Library from its current location at 155th and Leavenworth Rd.

Narrative:

It has long been the desire of the Basehor Historical Museum Society to relocate the library to a more visible and accessible location. The library is currently located at 155th and Leavenworth and the property owner has requested the building to be removed or it will be destroyed.

Presented by:

Lloyd Martley, Interim City Admin.
Ken Massingill, Chairman of the Board

Administration Recommendation:

None at this time

Committee Recommendation:

N/A

Attachments:

Request letter from the Basehor Historical Museum Society

Projector needed for this item?

No

Basehor Historical Museum Society
Box 76
Basehor, Kansas 66007

April 13, 2013

The Honorable Mayor and Members of the Basehor City Council
2620 N. 155th St.
Basehor, Kansas 66007

Dear Sirs,

The Basehor Historical Museum Society requests the opportunity to visit with the Council at an upcoming work session in regard to the Reuben Basehor Library (circa 1905).

It has long been a desire of the Basehor Historical Museum Society to relocate the library to a more visible and accessible location. Marilyn Banks is the new owner of the property at 155th and Leavenworth Road where the library is located. She has stated that she is anxious to have the library moved in a timely manner or she will dismantle it.

Before pursuing financing to relocate the library, we need to provide a permanent site. In researching possible sites, we feel the Basehor City Park would be an ideal spot for the visibility and accessibility that we seek for this historic landmark.

Our reason for attending the meeting is to see if the City Council would be in agreement to move the library to the city park. We welcome the opportunity to answer any questions and provide any additional information that may be needed.

Sincerely,

Ken Massingill
Mary Leonard

Ken Massingill, Chairman of the Board
Mary Leonard, Secretary

Looking to the future... Remembering the past

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 2

Topic:

Grinder Pump Release Agreement

Action Requested:

Approve Resolution 2013-09 and approve Release Agreement

Narrative: The sewer system for the property located at 15395 Briar Road failed requiring the installation of a grinder pump that will be connected to city sewer system. Once connected to the city sewer the landowner will release the city from any and all claims and demands of whatever nature for anything related to the new grinder pump.

Presented by:

Gene Miracle, City Superintendent
Lloyd Martley, Interim City Admin.

Administration Recommendation:

Approve Resolution 2013-09 and Release Agreement

Committee Recommendation: N/A

Attachments:

Resolution 2013-09
Release Agreement

Projector needed for this item?

No

RESOLUTION NO. 2013-09

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN AGREEMENT BETWEEN BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND GREAT SOUTHERN BANK, REGARDING THE INSTALLATION OF A SEWER SYSTEM AT 15395 BRIAR ROAD, BASEHOR, LEAVENWORTH COUNTY, KANSAS.

WHEREAS, the City of Basehor, Kansas wishes to enter into the Release Agreement, 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 Release Agreement with Great Southern Bank, attached as **Exhibit A**.

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

PASSED by the Governing Body this __ day of May, 2013.

APPROVED by the Mayor this __ day of May, 2013.

[SEAL]

David K. Breuer, Mayor

ATTEST:

Corey Swisher, City Clerk

APPROVED AS TO FORM:

Shannon M. Marciano, City Attorney

Exhibit A
Release Agreement

To be attached.

RELEASE AGREEMENT

THIS RELEASE AGREEMENT ("Agreement") is executed by the City of Basehor, Kansas (the "City") and Great Southern Bank (the "Landowner") on the _____ day of _____, 2013.

1. **Background.** The Landowner owns the property located at 15395 Briar Road, in the Briarwood Estates Subdivision in Basehor, Kansas (the "Property"). The commercial building located on the Property houses two separate units. The Property was annexed to the City on February 19, 2013. Accordingly, any installations of new sewer systems must meet the city code.

As of the execution of this Agreement, the existing sewer system has failed, requiring the installation of a new sewer system. In order to meet the city code, there must be a sewer connection for each unit in the building. In addition, all other sewer system standards in the city code must be met in order for connection to be allowed to the City's sewer system.

2. **Agreement.** The Landowner acknowledges that the new sewer system must meet the city code in all respects, and that the City shall have no responsibility related to the installation of the new sewer system on the Property. In addition, the Landowner acknowledges that any maintenance, repair, or replacement obligations are its sole responsibility. The City acknowledges that once it is determined by the City that the sewer system standards contained in the city code are met, the Landowner will be allowed to connect to the City's sewer system.

3. **Release.** The Landowner, its successors and assigns, expressly release the City from any and all claims and demands of whatever nature, actions and causes of action whether known in law or in equity, damages, costs, fees, expenses, loss of service, compensation and suits of any kind, whether known or unknown, that exist as of this date from or on account of or in any way growing out of which may be traced either directly or indirectly to the installation, maintenance, repair or replacement of the new sewer system, including all claims raised or that could have been raised, and all claims arising from any alleged misrepresentations, acts of deceit or arising from any act, omission, matter, event or occurrence occurring at any time through the date of this Agreement.

4. **Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to its subject matter, and supersedes all other prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as contained in this Agreement. The express terms of this Agreement control and supersede any course of performance and usage of the trade inconsistent with any of its terms. This Agreement may not be modified or amended other than by agreement in writing and signature by the parties.

5. **Voluntary Agreement.** The parties acknowledge that they have read this Agreement, have had the opportunity to consult with their own attorneys prior to executing it, and that they

have fully understood this Agreement. This Agreement has been executed by persons having full power and authority to bind the named signatories.

6. **Agreement Running with the Land.** Each term, covenant, condition and agreement contained herein with respect to the Property shall be a burden on the Property and shall run with the land.

7. **Counterparts.** The parties acknowledge that this Agreement may be executed in two or more counterparts.

THE CITY OF BASEHOR, KANSAS

Mayor David K. Breuer

ATTEST

Corey Swisher, City Clerk

LANDOWNER

Great Southern Bank

By: _____

Date

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 3

Topic:

Meeting days, Ordinance 623

Action Requested:

Approve Ordinance 623 amending meeting days

Narrative:

Regular meetings are held on the 3rd Monday of each month. If the meeting date falls on a legal holiday or any other observed holiday the meeting will be held the following Monday. The amendment to Ordinance 609 will change stating that if the regular meeting falls on a legal holiday or any other observed holiday the regular meeting will be held the next day (Tuesday).

Presented by:

Lloyd Martley, Interim City Admin.

Administration Recommendation:

Approve amendment to Ordinance 609

Committee Recommendation: N/A

Attachments:

Amendment to Ordinance 609

Projector needed for this item?

No

ORDINANCE NO. 609

AN ORDINANCE AMENDING ARTICLE I, SECTION 1-203 OF THE BASEHOR CITY CODE BY CHANGING THE WORK SESSION SCHEDULE FOR THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS.

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

Section 1. Basehor City Code, Article 1, Section 1-203 shall be amended with the deletion of the stricken text, and the addition of the underlined text as follows:

SAME: MEETINGS (a) ~~Effective April 16, 2012,~~ Regular Meetings of the governing body of the City of Basehor shall be held on the 3rd Monday of each month at 7:00 P.M. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall meet the following Monday.

(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business as such subsequently time and place as the governing body shall determine in its motion to adjourn.

(d) ~~Effective April 16, 2012,~~ a Work Session of the governing body ~~of the City of Basehor~~ shall be held ~~on the first Monday~~ of each month. Public notice shall be given of the date, time and location of the Work Session.

Section 2. That all former ordinances or parts of ordinances conflicting with or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. That this Ordinance shall take effect and be in force from and after its passage, approval, and publication in the official City newspaper of the City of Basehor, Kansas, as provided by law.

Passed by the Governing Body of the City of Basehor this 16th day of April, 2012.

David Breuer, Mayor

Attest:

Corey Swisher, City Clerk

ORDINANCE NO. 623

AN ORDINANCE AMENDING ARTICLE I, SECTION 1-203 OF THE BASEHOR CITY CODE BY CHANGING THE MEETING SCHEDULE FOR THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASEHOR, KANSAS AS FOLLOWS:

Section 1. That the Basehor City Code, Article 1, Section 1-203 shall be amended with the deletion of the stricken text, and the addition of the underlined text as follows:

SAME: MEETINGS (a) Regular meetings of the governing body of the City of Basehor shall be held on the 3rd Monday of each month at 7 P.M. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall meet the ~~following Monday~~ Tuesday immediately following the regular meeting day, or the following Monday.

(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business as such subsequently time and place as the governing body shall determine in its motion to adjourn.

(d) A Work Session of the governing body shall be held each month. Public notice shall be given of the date, time and location of the Work Session.

Section 2. That all other ordinances or parts of ordinances in conflict with the provisions of this Ordinance shall be and are hereby repealed.

Section 3. That this ordinance shall take effect and be in force from an after its publication in the official city newspaper.

PASSED by the Governing Body this ___ day of May, 2013.

APPROVED by the Mayor this ___ day of May, 2013.

[SEAL]

David K. Breuer, Mayor

ATTEST:

Corey Swisher, City Clerk

APPROVED AS TO FORM:

Shannon M. Marcano, City Attorney

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 4

Topic:

Repeal Ordinance 545

Action Requested:

Approve Ordinance 624 repealing Ord. 545 that established a rate for payment in lieu of constructing sidewalks. Refund \$8,181.79 to the Basehor Library.

Narrative:

Ordinance 545 allowed property owners who have filed a development application with the city for property that is adjacent to non-curb and non-guttered street(s) to pay a fee in lieu of constructing sidewalks that otherwise would be required for the development with the understanding that the sidewalks would later be put in by the city using the money paid by the developers. The Basehor Library paid \$8,181.79 per Ord. 545 and the sidewalks were never put in.

Presented by:

Lloyd Martley, Interim City Admin.
Mitch Pleak, City Engineer

Administration Recommendation: Approve Ord. 624

Committee Recommendation: N/A

Attachments:

Ordinance 545
Ordinance 624

Projector needed for this item?

No

SCANNED

12-4-08

(First published in *Basehor Sentinel*, Nov. 26, 2008)

ORDINANCE NO. 545

AN ORDINANCE ESTABLISHING THE RATE FOR PAYMENTS IN LIEU OF CONSTRUCTION (PILOC) RELATING TO THE CONSTRUCTION OF SIDEWALKS ASSOCIATED WITH DEVELOPMENT APPROVALS ON PROPERTY ADJACENT TO NON-CURB AND NON-GUTTERED STREETS IN THE CITY OF BASEHOR.

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

- Section 1.** A. Property owners who have filed a development application with the city for property that is adjacent to non-curb and non-guttered street(s), may be eligible to pay a fee in lieu of construction of sidewalks that otherwise would be required for the development.
- B. Depending upon what approval is necessary for the particular development application made, the City Planning Commission or the City Governing Body shall determine whether the payment in lieu of construction is appropriate on a case-by-case basis during the development approval process.
- C. The determination as to whether the PILOC is appropriate shall include consideration of the following criteria:
1. If the street has curbs and gutters.
 2. If the street does not have curbs and gutters, consideration shall be given to the timeframe of a street improvement project being completed that will affect the location of the sidewalk.
 3. If the sidewalk would connect other segments or provide an important walking route between two points.
 4. Other factors that may be important due to the location of the property.
- Section 2.** The payment in lieu of construction (PILOC) is hereby established at a rate of \$4.60 per square foot of required sidewalk.

Section 3. This ordinance shall be in full force and effective from and after its passage, and publication in the official city newspaper.

PASSED and approved by the Governing Body of the City of Basehor, Kansas, this 17th day of November, 2008.



Mayor Chris Garcia

ATTEST:

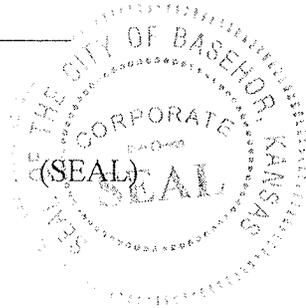


Mary A. Mogle, City Clerk

[APPROVED AS TO FORM ONLY.]



[City Attorney]



ORDINANCE NO. 624

AN ORDINANCE REPEALING IN ITS ENTIRETY ORDINANCE NO. 545, ENTITLED "AN ORDINANCE ESTABLISHING THE RATE FOR PAYMENTS IN LIEU OF CONSTRUCTION (PILOC) RELATING TO THE CONSTRUCTION OF SIDEWALKS ASSOCIATED WITH DEVELOPMENT APPROVALS ON PROPERTY ADJACENT TO NON-CURB AND NON-GUTTERED STREETS IN THE CITY OF BASEHOR".

WHEREAS, after due consideration, the City Council of the City of Basehor desires to repeal Ordinance 545, establishing Payments in Lieu of Construction of Sidewalks.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASEHOR, KANSAS AS FOLLOWS:

Section 1. That Ordinance 545, establishing Payments in Lieu of Construction of Sidewalks, be repealed in its entirety.

Section 2. That all other ordinances or parts of ordinances in conflict with the provisions of this Ordinance shall be and are hereby repealed.

Section 3. That this ordinance shall take effect and be in force from an after its publication in the official city newspaper.

PASSED by the Governing Body this ___ day of May, 2013.

APPROVED by the Mayor this ___ day of May, 2013.

[SEAL]

David K. Breuer, Mayor

ATTEST:

Corey Swisher, City Clerk

APPROVED AS TO FORM:

Shannon M. Marcano, City Attorney



1400 N. 158th Street • Basehor, KS 66007
Phone 913-724-2828 • Fax 913-724-2898

January 14, 2010

City of Basehor
P.O. Box 406
Basehor, KS 66007

Enclosed you will find our check number 14144 in the amount of \$8,181.79 for our payment-in-lieu of construction for the sidewalk along 158th Street. Please provide us with a confirmation of payment received and paid in full for our files.

If you have any questions or require additional information, please contact me at 913-724-2828 or by e-mail at ckaiser@basehorlibrary.org.

Thank you.

A handwritten signature in cursive script that reads "Carla Kaiser".

Carla Kaiser, Director
Basehor Community Library

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 5

Topic:

Wolf Creek Junction, City of Basehor and First State Bank Property Agreement

Action Requested:

Review and discuss property agreement

Narrative:

See agreement

Presented by:

Lloyd Martley, Interim City Admin

Administration Recommendation:

Approve agreement as written

Committee Recommendation:

N/A

Attachments:

Agreement
Resolution

Projector needed for this item?

No

RESOLUTION NO. 2013-10

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN AGREEMENT BETWEEN BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND FIRST STATE BANK & TRUST, REGARDING WOLF CREEK JUNCTION.

WHEREAS, the City of Basehor, Kansas wishes to enter into the Agreement Regarding Wolf Creek Junction with First State Bank & Trust, 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 Agreement Regarding Wolf Creek Junction with First State Bank & Trust, attached as **Exhibit A**.

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

PASSED by the Governing Body this __ day of May, 2013.

APPROVED by the Mayor this __ day of May, 2013.

[SEAL]

David K. Breuer, Mayor

ATTEST:

Corey Swisher, City Clerk

APPROVED AS TO FORM:

Shannon M. Marciano, City Attorney

Exhibit A
Agreement Regarding Wolf Creek Junction

To be attached.

AGREEMENT REGARDING WOLF CREEK JUNCTION
BETWEEN
CITY OF BASEHOR, KANSAS AND FIRST STATE BANK & TRUST

This Agreement Regarding Wolf Creek Junction is entered into by and between the City of Basehor, Kansas (the "City") and First State Bank & Trust (the "Bank") (the "Parties"), and dated and effective as of this _____ day of _____, 2013 (the "Effective Date").

WHEREAS, Wolf Creek Junction ("Wolf Creek") is a subdivision generally located at the intersection of U.S. Highway 24/40 and 153rd Street in the City, and was established for the development of a retail shopping center; and

WHEREAS the Wolf Creek Junction Transportation Development District was approved by the City on June 5, 2006 to finance transportation projects related to the development of a retail shopping center; and

WHEREAS, the following agreements were executed with respect to the development of a retail shopping center within Wolf Creek:

1. Cooperative Agreement Regarding Transportation Improvements at the Intersection of 150th Street and U.S. Highway 24/40- between the City and Basehor Properties- October 20, 2008 –attached as **Exhibit A**.
2. First Amendment to Cooperative Agreement Regarding Transportation Improvements at the Intersection of 150th Street and U.S. Highway 24/40- between the City and Basehor Properties- July 20, 2009- attached as **Exhibit B**.
3. Agreement Regarding Triangle Property- between Basehor Properties and First State Bank & Trust- August 25, 2010- attached as **Exhibit C**.

WHEREAS, the above agreements contemplated improvements related to the development of a retail shopping center within Wolf Creek, including the realignment of the existing 150th Street; and

WHEREAS, a certain property described in **Exhibit D** is known as the "Triangle Property", and was an integral part of the Cooperative Agreement and the First Amendment to the Cooperative Agreement and the realignment of the existing 150th Street; and

WHEREAS, the above agreements contained obligations relating to improvements related to the development of a retail shopping center within Wolf Creek for all parties to the above agreements; and

WHEREAS, the Parties to the above agreements wish to release the obligations included within the agreements and impose new obligations among and between themselves.

NOW, THEREFORE, in consideration of the foregoing and the agreements and covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. That the Bank assumes and agrees to perform all of the terms, covenants and conditions of the above agreements on the part of Basehor Properties therein required to be performed.
2. That the City agrees to deed the Triangle Property to Midamerican Investments, LLC, a subsidiary of the Bank, within 60 days of the approval and execution of this Agreement.
3. That the Bank will dedicate the right of way for the new 150th Street alignment to the City by deed, if and when it is determined by the Parties to be a desirable project.
4. That the Bank will cause the removal of any and all structures or other objects located within the right of way prior to acceptance of the dedication of right of way by the City.
4. That the City will not vacate the existing 150th Street right of way unless or until the new 150th Street alignment right of way is dedicated by the Bank, accepted by the City, and the new 150th Street is finalized, constructed and ready for traffic.
5. That the City will have no obligation to fund or construct the new 150th Street alignment.
6. That the Parties release each other from any and all other obligations owed to it under the above agreements, and the Parties for themselves, successors and assigns expressly release each other and each other's party successors and assigns who are or might be liable, none of whom admit any liability but expressly deny any liability whatsoever from any and all claims and demands of whatever nature, actions and causes of action whether known in law or in equity, damages, costs, fees, expenses, loss of service, compensation and suits of any kind, whether known or unknown, that exist as of this date from or on account of or in any way growing out of which may be traced either directly or indirectly to the provisions of or performance of this Agreement, including all claims raised or that could have been raised by either party, and all claims arising from any alleged misrepresentations, acts of deceit or arising from any act, omission, matter, event or occurrence occurring at any time through the date of this Agreement.
7. This Agreement shall be binding on and inure to the benefit of First State Bank & Trust and the City and all their successors and assigns.
8. This Agreement constitutes the entire agreement among the Parties with respect to the matters set forth herein, and all prior oral or written agreements with respect to the matters set forth herein are superseded by this Agreement.
9. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall be binding on any party executing the same, and all which together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be fully executed on the Effective Date and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

CITY OF BASEHOR, KANSAS

Mayor David Breuer

Attest:

Corey Swisher, City Clerk

FIRST STATE BANK & TRUST

By: _____

Name: _____

Title: _____

STATE OF KANSAS)
) ss.
COUNTY OF LEAVENWORTH)

On this _____ day of _____, 2013, before me, the undersigned Notary Public, in and for said state, personally appeared _____, the _____ of First State Bank & Trust, known to me to be the person described in and who executed the within document on behalf of said First State Bank & Trust, and acknowledged to me that HE/SHE acknowledged execution thereof to be on behalf of and the free act and deed of First State Bank & Trust.

Subscribed and sworn to me the day and year above written.

Notary Public

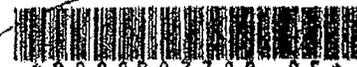
My commission expires:

EXHIBIT A

**Cooperative Agreement Regarding Transportation Improvements at the Intersection of
150th Street and U.S. Highway 24/40**



The City of Basehor



* 2 0 0 9 R 0 7 7 0 3 2 5 *

Doc #: 200907703

STACY B. DRISCOLL/REGISTER OF DEEDS
LEAVENWORTH COUNTY

RECORDED ON
07/22/2009 03:50PM

RECORDING FEE: 104.00

INDEBTEDNESS: 0.00

PAGES: 25

CERTIFICATION

I, Mary A. Mogle, City Clerk for the City of Basehor, Kansas, do hereby certify that attached Cooperative Agreement Regarding Transportation Improvements At the Intersection of 150th Street and U.S. Highway 24/40 between the city of Basehor and Basehor Properties, L.L. C is a true and foregoing original document to the best of my knowledge.

IN WITNESS WHEREOF I have here unto set my hand and the official seal of said city this 21st day of July, 2009.

"6"
e/c
34
50



Mary A. Mogle
Mary A. Mogle, City Clerk

2620 N. 155th Street
P.O. Box 406
Basehor, KS 66007-0406

913.724.1370
FAX 913.724.3388
www.cityofbasehor.org

**COOPERATIVE AGREEMENT
REGARDING TRANSPORTATION IMPROVEMENTS
AT THE INTERSECTION OF 150TH STREET AND U.S. HIGHWAY 24/40**

By and Between

THE CITY OF BASEHOR, KANSAS

and

BASEHOR PROPERTIES, L.L.C.

Dated October 20, 2008

Execution Copy

**COOPERATIVE AGREEMENT
REGARDING TRANSPORTATION IMPROVEMENTS
AT THE INTERSECTION OF 150TH STREET AND U.S. HIGHWAY 24/40**

This Agreement is entered into by and between the CITY OF BASEHOR, KANSAS, a municipal corporation (the "City") and BASEHOR PROPERTIES, L.L.C., a Kansas limited liability company (the "Property Owner") (collectively referred to as the "Parties") and is dated and effective as of the date executed by both parties. In consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

Section 1. Purpose.

The purpose of this Agreement is to outline the rights and obligations of the City and the Property Owner regarding land acquisition and preliminary engineering costs related to the reconstruction of the north portion of 150th Street at its intersection with U.S. Highway 24/40 ("Hwy 24/40") in Basehor, Kansas. It is the intent of the Parties to work together to realign that portion of 150th Street immediately north of its intersection with Hwy 24/40 to a four way intersection design and at the newly constructed intersection (the "Project").

Section 2. The Parties.

(A) The City is a municipal corporation and a city of the third class under the laws of the state of Kansas (the "State"), exercising governmental powers and organized and existing pursuant to K.S.A. 15-101 *et seq.*, and is acting herein according to the authority granted by Article 12, §5 of the Constitution of the State (the "Act") and local implementing legislation. The principal office and mailing address of the City is: 2620 North 155th Street, Basehor, Kansas 66007, Attention: Carl Slaugh, City Administrator. The City has the lawful power and authority to enter into this Agreement and to carry out its obligations under this Agreement. By proper action of its governing body, the City has been duly authorized to execute and deliver this Agreement.

(B) The Property Owner is a limited liability company duly organized and existing under the laws of the state of Kansas. Throughout the term of this Agreement, Property Owner agrees to maintain its status as a domestic corporation, in good standing and authorized to do business in the State. The principal office and mailing address of the Property Owner is: Basehor Properties L.L.C., P.O. Box 516, Basehor, Kansas 66007, Attention: Ed McIntosh, President. Property Owner has the lawful power and authority to enter into this Agreement. By proper action of its members, Property Owner has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized members and officers.

Section 3. 150th Street Right of Way.

(A) The Kansas Department of Transportation ("KDOT") and the City shall enter into an agreement with the City in substantially the form attached hereto as Exhibit A to this Agreement, ("City/KDOT Agreement") wherein KDOT commits to provide \$325,000 in funding for the acquisition and preliminary engineering costs for the Project. Said funding shall be allocated to the Project costs as follows:

Not to exceed \$122,000.00 for acquisition of right of way for the Project;

Execution Copy

1

Not to exceed \$ 78,000.00 for real estate commission fees, title and legal fees, filing fees, building demolition, tire disposal costs, additional site cleanup and delinquent real property taxes; and
Not to exceed \$125,000.00 for preliminary engineering for the Project.

- (B) Property Owner owns real property with frontage on Hwy 24/40 in the City (the "Property"). A certificate of survey of the Property is set forth on Exhibit B to this Agreement.
- (C) Property Owner controls a triangular piece of real property (the "Triangle") located due east of the Property, less the existing 150th Street right of way which crosses the northwest portion of the Triangle. The legal description of the Triangle property is set forth on Exhibit C of this Agreement.
- (D) Property Owner agrees to acquire the Triangle property with funds Property Owner receives from the City as earmarked from the funds received by the City pursuant to the City/KDOT Agreement and agrees to hold the Triangle property as acquired until such times as the necessary right of way is conveyed to the City under the terms of this Agreement. At such time as the Project is designed and the commitments to fund are in place, Property Owner will convey to City the right of way necessary for the realignment of that portion of 150th Street immediately north of Hwy 24/40 at no cost to the City.
- (E) Property Owner agrees to hold harmless, defend and indemnify the City, its agents and employees against and from all damages, expenses and costs incurred by any person for determining and undertaking remedial actions regarding any hazardous waste site which may be discovered on land to be conveyed to the City for the right of way of the newly aligned 150th Street.

It is specifically agreed between the Parties executing this Agreement that any provision of this hazardous waste clause is not intended to make the public, or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party of this Agreement to maintain a suit for personal injuries, property damages, or hazardous waste claims. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third Parties shall remain as imposed by law.

Property Owner, by signing this Agreement with City has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any hazardous waste on any right of way acquired by City. City reserves the right to bring any action against any third party for any hazardous waste site on any right of way, easements, and access rights acquired by City.

- (F) At completion of the construction of the Project, City agrees to implement proceedings to vacate the existing 150th Street right of way upon which the street is currently located with the intended result of the Property Owner acquiring the ownership of same via its ownership of the Triangle in which the existing 150th Street right of way traverses as required by law. The legal description of the original right of way conveyance from Alice Drysdale to the City is set forth in Exhibit D of this Agreement. In addition, the City agrees to implement proceedings to vacate the older existing 150th Street right of way which is located on the east boundary of the Triangle property with the intended

result of the Property Owner acquiring the ownership of 1/4 of said vacated right of way area via its ownership of the Triangle and as required by law.

Section 4. The Project

- (A) Property Owner further agrees to cause the demolition of any existing buildings on the Triangle, dispose of all tires located on the Triangle and any additional site cleanup, with funds Property Owner receives from the City as earmarked from the funds received by the City pursuant to the City/KDOT Agreement.
- (B) Property Owner agrees to cause the preparation of the preliminary design of the Project, with funds Property Owner receives from the City as earmarked from the funds received by the City pursuant to the City/KDOT Agreement
- (C) Parties agree that the Property Owner shall cause the construction of the Project.
- (D) In the event the negotiation of the terms for the commitment to fund the construction of the realigned 150th Street is not completed as evidenced by a State of Kansas approval of the City's application to the State Revolving Loan fund for the Project, all within ninety (90) days of the effective date of this Agreement, then Property Owner shall retain ownership of the entire Triangle and shall commence development of the Property as originally planned.

Section 5. Project Costs Payment Procedures.

- (A) The City agrees to pay to the Property Owner, or their agents or contractors the following Project costs in the not to exceed allocations:
 - (i) Not to exceed \$122,000.00 for acquisition of right of way for the Project;
 - (ii) Not to exceed \$ 78,000.00 for real estate commission fees, title and legal fees, filing fees, building demolition, tire disposal costs, additional site cleanup and delinquent real property taxes; and
 - (iii) Not to exceed \$125,000.00 for preliminary engineering for the Project.

(B) The Property Owner shall submit to the City Administrator an invoice signed by the Authorized Property Owner Representative, with supporting documentation identifying the Project Costs for which the Property Owner seeks payment. If applicable, the Property Owner shall provide evidence that no liens exist nor are likely with respect to any construction related costs for which payment is sought, and such other documentation as the City shall reasonably request.

The invoice shall contain a certification by the Authorized Property Owner Representative that the costs submitted for reimbursement are for Project Costs under this Agreement, that such expense has been incurred by the Property Owner, and that such expense has not been previously paid.

For purposes of this Agreement, the term "Authorized Property Owner Representative" shall mean such person as is designated to act on behalf of the Property Owner as evidenced by written certificate furnished to the City, containing the specimen signature of such person and signed on behalf of the Property Owner by its President or any Vice President. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Property Owner Representative.

(C) The City Administrator shall determine whether the cost submitted is for a Project Cost within twenty (20) business days of the date the invoice is submitted by the Property Owner. If the City Administrator determines that such cost is not for a Project Cost under this Agreement, the City Administrator shall notify the Property Owner of such determination in writing. The Property Owner may appeal such denial of payment to the Governing Body by filing with the City Clerk, within seven (7) business days of the receipt of the written denial, a written request to be heard by the Governing Body. The Governing Body shall determine any such request in its sole discretion.

(D) The requested payment shall be made to the Property Owner, its agents or contractors within fifteen (15) days of the approval by the City Administrator or the Governing Body, if required.

Section 6. Default and Remedies.

(A) The failure or delay by either of the Parties to this Agreement to perform any term or provision of this Agreement required of such party, shall be a default under this Agreement, subject to rights of cure and Permitted Delays, as specified below.

(B) Any party to this Agreement claiming a default (the "Claimant") shall give written notice of such claimed default to the other party, describing such default. Such notices shall be given at the addresses of the Parties stated in Section 2 of this Agreement.

(C) A Claimant shall not institute legal proceedings against the other party nor be entitled to damages if, within 14 days from the receipt of a notice of claimed default, the other party undertakes acts to cure, correct or remedy such claimed default, proceeds with due diligence to complete such cure, correction or remedy and such cure correction or remedy is completed within thirty days of the date such party received a notice of default, provided, however, if such default requires more than 30 days to correct, the nonperforming party shall not be deemed in default hereunder if such party commences curing the default within 14 days after receipt of written notice thereof and diligently prosecutes the cure to completion.

Section 7. Governing Law, Jurisdiction.

(A) This Agreement shall be governed by, interpreted and enforced pursuant to the laws of the state of Kansas.

(B) The Parties agree that any legal actions arising out of this Agreement will be instituted in the District Court of Leavenworth County, Kansas or, in the case of federal jurisdiction, in the Federal District Court of the District of Kansas.

Section 8. Rights and Remedies Cumulative, Waivers.

Except as otherwise expressly provided in this Agreement, the rights and remedies of the Parties shall be cumulative, and the exercise by one party of one or more such rights shall not preclude the exercise by it, at the same or different times, of any other rights or remedies specified herein. Any failure or delay by either party in asserting any of its rights and remedies as to any default hereunder shall not operate as a waiver of such default or of any rights or remedies specified hereunder, or deprive either party of its right to assert and enforce any such right or remedy.

Section 9. Amendments.

The Property Owner and the City agree to cooperate and consider reasonable requests for amendments to this Agreement, provided that, any such amendments must be approved by the Governing Body and the Property Owner, shall be in writing, and shall not substantially alter the basic business terms of this Agreement.

Section 10. Notices, Demands, Communications Among Parties.

Written notices, demands and other communications between the City and Property Owner shall be deemed delivered under this Agreement if given by personal service, registered or certified mail, postage prepaid and return receipt requested, or by overnight courier, to the principal offices of the City and the Property Owner set forth in Section 2 of this Agreement.

Section 11. Entire Agreement.

This Agreement is executed in duplicate originals, each of which shall be considered an original. This Agreement includes pages 1 through 5, and Exhibits A, B, and C which constitutes the entire agreement and understanding of the Parties.

This Agreement supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all of any part of the subject matter of this Agreement.

Section 12. Severability.

The invalidity or inability to enforce any one or more phrases, sentences, clauses or sections of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement.

Section 13. No Liability of City Officials or Employees.

All liabilities under this Agreement on the part of the City are solely corporate liabilities of the City, and, no officer, employee, or agent of the City shall have any personal or individual liability under this Agreement for anything done or omitted to be done by the City hereunder.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be fully executed on October 20, 2008 and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.



CITY OF BASEHOR, KANSAS

Chris K... ..

Mayor

Attest:

Erin J.

City Clerk

BASEHOR PROPERTIES, L.L.C.

Ed McIntosh

By: Ed McIntosh
Title: *Managing Member*

Attest:

Lisa K. Stoneking

By: LISA K. STONEKING
Notary Public - State of Kansas
My Appl. Expires *4/13/2010*

EXHIBIT A

**PRELIMINARY DESIGN AND ACQUISITION AGREEMENT
BY AND BETWEEN THE CITY OF BASEHOR, KANSAS
AND
THE KANSAS DEPARTMENT OF TRANSPORTATION**

Execution Copy

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Agreement No. _____

PROJECT NO. _____

PRELIMINARY DESIGN AND ACQUISITION AGREEMENT

CITY OF BASEHOR, KANSAS

A G R E E M E N T

PARTIES: Debra L. Miller, Secretary of Transportation, Kansas Department of Transportation (KDOT), hereinafter referred to as the "Secretary;" and

City of Basehor, Kansas, hereinafter referred to as the "City;"

Collectively referred to as the "Parties."

PURPOSE: Secretary has authorized a National Highway System design and city street right of way project, hereinafter referred to as the "Project." Secretary and City are empowered by the laws of Kansas to enter into agreements for the design and acquisition of city streets in the City utilizing state funds. City desires to design the Project and acquire property for the Project north of the intersection of US-24/40 and 150th Street.

PROJECT: Secretary and City desire to enter into this Agreement for the preliminary engineering and property acquisition of the Project within the City, and City assumes sponsorship of the Project, which is described as follows:

Preliminary design and right of way acquisition for the straightening of 150th Street north of its intersection with US-24/40.

EFFECTIVE

DATE: The Parties, in consideration of the premises and to secure the approval and construction of the Project, shall mutually agree to perform in accordance with this Agreement on October 20, 2008.

ARTICLE I

SECRETARY AGREES:

1. To provide technical information upon request to City or City's consultant in accordance with the laws and procedures established by KDOT.
2. To provide technical information upon request to help the City acquire right of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT such that City may obtain participation of State funds in the cost of the Project.

Agreement No. _____

3. To reimburse City for the actual costs of preliminary engineering and right of way acquisition, but not to exceed a maximum reimbursement of \$325,000, broken down as follows:

- a) Right of Way Acquisition: reimbursement for actual acquisition of right of way shall not exceed \$122,000; additional right of way expenditures not related to the purchase price shall not exceed \$78,000; and
- b) Preliminary Engineering: reimbursement shall not exceed \$125,000.

Secretary shall not be responsible for any design plan and acquisition costs exceeding the above identified reimbursement limits. Secretary agrees to make partial payments to City for amounts not less than \$1,000 and no more frequently than monthly. Such payments will be made after receipt of proper billing and approval by a licensed professional engineer employed by City. Secretary shall not be responsible for the total actual costs of construction, utility adjustments, and construction engineering for the Project.

4. Funding for this Project will remain available until the last day of State Fiscal Year 2009 (June 30, 2009). If a Notice to Proceed for the Project has not been issued by June 1, 2009 with a projected completion date before July 1, 2010, then City may request Secretary's approval of another eligible project within City, provided said request is submitted in writing to Secretary by June 1, 2009. Requests for extension of said dates must also be in writing and approved by Secretary. If a Notice to Proceed has not been issued by June 1, 2009 with a projected completion date before July 1, 2010 or a request for another eligible project has not been made, Secretary may allocate the funds to any project throughout the state that she sees fit.

ARTICLE II

THE CITY AGREES:

1. To make or contract to have made design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. City agrees to furnish Secretary one (1) final set of plans for his or her records.

2. To design the Project or contract to have the Project designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Project Development Manual for Non-National Highway System Local Government Road and Street Projects, Volumes I and II, Bureau of Local Project's (BLP) project memorandums, memos, the current KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the City's approved Project Development Procedures for Non-NHS Projects/Project Procedures Manual, the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and with any necessary Project Special Provisions, and A Policy on Geometric Design of Highways and Streets of the American Association of State Highway

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and Transportation Officials Policy, the KDOT Corridor Management Policy, and the latest version, as adopted by the Secretary, of the Manual on Unified Traffic Control Devices (MUTCD), as applicable.

3. Upon completion thereof, the design plans, specifications, estimates, surveys, and any necessary studies or investigations, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project shall be submitted to Secretary by a licensed professional engineer attesting to the conformity of the design plans with the items in paragraph 2 above. Contracts between City and any consultant retained by them to perform any of the services described or referenced in this paragraph for the Project covered by this Agreement shall contain language requiring conformity with paragraph 2 above.

4. City and any consultant retained by City shall have the sole responsibility for the adequacy and accuracy of design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Any review of these items performed by Secretary or his or her representatives is not intended to and shall not be construed to be an undertaking of City's and its consultant's duty to provide adequate and accurate design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project. Such reviews are not done for the benefit of the consultant, the construction contractor, City, or other political subdivision, nor the traveling public. Secretary makes no representation, express or implied warranty to any person or entity concerning the adequacy or accuracy of the design plans, specifications, estimates, and necessary surveys, investigations or studies, including, but not limited to, environmental, hydraulic, and geological investigations or studies for the Project, or any other work performed by the consultant or City.

5. A duly appointed representative of City is authorized to sign for City any or all routine reports as may be required or requested by Secretary in the completion of the Project undertaken under this Agreement. The design plans must be signed and sealed by the licensed professional engineer responsible for preparation of the design plans. Geological investigations or studies must be signed and sealed by either a licensed geologist or licensed professional engineer in accordance with K.S.A. 74-7042, who is responsible for the preparation of the geological investigations or studies. Right of way descriptions must be signed and sealed by a licensed land surveyor responsible for the preparation of the right of way descriptions.

6. It will, in its own name as provided by law, acquire by purchase, dedication or condemnation all of the right of way, easements and access rights shown on the final design plans in accordance with the schedule established by KDOT. City agrees the necessary right of way, easements, and access rights shall be acquired in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and administrative regulations contained in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. City shall certify to the Secretary, on forms provided by the Bureau of Local Projects, that such right of way,

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easements and access rights have been acquired. City further agrees they will have recorded in the Office of the Register of Deeds all right of way deeds, dedications, permanent easements and temporary easements.

7. To contact Secretary if there will be any displaced persons on the Project prior to making the offer for the property. The Parties mutually agree Secretary will provide relocation assistance for eligible persons as defined in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987, and as provided in 49 C.F.R. pt. 24, entitled Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs, and in general accordance with K.S.A. 58-3501 to 58-3507, inclusive and Kansas Administrative Regulations 36-16-1 *et seq.*

8. To provide all legal descriptions required for right of way acquisition work. City further agrees to acquire right of way in accordance with the laws and with procedures established by the Bureau of Right of Way and the Office of Chief Counsel of KDOT. City agrees that copies of all documents including recommendations and coordination for appeal, bills, contracts, journal entries, case files or documentation requested by the Office of Chief Counsel will be sent to the Office of Chief Counsel within the time limits set by Secretary.

9. If federal funds are used in the acquisition of the right of way, any disposal of or change in the use of right of way or in the access after Project construction will require prior written approval by Secretary.

10. To the extent permitted by law and subject to the maximum liability provisions of the Kansas Tort Claims Act, City will defend, indemnify, hold harmless, and save Secretary and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever arising out of or in connection with the provisions or performance of this Agreement by City, City's employees, agents, or subcontractors. City shall not be required to defend, indemnify, hold harmless, and save Secretary for negligent acts or omissions of Secretary or his or her authorized representatives or employees.

11. To require the consultant to indemnify, hold harmless, and save Secretary and City from personal injury and property damage claims arising out of the act or omission of the contractor, the contractor's agent, subcontractors (at any tier), or suppliers (at any tier). If Secretary or City defends a third party's claim, the contractor shall indemnify Secretary and City for damages paid to the third party and all related expenses that either Secretary or City or both incur in defending the claim.

12. To be responsible for zero percent (0%) of the total actual costs of right of way up to \$200,000 and zero percent (0%) of the total actual costs of preliminary engineering up to \$125,000. In addition, City agrees to be responsible for one hundred percent (100%) of the total actual costs right of way acquisition exceeding \$200,000 and one hundred percent of the total actual costs of preliminary engineering exceeding \$125,000. City further agrees to be responsible for one hundred percent (100%) of the total actual costs for preliminary engineering, utility adjustments, and construction engineering for the Project.

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13. To be responsible for one hundred percent (100%) of any Project costs incurred by City for the Project prior to the funding for the Project being authorized, obligated, and approved by Secretary.

14. To adopt an ordinance requiring the removal of all encroachments either on or above the limits of the right of way shown on the final design plans for this Project, and it will initiate and proceed with diligence to remove or require the removal of the encroachments. It is further agreed that all such encroachments be removed before the Project is advertised for letting (provided, however, if Secretary is satisfied, with respect to any encroachment, that the physical removal thereof has been fully provided for between City and the owner thereof and will be accomplished within a time sufficiently short to present no hindrance or delay to the construction of the Project, Secretary may cause the Project to be advertised for letting before such encroachment is fully removed). City further agrees it will not in the future permit the erection of gas and fuel dispensing pumps upon the right of way of the Project and will require that any gas and fuel dispensing pumps erected, moved or installed along the Project be placed no less than twelve (12) feet back of the right of way line. All right of way provided for the Project shall be used solely for public street purposes and no signs, posters, billboards, roadside stands, fences, structures or other private installations shall be permitted within the right of way limits except as provided by state and federal laws.

15. To adopt all necessary ordinances and/or resolutions and to take such legal steps as may be required to give full effect to the terms of this Agreement.

16. To locate and be responsible for all costs necessary to remedy or clean up any hazardous waste site, including, but not limited to, leaking underground storage tanks discovered on right of way, easements and access rights acquired by City. City shall be responsible to Secretary for all damages, fines or penalties, expenses, claims and costs incurred by Secretary from any hazardous waste site discovered on right of way, easements and access rights acquired by City prior to commencement of construction of the Project. City shall take appropriate action to contain or remediate any identified hazardous waste site within the Project limits prior to letting of the Project. City will investigate any and all hazardous waste sites discovered during construction of the Project on City owned land within the Project boundary and shall take appropriate action to contain or remediate such hazardous waste sites.

For any hazardous waste site, including, but not limited to, leaking underground storage tanks, City shall hold harmless, defend and indemnify Secretary, its agents and employees against and from all damages, expenses and costs incurred by any person, the State of Kansas, or the United States Government for determining and undertaking remedial action, any fines or penalties assessed under state or federal laws, contract claims, personal injury claims, and damage of or loss of natural resources.

It is specifically agreed between the Parties executing this Agreement that any provision of this hazardous waste clause is not intended to make the public, or any member

Agreement No. _____

thereof, a third party beneficiary hereunder, or to authorize anyone not a party of this Agreement to maintain a suit for personal injuries, property damages, or hazardous waste claims. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third Parties shall remain as imposed by law.

City, by signing this Agreement with Secretary has not repudiated, abandoned, surrendered, waived or forfeited its right to bring any action, seek indemnification or seek any other form of recovery or remedy against any third party responsible for any hazardous waste on any right of way, easements, and access rights acquired by City. City reserves the right to bring any action against any third party for any hazardous waste site on any right of way, easements, and access rights acquired by City.

The term hazardous waste includes, but is not limited to, any substance which meets the test of hazardous waste characteristics by exhibiting flammability, corrosivity, or reactivity, or which is defined by state and federal laws and regulations, and any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Any hazardous waste as defined by state and federal laws and regulations and amendments occurring after November 11, 1991, are incorporated by reference and include but not limited to: (1) 40 C.F.R. § 261 *et seq.*, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristics Revisions; Final Rule; (2) 40 C.F.R. § 280 *et seq.*, Underground Storage Tanks; Technical Requirements and State Program Approval; Final Rules; (3) 40 C.F.R. § 300, National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule; and (4) K.S.A. 1990 Supp. 65-3431 *et seq.*, Hazardous Waste.

The standards to establish cleanup of a hazardous waste site include, but is not limited to, federal programs administered by the E.P.A., State of Kansas environmental laws and regulations, and City and County standards where the hazardous waste site is located.

17. To participate and cooperate with the Secretary in an annual audit of the Project. City shall make its records and books available to representatives of the Secretary and/or the Federal Highway Administration for audit for a period of five (5) years after date of final payment under this Agreement. If any such audits reveal payments have been made with federal funds by City for items considered non-participating, City shall promptly reimburse Secretary for such items upon notification by Secretary.

18. To provide Secretary an accounting of all actual non-participating costs which are paid directly by City to any party outside of KDOT and all costs incurred by City not to be reimbursed by KDOT for preliminary engineering, right of way, utility adjustments, construction, and construction engineering work phases, or any other major expense associated with the Project. This will enable Secretary to report all costs of the Project to the legislature.

19. If it cancels the Project, it will reimburse Secretary for any costs incurred by the Secretary prior to the cancellation of the Project. City agrees to reimburse Secretary within thirty (30) days after receipt by the City of the Secretary's statement of the costs incurred by Secretary prior to the cancellation of the Project.

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20. To issue a Notice to Proceed for the Project by June 1, 2009 with a projected completion date before July 1, 2010. City may request Secretary's approval of another eligible project within City, provided said request is submitted in writing to Secretary by June 1, 2009. Requests for extension of said dates must also be in writing and approved by Secretary. City further agrees that if a Notice to Proceed has not been issued by June 1, 2009 with a projected completion date before July 1, 2010 or a request for another eligible project has not been made by City, Secretary may allocate the funds to any project throughout the state that she sees fit.

ARTICLE III

THE PARTIES MUTUALLY AGREE:

1. The final design plans for the Project are by reference made a part of this Agreement.
2. If any items are found to be non-participating by Secretary, acting on his or her own behalf or on behalf of the Federal Highway Administration, the total cost of these items will be paid for by City.
3. Representatives of Secretary may make periodic inspection of the Project and the records of City as may be deemed necessary or desirable. City will direct or cause its contractor to accomplish any corrective action or work required by Secretary's representative as needed for a determination of federal participation. Secretary does not undertake (for the benefit of City, the contractor, the consultant, or any third party) the duty to perform the day-to-day detailed inspection of the Project, or to catch the contractor's errors, omissions, or deviations from the final design plans and specifications.
4. It is the policy of Secretary to make final payments to City in a timely manner. The Single Audit Standards set forth in federal O.M.B. Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" require the City to comply in accordance with those standards.

Secretary may pay the final amount due for authorized work performed based upon City's most recent "Single Audit Report" available and a desk review of the claim by the Contract Audit Section of the Bureau of Fiscal Services. City, by acceptance of this Agreement, acknowledges the final payment is subject to all single audits which cover the time period of the expenses being claimed for reimbursement. Secretary and City agree as the "Single Audit Report" becomes available for the reimbursement period, Secretary will review the "Single Audit Report" for items which are declared as not eligible for reimbursement. City agrees if payment has been made to City for items subsequently found to be not eligible for reimbursement by audit, City will refund to Secretary the total amount of monies paid for same.

City agrees to comply with all appropriate state and federal laws and regulations for this Project.

Agreement No. _____

5. The Special Attachment No. 1 attached hereto, pertaining to the implementation of the Civil Rights Act of 1964, is hereby made a part of this Agreement.

6. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon Secretary, City, and their successors in office.

7. No third party beneficiaries are intended to be created by this Agreement, nor do the Parties herein authorize anyone not a Party to this Agreement to maintain a suit for damages pursuant to the terms of provisions of this Agreement.

8. The Provisions found in Contractual Provisions Attachment (Form DA-146a) which is attached hereto, are hereby incorporated in this contract and made a part thereof.

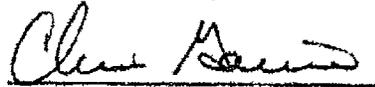
9. Funding for this project will remain available until the last day of State Fiscal Year 2009 (June 30, 2009). If a Notice to Proceed for the Project has not been issued by June 1, 2009 with a projected completion date before July 1, 2010, then City may request Secretary's approval of another eligible project within City, provided said request is submitted in writing to Secretary by June 1, 2009. Requests for extension of said dates must also be in writing and approved by Secretary. If a Notice to Proceed has not been issued by June 1, 2009 with a projected completion date before July 1, 2010 or a request for another eligible project has not been made, Secretary may allocate the funds to any project throughout the state that she sees fit.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above written.

ATTEST:


CITY CLERK

CITY OF BASEHOR, KANSAS

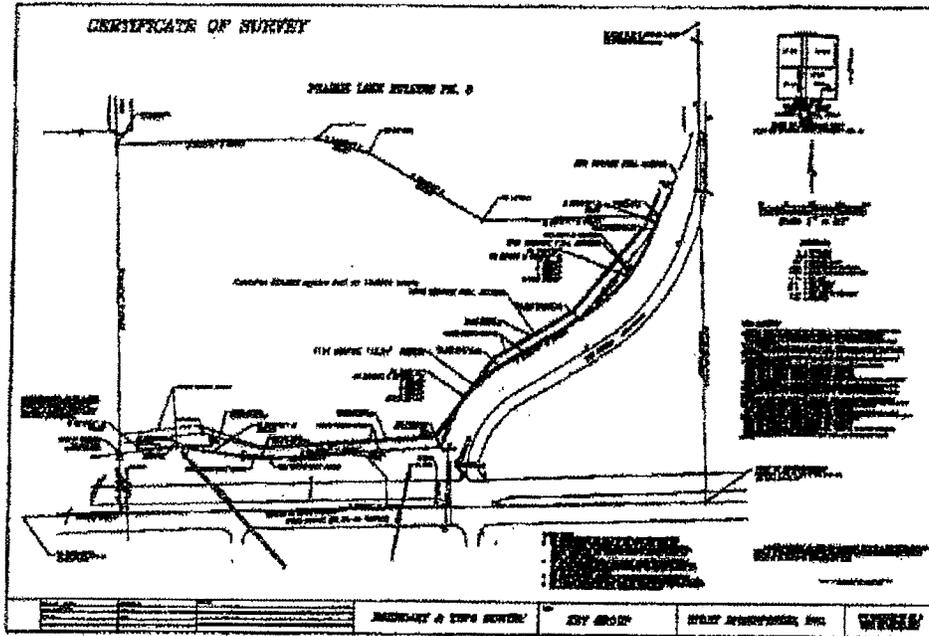

MAYOR



Kansas Dept of Transportation
Debra L. Miller, Secretary of Transportation

BY: _____
Jerome T. Younger, P.E.
Deputy Secretary for Engineering and
State Transportation Engineer

EXHIBIT B
PROPERTY LEGAL DESCRIPTION



Execution Copy

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Exhibit C

TRIANGLE LEGAL DESCRIPTION

A tract of land in the Southeast $\frac{1}{4}$ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., described as follows:
 Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southeast corner of the Southeast $\frac{1}{4}$ of said Section 2; thence South 86 degrees 33' 25" West 301.05 feet; thence South 86 degrees 00' 10" West 133.70 feet; thence North 59 degrees 35' 42" East 261.97 feet; thence on a curve of 555.00 feet radius to the left, an arc distance of 283.79 feet with a chord which bears North 44 degrees 56' 59" East 280.71 feet to a point on the East line of the Southeast $\frac{1}{4}$ of said Section 2, 459.97 feet North of the Southeast corner of said Southeast $\frac{1}{4}$; thence South 01 degree 50' 14" East, 314.75 feet to the point of beginning.

AND ALSO

A tract of land in the Southwest $\frac{1}{4}$ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., described as follows:
 Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southwest corner of the Southwest $\frac{1}{4}$ of said Section 1; thence North 88 degrees 23' 23" East 290.13 feet to the Westerly right of way line of a public road; thence North 40 degrees 22' 56" West along the Westerly right of way line of said public road to a point on the West line of said Section 1, 457.75 feet North of the Southwest corner of said Southwest $\frac{1}{4}$; thence South 00 degrees 12' 32" West along said West line, 312.53 feet to the point of beginning.

ALSO DESCRIBED AS:

All that part of the Southeast $\frac{1}{4}$ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, West of the East line of said Southeast $\frac{1}{4}$ and Southeast of the existing 150th Street

AND

All that part of the Southwest $\frac{1}{4}$ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, East of the West line of said Southwest $\frac{1}{4}$ and Southwest of the dedicated public road running diagonally in the Southwest corner of the Southwest $\frac{1}{4}$ of said Section 1.

Exhibit D**LEGAL DESCRIPTION OF DRYSDALE CONVEYANCE OF RIGHT OF WAY
FOR 150TH STREET (LESS ACCESS RIGHTS)**

A tract of land in the East Half of the Southeast Quarter of Section 2, Township 11 South, Range 22 East of the 6th P.M., Leavenworth County, Kansas, described as follows:

BEGINNING at the Southwest corner of said East Half; FIRST COURSE, thence on an assumed bearing of North 88 degrees 29 minutes, 24 seconds East, 1318.36 feet along the South line of said East Half to the East line of said East half: SECOND COURSE, thence North 01 degree 50 minutes 14 seconds West 145.22 feet along said East line: THIRD COURSE, thence South 88 degrees 33 minutes 25 seconds West, 301.05 feet: FOURTH COURSE, thence South 86 degrees 06 minutes 10 seconds West, 133.70 feet; FIFTH COURSE, thence North 59 degrees 35 minutes 42 seconds EAST, 261.97 feet: SIXTH COURSE, thence on a curve of 555.00 feet radius to the left, and arc distance of 283.79 feet with a chord which bears North 44 degrees 56 minutes 59 seconds East, 280.71 feet to a point on the East line of said East Half, 459.97 feet North of the Southeast corner of said East Half: SEVENTH COURSE, thence North 01 degree 50 minutes 14 seconds West 369.72 feet along said East line: EIGHTH COURSE, thence South 23 degrees 04 minutes 24 seconds West, 255.12 feet: NINTH COURSE, thence on a curve of 395.00 feet radius on the right, an arc distance of 262.18 feet with a chord which bears South 40 degrees 35 minutes 01 second West, 257.39 feet: TENTH COURSE, thence South 59 degrees 35 minutes 54 seconds West 204.55 feet: ELEVENTH COURSE, thence on a curve of 200.00 feet radius to the left, an arc distance of 227.34 feet with a chord which bears South 36 degrees 20 minutes 18 seconds West, 221.15 feet: TWELFTH COURSE, thence South 86 degrees 06 minutes 10 seconds West, 404.07 feet: THIRTEENTH COURSE, thence North 82 degrees 54 minutes 44 seconds West, 202.24 feet: FOURTEENTH COURSE, thence South 82 degrees 50 minutes 47 seconds West, 118.10 feet to a point on the West line of said East Half, 135.01 feet North of the point of beginning: FIFTEENTH COURSE, thence South 01 degree 57 minutes 09 seconds East, 135.01 feet along said West line to the point of beginning. The above contains 9.66 acres, more or less, exclusive of the existing highway.

Execution Copy

10

EXHIBIT B

**First Amendment to Cooperative Agreement Regarding Transportation Improvements at
the Intersection of 150th Street and U.S. Highway 24/40**



The City of Basehor

CERTIFICATION

I, Mary A. Mogle, City Clerk for the City of Basehor, Kansas, do hereby certify that attached First Amendment to Cooperative Agreement Regarding Transportation Improvements At the Intersection of 150th Street and U.S. Highway 24/40 between the city of Basehor and Basehor Properties, L.L. C is a true and foregoing original document to the best of my knowledge.

IN WITNESS WHEREOF I have here unto set my hand and the official seal of said city this 21st day of July, 2009.




 Mary A. Mogle, City Clerk

2620 N. 156th Street
 P.O. Box 406
 Basehor, KS 66007-0406

913.724.1370
 FAX 913.724.3388
www.cityofbasehor.org

ORIGINAL

**FIRST AMENDMENT TO COOPERATIVE AGREEMENT
REGARDING TRANSPORTATION IMPROVEMENTS
AT THE INTERSECTION OF 130TH STREET AND U.S. HIGHWAY 24/40**

By and Between

THE CITY OF BASEHOR, KANSAS

and

BASEHOR PROPERTIES, L.L.C.

Dated July 20, 2009

{31434 / 63393; 235388.}

**FIRST AMENDMENT TO COOPERATIVE AGREEMENT
REGARDING TRANSPORTATION IMPROVEMENTS
AT THE INTERSECTION OF 150TH STREET AND U.S. HIGHWAY 24/40**

THIS FIRST AMENDMENT TO COOPERATIVE AGREEMENT REGARDING TRANSPORTATION IMPROVEMENTS AT THE INTERSECTION OF 150TH STREET AND U.S. HIGHWAY 24/40 (the "Amendment") is entered into by and between the CITY OF BASEHOR, KANSAS, a municipal corporation (the "City") and BASEHOR PROPERTIES, L.L.C., a Kansas limited liability company (the "Property Holder") (collectively referred to as the "Parties") and is dated and effective as of this 20th day of July, 2009 (the "Effective Date").

WHEREAS, the City and Property Holder entered into that certain Cooperative Agreement Regarding Transportation Improvements at the Intersection of 150th Street and U.S. Highway 24/40 dated October 20, 2008 (the "Agreement") regarding the land acquisition and preliminary engineering costs related to the realignment of the north portion of 150th Street at its intersection with U.S. Highway 24/40 in Basehor, Kansas (the "Project"); and

WHEREAS, after execution of the Agreement by the Parties and payment by the City to Property Holder for right-of-way necessary for the Project ("the Right-of-Way"), KDOT informed the City that it could not reimburse the City for said payment unless and until the Right-of-Way was titled in the City's name; and

WHEREAS, the City is not comfortable making any payments to Property Holder under any agreement until Property Holder transfers title of the Right-of-Way, or the entire parcel of land that includes the Right-of-Way, to the City; and

WHEREAS, Property Holder is not comfortable transferring title to the Right-of-Way, or the entire parcel of land that includes the Right-of-Way, to the City without assurance from the City that the City intends to proceed with the Project.

NOW, THEREFORE, in consideration of the foregoing and the agreements and covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to the following amendment and clarification of the Agreement as follows:

1. New Section D of the Agreement:

(D)

Upon Property Holder's transfer to the City of title to the Right-of-Way, or transfer to the City of title to the entire parcel of land that includes the Right-of-Way, whichever Property Holder prefers, the City covenants that it shall take all reasonable efforts to cause the immediate approval and execution of KDOT Loan Agreement TRF 126, and that the Project shall be constructed by the City with the Project funds available to the City from KDOT through KDOT Loan Agreement TRF 126 (attached hereto as "Exhibit A"), as contemplated by Loan Agreement TRF 126 and the application for Loan TRF 126.

In addition, upon transfer of the title referred to in the preceding Paragraph, the City will consider and make payments for receipts and invoices submitted by Benchmark

{31454763393:335338:}

Management for reimbursement (for costs related to the construction of Wolf Creek Parkway), which consideration and payments shall be without any further delay and in accordance with the First Amendment to the Development Agreement Regarding Transportation Development District (attached hereto as "Exhibit C").

If the title to the entire parcel of land that includes the Right-of-Way is transferred to the City, at completion of the construction of the Project, City agrees to implement proceedings to deed the remainder of the entire parcel of land, exclusive of the Right-of-Way, back to Property Owner.

2. The capitalized terms in this Amendment, unless defined herein, shall have the meanings set forth in the Agreement.
3. The Agreement, as amended hereby, shall continue in full force and effect.
4. This Amendment shall be construed according to the laws of the State of Kansas.
5. This Amendment shall be binding upon and inure to the benefit of the Parties and their successors and assigns.
6. Each party hereby agrees to promptly take and perform such other actions and to execute and deliver such additional documents that any other party to this Amendment may at any time reasonably require in order to effectuate the intent of this Amendment and the terms and provisions hereof.
7. This Amendment constitutes the entire agreement among the parties with respect to the matters set forth herein, and all prior oral and written agreements with respect to the matters set forth herein are superseded by the terms of this Amendment.
8. This Amendment may be executed in counterparts, each of which shall be deemed an original and shall be binding upon any party executing the same and all of which together shall constitute one and the same document. A facsimile signature shall be considered as an original signature.

[Remainder of page intentionally left blank. Signature page follows.]

(31434 / 4339); 215388.1

IN WITNESS WHEREOF, the Parties have caused this Amendment to be fully executed on the Effective Date and represent that the individuals executing this Amendment on behalf of the Parties have the express authority to do so.

CITY OF BASEHOR, KANSAS

Terry Hill
Terry Hill, Mayor

Attest:

[Signature]
City Clerk



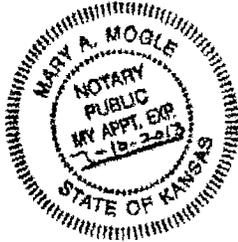
BASEHOR PROPERTIES, L.L.C.

[Signature]
By: Ed McIntosh
Title: Member

John & Beth
member

Attest:

[Signature]
By:
Title: Notary



(31434 / 63393, 233388, 1

EXHIBIT C

Agreement Regarding Triangle Property

AGREEMENT REGARDING TRIANGLE PROPERTY

This Agreement Regarding Triangle Property (the "Agreement") is entered into by and between First State Bank & Trust (the "Bank") and Basehor Properties, L.L.C., a Kansas limited liability company ("Basehor Properties"), John S. Bell, an individual, and Edward L. McIntosh, an individual (collectively referred to as the "Parties") and dated and effective as of this 25th day of August, 2010 (the "Effective Date").

WHEREAS the Bank and Basehor Properties are negotiating a settlement agreement regarding certain properties; and

WHEREAS one of those certain properties is described in the legal description attached as Exhibit A, and is known as the "Triangle Property"; and

WHEREAS the Triangle Property was an integral part of that certain Cooperative Agreement Regarding Transportation Improvements at the Intersection of 150th Street and U.S. Highway 24/40 (the "Cooperative Agreement"), attached as Exhibit B, and that certain First Amendment to Cooperative Agreement Regarding Transportation Improvements at the Intersection of 150th Street and U.S. Highway 24/40 (the "First Amendment"), attached as Exhibit C; and

WHEREAS in the Cooperative Agreement and the First Amendment, Basehor Properties agreed to deed the entire Triangle Property to the City of Basehor, Kansas (the "City"), and the City agreed to hold the entire Triangle Property until such time as the City determined the right of way required for the construction of the realignment of that portion of 150th Street immediately north of its intersection with Highway 24/40 to a four way intersection design at the newly constructed intersection (the "Project"), or the City determined it would not use the Kansas Department of Transportation ("KDOT") Loan TRF 126 revolving fund loan for the construction of the Project; and

WHEREAS according to the Cooperative Agreement and the First Amendment, when the City determined the right of way required for the construction of the Project, the City agreed to deed back the remainder of the Triangle Property to Basehor Properties; and

WHEREAS according to the Cooperative Agreement and the First Amendment, if the City determined it would not use KDOT Loan TRF 126 for the construction of the Project, the City agreed to deed the entire Triangle Property back to Basehor Properties; and

WHEREAS Basehor Properties deeded the Triangle Property to the City on July 20, 2009, which deed is attached as Exhibit D; and

WHEREAS First State Bank released the mortgage it held on the Triangle Property in order to facilitate the transfer of the Triangle Property on August 5, 2009; and

WHEREAS the City continues to hold title to the entire Triangle Property; and

WHEREAS as the City has determined that it will not use KDOT Loan TRF 126 for the construction of the Project, the City must deed the Triangle Property, or the remainder of the Triangle Property if right of way has been determined, back to Basehor Properties; and

WHEREAS Basehor Properties wishes to obtain title to the Triangle Property, or the remainder of the Triangle Property if right of way has been determined, back from the City and deed it to the Bank.

NOW, THEREFORE, in consideration of the foregoing and the agreements and covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Basehor Properties, John Bell and Ed McIntosh will use their best efforts to work with the Bank to obtain title to the Triangle Property, or the remainder of the Triangle Property if right of way has been determined, back from the City, and to ensure that the City follows through with its responsibilities under the Cooperative Agreement and the First Amendment.
2. Basehor Properties will deed the Triangle Property, or remainder of the Triangle Property if right of way has been determined, to the Bank's designee, Midamerican Investments, L.L.C., the real estate subsidiary of the Bank. Basehor Properties will execute such deed upon the execution of this Agreement, which shall be held in escrow until Basehor Properties obtains title to the Triangle Property.
3. Basehor Properties hereby assigns all rights and obligations in the Cooperative Agreement and the First Amendment to the Bank and to its appropriate subsidiaries. To the extent any rights and obligations related to the Triangle property and its eventual transfer to Midamerican Investments, L.L.C. fall outside of the purview of the Cooperative Agreement and the First Amendment, Basehor Properties hereby assigns their right and obligations to the Bank.
4. By executing this Agreement, the Bank hereby assumes and agrees to perform all of the terms, covenants and conditions of the Cooperative Agreement and the First Amendment on the part of Basehor Properties therein required to be performed.
5. Basehor Properties hereby agrees to indemnify and hold the Bank harmless from and against any loss that arises out of the Cooperative Agreement and First Amendment prior to the effective date of this Agreement. The Bank hereby agrees to indemnify and hold Basehor Properties harmless from any and all loss,

cost or expense resulting by reason of the Bank's failure to perform any of the obligations assumed by the Bank hereunder.

- 6. This Agreement shall be construed according to the laws of the State of Kansas.
- 7. This Agreement shall be binding upon and inure to the benefit of Basehor Properties and the Bank and their successors and assigns.
- 8. Each party hereby agrees to promptly take and perform such other actions and to execute and deliver such additional documents that any other party to this Agreement may at any time reasonably require in order to effectuate the intent of this Agreement and the terms and provisions hereof.
- 9. This Agreement constitutes the entire agreement among the parties with respect to the matters set forth herein, and all prior oral and written agreements with respect to the matters set forth herein are superseded by the terms of this Agreement.
- 10. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and shall be binding upon any party executing the same and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be fully executed on the Effective Date and represent that the individuals executing this Agreement on behalf of the Parties have the express authority to do so.

BASEHOR PROPERTIES, L.L.C.

John S. Bell

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

On this 14th day of September, 2010, before me, the undersigned Notary Public, in and for said state, personally appeared John S. Bell, President of Basehor Properties, a Limited Liability Company, known to me to be the person described in and who executed the within document in behalf of said Basehor Properties, L.L.C., and acknowledged to me that HE/SHE executed the same for the purposes therein stated, and HE/SHE acknowledged execution thereof to be on behalf of and the free act and deed of said Basehor Properties, L.L.C.

Subscribed and sworn to me the day and year above written.

Louise Hafits
Notary Public:



My commission expires:

FIRST STATE BANK & TRUST

David A. Hodac

STATE OF KANSAS)
COUNTY OF LV) ss.

On this 17th day of September, 2010, before me, the undersigned Notary Public, in and for said state, personally appeared David Hodac, FOUR of First State Bank & Trust, known to me to be the person described in and who executed the within document in behalf of said First State Bank & Trust, and acknowledged to me that HE/SHE executed the same for the purposes therein stated, and HE/SHE acknowledged execution thereof to be on behalf of and the free act and deed of said First State Bank & Trust.

Subscribed and sworn to me the day and year above written.

Notary Public:

Steven B. Brown

My commission expires:

NOTARY PUBLIC
my App. Exp. 8-31-2014

John Bell, an individual

John Bell

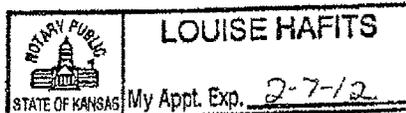
STATE OF Kansas)
) ss.
COUNTY OF Johnson)

On this 14th day of September, 2010, before me, the undersigned Notary Public, in and for said state, personally appeared John S. Bell, known to me to be the person who executed the within document and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and sworn to me the day and year above written.

Louise Hafits
Notary Public:

My commission expires:



Ed McIntosh, an individual

Ed McIntosh

STATE OF KS)
) ss.
COUNTY OF LV)

On this 17th day of Sept, 2010, before me, the undersigned Notary Public, in and for said state, personally appeared _____, known to me to be the person who executed the within document and acknowledged to me that he executed the same for the purposes therein stated.

Subscribed and sworn to me the day and year above written.

Steven R. Gumm
Notary Public:

My commission expires:

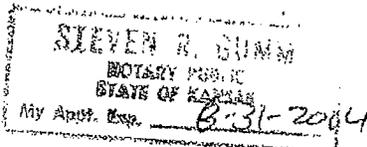


Exhibit A

TRIANGLE LEGAL DESCRIPTION

A tract of land in the Southeast ¼ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., described as follows:
Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southeast corner of the Southeast ¼ of said Section 2; thence South 83 degrees 33' 25" West 301.05 feet; thence South 36 degrees 06' 10" West 153.70 feet; thence North 59 degrees 35' 42" East 261.97 feet; thence on a curve of 585.00 feet radius to the left, an arc distance of 283.79 feet with a chord which bears North 44 degrees 56' 59" East 280.71 feet to a point on the East line of the Southeast ¼ of said Section 2, 459.97 feet North of the Southeast corner of said Southeast ¼; thence South 01 degree 50' 14" East, 314.75 feet to the point of beginning.

AND ALSO

A tract of land in the Southwest ¼ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., described as follows:
Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southwest corner of the Southwest ¼ of said Section 1; thence North 83 degrees 33' 25" East 290.13 feet to the Westerly right of way line of a public road; thence North 40 degrees 22' 36" West along the Westerly right of way line of said public road to a point on the West line of said Section 1, 437.75 feet North of the Southwest corner of said Southwest ¼; thence South 00 degrees 12' 32" West along said West line, 312.53 feet to the point of beginning.

ALSO DESCRIBED AS:

All that part of the Southeast ¼ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, West of the East line of said Southeast ¼ and Southeast of the existing 150' Eject

AND

All that part of the Southwest ¼ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, East of the West line of said Southwest ¼ and Southwest of the dedicated public road running diagonally in the Southwest corner of the Southwest ¼ of said Section 1.

EXHIBIT D

Legal Description of the Triangle Property

TRIANGLE LEGAL DESCRIPTION

A tract of land in the Southeast $\frac{1}{4}$ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., described as follows:

Beginning at a point North 01 degree 58' 14" West 145.22 feet from the Southeast corner of the Southeast $\frac{1}{4}$ of said Section 2; thence South 88 degrees 33' 25" West 301.05 feet; thence South 86 degrees 06' 10" West 133.70 feet; thence North 59 degrees 35' 42" East 261.97 feet; thence on a curve of 555.00 feet radius to the left, an arc distance of 223.79 feet with a chord which bears North 44 degrees 56' 59" East 280.71 feet to a point on the East line of the Southeast $\frac{1}{4}$ of said Section 2, 459.97 feet North of the Southeast corner of said Southeast $\frac{1}{4}$; thence South 01 degree 58' 14" East 314.75 feet to the point of beginning.

AND ALSO

A tract of land in the Southwest $\frac{1}{4}$ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., described as follows:

Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southwest corner of the Southwest $\frac{1}{4}$ of said Section 1; thence North 88 degrees 33' 25" East 290.13 feet to the Westerly right of way line of a public road; thence North 40 degrees 22' 56" West along the Westerly right of way line of said public road to a point on the West line of said Section 1, 457.75 feet North of the Southwest corner of said Southwest $\frac{1}{4}$; thence South 00 degrees 12' 32" West along said west line, 312.53 feet to the point of beginning.

ALSO DESCRIBED AS:

All that part of the Southeast $\frac{1}{4}$ of Section 2, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, West of the East line of said Southeast $\frac{1}{4}$ and Southeast of the existing 150th Street

AND

All that part of the Southwest $\frac{1}{4}$ of Section 1, Township 11 South, Range 22 East of the Sixth P.M., lying North of the existing Highway U.S. 24-40, East of the West line of said Southwest $\frac{1}{4}$ and Southwest of the dedicated public road running diagonally in the Southwest corner of the Southwest $\frac{1}{4}$ of said Section 1.

Execution Copy

9

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 6

Topic:

Leavenworth County Sewer District No. 3, Sewer Usage Rates

Action Requested:

Discuss wastewater treatment fees for S/D #3 that is outside our city limits and connected to our sewer system.

Narrative:

Councilman Miles made a motion in October 2011 which was never acted upon and subsequently was tabled for discussion at later meetings.

Presented by:

Lloyd Martley, Interim City Admin.

Administration Recommendation:

Determine how to proceed with the fees associated with S/D #3 being on our sewer system and outside of our city limits.

Committee Recommendation:

N/A

Attachments:

Memo
Ordinance 582

Projector needed for this item?

No

MEMO

Date: May 6, 2013

To: Governing Body

From: Lloyd Martley, Interim City Admin.

Ref: Leavenworth County Sewer District No. 3 Sewer Usage Rates

On April 27, 2011 the residents of Glenwood Estates (Sewer District No. 3) connected to our sewer system. Per Ordinance 582, Section 2 (b), the connection fees and monthly wastewater treatment fees for developments outside of the city shall be 150% of the established rates.

The residents of S/D #3 paid \$4,425 per sewer connection and a monthly sewer bill equal to 150% of the in city sewer rate per ordinance 582 requirements up to November 1, 2011. At that time the sewer rates were changed to the in-city rate.

On October 17, 2011 at a regular scheduled council meeting, agenda item 5, council was to consider the LCSD #3 annexation survey results and to determine what the sewer connection fees would be assessed. Councilman Miles made a motion to allow the residents of LCSD #3 to receive the in-city sewer usage rate beginning on November 1, 2011. Miles also included in the motion that the resident of LCSD #3 would receive the in-city connection fees of \$3,450 upon the successful annexation of the district. The difference (\$975.00) between the in-city and out-of-city connection fee would be realized in future property tax assessments. The motion passed unanimously 5-0. Council also directed staff to return in December 2011 with a summarized outline of the steps involved in the potential annexation of LCSD #3.

On December 19, 2011 at a regular scheduled council meeting, agenda item 7, the annexation outline was provided to council as requested. At that time council decided not to pursue annexing LCSD #3 and a motion was made by Councilman Mertz to readdress the annexation options of LCSD #3 in June of 2012. The motion passed unanimously 5-0.

On July 2, 2012 at a regular scheduled council work session a discussion took place regarding the annexation of LCSD #3. It was pointed out that on November 1, 2011 the City of Basehor lowered LCSD #3's sewer rate from 150% (the rate set by ordinance 582) to the in-city rate under the pretense the district would consent to voluntary annexation. No action was taken and staff was not directed to move this item to a regular scheduled meeting.

On February 4, 2013 at a regular scheduled work session LCSD #3 was put on the agenda as a topic of discussion to determine what the city was going to do regarding Councilman Miles original motion from October 2011. No action was taken and staff was not directed to move forward with the annexation process or to increase the sewer rates back to the out of city rates of 150%.

Currently we are in violation of Ordinance 582 and we have an open motion on the table from 2011. Council needs to determine what course of action is going to be taken with regards to LCSD #3 annexation, sewer rates and the open motion from 2011.

ORDINANCE NO. 582

AN ORDINANCE AMENDING SECTIONS 15-239 AND 15-240 OF ARTICLE 2 OF CHAPTER XV OF THE CITY CODE PERTAINING TO SEWER SERVICE RATES AND CONNECTION FEES, AND REPEALING ORDINANCE NO. 580

WHEREAS, the City previously adopted and published Ordinance No. 580 making changes to the City Code pertaining to monthly sewer rates and sewer connection fees; and

WHEREAS, following adoption and publication of Ordinance No. 580, City Staff discovered that a directive of Council pertaining to an annual increase of the monthly sewer rate was inadvertently not included in the Ordinance.

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

Section 1. Section 15-239 of Article 2 of Chapter XV of the Basehor City Code is amended to read as follows:

- 15-239. RESIDENTIAL SEWER SERVICE CHARGE. (a) As of January 1, 2011, the individual monthly charge for residential sewage treatment will be \$10.61 per thousand gallons of water consumed, based on the average water consumption for the month of December, and January and February of the next year. Said monthly rate per thousand gallons of water shall automatically increase by 2.5% effective January 1 of each year. Monthly water consumption records will be obtained by the city from Consolidated Rural Water District No. 1, Suburban Water Company, or any other water provider.
- (b) The average water consumption shall be based upon the average of the water consumed for the month of December of the previous year and the months of January and February of the current year. Each year thereafter, the average usage will be calculated utilizing the historical data in the same manner. Monthly billing changes will be effective May 1st of each year.
- (c) In the event that a customer establishes from reasonable evidence that the three month average is not representative of their actual usage, then the billing clerk with the consent of the city administrator is authorized to recalculate the appropriate usage based upon the information provided. Adjustments shall not be retroactive and will take effect with the next monthly billing cycle. No adjustments to utility accounts shall be made until the customer's account is paid in full.
- (d) Units that water consumption records may not be available for all of the months of December, January and February may be charged based on the average of one to three months preceding or following these months.

(e) Units that are connected to the sewer system after the effective date, or units that do not receive water service from Consolidated Rural Water District No. 1 or Suburban Water Company, or units that water usage records are otherwise not available, shall be assigned an average monthly water consumption of 6,350 gallons, until an actual average can be determined or the unit may be charged on a per capita basis of 100 gallons per day per occupant.

(f) The monthly charge for new units that will significantly exceed the monthly average of 6,350 gallons may be based on actual water usage, on a month-to-month basis, until an accurate average can be determined.

(g) The minimum monthly sewer rate charge will be equal to the charge per thousand gallons of water set forth in subsection (a) above multiplied by 1.5. Units that are vacant will be charged the minimum fee for each month they are vacant.

Section 2. Section 15-240 of Article 2 of Chapter XV of the Basehor City Code is amended to read as follows:

15-240 CONNECTION FEES; SERVICE OUTSIDE THE CITY. (a) Each individual unit connected to the city wastewater system shall be charged a connection fee at the time a building permit is issued for construction of the unit, or upon connection to the wastewater system in the case of existing units. In the case of multi-unit buildings, a separate fee shall be charged for each separate unit. Effective January 1, 2011, the connection fee shall be \$3,450.

(b) The connection fees and the monthly wastewater treatment fees for development outside of the city shall be 150% of the established rates, unless otherwise determined by the city council. The connection fee shall be charged at the time a building permit is issued for construction of the unit, or upon connection to the wastewater system for existing units.

Section 3. This ordinance shall be in full force and effective from and after its passage and publication in the official city newspaper.

Section 4. Ordinance No. 580 is hereby repealed.

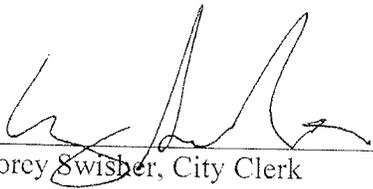
Approved by the City Council this 28th day of February, 2011.

Approved by the Mayor this 28th day of February, 2011.

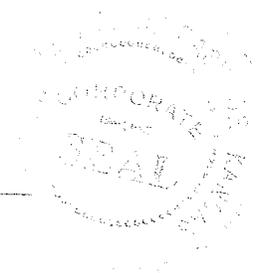


Mayor Terry Hill

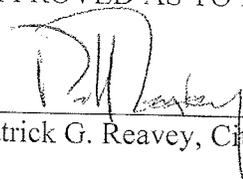
Attest:



Corey Swisher, City Clerk



APPROVED AS TO FORM:



Patrick G. Reavey, City Attorney

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 7

Topic:

Appointments by Council for city positions and planning commission

Action Requested:

Appoint all positions as presented

Narrative:

Appointments for the following city positions:

Police Chief	Lloyd Martley
Municipal Judge	William Pray (450.00 per month)
City Clerk	Corey Swisher
City Treasurer	Corey Swisher

Appointments for the planning commission:

Fred Farris	Terry Gall
Jon Gallion	Ed Bush

Presented by:

Lloyd Martley, Interim City Admin
Mitch Pleak, City Engineer

Administration Recommendation: Approve all positions as presented

Committee Recommendation: N/A

Attachments:

Memo

Projector needed for this item?

No



The City of Basehor

Date: April 25, 2013

To: Basehor Mayor and City Council
Lloyd Martley, Police Chief/Interim City Administrator

From: Corey Swisher, City Clerk/Finance Director

Re: Basehor Council Appointments

Background:

The Basehor City Council is required to annually appoint four City positions: Chief of Police, Municipal Court Judge, City Clerk and City Treasurer.

Police Chief	Lloyd Martley
Municipal Court Judge	William Pray
City Clerk	Corey Swisher
City Treasurer	Corey Swisher

The Basehor City Council is required to appoint planning commission position when their terms expire. The following planning commission members are up for reappointment:

Fred Farris	Terry Gall
Jon Gallion	Ed Bush

Staff Recommendation:

Discuss City Council Appointments.

Action Requested of Council:

Discuss City Council Appointments.

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 8

Topic:

Discharge of fireworks Ordinance 326

Action Requested:

Consider allowing for fireworks to be shot on the 5th and 6th until 11:59 pm due to the 4th falling on a Thursday.

Narrative:

Ordinance 326 allows for fireworks to be discharged in the city on the 4th from 9 am to 11:59 pm, the 5th from 10 am to 10 pm. The ordinance does not allow for extra hours or days when fireworks can be discharged. If the council is in favor of extending the discharge days and hours we would need to amend the current code to allow the City Council to add additional days/hours by resolution. With the holiday falling on a Thursday, I have received some calls from citizens asking about this situation.

Presented by:

Lloyd Martley, Interim City Admin.

Administration Recommendation:

Discuss and consider changing the code to allow for extension of discharge days and hours

Committee Recommendation: N/A

Attachments:

Ordinance 326

Projector needed for this item?

No

ORDINANCE 326

AN ORDINANCE AMENDING ARTICLE III, SECTION 7-303 AND SECTION 7-304 OF THE CODE OF THE CITY OF BASEHOR.

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

Section 1. Article III, Section 7-303, regarding the discharge of fireworks is hereby amended and modified as follows:

7-303 SAME: EXCEPTIONS; DISCHARGES. (a) Section 7-302 of this article shall not apply to the fire or discharge of fireworks in the city between the hours of 10:00 a.m. and 10:00 p.m. from June 30 through July 3rd, July 4th from 9:00 am through 11:59 p.m., and July 5th from 10:00 a.m. to 10:00 p.m. unless the governing body of the city passes a resolution stating that due to weather and/or other conditions, that a fire hazard exists in the city and notice is given no later than the 29th day of June, by publication of the resolution in the official city newspaper, that an emergency exists with respect to the discharge, sale or possession of fireworks within the city until such ban is lifted by the governing body of the city.

This prohibition against the discharge of fireworks shall not apply to public fireworks displays authorized by the governing body of the city.

(b) The governing body of the city may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endangered persons or surrounding property.

(c) It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

(d) Fireworks shall not be ignited or discharged within 300 feet of any hospital, infirmary or retirement home. (Ord. 217, Secs. 1:2; Code 1989)

Section 2. Article III, Section 7-304, regarding the discharge of fireworks is hereby amended and modified as follows:

SCANNED

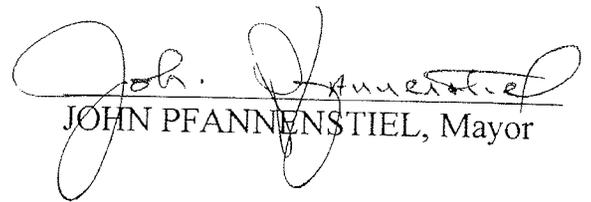
1-18-07 *jt*

7-304

SAME: EXCEPTION: SALE OF FIREWORKS. Any person who has first obtained a valid permit to sell fireworks within the city may do so between the hours of 9:00 a.m. and 11:59 p.m., commencing June 30th through July 5th of each year.

Section 3. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the Basehor Sentinel.

Passed by the Governing Body this 15th day of June, 1998.


JOHN PFANNENSTIEL, Mayor

ATTEST:


MARY ANN MOGLE, City Clerk

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 9

Topic:

Health, Dental and Vision Benefits Renewal

Action Requested:

Approve employee Health, Dental and Vision Benefits

Narrative:

The City annually reviews and renews employee health benefits during the month of May. The City's health benefits renew on July 1 of each year. Due to attrition the employee benefit fund began with a balance of \$135,031. Renewing the employee health benefits for 2013-14 will not require an increase in the current 7.629 mill levy

Presented by:

Lloyd Martley, Interim City Admin.
Corey Swisher, City Clerk/Finance Director

Administration Recommendation:

Approve renewal rates for employee health benefits

Committee Recommendation: N/A

Attachments:

Delta Dental Proposal
VSP Agreement
BCBS Health Insurance Proposal
BCBS Short & Long Term Disability Proposal

Projector needed for this item?

No



The City of Basehor

Date: May 1, 2013

To: Basehor City Council

From: Lloyd Martley, Interim City Administrator
Corey Swisher, City Clerk/Finance Director

Re: Health, Dental and Vision Benefits Renewal

Background:

The City annually reviews and renews health benefits during the month of May. The City's health plans renew on July 1 of each year.

Due to employee attrition and the mandatory 90 day waiting period prior to receiving health benefits the City's Employee Benefit Fund began FY2013 with a \$135,031 balance. Providing employee benefits in 2013-14 will not require an increase to the Funds current 7.629 mill levy.

The City received the following renewal proposals for 2013-2014:

Delta Dental:

The Delta Dental renewal proposal increased \$1.16 per for a single employee per month. The increase for a family is \$2.91 per month. The approximate increase in the cost to the City would be approximately \$600 annually.

- **Vision Services Plan:**

No change. Current agreement will remain in place until June 30, 2014.

- **BlueCross Blue Shield of Kansas Health Insurance:**

Blue Cross Blue Shield of Kansas has not yet submitted a renewal proposal to provide health insurance to the City of Basehor. The City anticipates receiving the proposal on May 9.

- Blue Cross Blue Shield of Kansas Short and Long Term Disability:

The City has not yet received the annual short & long term disability renewal proposal from Blue Cross Blue Shield of Kansas.

Staff Recommendation:

Review 2013-2014 City Employee Health Benefit Proposals

Action Requested of Council:

Review 2013-2014 City Employee Health Benefit Proposals

Attachments:

Delta Dental Proposal
VSP Agreement

February 28, 2013



MS KRISTI OLSON
CITY OF BASEHOR
2620 N 155TH ST
BASEHOR, KS 66007-9250

DEAR MS KRISTI OLSON:

At VSP Vision Care, we're focused on taking great care of you and your organization. Your satisfaction is our top priority. That's why your VSP plan that expires June 30, 2013 will **automatically** renew effective July 1, 2013, ensuring your members will continue to enjoy uninterrupted service.

Additionally, we've enhanced your contact lens benefit by separating the contact lens exam (fitting and evaluation) from material coverage. This new benefit design allows members to use their full contact lens allowance toward contact lenses and provides both standard *and premium fit* contact lens wearers a covered-in-full contact lens exam after a copay that will never exceed \$60.

From eyewear selection to provider locations, choice is important. That's why VSP Open AccessSM provides members the flexibility to use their VSP benefits at any location, including specialty optical boutiques or retail chains. While 95% of our members choose a VSP provider to maximize their benefit, we offer a generous reimbursement schedule for services from all other providers.

Group Name/Number:	CITY OF BASEHOR / 30014536
Renewal Period:	July 1, 2013 - June 30, 2015
Current Plan Frequency:	12 / 12 / 12
Current Copay:	\$10 Exam / \$25 Materials
Current Rates:	\$12.48 / 19.97 / 20.38 / 32.86
Renewal Rates:	\$12.48 / 19.97 / 20.38 / 32.86

If you elect to renew your current plan, no further action is required. Please consider VSP your long-term partner in helping you maximize your benefit dollars. To learn more about other plans and ways you can enhance your coverage, please contact your VSP representative, **Sara Bolchi, at (800) 216-6248.**

Central Team



Your Vision Benefit Summary

Keep your eyes healthy with CITY OF BASEHOR and VSP® Vision Care.

Using your VSP benefit is easy.

- **Find an eyecare provider who's right for you.** With open access to see any eyecare provider, you can see the one who's right for you. Choose a VSP doctor or any other provider. To find a VSP doctor, visit vsp.com or call **800.877.7195**.
- **Review your benefit information.** Visit vsp.com to review your plan coverage before your appointment.
- **At your appointment, tell them you have VSP.** There's no ID card necessary.

That's it! We'll handle the rest—there are no claim forms to complete when you see a VSP doctor.

Personalized Care

A VSP doctor provides personalized care that focuses on keeping you and your eyes healthy year after year. Plus, when you see a VSP doctor, you'll get the most out of your benefit, have lower out-of-pocket costs, and your satisfaction is guaranteed.

Choice in Eyewear

From classic styles to the latest designer frames, you'll find hundreds of options for you and your family. You'll have access to great brands, like bebe®, Calvin Klein, Disney, FENDI, Nike, and Tommy Bahama®.

Plan Information

VSP Coverage Effective Date: 07/01/2013

VSP Doctor Network: VSP Signature

Benefit	Description	Copay
Your Coverage with a VSP Doctor		
WellVision Exam	<ul style="list-style-type: none"> • Focuses on your eyes and overall wellness • Every plan year* 	\$10
Prescription Glasses		
Frame	<ul style="list-style-type: none"> • \$130 allowance for a wide selection of frames • 20% off amount over your allowance • Every plan year 	Included in Prescription Glasses
Lenses	<ul style="list-style-type: none"> • Single vision, lined bifocal, and lined trifocal lenses • Polycarbonate lenses for dependent children • Every plan year 	Included in Prescription Glasses
Lens Options	<ul style="list-style-type: none"> • Tints/Photochromic lenses-Transitions • Standard progressive lenses • Premium progressive lenses • Custom progressive lenses • Average 35-40% off other lens options 	\$0 \$50 \$80 - \$90 \$120 - \$160
Contacts (instead of glasses)	<ul style="list-style-type: none"> • \$130 allowance for contacts; copay does not apply • Contact lens exam (fitting and evaluation) • Every plan year 	Up to \$60
Glasses and Sunglasses		
<ul style="list-style-type: none"> • 30% off additional glasses and sunglasses, including lens options, from the same VSP doctor on the same day as your WellVision Exam. Or get 20% off from any VSP doctor within 12 months of your last WellVision Exam. 		
Extra Savings and Discounts	Retinal Screening	<ul style="list-style-type: none"> • Guaranteed pricing on retinal screening as an enhancement to your WellVision Exam.
	Laser Vision Correction	<ul style="list-style-type: none"> • Average 15% off the regular price or 5% off the promotional price; discounts only available from contracted facilities • After surgery, use your frame allowance (if eligible) for sunglasses from any VSP doctor

Your Coverage with Other Providers

Visit vsp.com for details, if you plan to see a provider other than a VSP doctor.

Exam.....	up to \$50	Lined Trifocal Lenses.....	up to \$100
Frame.....	up to \$70	Progressive Lenses.....	up to \$75
Single Vision Lenses.....	up to \$50	Contacts.....	up to \$105
Lined Bifocal Lenses.....	up to \$75	Tints.....	up to \$5

*Plan year begins in July. VSP guarantees coverage from VSP doctors only. Coverage information is subject to change. In the event of a conflict between this information and your organization's contract with VSP, the terms of the contract will prevail.

Visit vsp.com or call **800.877.7195** for more details on your vision coverage and exclusive savings and promotions for VSP members.

© 2013 Vision Service Plan. All rights reserved. VSP and WellVision are the registered trademarks of Vision Service Plan. WellVision, VSP, and WellVision are trademarks of Vision Service Plan. All other trademarks are the property of their respective owners.

	Dental Rates		
	Rates 7/1/2013-6/30/2014		
	Active	Cobra	Retiree
Dental \$1250			
Employee	\$34.16	\$34.84	\$42.69
Family	\$85.91	\$87.62	\$107.38

Rates assume participation guidelines are met:

Dental: 75% of eligible employees

Employer required to pay minimum of 50% of employee only cost.

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 10

Topic:

Purchase of Karbon Arms MPID's (Multi-purpose Immobilization Devices)

Action Requested:

Approval to purchase 13 Karbon Arms MPID's not to exceed 15,000 dollars.

Narrative:

Law Enforcement has seen a steady increase in violent crimes over the past few years. An investment in MPID's for the safety of officers, suspects and the community can pay for itself quickly if a wrongful death settlement or workers compensations claim for injuries to officers or suspects can be avoided. There are over 13,000 police agencies in over 40 countries that currently use MPID's. Locally, we are the only agency within the entire Kansas City Metropolitan area that does not carry MPID's.

Presented by:

Lloyd Martley, Chief of Police

Administration Recommendation:

Approve purchase of MPID's

Committee Recommendation: N/A

Attachments:

Memo, quote from Karbon Arms

Projector needed for this item?

No

MEMO

Date: April 12, 2013

To: Governing Body

From: Lloyd Martley

Ref: MPID (Multi-Purpose Immobilization Device)

Governing Body,

Over the past few years we have seen a steady increase in domestic violence, burglaries, thefts and domestic dispute cases. For years, police officers have sought tactics and equipment to facilitate the safe arrest of violent, combative subjects whose actions don't justify the use of deadly force. When following the KLETC use of force continuum once an officer reaches the level of empty hand control which includes both soft and hard techniques including the use of a baton or OC the only option left for our department is lethal force. This is where the development and use of MPID's (Multi-Purpose Immobilization Devices) become a viable option. There are currently 13,000 agencies in over 40 countries that deploy a combined total of more than 300,000 MPID's. Locally, we are the only agency within the entire Kansas City Metropolitan area that does not use MPID's as an intermediate level (less than lethal) use of force.

The use of a MPID is an investment in the safety of police officers, suspects and the community. It's a financial investment that can pay for itself quickly if a wrongful death settlement or workers compensations claim for injuries to officers or suspects can be avoided. The majority of officers injured on duty are injured during non-deadly force encounters. Fewer officer injuries mean fewer workers' compensation claims and less officer downtime. 100% of the MPID implementations reduced officer and suspect injuries.

MPID's can also save lives and reduce deadly force encounters. The use of a MPID in a dangerous confrontation can frequently bring the situation under control and prevent the risk of escalation to deadly force. In fact, agencies with MPID's have reported a significant drop in the use of deadly force levels. MPID's have also helped reduce the level injures to suspects. When an officer is faced with a violent, resistant subject the use of a MPID reduces the risk of injury not only to the officers involved, but the arrestee as well.

Due to the unparalleled accountability in MPID devices, agencies have seen a reduction in excessive force litigation. Unfortunately, use of force litigation against the police is business as usual in our litigious society. Since the MPID device has among the lowest risk of injury

compared to other use of force options, the courts have routinely held that the use of a MPID device by police does not constitute excessive use of force or cruel and unusual punishment.

I would like to recommend that we purchase 13 Karbon Arms MPID units for fiscal year 2014 to include the accompanying necessary equipment to certify 12 officers, leaving one unit for backup in case of equipment failure and to have the capability to download the devices after being used.

The price quoted from Karbon Arms for 13 units including all other required equipment is \$12,000.00. I would like council to approve this as a budgeted item not to exceed \$15,000.00 to allow for additional cartridges and training.

Lloyd Martley
Chief of Police

KARBON ARMS

The Definition of Strength

Proposal to Implement the Karbon MPID



Karbon Arms is pleased to provide the following proposal outline to the Basehor Police Dept. This proposal outlines all aspects necessary to make an easy, organized purchase of the Karbon Multi-Purpose Immobilization Device (MPID).

For the implementation of the Karbon MPID, Karbon Arms provides:

- Training
- Warranty
- Accessories
- Cost of Implementation

Training

Karbon Arms prides itself on world class training and developing state-of-the-art technologies. Karbon Arms standard course offerings provide End-User and Instructor courses. Master Instructor Certification Classes, which allows instructors to train instructors, are also offered on an as requested basis.

- **Basic Operator Training** Basic Operator Training is designed to teach the end-user to effectively use the Karbon MPID in the field arena. It covers topics including but not limited to; basics of electricity and how it works in the body, acceptable targeting areas, scenarios and operating the Karbon MPID.
- **Instructor Training** Instructor training is a two day course that is provided to departments that wish to have an instructor on staff. The first day of class is the end-user certification and the second day is modeled to teach the instructors the proper way to train end-users. Certification exam required.

Warranty

Will Karbon Arms, Inc. stand behind its Karbon MPID? Absolutely!

- The Karbon MPID comes with a three year manufacturer's warranty.
- The basic three year warranty is upgradable to five total years of coverage at initial purchase.
- The warranty covers most everything in the line of duty with the exception of intentional abuse or excessive water exposure.
- Karbon MPID Cartridges come with a five year shelf life.

Karbon Arms prides itself on being able to offer law enforcement agencies reasonable pricing on both the initial costs as well as on its recurring costs. Karbon Arms does this by keeping its overhead low; utilize much automation while maintaining quality. These factors combined with excellent customer service make Karbon MPID the best choice for the law enforcement community.

Accessories Available

- TruVu Camera – Audio Video Capture..... \$ 350.00
- Dual Cartridge Holder – Duty Belt Nylon..... \$ 20.00
- Red Training Cartridges (6 pack)..... \$ 75.00
 - *Loading Drills, No wiring or Darts - Nonconductive*
- Blue Training Cartridges (6 pack)..... \$ 120.00
 - *Firing Drills, Nonconductive*
- Extended Warranty per Year per Unit..... \$ 50.00
- Interactive Foil Targets..... \$ 10.00
- Exposure Kit..... \$ 25.00
 - *Alligator Clips for Officer Exposure*

This proposal is valid for sixty days. Karbon Arms is available to assist you with any questions you may have in making your purchase decision process easy and simple.

Thank you for the opportunity to earn your business,



Casey Craft
Regional Sales Director
Karbon Arms
5505 Johns Rd Suite 702
Tampa, FL 33634
813-281-1061 ext. 248
813-751-7493 cell
813-288-9148 fax
Ccraft@KarbonArms.com



Sales Person: Casey Craft

Purchase Order

Date	P.O. Number
3/20/2013	

Bill To:
Attn: Same As Shipping
Ph:
Fx:

Ship To: Basehor Police Dept.
Attn: Chief Martley
2620 N 155th St
Basehor, KS 66007
Ph:
Fx:

Equipment	Unit Price	Quantity	Total
Karbon MPID - Yellow - Includes Batteries <i>3 Year Warranty Standard</i>	\$ 599.00	13	\$ 7,787.00
Karbon MPID - Blade-Tech Holster, Belt, Right <i>Belt Mount with Roto-Lock</i>	\$ 79.00	13	\$ 1,027.00
Karbon MPID - A - Duty Cartridges	\$ 120.00	7	\$ 840.00
Karbon MPID - Data Upload Station <i>Upload officer firings, time, date</i>	\$ 150.00	1	\$ 150.00
Karbon MPID - Dual Cartridge Holder <i>Holds 2 Cartridges</i>	\$ 20.00	13	\$ 260.00
Karbon MPID - Instructor Training <i>16 hours - includes manual and cartridges</i>	\$ 250.00	1	\$ 250.00
Karbon MPID - Extended Warranty <i>\$50 per year per Karbon MPID up to 5 years total</i>	\$ 100.00	13	\$ 1,300.00
Subtotal			\$ 11,614.00
Shipping and Handling			93.33
Trade In Discount			\$ -
Total			\$ 11,707.33

Signature Authorizing Purchase

Date

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 11

Topic:

Amend Ordinance 582, sewer service rate

Action Requested:

Discuss amendments and consider approval

Narrative:

Ordinance 582, section 1 establishes the sewer service charges and procedures. Currently this process occurs in January and May.

Presented by:

Lloyd Martley, Interim City Admin.
Corey Swisher, City Clerk/Finance Director

Administration Recommendation:

Establish a median rate for new customers and change all rate adjustments to May 1 of each year.

Committee Recommendation: N/A

Attachments:

Ordinance 582
Amended Ordinance 582
Resolution 2013-

Projector needed for this item?

No



The City of Basehor

Date: April 30, 2013

To: Basehor Mayor and City Council
Lloyd Martley, Police Chief/Interim City Administrator

From: Corey Swisher, City Clerk/Finance Director

Re: Residential Sewer Service Rate Discussion

Background:

Due to negative feedback from new residents applying for city utility services, staff was directed to look at possible alternatives to the current process for establishing new customer sewer rates. The current rate being charged is \$58.65. This rate is charged to residents that do not have a three month history of water usage. This rate is adjusted annually in January by 2.5% along with all other customer sewer rates.

Per Ordinance 582 the monthly rate should be based on an average usage of 6,350 gallons per month. Using this average would set new customer rates at \$70.80. Staff believes using the average set out in Ordinance would be counterproductive to customer satisfaction and impose an undue burden on residents moving into the community. It is currently unknown why the 6,350 gallons per month was used.

Analysis Utilizing Today's Sewer Service Rate

	Cost per 1k Gallons	Avg Usage	Rate	Customers
Per Ordinance	\$11.15	6,350	\$ 70.80	
Consolidated Water Avg	\$11.15	4,458	\$ 49.71	1282
Suburban Water	\$11.15	4,268	\$ 47.59	682
Sub/Cons Avg	\$11.15	4,363	\$ 48.65	

Surrounding communities use many different approaches to billing. As the City does not own or operate a water utility it is not possible to obtain and utilize monthly actual water usage rates.

Staff recommends the following:

For residential customers, the average water consumption shall be based upon the average monthly water consumed for the month of December of the previous year and the months of January and February of the current year. Until a residential customer has established a three month average, the monthly user charge shall be the median billing charge of all other residential customers on January 1 of that year. The current median billing charge is \$45.71. Each year thereafter, the average usage will be calculated utilizing the historical data in the same manner.

The residential sewer service rate shall automatically increase by 2.5% effective May 1 of each year. Monthly water consumption records will be obtained by the City from Consolidated Rural Water District No. 1, Suburban Water Company, or any other water provider in order to determine average usage.

Action Requested of Council:

Discuss Residential Sewer Service Rate

ORDINANCE NO. 582

AN ORDINANCE AMENDING SECTIONS 15-239 AND 15-240 OF ARTICLE 2 OF CHAPTER XV OF THE CITY CODE PERTAINING TO SEWER SERVICE RATES AND CONNECTION FEES, AND REPEALING ORDINANCE NO. 580

WHEREAS, the City previously adopted and published Ordinance No. 580 making changes to the City Code pertaining to monthly sewer rates and sewer connection fees; and

WHEREAS, following adoption and publication of Ordinance No. 580, City Staff discovered that a directive of Council pertaining to an annual increase of the monthly sewer rate was inadvertently not included in the Ordinance.

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

Section 1. Section 15-239 of Article 2 of Chapter XV of the Basehor City Code is amended to read as follows:

15-239. **RESIDENTIAL SEWER SERVICE CHARGE.** (a) As of January 1, 2011, the individual monthly charge for residential sewage treatment will be \$10.61 per thousand gallons of water consumed, based on the average water consumption for the month of December, and January and February of the next year. Said monthly rate per thousand gallons of water shall automatically increase by 2.5% effective January 1 of each year. Monthly water consumption records will be obtained by the city from Consolidated Rural Water District No. 1, Suburban Water Company, or any other water provider.

(b) The average water consumption shall be based upon the average of the water consumed for the month of December of the previous year and the months of January and February of the current year. Each year thereafter, the average usage will be calculated utilizing the historical data in the same manner. Monthly billing changes will be effective May 1st of each year.

(c) In the event that a customer establishes from reasonable evidence that the three month average is not representative of their actual usage, then the billing clerk with the consent of the city administrator is authorized to recalculate the appropriate usage based upon the information provided. Adjustments shall not be retroactive and will take effect with the next monthly billing cycle. No adjustments to utility accounts shall be made until the customer's account is paid in full.

(d) Units that water consumption records may not be available for all of the months of December, January and February may be charged based on the average of one to three months preceding or following these months.

(e) Units that are connected to the sewer system after the effective date, or units that do not receive water service from Consolidated Rural Water District No. 1 or Suburban Water Company, or units that water usage records are otherwise not available, shall be assigned an average monthly water consumption of 6,350 gallons, until an actual average can be determined or the unit may be charged on a per capita basis of 100 gallons per day per occupant.

(f) The monthly charge for new units that will significantly exceed the monthly average of 6,350 gallons may be based on actual water usage, on a month-to-month basis, until an accurate average can be determined.

(g) The minimum monthly sewer rate charge will be equal to the charge per thousand gallons of water set forth in subsection (a) above multiplied by 1.5. Units that are vacant will be charged the minimum fee for each month they are vacant.

Section 2. Section 15-240 of Article 2 of Chapter XV of the Basehor City Code is amended to read as follows:

15-240 CONNECTION FEES; SERVICE OUTSIDE THE CITY. (a) Each individual unit connected to the city wastewater system shall be charged a connection fee at the time a building permit is issued for construction of the unit, or upon connection to the wastewater system in the case of existing units. In the case of multi-unit buildings, a separate fee shall be charged for each separate unit. Effective January 1, 2011, the connection fee shall be \$3,450.

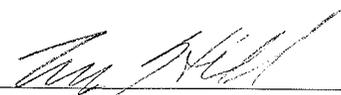
(b) The connection fees and the monthly wastewater treatment fees for development outside of the city shall be 150% of the established rates, unless otherwise determined by the city council. The connection fee shall be charged at the time a building permit is issued for construction of the unit, or upon connection to the wastewater system for existing units.

Section 3. This ordinance shall be in full force and effective from and after its passage and publication in the official city newspaper.

Section 4. Ordinance No. 580 is hereby repealed.

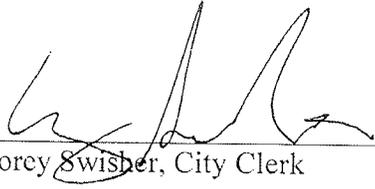
Approved by the City Council this 28th day of February, 2011.

Approved by the Mayor this 28th day of February, 2011.



Mayor Terry Hill

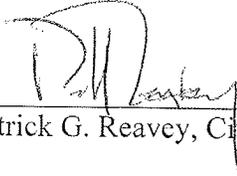
Attest:



Corey Swisher, City Clerk



APPROVED AS TO FORM:



Patrick G. Reavey, City Attorney

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 12

Topic:

Appointment of City Prosecutor

Action Requested:

Approve Resolution 2013-11 appointing KiAnn McBratney as our City Prosecutor

Narrative:

Mike Kelly is currently our City Prosecutor and I am recommending reappointing KiAnn McBratney as our City Prosecutor.

Presented by:

Lloyd Martley, Interim City Administrator

Administration Recommendation:

Approve as presented

Committee Recommendation:

N/A

Attachments:

Resolution 2013-11
Independent Contractor Agreement

Projector needed for this item?

No

RESOLUTION NO. 2013-11

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN INDEPENDENT CONTRACTOR AGREEMENT BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND KIANN MCBRATNEY REGARDING PROSECUTORIAL SERVICES

WHEREAS, the City of Basehor, Kansas wishes to enter into that certain Independent Contractor Agreement with KiAnn McBratney, attached hereto as **Exhibit A**, regarding prosecutorial services for the City of Basehor, Kansas.

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 Independent Contractor Agreement, attached as **Exhibit A**.

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

PASSED by the Governing Body this ___ day of May, 2013.

APPROVED by the Mayor this ___ day of May, 2013.

[SEAL]

David Breuer, Mayor

ATTEST:

Corey Swisher, City Clerk

APPROVED AS TO FORM:

Shannon M. Marcano, City Attorney

Exhibit A
Independent Contractor Agreement

To be attached.

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT is made as of the 21st day of May, 2012, by and between **THE CITY OF BASEHOR, KANSAS** (hereinafter "the City") and **KIANN MCBRATNEY** (hereinafter "Ms. McBratney"),
3723 N. 152nd Ct., Basehor, Kansas 66007.

In consideration of the mutual covenants hereinafter set forth, the City and Ms. McBratney hereby agree as follows:

1. **Services.** The City hereby engages Ms. McBratney to provide to the City all prosecutorial legal services needed by the City, of whatever nature. Such services shall include those set forth in the Basehor City Code. Ms. McBratney agrees to perform the services in a timely, competent, and professional manner, and in accordance with all applicable laws, regulations, and ordinances, and the terms and conditions of this Agreement.
2. **Qualifications.** Ms. McBratney agrees that she will maintain her license and memberships to practice law in all Kansas State and Federal Courts, and will maintain professional liability insurance.
3. **Compensation.** In consideration of the agreements and provisions contained herein, the City agrees to pay Ms. McBratney \$85 per hour to perform any and all prosecutorial services on behalf of the City but such payment to Ms. McBratney shall not, in any event, be less than \$400 per month.
4. **Billing Statements.** Billing statements shall be sent to the City on a monthly basis itemizing services performed pursuant to this Agreement.
5. **Miscellaneous Expenses.** The City will reimburse Ms. McBratney for miscellaneous, out-of-pocket expenses, such as copies, postage, and other expenses directly related to her duties as prosecutor.
6. **Other Employment.** During the term hereof, Ms. McBratney is free to pursue other business interests and representation so long as such activities do not adversely affect her duties as City Prosecutor.
7. **Term and Termination.** This Agreement shall be effective retroactive to the date Ms. McBratney was appointed by the Mayor and approved by the City Council. The Agreement shall be renewable for successive one year periods unless three-months' notice of non-renewal is given by either party.

IN WITNESS WHEREOF, the parties, voluntarily and with full knowledge of the contents hereof, have executed this Agreement.

THE CITY OF BASEHOR, KANSAS:

By: _____
Mayor David Breuer, with consent of a
majority of the City Council

KIANN MCBRATNEY:

City of Basehor
Agenda Item Cover Sheet

Agenda Item No. 13

Topic:

City of Basehor Comprehensive Plan

Action Requested:

Review of comprehensive plan with planning commission

Narrative:

The Planning Commission is in the process of updating the City's comprehensive plan. The City Council and the Planning Commission will conduct joint reviews with a series of open houses for public comment in the next couple of months.

Presented by:

Lloyd Martley, Interim City Admin.
Mitch Pleak, City Engineer

Administration Recommendation:

N/A

Committee Recommendation:

N/A

Attachments:

Comprehensive plan was distributed to council members at the retreat for review.

Projector needed for this item?

No