Agenda

Basehor City Council
Work Session

October 5, 2015 - 7:00 p.m.
Basehor City Hall

1. Pinehurst Estates Second Plat – Ordinance No. 658
2. Donahoo Road Design Agreement – Resolution 2015-16
3. Land Acquisition Services Agreements
   a. Leavenworth Road Sidewalk Improvement – Resolution 2015-17
   b. Chestnut Sanitary Sewer Improvement – Resolution 2015-18
   c. Donahoo Road Improvement Project – Resolution 2015-19
4. Cornerstone discussion
   a. Preliminary Development Plan Revision
   b. Final Development Plan
   c. Final Plat
   d. Subdivision Improvement Agreement
5. 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: Pinehurst Estates Second Plat.

Action Requested: Approve Ordinance 658, approving Pinehurst Estates Second Plat.

Narrative:
Pinehurst Estates Second Plat is a replat of Tract E of Pinehurst Estates Plat. Tract E is designated as green space for Pinehurst Estates Subdivision. The purpose of the plat is to remove "Pool" from Tract E. Per the proposed plat, Tract E will remain green space.

The proposed plat is located at the southwest corner of Evergreen Street and 155th Terrace containing 0.54 acres.

September 15, 2015, the Planning Commission conducted a public hearing and approved (6-0) the final plat with 4 stipulations.

Presented by: Mitch Pleak, City Engineer

Administration Recommendation:
Staff recommends Ordinance 658, approving Pinehurst Estates Second Plat with the following conditions:

1. Certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.
2. Provide a title certification showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgage shall be required to consent to the plat.
3. Define S/E within the Legend.
4. Revise the Acknowledgment Block to correct the overlapping text.

Attachments:
Ordinance 658
Staff Report

Projector needed for this item? No

(Published in the Basehor Sentinel _____)

ORDINANCE NO. 658

AN ORDINANCE APPROVING A FINAL PLAT FOR PINEHURST ESTATES SECOND PLAT, GENERALLY LOCATED AT THE SOUTHWEST CORNER OF EVERGREEN STREET AND 155TH TERRACE, BASEHOR, LEAVENWORTH COUNTY, KANSAS.

WHEREAS, the applicant submitted a request for approval of a final plat; and

WHEREAS, in accordance with Section 2-104 of the Basehor Subdivision Regulations, the Planning Commission reviewed the application on September 15, 2015; and

WHEREAS, the Planning Commission recommended approval with the following stipulations:

1. Certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.
2. Provide a title certification showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgage shall be required to consent to the plat.
3. Define S/E within the Legend.
4. Revise the Acknowledgment Block to correct the overlapping text.

WHEREAS, the Planning Commission's recommendation was presented to the Governing Body at its regularly scheduled meeting on October 19, 2015.

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

Section 1: That the Governing Body hereby approves the applicant's request, and the Planning Commission's recommendation of approval for said final plat subject to the stipulations stated below:

1. Certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.
2. Provide a title certification showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgage shall be required to consent to the plat.
3. Define S/E within the Legend.
4. Revise the Acknowledgment Block to correct the overlapping text.

Section 2: That this ordinance approving the subject plat shall not be published, nor the plat executed by the Governing Body, until the applicant has resolved the four (4) conditions to satisfaction.

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

PASSED by the City Council this 19th day of October, 2015.

APPROVED by the Mayor this 19th day of October, 2015.

SEAL

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

Staff Report

Date: **September 17, 2015**

Subject: **Consider Pinehurst Estates Second Plat, a short-form plat for the replat of Tract E of Pinehurst Estates Subdivision, submitted by Ken Welch on the following described property:**

A replat of Tract E, Pinehurst Estates Section 11, Township 11 South, Range 22 East City of Basehor, Leavenworth County, Kansas.

GENERAL INFORMATION

Applicant: **Ken Welch**

Owner: **Welch Family Limited Partnership**

Address: **910 M Street NW, Suite 1130**
Washington, DC 20001

SITE INFORMATION

Location: Southwest Corner of Evergreen Street and 155th Terrace.
Current Zoning: "PR" Planned Residential District.

STAFF ANALYSIS

Background

April 27, 2015, the applicant requested to remove "Pool" from Tract E of the Pinehurst Estates Final Development Plan approved on April 4, 2006. The reason for the request is the hardship of the property owners within Pinehurst Estates subdivision financing the construction and maintenance of the subdivision swimming pool. The applicant has determined that the subdivision swimming pool will not be constructed.

Section 5(o) of the Basehor Zoning Ordinance allows for minor amendments to an approved development plan, such as changes in the location, siting, or character of buildings and structures. These changes may be authorized by the Codes Administrator, if required by engineering or other circumstances not foreseen when the Final Development Plan was approved.

Tract E of the Pinehurst Estates Final Development Plan is considered Open Green Space. Staff found the financial issues associated with a pool were unforeseen when the Pinehurst Estates Final Development Plan was approved. Removal of the subdivision swimming pool does not change the purpose of Tract E as Open Green Space.

On June 12, 2015, the Codes Administrator approved the request to remove "Pool" from Tract E within the Pinehurst Estates Final Development Plan approved on April 4, 2006.

The purpose of the replat is to remove "Pool" from Tract E. The proposed plat encompasses Tract E within the existing Pinehurst Estates Subdivision. Tract E contains 0.54 acres. Tract E will remain as green space per the existing plat.

A short-form plat procedure is within the subdivision regulations for the purpose and intent of providing a means of approving a subdivision of land that contains four (4) lots or less. Short-form plat shall serve as the final plat of the subdivision. The submission and approval of a preliminary plat is not required as a prerequisite for a short-form plat approval; provided, that the public hearing requirements outlined in preliminary plats are met.

Surrounding Property

The proposed replat abuts 155th Terrace and Evergreen Street. The current zoning is "PR" Planned Residential District. "PR" zoning surrounds the proposed plat and includes single family homes. The subject Tract is vacant.

Adjacent Property

	Zoning	Use
North:	**"PR"**	**Planned Residential District**
South:	**"PR"**	**Planned Residential District**
East:	**"PR"**	**Planned Residential District**
West:	**"PR"**	**Planned Residential District**

Traffic Impact

The proposed replat will have no new impacts to the existing street system within the existing plat.

Stormwater Management

The proposed replat will have no impact to the existing drainage system within the existing plat.

Utilities

No new utilities will be proposed with the subject plat. The existing easements within in Tract E will remain in the proposed replat. Staff has informed all utility companies with the proposal. Utility companies that have responded have reported that no utilities will have to be relocated with the proposed easement vacations and adjustments.

Subdivision Regulation Requirements:

The items to be included on the final plat per the Subdivision Regulations requirements:

1. **The lines and names of all proposed streets or other ways or easements, and other open spaces intended to be dedicated for public use or granted for use of inhabitants of the subdivision.** Provided within the submitted plat.
2. **Lines and names of all adjoining streets within 200 feet.** This is shown within the submitted plat.

3. **Metes and bounds describing the plat and the contents within the plat associated with any lots, easements, and tracts of lands. This information shall be represented in a way that any lot line can be located in the field.** This is provided within the submitted plat.
4. **The location of all building setback lines.** This is provided within the submitted plat.
5. **Suitable primary control points.** This is provided within the submitted plat.
6. **Location and elevation of a permanent benchmark.** This is provided within the submitted plat.
7. **The location of all permanent monuments with the distances and bearings plainly marked.** This is provided within the submitted plat.
8. **Date of preparation, title, north point, and scale shall be included with the plat.** This is provided within the submitted plat.
9. **Error of Closure.** The perimeter of the plat is under 10,000 feet. Per the subdivision regulations the error allowed is 1 ft in 10,000 ft. The error of closure for the plat is 1 ft in 80,000 ft, which is adequate.
10. **Identification system for all lots and blocks, and the area in square feet of each lot.** This is provided within the submitted plat.
11. **Certification of the land surveyor preparing the plat, seal, and signature.** This is provided within the submitted plat.
12. **Acknowledgement of a notary.** This is provided within the submitted plat.
13. **A certification of the Planning Commission showing its approval of the plat**. This is provided within the submitted plat.
14. **The approval of the City Council.** Action has not been taken.
15. **The certificate of the Register of Deeds.** This is provided within the submitted plat.
16. **The title insurance certification showing that the proposed sub divider owns all the property within the plat and that it is free from encumbrances and liens.** Applicant shall provide before final approval.
17. **Statement by the owner dedicating streets, rights-of-way, and sites for public use**. This is provided within the submitted plat.
18. **Such other certificates, affidavits, endorsements, or dedication as may be required by the Planning Commission in the enforcement of these Regulations.** Planning Commission considered the application on September 15, 2015, and had no other requirements outside of staff's recommendations.
19. **Purpose for which sites, other than residential lots, are dedicated or reserved.** This is provided within the submitted plat.
20. **Proper margins and lettering on the sheet that contains the plat.** Margins and lettering are properly shown within the submitted plat.
21. **Legal description of the subdivision.** The legal description was submitted with the plat.
22. **Public improvement plans associated with the final plat.** Not applicable.
23. **Certification of the person or person whose names are signed to this document and/or appear on the plat are the sole lawful owners of the property, that the plat is made with their desires, and that they dedicate the areas shown on the plat or as set forth in the document to the perpetual use and ownership of the public for the specific purposes stated therein or thereon. Ownership shall be verified by the City Clerk.** This is provided within the submitted plat.

24. **Certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.** Applicant has yet to submit certification by the County showing that all due or unpaid taxes have been paid in full.
25. **Subdivision Improvements Agreement.** Not applicable.

STAFF RECOMMENDATION:

Staff recommends approval of Pinehurst Estates Second Plat with the following stipulations:

1. Applicant shall provide certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.
2. Provide a title certification showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgage shall be required to consent to the plat.
3. Define S/E within the Legend.
4. Revise the Acknowledgment Block to correct the overlapping text.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission considered this application at a public hearing on September 15, 2015. After conducting the public hearing, the Planning Commission made a motion for recommendation of approval to the Governing Body with the following stipulations:

1. Applicant shall provide certification by the County Treasurer showing that all due or unpaid taxes have been paid in full.
2. Provide a title certification showing that the proposed subdivider owns all the property within the plat in fee, and that it is free from encumbrances and liens; but if encumbered, the mortgage shall be required to consent to the plat.
3. Define S/E within the Legend.
4. Revise the Acknowledgment Block to correct the overlapping text.

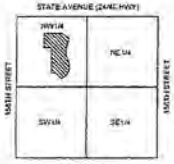
The motion with four (4) stipulations was seconded and approved (6-0).

PINEHURST ESTATES SECOND PLAT

(A REPLAT OF TRACT E, PINEHURST ESTATES
SECTION 11, TOWNSHIP 11 SOUTH, RANGE 22 EAST
CITY OF BASEHOR, LEAVENWORTH COUNTY, KANSAS)

Description

All of Tract E in PINEHURST ESTATES, a subdivision in the City of Basehor, Leavenworth County, Kansas and containing 23,324.39 square feet, more or less.



SCALE: 1" = 2000'
LOCATION MAP
SECTION 11-11-22

LEGEND

UE UTILITY EASEMENT
DE DRAINAGE EASEMENT
LE LANDSCAPE EASEMENT
C.L. CENTERLINE
B.L. BUILDING LINE
R.O.W. RIGHT-OF-WAY
Δ ANG
R RADIUS
L LENGTH

NOTES:
1. THE BASIS OF BEARINGS FOR THIS PLAT IS THE THE PLAT OF PINEHURST ESTATES.
2. ERROR OF CLOSURE= 1:50,000
3. BUILDING SETBACKS:
FRONT YARD: 35 MIN.
SIDE YARD: 7.5' MIN.
REAR YARD: 30' MIN.

BENCH MARK
RR SPIKE IN NE FACE OF TRANSMISSION LINE POWER POLE, SW QUAD 24-02 & 154TH ST
NGVD 88, ELEVATION = 962.59

LEGEND:

● FOUND 1/2" REBAR UNLESS OTHERWISE NOTED
○ SET 1/2" REBAR WILSON CAP UNLESS OTHERWISE NOTED

I HEREBY CERTIFY THIS PLAT WAS PREPARED UNDER MY DIRECT SUPERVISION BASED ON A FIELD SURVEY PERFORMED ON. THE DETAILS SHOWN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF

DAVID A. WAINE, P.S.#1204

DEDICATION

The undersigned proprietor of the above described tract of land has caused the same to be subdivided in the manner shown on the accompanying plat which hereafter shall be known as "PINEHURST ESTATES SECOND PLAT".

The streets and roads shown on the plat and not previously dedicated are hereby dedicated to the City of Basehor, Leavenworth County, Kansas.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, pipes, poles, mains, manholes, surface drainage facilities and other similar facilities, upon, over and under those areas outlined and designated on this plat as "Drainage Easement" or "DE" is hereby granted to the City of Basehor, Leavenworth County, Kansas, or its designees.

An easement or license to enter upon, locate, construct and maintain or authorize the location, construction or maintenance and use of conduits, pipes, poles, mains, manholes, surface drainage facilities and other similar facilities, upon, over and under those areas outlined and designated on this plat as "Utility Easement" or "UE" is hereby granted to the City of Basehor, Leavenworth County, Kansas, or its designees.

An easement or license to lay, install, alter, repair, replace and operate line or lines and appurtenances connected for the collection of sanitary sewage, together with the right of ingress and egress, over and through those areas designated over and through those areas designated as "Sanitary Sewer Easement" or "SE" on this plat is hereby granted to the City of Basehor, Leavenworth County, Kansas or its designees.

RESTRICTIONS

The use of all Lots and Tracts of land in this subdivision shall hereafter be subject to the covenants and restrictions which will be filed at the office of the Register of Deeds of Leavenworth County, Kansas, subsequent to the filing of this plat and shall hereby become a part of the dedication of this plat as though fully set herein.

All previous liens have been paid prior to the execution of this plat.

All stands constructed within the water areas shall be maintained by the Pinehurst Estates Homes Association.

Tract E is to be owned and maintained by the Pinehurst Estates Home Owners Association, it shall be called as Green Space.

EXECUTION

IN TESTIMONY WHEREOF, Ken Welch, Member of Welch Family Limited Partnership has caused this instrument to be executed on this _____ day of _____, 2015.

WELCH FAMILY LIMITED PARTNERSHIP

_____
Ken Welch, Member

ACKNOWLEDGMENT

BE IT REMEMBERED that on this _____ day of _____, 2015, before me, the undersigned, a Notary Public in and for said County and State came Ken Welch, Member of WELCH FAMILY LIMITED PARTNERSHIP, duly organized under the laws of the State of Kansas, who is personally known to me to be the same person who executed the foregoing instrument of writing on behalf of said Partnership, and such persons duly acknowledged the execution of same to be the act and deed of said Partnership.

_____, 20__.

COUNTY OF LEAVENWORTH)
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year last above written.

Notary Public _____ My Commission Expires _____

APPROVALS

COUNTY SURVEYOR

I hereby certify that plat meets the requirements of K.S.A. 58-2005. The face of the plat was reviewed for compliance with Kansas Minimum Standards for Boundary Surveys. No field verification is implied. This review is for survey information only.

_____ County Surveyor _____ Date

CITY ENGINEER

The City Engineer's plat review is only for general conformance with the Subdivision Regulations as adopted by the City of Basehor. The City is not responsible for the accuracy and adequacy of the design, dimensions, elevations and quantities.

_____ City Engineer _____ Date

We the Planning Commission of the City of Basehor, Leavenworth County, Kansas do hereby approve the foregoing Plat this _____ day of _____, 2015.

_____ Chairman _____ Attest, Secretary

APPROVED by the Governing Body of the City of Basehor, Leavenworth County, Kansas, This _____ day of _____, 20__.

_____ Mayor _____ ATTEST: _____ City Clerk

REGISTER OF DEEDS CERTIFICATE

This plat of Pinehurst Estates was filed for record the _____ day of _____, 2015 A.D., at _____ and duly recorded in volume _____ of plats, at page _____.

_____ Stacy Driscoll, Register of Deeds, Leavenworth County, Kansas

PREPARED BY
SCHLAGEL & ASSOCIATES, P.A.
14920 W. 107TH STREET
LENEXA, KS 66215
(913) 492-5156

PREPARED FOR:
KEN WELCH
WELCH FAMILY LIMITED PARTNERSHIP
310 N STREET NW, SUITE 1150
WASHINGTON, DC 20001

SCHLAGEL & ASSOCIATES, P. A.
Engineers • Planners • Surveyors • Landscape Architects
14920 West 107th Street • Lenexa, Kansas 66215
(913) 492-5156 • Fax: (913) 492-5400

DATE 03-25-15	FINAL PLAT OF PINEHURST ESTATES SECOND PLAT
DRAWN BY DR	
CHECKED BY AC	
PROJ. NO. 15-046	SHEET NO. 1 OF 1

PLAT OF

PINEHURST ESTATES

(A REPLAT AND RESURVEY OF LOT PR-3 OF PINEHURST SOUTH, PART OF LOT C-2 AND ALL OF LOT C-3 OF PINEHURST NORTH, AS PLATTED IN SECTION 11, TOWNSHIP 11 SOUTH, RANGE 22 EAST, OF THE 6TH P.M., CITY OF BASEHOR, LEAVENWORTH COUNTY, KANSAS)

SHEET 1 OF 2

See Ordinance No. 641 2014203420
155th Terrace Circle - Name Change

PLAT OF

PINEHURST ESTATES

A REPLAT AND REALIGNMENT OF LOT 79-B OF PINEHURST SOUTH, PLAT NO. 1 AND LOT C-2 AND ALL OF LOT C-4 OF PINE [illegible]
PLATTED IN SECTION 11, TOWNSHIP 1 SOUTH, RANGE 22 EAST, IN THE SOUTH, CITY OF [illegible], LEAVENWORTH [illegible]

SHEET 1 OF 2

Page 2

DEDICATION

[illegible]

RESTRICTIONS

[illegible]

APPROVALS

COUNTY SURVEYOR:

[illegible]

County Surveyor — Date

CITY ENGINEER:

[illegible]

City Engineer — Date

[illegible]

City Clerk — Mayor

[illegible]

City Clerk

TRUSTEE OF DEEDS CERTIFICATE:

[illegible]

Deputy Director of Deeds [illegible] County, Kansas

LOCATION MAP

SECTION 11-1-22

STATE AVENUE (1/2 MILE NORTH)

NORTH — WEST — EAST — SOUTH

SWAN ROAD

[illegible]

NOTES

1. THE BASIS OF BEARINGS FOR THIS PLAT IS THE WEST LINE OF THE PLAT OF PINEHURST SOUTH
2. SECTION CORNER OF SURVEY HORIZONTALLY DEVELOPED FROM THE FINAL PLAT OF PINEHURST SOUTH AS FILED IN VOLUME [illegible] PAGE 13
3. ZONING OF CLEARANCE: [illegible]
4. TITLE INSURANCE PROVIDED BY: FIRST AMERICAN TITLE INSURANCE COMPANY POLICY NO. 5561177 DATED [illegible] AND AMENDED [illegible]
5. BUILDING SETBACKS
   FRONT YARD: AS SHOWN ON PLAT
   SIDE YARD: 7.5' MIN.
   REAR YARD: 25' MIN.
6. MINIMUM LOT SIZE: 40,000 SQ.FT.
7. TRACT "C" WAS INTENTIONALLY LEFT BLANK ON THE PLAT DURING RECORDING PROCEDURE
8. ALL INTERIOR LOT CORNERS WILL BE SET AFTER CONSTRUCTION

[illegible]

[illegible]

[illegible]

SCHLADEL & ASSOCIATES, P.A.

Engineers • Planners • Surveyors • Landscape Architects

[illegible]

DATE	[illegible]
DESIGN	[illegible]
DRAWN BY	[illegible]
PROJ. NO.	03-013

PLAT OF PINEHURST ESTATES

SHEET NO. 2 OF 2

THE WORLD COMPANY.
645 New Hampshire
PO Box 888
Lawrence, KS 66044
Phone: (785) 832-2222
Fax: (785) 832-7232
Email: classifieds@ljworld.com

Advertising Receipt

CITY OF BASEHOR
CITY CLERK
PO BOX 406
BASEHOR, KS 66007

Customer No.:	10004252
Customer Phone:	913-724-1370
Order No.:	10556894
Ad Type:	Classified
Ad Number:	11439123
Category:	Public Notices

Ad Taker: svarnado Key Words: public hearing notice 0820

Description	Start	Stop	Insertions	Total
Classified Advertising				24.20
Bonner	08/20/15	08/20/15	1	

Total:	24.20
Prepaid:	0.00
Total Due:	**$24.20**

(First published in the Bonner Springs Chieftain August 20, 2015)

PUBLIC HEARING NOTICE
CITY OF BASEHOR
PLANNING COMMISSION

Notice is hereby given that the Planning Commission of the City of Basehor, Kansas will hold a public hearing on Tuesday, September 15, 2015 at 7:00 PM, in the meeting room of City Hall, located at 2620 N. 155th Street, Basehor, Kansas to consider Pinehurst Estates 2nd Final Plat submitted by Welch Family Limited Partnership. The proposed plat is located at the southwest corner of Evergreen Street and 155th Terrace. The property description is:

All of Tract E as platted in PINEHURST ESTATES, a subdivision in the City of Basehor, Leavenworth County, Kansas and containing 23,324.38 square feet, more or less.

All persons who desire to comment for or against said application are invited to appear at the time and place mentioned above. Copies of the application and full legal description are available for review during normal business hours at Basehor City Hall. Questions about the application may be directed to Mitch Pleak, City Engineer at 913-724-1370.

PLANNING COMMISSION
CITY OF BASEHOR, KANSAS

APPLICATION FORM

CITY OF BASEHOR

Planning & Zoning Department
2020 N. 155th Street, PO Box 406, Basehor, KS 66007
Phone: 913-724-1370 Fax: 913-724-3388
www.basehor.org

Project Name & Description PINEHURST ESTATES SECOND PLAT	Total Site Acreage 24.275	Present Zoning PR & CP-2
Legal Description (May be attached as separate sheet) SEE THE ATTACHED LEGAL DESCRIPTION		Proposed Zoning SAME
Project Address / General Location 155TH STREET AND PINEHURST DRIVE		Presubmittal Date
Parcel ID Number (CAMA Number)		Floor Area Classification
Property Owner Name WELCH FAMILY LIMITED PARTNERSHIP	Phone	Fax
Property Owner Address 910 M Street NW, Suite 1130, Washington, DC 20001	City	State Zip
Applicant's Name (if different from above) Ken Welch	Phone	Fax
Applicant's Address 910 M Street NW, Suite 1130, Washington, DC 20001	City	State Zip
Applicant's mobile phone	Property Owner and/or Applicant's E-mail address	

APPLICATION TYPE	
[ ] **Annexation**	[ ] **Preliminary Development Plan** (Submit Sheet A)
[ ] **Rezoning** (Submit Sheet A)	[ ] **Final Development Plan** (Submit Sheet A)
[ ] **Conditional Use Permit** (Submit Sheet A)	[ ] **Lot Split**
[ ] **Site Plan**	[ ] **Preliminary Plat**
[ ] **Variance** (Submit Sheet B)	[✔] **Final Plat / Replat**

PROJECT INFORMATION

Existing Use
[✔] Residential [ ] Commercial [ ] Industrial [ ] Office [ ] Agriculture [ ] Vacant [ ] Other _____

Proposed Use
[✔] Residential [ ] Commercial [ ] Industrial [ ] Office [ ] Agriculture [ ] Other _____

COMPLETE THIS AREA IF APPLYING FOR SITE PLAN, CONDITIONAL USE PERMIT, AND PRELIMINARY OR FINAL DEVELOPMENT PLANS (In acres)

Total Site Area 64.33 AC (PR) & 33.23 AC (CP-2)	Existing Floor Area N/A	Existing Building Footprint N/A	Open Space Area 30.96 AC
No. of Buildings N/A	Proposed Floor Area N/A	Proposed Building Footprint N/A	Pavement Coverage N/A

COMPLETE THIS AREA IF SUBDIVIDING PROPERTY

Proposed Number of Lots	Maximum Lot Size	Minimum Lot Size	Average Lot Size

Property Owner/Agent Consent – I am the legal owner of record of the land specified in this application or am authorized and empowered to act as an agent on behalf of the owner of record on all matters relating to this application. I declare that the foregoing is true and correct and accept that false or inaccurate owner authorization may invalidate or delay action on this application.

X [signature] 6/23/15
Signature Date

For Welch Family Ltd Part One

Office Use Only
[ ] Filing Fee $_____ [ ] Received by _____ [ ] # of Plans _____
[ ] Attached Legal Description [ ] Property Ownership List

SHEET A

CITY OF BASEHOR

Planning & Zoning Department
2820 N. 155th Street, PO Box 406, Basehor, KS 66007
Phone 913-724-1370 Fax 913-724-3388
www.basehor.org

Please respond to the following questions to the best of your knowledge (Attach additional sheets if needed)

1. Reason for This Request? The Owners wish to revise the Tract "E" Pinehurst Estates from a Pool tract to an open space tract.

2. What Is the Suitability of Subject Property for the Uses to Which it Has Been Restricted?
No restriction removals requested. The Owners wish to change the use of Tract "E" Pinehurst Estates

3. To What Extent Will Removal of Restrictions Detrimentally Affect Nearby Property?
Same as item 2.

4. What Is the Relative Gain to the Public Health, Safety, and Welfare by the Destruction of the Value of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners?
Leaving this Tract a Pool tract will create a hardship on the existing HOA. There has been a change in developers and they realize a pool cannot be supported by the number of lots in Pinehurst Estates.

5. How Does Your Request Conform with the Comprehensive Plan?
No change in the Comprehensive Plan

If the application is for a Development Plan (Planned Residential, Planned Industrial or Mixed Use) please provide the following additional information.

1. Please provide a statement regarding why the development plan would be in the public interest.
It would improve feasibility of owning a lot in Pinehurst Estates

2. Please provide a statement with regard as to why the PUD would be consistent with the statement of Objectives for Planned Unit Development as found in Section 20-1002.
No change in the previously approved PUD

The City of Basehor

June 12, 2015

Pinehurst Estates Property Owners

To Whom It May Concern,

This letter is in response to the request by the property owners within the Pinehurst Estates subdivision dated April 27, 2015, to remove "Pool" from Tract E of the Pinehurst Estates Final Development Plan approved on April 4, 2006. It is Basehor city staff's understanding that the reason for the request is the hardship of the property owners within Pinehurst Estates subdivision financing the construction and maintenance of the subdivision swimming pool. It has been determined that the subdivision swimming pool will not be constructed.

Section 5(o) of the Basehor Zoning Ordinance allows for minor amendments to an approved development plan, such as changes in the location, siting, or character of buildings and structures. These changes may be authorized by the Codes Administrator, if required by engineering or other circumstances not foreseen when the Final Development Plan was approved. Such minor amendments shall be consistent with provisions of Section 5(n) of the Basehor Zoning Ordinance, and no amendment authorized by the Codes Administrator under this Section may increase the size of any building or structure by more than five (5%) percent, nor change the location of any building or structure by more than ten (10) feet in any direction, and the amended development shall still comply with the minimum or maximum requirements set forth in the Basehor Zoning Ordinance.

Tract E of the Pinehurst Estates Final Development Plan is considered Open Green Space. Tract E also contains the location for a subdivision swimming pool. Because of the issues with financing the construction and maintenance of the subdivision swimming pool, the subdivision swimming pool will not be constructed. This is a circumstance which was unforeseen when the Pinehurst Estates Final Development Plan was approved. Removal of the subdivision swimming pool does not change the purpose of Trace E as Open Green Space. In accordance with the Basehor Zoning Ordinance, the removal of the subdivision swimming pool is the removal of a structure from a development plan which may be authorized by the Codes Administrator.

The request to remove "Pool" from Tract E within the Pinehurst Estates Final Development Plan approved on April 4, 2006, is hereby approved.

If you have any questions concerning this letter, please contact me at 913.724.1370 or mpleak@cityofbasehor.org.

Sincerely,

Mitch Pleak
City Engineer

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

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 2

Topic: Engineering services contract for the improvements to Donahoo Road (Approximately 200 feet West of K-7 Highway to 141st Street).

Action Requested: Approve Resolution 2015-16 to enter into a contract with Schlagel & Associates, P.A.

Narrative: City Council authorized the issuance of bonds for three capital improvement projects, which included Donahoo Road. The Donahoo Road project will replace approximately 800' of deteriorating roadway and provide proper drainage solutions along the improvements.

Requests for proposals were sent to Affinis Corp, BHC Rhodes, and Schlagel & Associates, P.A. These firms were selected for consideration due to their current or past design work near the project location.

Schlagel & Associates, P.A. has provided the most responsive proposal for the project with a not to exceed contract for $45,840. Per the proposal the final design will be completed by February 28, 2016.

Presented by: Mitch Pleak, City Engineer

Administration Recommendation: Approve Resolution 2015-16.

Attachments:
Resolution 2015-16

Projector needed for this item?
No

RESOLUTION NO. 2015-16

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN ENGINEERING SERVICES AGREEMENT BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND SCHLAGEL & ASSOCIATES, P.A., REGARDING THE DONAHOO ROAD IMPROVEMENT PROJECT IN BASEHOR, KANSAS

WHEREAS, the City of Basehor, Kansas wishes to enter into that certain Engineering Services Agreement with Schlagel & Associates, P.A., regarding Donahoo Road improvements from approximately 200 feet West of K-7 Highway to 141st Street, 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 Engineering Services Agreement with Schlagel & Associates, P.A., attached as **Exhibit A**.

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

PASSED by the Governing Body this ___ day of October, 2015.

APPROVED by the Mayor this ___ day of October, 2015.

[SEAL]

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

Exhibit A
Engineering Services Agreement

To be attached.

ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT is made in Leavenworth County, Kansas, by and between the City of Basehor, Kansas, hereinafter "City," and Schlagel & Associates, P.A., herein after "Consulting Engineer." City intends to construct an improvement project (hereinafter the "Project") in Basehor, Kansas, described as follows:

Donahoo Road from approximately 200 feet West of K-7 Highway to 141st Street (approximately 800 feet) as described in more detail in Exhibit A.

City hereby contracts with Consulting Engineer for the furnishing of professional engineering services in connection with the Project, for the furnishing of such engineering services more particularly described herein in consideration of the mutual covenants herein set forth. By executing this Agreement, the Consulting Engineer represents to City that Consulting Engineer is professionally qualified to do this Project and is licensed to practice engineering by all public entities having jurisdiction over Consulting Engineer and the Project.

SECTION I - DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words shall have a meaning parallel thereto.

"City" means the City of Basehor, Kansas.

"Consulting Engineer" means the company identified on pg. 1. Consulting Engineer shall employ for the services rendered herein, only those engineers, architects, landscape architects, and surveyors licensed by the Kansas State Board of Technical Professions.

"Construction Cost" means and includes the cost of the entire construction of the Project, including all supervision, materials, supplies, labor, tools, equipment, transportation and/or other facilities furnished, used or consumed, without deduction on account of penalties, liquidated damages or other amounts withheld from payment to the contractor or contractors, but such cost shall not include the Consulting Engineer's fee, or other payments to the Consulting Engineer and shall not include cost of land or rights-of-way and easement acquisition.

"Contract Documents" means those documents so identified in the Agreement for Construction for this Project, including all Engineering Documents. All terms defined in the General Conditions of the Agreement for Construction for this Project shall have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement shall prevail in the interpretation of

this Agreement.

"Contract Time" means time for completion which is February 28, 2016.

"Engineering Documents" means all documents required or reasonably implied by the nature of the Project, including, but not limited to, plans, specifications, drawings, tracings, designs, calculations, sketches, models and reports.

"Engineering Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services required of Consulting Engineer under this Agreement together with such other services as City may require pursuant to the terms of this Agreement.

"Project" is as above described.

"Project Manager" means the person employed by City and designated to act as the City's representative for the Project.

"Right-of-Way" and "Easements" means and includes street, highway, or road right-of-way and any other land dedicated to or otherwise subject to public use.

"Subsurface Borings and Testing" means borings, probings and subsurface explorations, laboratory tests and inspections of samples, materials and equipment.

"Traffic Control Plan" means a specific plan that includes but is not limited to signage; application and removal of pavement markings; construction sequencing and scheduling; methods and devices for delineation and channelization; placement and maintenance of devices; traffic regulation; and inspection.

SECTION II - COMPENSATION

1. Total Fee: City agrees to pay Consulting Engineer an amount not to exceed Forty-five thousand eight hundred forty dollars ($45,840), including reimbursables. The fee is based on the performance of the scope of services outlined in this Agreement, and shall be billed as a percentage of the maximum fee per phase and equipment charges as set forth in **Exhibit B** attached herewith, plus direct expenses, such as in-house printing, mileage, etc. Payment to Consulting Engineer shall not exceed the following percentages in each phase of the Project without prior written consent of City:

Preliminary Design	29.2%
Final Design	23.3%
Bidding	3.4%
Construction Services	6.2%
Construction Engineering	37.9%
TOTAL	100.0 %

2. Reimbursable Expenses: The Consulting Engineer shall be reimbursed at the actual cost, not to exceed a total expense of $750.00 for the following expenses: (a) expense of transportation in connection with the Project; (b) expenses in connection with authorized out-of-town travel; (c) long-distance communications; (d) expenses of printing and reproductions; (e) postage and facsimile transmissions; (f) expenses of renderings and models requested by City, (g) title company (O & Es); and (h) other costs as authorized by City.

3. Additional Services: Consulting Engineer shall provide, with City's concurrence, services in addition to those listed in Section III when such services are requested or authorized in writing by City. Prior to commencing any additional services, Consulting Engineer must submit a proposal outlining the additional services to be provided, estimation of total hours, completion date, and a maximum fee based upon the hourly rate schedule attached hereto as **Exhibit B**. Such services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Section III, preparing changes in plans ordered by City or made necessary by causes beyond the control of Consulting Engineer, providing services necessitated in the event the Engineering Services shall be suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by the Consulting Engineer, and providing any other special services not otherwise covered by this Agreement which may be requested by City. Payment to Consulting Engineer, as compensation for these services, shall be in accordance with the hourly rate schedule attached as **Exhibit B**. Reimbursable expenses incurred in conjunction with additional services shall be paid separately and those reimbursable expenses shall be paid at actual cost. Records of reimbursable expenses and expenses pertaining to additional services shall be made available to City, if so requested.

4. Special Services: Consulting Engineer may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. Consulting Engineer shall not be paid extra by City if its appearance is to defend its professional Engineering Services. If Consulting Engineer is requested, in writing, by City, to appear as a general witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as **Exhibit B**.

5. Billing: Consulting Engineer shall bill City monthly for all completed services and reimbursable expenses. The bill submitted by Consulting Engineer shall itemize the

services and reimbursable expenses for which payment is requested. City agrees to pay Consulting Engineer within thirty (30) days of approval by the Governing Body.

6. City's Right to Withhold Payment: In the event City becomes credibly informed that any representations of Consulting Engineer provided in its monthly billing, are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consulting Engineer until the inaccuracy and the cause thereof, is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact shall be made known to Consulting Engineer immediately. Consulting Engineer will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City shall be paid to Consulting Engineer in accordance with the contract payment procedures.

7. Progress Reports: A progress report must be submitted with each monthly pay request indicating the percentage of design tasks completed to date. This report will serve as support for payment to Consulting Engineer

8. Change in Scope: For substantial modifications in authorized Project scope, and/or substantial modifications of drawings and/or specifications previously accepted by City, when requested by City and through no fault of Consulting Engineer the Consulting Engineer shall be compensated for time and expense required to incorporate such modifications at Consulting Engineer's standard hourly rates per **Exhibit B**; provided, however, that any increase in total fee or Contract Time must be approved through a written change order. Consulting Engineer shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to Consulting Engineer's negligence or other actionable fault.

9. Change Orders: This Agreement may be amended to provide for additions, deletions and revisions in the Engineering Services or to modify the terms and conditions thereof by either written amendment or by change order. The total fee and Contract Time may only be changed by a written change order approved by City. If notice of any change affecting the general scope of the Engineering Services or provisions of this Agreement, including but not limited to, total fee or Contract Time, is a requirement of any insurance policy held by Consulting Engineer as a requirement of this Agreement, the giving of such notice shall be the Consulting Engineer's responsibility.

SECTION III - RESPONSIBILITIES OF CONSULTING ENGINEER/ARCHITECT

Consulting Engineer shall furnish and perform the various professional duties and services in all phases of the Project to which this Agreement applies as herein provided and

which are required for the construction of the Project which services shall include:

A. PRELIMINARY DESIGN PHASE

1. Services: The services to be provided during this phase are set out in **Exhibit A** attached hereto and incorporated by reference.
2. Preliminary Design Documents: Consulting Engineer shall furnish the City two (2) copies of the preliminary design documents, unless otherwise noted in **Exhibit A**.
3. Preliminary Cost Estimate: Consulting Engineer shall furnish City an estimate of probable Construction Cost based on the preliminary design of the Project. Consulting Engineer's estimate of probable Construction Cost is to be made on the basis of Consulting Engineer's experience and qualifications and represent Consulting Engineer's best judgment as an experienced and qualified design professional, familiar with the construction industry.
4. Budget: Consulting Engineer shall advise City if, in its opinion, the amount budgeted for construction is not sufficient to adequately design and construct the improvement as requested prior to commencement of final design phase.

B. FINAL DESIGN PHASE

1. Services: The services to be provided during this phase are set out in **Exhibit A** attached hereto and incorporated by reference.
2. Final Design Documents: Consulting Engineer shall furnish City three (3) copies, unless otherwise noted in **Exhibit A**, of the final design plans and shall also prepare the necessary plans and applications for permits for submission to and approval of local, county, state and federal authorities having proper jurisdiction as may be required for initiation, prosecution and construction of the Project.
3. Contract Documents: Consulting Engineer shall prepare contract agreement forms, final design plans, general conditions and supplementary conditions, bid forms, invitations to bid and instructions to bidders, all to be approved by the City, and assist in the preparation of other related documents, unless such documents are provided by City.
4. Final Cost Estimate: Consulting Engineer shall furnish City an estimate of probable Construction Cost based on final design. This estimate is commonly known as the "Engineer's Estimate" and will be used as the basis for construction contract award.
5. Budget: Consulting Engineer shall advise City if, in its opinion, the amount

budgeted for the Project is not sufficient to cover all Project costs, including but not limited to, construction, right-of-way and easement acquisition, inspection and testing prior to bidding phase.

C. BIDDING PHASE

1. Services: The services to be provided during this phase are set out in **Exhibit A** attached hereto and incorporated by reference.

2. Bids Exceeding Cost Estimate: If all bids exceed Consulting Engineer's Final Cost Estimate, Consulting Engineer, at the request of City and for no additional cost, will prepare a report for City identifying why all the bids exceed the estimate. The City, in its sole discretion, has four (4) options if all bids exceed Consulting Engineer's estimate:(1) consider approval of an increase in the project cost; (2) authorize rebidding of the project; (3)terminate the Project and this Agreement; or (4) cooperate in revising the Project scope or specifications, or both, as necessary to reduce the construction cost. In the case of (4), Consulting Engineer, shall consult with City and shall revise and modify the drawings and specifications as necessary to achieve compliance with the Consulting Engineer's estimate.

D. CONSTRUCTION SERVICES PHASE

1. Services: The services provided during this phase are set out in **Exhibit A** attached hereto and incorporated herein.

2. Additional Drawings: If during construction, situations arise which require additional drawings or details, Consulting Engineer agrees to provide such additional drawings or details at no cost to City when the additional drawings or details are required to correct Consulting Engineer's errors or omissions or clarify Consulting Engineer's intent in the original design and preparation of construction drawings. If such situations occur through no fault of Consulting Engineer, or are beyond his/her control, both parties agree that hourly rates will be as stated in **Exhibit B**. Additional drawings shall be authorized through a change order.

3. Staking: Unless otherwise provided, staking shall be included in the bid specifications to be performed by the construction contractor.

4. Notice of Defects: If, based on Consulting Engineer's involvement during the construction phase, Consulting Engineer observes or otherwise becomes aware of any defect in the work, he shall give prompt written notice to City of such defects and their approximate location on the Project. However, Consulting

Engineer shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions, inspections and programs in connection with the work, since these are solely the contractor's responsibility under the contract for construction. Consulting Engineer shall not be responsible for the contractor's schedules or failure to carry out the work in accordance with the Contract Documents.

Consulting Engineer shall not have control over or charge of acts or omissions of the contractor, contractor's subcontractors, or their agents or employees.

5. Shop Drawings: Consulting Engineer shall review and take appropriate action on contractor's shop drawings and samples, and the results of tests and inspections and other data which each contractor is required to submit for the purposes of checking for compliance with the design concept and conformance with the requirements of the Contract Documents. Such review shall not extend to means, methods, sequences, techniques or procedures of construction, or to safety precautions and programs incident thereto, unless an obvious deficiency exists wherein Consulting Engineer will advise City of such defect or deficiency so the same can be prevented.

6. Record Drawings: The Consulting Engineer shall prepare final plan drawings which reflect change orders, minor design changes and which include changes made in the field and which are marked on the construction plan set provided by the City. Because some of the data contained on the "Record Drawings" may be based on unverified information provided by others, the Consulting Engineer does not warrant the accuracy of information provided by others.

E. CONSTRUCTION ENGINEERING PHASE

Services: The services provided during this phase are set out in **Exhibit A** attached hereto and incorporated herein.

F. GENERAL DUTIES AND RESPONSIBILITIES

1. Responsibilities under the General Conditions of the Contract for Construction: In addition to the responsibilities herein set forth, Consulting Engineer/Architect agrees to be responsible for those matters identified in the General Conditions (Section V of this Agreement) as being responsibilities of the Consulting Engineer. The General Conditions for the Project shall be per the Engineers Joint Contract Documents Committee current version as of the execution of this Agreement.

2. Personnel: Consulting Engineer shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of this Agreement,

the parties anticipate that the following individual will perform as the principal on this Project: Mark A. Breuer. The City will be notified in writing immediately if this individual changes. As project manager on this Project, this person shall be the primary contact with the City's project manager and shall have authority to bind Consulting Engineer. So long as the individual named above remains actively employed or retained by Consulting Engineer, he/she shall perform the function of project manager on this Project.

3. Subsurface Borings & Material Testing: If tests, additional to those provided for in **Exhibit A**, are required for design, Consulting Engineer shall prepare specifications for the taking of the additional borings. Such subsurface borings and testing, as defined herein, shall be provided by Consulting Engineer or its subcontractors and compensated as an Additional Service, to be agreed upon on the Change Order.

4. Service By and Payment to Others: Any work authorized in writing by City and performed by anyone other than Consulting Engineer or its subcontractors in connection with the proposed Project shall be contracted for and paid for by City directly to the third party or parties. In addition to payments for professional services, this may also include necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other work required or requested by City or Consulting Engineer which is not defined within the scope of services of Consulting Engineer. Fees for such extra work shall be subject to negotiation between City and the third party. Fees shall be approved prior to the execution of any extra work. Although Consulting Engineer may assist City in procuring such services of third parties, Consulting Engineer shall in no way be liable to either City or such third parties in any manner whatsoever for such services or for payment thereof.

5. Subcontracting of Service: Consulting Engineer shall not subcontract any of the Engineering Services to be performed under this Agreement without first obtaining the written approval of City regarding the Engineering Services to be subcontracted and the consulting firm or person proposed to accomplish the subcontracted portion of the Project. Unless otherwise stated in the written consent to subcontracting the Engineering Services to be performed under this Agreement, no subcontract will release or discharge the Consulting Engineer from any obligation under this Agreement. Any person or firm proposed for subcontracting Engineering Services under this Agreement shall maintain

throughout the duration of the Agreement, insurance as provided in Section V. D. (8) herein, and shall additionally maintain Professional Liability insurance in a minimum amount of $1,000,000 per claim and provide the City with certification thereof.

6. Endorsement: Consulting Engineer shall sign and seal all final plans, specifications, estimates and engineering data furnished by him/her. Any review or approval by City of any documents prepared by the Consulting Engineer, including but not limited to the plans and specifications, shall be solely for the purpose of determining whether such documents are consistent with City's construction program and intent and shall not be construed as approval of same by City. No review of such documents shall relieve Consulting Engineer of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its work.

7. Inspection of Documents: Consulting Engineer shall maintain all Project records for inspection by City during the contract period and for three (3) years from the date of final payment.

SECTION IV - CITY OF BASEHOR RESPONSIBILITIES

1. Communication: City shall provide to Consulting Engineer information and criteria regarding City's requirements for the Project; examine and timely respond to Consulting Engineer's submissions; and give written notice to Consulting Engineer, who shall respond promptly, whenever City observes or otherwise becomes aware of any defect in the Engineering Services.
2. Access: City will provide access for Consulting Engineer to enter public property, and private property when the City has authority to provide access.
3. Duties: City shall furnish and perform the various duties and services in all phases of the Project which are outlined and designated in **Exhibit A** as City's responsibility.
4. Program and Budget: City shall provide full information, including a program which shall set forth City's objectives, schedule, constraints, budget with reasonable contingencies, and other necessary design criteria.
5. Project Representative: City shall designate a Project Manager to represent City in coordinating this Project with Consulting Engineer, with authority to transmit instructions and define policies and decisions of City.

SECTION V - GENERAL PROVISIONS

A. TERMINATION

1. Notice: City reserves the right to terminate this Agreement in whole or in part either for cause or for its convenience and without cause or default on the part of Consulting Engineer, by providing ten (10) days' written notice of such termination to Consulting Engineer. Upon receipt of such notice from City, Consulting Engineer shall, at City's option as contained in the notice: (1) immediately cease all Engineering Services; or (2) meet with City and, subject to City's approval, determine what Engineering Services shall be required of Consulting Engineer in order to bring the Project to a reasonable termination in accordance with the request of City. Consulting Engineer shall also provide to City copies of all drawings and documents completed or partially completed at the date of termination.

   If City defaults on its obligation under this Agreement, Consulting Engineer must give written notice to the City and give the City an opportunity to cure. If the City does not cure within ten (10) days, Consulting Engineer is entitled to terminate this Agreement by providing ten (10) days' written notice.

2. Termination for Cause: If this Agreement is terminated by the City for cause, after notice to Consulting Engineer, City may take over the Engineering Services and prosecute same to completion, by contract or otherwise. When Consulting Engineer's services have been so terminated, such termination shall not affect any rights or remedies of the City against Consulting Engineer then existing or which may later accrue. Similarly, any retention or payment of monies due Consulting Engineer shall not release Consulting Engineer from liability.

3. Compensation for Convenience Termination: If City shall terminate for its convenience as herein provided, City shall compensate Consulting Engineer for all Engineering Services completed to date of its receipt of the termination notice and any additional Engineering Services requested by City to bring the Project to reasonable termination. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed.

4. Compensation for Cause Termination: If City shall terminate for cause or default on the part of Consulting Engineer, City shall compensate Consulting Engineer for the reasonable cost of Engineering Services completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. City also retains all its rights and remedies against Consulting Engineer including but not limited to its

rights to sue for damages.

5. Incomplete Documents: Neither Consulting Engineer, nor its subconsultants shall be responsible for errors or omissions in documents which are incomplete as a result of an early termination under this Section; Consulting Engineer having been deprived of the opportunity to complete such documents and certify them as ready for construction.

B. DISPUTE RESOLUTION

City and Consulting Engineer agree that disputes relative to the Project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consulting Engineer shall proceed with the Engineering Services as per this Agreement as if no dispute existed. The City shall withhold 10% of the monthly billing until the dispute is resolved, and shall continue to make the remainder of the payment for Consulting Engineer's completed Services; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

C. OWNERSHIP OF ENGINEERING DOCUMENTS

All engineering documents prepared in connection with this Project shall be the property of the City once the Consulting Engineer is paid in full for its services, whether the Project for which they are made is executed or not. The Consulting Engineer may retain a copy of all final documents, including but not limited to prints and reproductions. City does not take any responsibility for the reuse of documents by others.

D. INSURANCE

1. General

The Consulting Engineer shall maintain, throughout the duration of this Contract, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Professional Liability may be written on a "claims made" basis. Consulting Engineer shall provide certificates of insurance and renewals thereof on forms provided by the City or on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Consulting Engineer at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

2. Notice of Claim Reduction of Policy Limits

The Consulting Engineer, upon receipt of notice of any claim in connection with the Contract, shall promptly notify the City, providing full details

thereof, including an estimate of the amount of loss or liability.

The Consulting Engineer shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the contract) if the Consulting Engineer's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Consulting Engineer shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

3. General Liability

Limits -

General Aggregate:	$ 500,000
Products / Completed Operations:	$ 500,000
Personal & Advertising Injury:	$ 500,000
Each Occurrence:	$ 500,000

Policy MUST include the following conditions:

a. Commercial General Form
b. Explosion, Collapse & Underground
c. Broad Form Contractual / Contractually Assumed Liability
d. Independent Contractors
e. Broad Form Property Damage
f. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
g. Name City of Basehor as "Additional Insured"

4. Automobile Liability

Policy shall protect the Consulting Engineer against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle.

Limits -

Each Accident, Combined Single Limits, Bodily Injury and Property Damage:

Same as General Liability

Policy MUST include the following condition:

Name City of Basehor as "Additional Insured"

5. Workers' Compensation

This insurance shall protect the Consulting Engineer against all claims under applicable state workers' compensation laws. The Consulting Engineer

shall also be protected against claims for injury, disease or death of its employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation: Statutory

Employers Liability -

Bodily Injury by Accident:	$ 100,000 Each Accident
Bodily Injury by Disease:	$ 500,000 Policy Limit
Bodily Injury by Disease:	$ 100,000 Each Employee

6. Professional Liability

The Consulting Engineer shall maintain throughout the duration of this Contract, Professional Liability Insurance in an amount not less than One Million Dollars ($1,000,000.00) per claim and annual aggregate.

7. Industry Ratings

The City will only accept coverage from an insurance carrier who offers proof that it:

a. Is licensed to do business in the State of Kansas;
b. Carries a Best's policyholder rating of A- or better; and
c. Carries at least a Class VIII financial rating.

OR

Is a company mutually agreed upon by the City and Consulting Engineer.

8. Subconsultants' Insurance

If a part of the Agreement is to be sublet, the Consulting Engineer shall either:

a. Cover all subconsultant in its insurance policies, or
b. Require each subconsultant not so covered to secure insurance which will protect subconsultant against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, Consulting Engineer shall indemnify and hold harmless the City as to damages, liabilities or costs, including reasonable attorney's fees, to the extent arising out of the acts or omissions of its subconsultants.

E. INDEMNITY

1. Definition: For purposes of indemnification requirements, the term "Loss" shall have the meaning set forth as follows:

"Loss" means damage, liability or costs, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and

the cost of defense), for injury, including death, to person or persons or damages to or Loss of, property of person, firm or corporation, including the parties hereto, which to the extent arise out of or are connected with, negligent acts, errors or omissions of Consulting Engineer whether arising before or after the completion of the Engineering Services required hereunder.

2. Indemnity: For purposes of this Agreement, Consulting Engineer hereby agrees to indemnify, defend and hold harmless the City and its employees and agents from Loss, damages or alleged damages caused or incurred as a result of the negligence or other fault of the Consulting Engineer, its affiliates, subsidiaries, employees, agents and subconsultants and their respective servants, agents and employees.

In the case of any claims against the City, its employees or agents indemnified under this Agreement, by an employee of the Consulting Engineer, its affiliates, subsidiaries, or subcontractor/assignees, the indemnification obligation contained in this Agreement shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for the Consulting Engineer, its affiliates, subsidiaries, or subcontractor/assignees, under workers' compensation acts, disability benefit acts, or other employee benefit acts.

F. AFFIRMATIVE ACTION/OTHER LAWS

1. During the performance of this Agreement, the Consulting Engineer agrees that:

   a. Consulting Engineer shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

   b. in all solicitations or advertisements for employees, the Consulting Engineer shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

   c. if the Consulting Engineer fails to comply with the manner in which the Consulting Engineer reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Consulting Engineer shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the

City;

d. if the Consulting Engineer is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Consulting Engineer shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City; and

e. the Consulting Engineer shall include the provisions of subsections (a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a Consulting Engineer:

- who employs fewer than four employees during the term of such contract; or
- whose contracts with the City cumulatively total $5,000 or less during the fiscal year of the City.

2. The Consulting Engineer further agrees that the Consulting Engineer shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

G. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

H. APPLICABLE LAW

This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with, the laws of the State of Kansas.

I. ASSIGNMENT OF AGREEMENT

This Agreement shall not be assigned or transferred by Consulting Engineer without the written consent of the City.

J. NO THIRD PARTY BENEFICIARIES

Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

K. INDEPENDENT CONTRACTOR

The Consulting Engineer is an independent contractor and as such is not an agent or employee of the City.

L. WORK DELIVERABLE FORMAT

1. Project Drawings: Project drawings which are developed by Consulting Engineer through the use of a Computer Aided Drafting (CAD) System shall be made available to City by providing a Microsoft compatible compact disc. However, due to the potential that the information set forth on the electronic media (disk) can be modified by City, or City consultants, unintentionally or otherwise, Consulting Engineer shall remove all indices of its ownership, professional corporation name, seal, and/or involvement from each electronic display. For documentation purposes, two sets of an original electronic media (disk) and two (11" x 17" size or larger) duplicate hard copy sets will be prepared. One set will be given to City and one set will be retained by Consulting Engineer. If City provides such electronic media (disk) to others for any purpose, City shall require the electronic media (disk) to be returned to City upon completion of such use. City recognizes that use of such electronic media (disk) will be at City's sole risk and without any liability risk or legal exposure by Consulting Engineer.
2. Project Documentation: All documentation provided to the City other than project drawings shall be furnished on a Microsoft compatible compact disc.

N. COVENANT AGAINST CONTINGENT FEES

Consulting Engineer warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for Consulting Engineer, to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City may terminate this Agreement without liability or may, in its discretion, deduct from the Contract Price or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

O. COMPLIANCE WITH LAWS

Consulting Engineer shall abide by applicable federal, state and local laws, ordinances and regulations applicable to the Engineering Services or the Project at the time Services are rendered. Consulting Engineer shall secure occupational and professional licenses and permits from public and private sources necessary for the fulfillment of his/her obligations under this

Agreement.

P. TITLES, SUBHEADS AND CAPITALIZATION

Title and subheadings as used herein are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of this Agreement. Some terms are capitalized throughout this Agreement but the use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

Q. SEVERABILITY CLAUSE

Should any provision of this Agreement be determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) shall be null and void; provided, however, that the remaining provisions of this Agreement shall be unaffected thereby and shall continue to be valid and enforceable.

R. EXECUTION OF CONTRACT

The parties hereto have caused this Agreement to be executed in triplicate this _____ day of _____ 2015.

Schlagel & Associates, P.A.

By: _____
Authorized Signatory

Mark Breuer
Principal/Engineering Manager

CITY OF BASEHOR, KANSAS

_____
David K. Breuer
Mayor

ATTEST

_____
Katherine M. Renn
City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano
City Attorney

EXHIBIT A
Scope of Work

Scope of project: This project includes design, plans, and specifications to be used for construction of Donahoo Road from approximately 200 feet West of K-7 Highway to 141st Street which is approximately 800 linear feet in length.

General Design Requirements:
All plan development stages shall be completed no later than the current project schedule's due dates, exclusive of delays beyond the consultant's control. The consultant shall submit to the progress reports at monthly or at mutually agreed intervals in conformity with the official project schedule.

The consultant shall design the Project in conformity with the state and federal design criteria appropriate for the Project in accordance with the current most recent version of the Manual on Uniform Traffic Control Devices (MUTCD), and the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and the current version of the Basehor Technical Specifications for Public and Private Improvements with Special Provisions, and KDOT Corridor Management Construction Project Guidelines with Special Provisions.

The Design plans shall be signed and sealed by the licensed professional engineer responsible for the preparation of the design plans. Geological investigations or studies shall be signed and sealed by the licensed Geologist responsible for the preparation of the geological investigations or studies. Rights of way descriptions shall be signed and sealed by the licensed land surveyor responsible for the preparation of the rights of way descriptions.

Task I. Preliminary Design

1.01 Data Collection.

A. Attend pre-design meeting.
B. Develop design criteria for the project; prepare design memorandum for two
(2) Design concepts: one will utilize a storm drainage system and one will utilize a ditch section.
C. Develop detailed design schedule. Submit copy to City. Include at least the following benchmarks:
1. Survey complete.
2. Data collection complete.
3. Preliminary plans complete.
4. Preliminary plans to all utilities.
5. Field check complete.
6. Legal descriptions to City.
7. Public meeting.
8. All other agency permit applications submitted.

9. Final plans submitted for review.
10. Project ready for bid.

D. Schedule and coordinate project activities with KDOT and the City (where applicable).

E. Field data collection:
1. Establish land corners.
2. Field survey. Width of survey shall be 200' centered on existing roadway.
3. Contact utilities and field locate all utilities.
4. Low opening elevation of all existing structures.
5. Stream crossing elevation data, including historical high-water elevations where applicable.
6. Pictures of the project.

F. Ownership and abutting property information:
1. Secure plats
2. Obtain ownership information for up to five (5) properties. The City shall approve the title company for ownership information investigations. The costs associated with ownership information investigations shall be paid by the Consulting Engineer to the title company. This cost shall be included in the total compensation fee as outlined in Section II of the Engineering/Architectural Services Agreement.
3. Collect record drawings on abutting projects and subdivisions.

G. With the City, determine the required lane configurations and traffic control along the project. Analyze the existing geometries along the project and determine traffic control and/or geometric improvement recommendations as might be warranted.

H. Analyze the storm drainage needs along the project.
1. Determine watershed areas for all streams and basins draining onto the proposed roadway.
2. Determine ultimate development land uses for all watershed and sub-basin areas draining onto project.
3. Determine ultimate development 5-year., 25-year, and 100-year stormwater flows crossing or entering the proposed roadway.
4. Locate all storm drainage system discharges upstream from the project.

I. Prepare an analysis of the construction phasing and traffic control needs to maintain acceptable access to the existing land uses along the project corridor.

1.02 Prepare base map at a scale of 1:20 showing both contours at 1 foot intervals and property lines.

A. Develop preliminary plans:
1. Cover sheet.
2. Typical sections.
3. Pavement design

4. Subsurface drainage design
5. Surface drainage design
   a. Drainage area maps.
   b. Pavement spread calculations.
   c. Inlet and other structure design calculations.
   d. Hydraulic grade calculations.
6. Plan and Profile sheets
   a. Plan scale = 1:20
   b. Profile scale H = 1:20; V = 1:5
7. Length of tapers and storage lanes for turn lanes.
8. Driveway profiles
9. Preliminary traffic control for construction plan sheets.
10. Preliminary street lighting.
    a. Pole locations.
    b. Define design parameters.
11. Preliminary pavement marking and signing.
12. Property lines and owner information.
13. Cross sections every 25 feet
14. Preliminary retaining wall elevation views as required.

1.03 Submit preliminary plans to the City and KDOT for review.

1.04 Submit preliminary plans to utility companies for their use in preparing for relocations.

1.05 Develop preliminary opinion of probable project costs itemized by unit of work, including right-of-way and contingency.

1.06 Submit preliminary plans and opinion of probable cost to City and KDOT for review.

1.07 Communicate with the City not less than bi-weekly as necessary in connection with such preliminary work.

1.08 Field Check to be performed with representatives of the Consulting Engineer, City, and KDOT at the project site with appropriate detailed plans.

1.09 Right-of-way and easements.

A. Describe right-of-way and easements necessary to complete project.
   1. Furnish legal descriptions sealed by an RLS licensed in the state of Kansas. Legal descriptions are also to be provided in a digital format compatible with Microsoft Word 7.0.
   2. Furnish necessary title information.
   3. Maps and sketches as follows:
      a. Plan and profile pages showing all proposed takings.
      b. Individual drawings of takings for each ownership including:
         (1) Title block.
         (2) Ownership boundaries.
         (3) Existing rights-of-ways and easements.
         (4) Proposed takings identified with text and graphically.
         (5) Legend for taking type.

(6) Graphical scale and north arrow.
(7) Ownership information.
(8) Legal description of all takings.

B. The Consulting Engineer shall stake in the field the location of rights-of- way and/or easements prior to acquisition as requested by the City, and shall meet with appraisers to identify easement and right-of-way locations.

1.10 Public Information:

A. Prepare for and attend one public meeting to explain the project to residents of the project area, and to receive public comments at a time and place arranged for by the City.
   1. Prepare exhibits, including preliminary plans (showing right-of-way taking and easements).
   2. Have persons available to explain the proposed work and to answer questions.

B. The Consulting Engineer will be available to meet with City staff and concerned property owners as directed by the City to discuss the project at any time throughout the project.

1.11 Permitting.

A. Prepare the necessary plans and applications for permit submission to and approval of:
   1. Leavenworth County.
   2. State including but not limited to:
      a. Division of Water Resources.
      b. KDOT
   3. Federal including but not limited to.
      a. US Army Corps of Engineers 404
      b. NPDES.
      c. Section 4(f) Evaluations.
      d. FEMA Map Revisions

Task II. Final Design

2.01 Prepare detailed plans and specifications.
   A Cover sheet.
   B. Typical sections.
   C. Pavement design
   D. Subsurface drainage design
   E. Surface drainage design
      1. Drainage area maps.
      2. Pavement spread calculations.
      3. Inlet and other structure design calculations.
   F. Plan and Profile sheets
      1. Plan scale = 1:20
      2. Profile scale H = 1:20; V = 1:5
   G. Length of tapers and storage lengths for turn lanes
   H. Intersection details.
   I. Driveway profiles.

J. Street lighting.
   1. Pole locations.
   2. Design parameters.
   3. Circuit information with includes control center locations.
K. Pavement marking and signing.
L. Existing and proposed right-of-way limits.
M. Property lines and owner information.
N. Cross sections every 25 feet
0. Retaining wall elevation views as required.
P. Traffic control plan and construction phasing including detour routing for each phase of the project.
Q. Location of existing utilities and underground facilities.
R. Stormwater Pollution Prevention Plan (SWPPP), including erosion and sediment control plans.

2.02 Schedule and attend utility coordination meetings as required. Add to preliminary plans.
2.03 Prepare a detailed opinion of probable cost.
   A. Include an appropriate contingency.
   B. Estimate time required to complete construction.
   C. Provide input to the City regarding forms for:
      1. Proposals
      2. Construction contracts.
      3. Bonds.
2.04 Submit final plans to the City and KDOT for review.
2.05 At the completion of the project, furnish to the City the CAD drawings of the project in the Consulting Engineer's digital format.
2.06 Furnish 5 copies of detailed plans and specifications.
   A. Plan sets will be prepared in:
      1. 2 full size (22" x 34")
      2. 3 half size (11"x 17")
   B. These plans are to be furnished at no additional cost, and are separate from those sold to prospective bidders.
2.07 Communicate with City not less than bi-weekly as necessary during preparation of detailed plans.

Task III. Bidding

3.01 Prepare and provide plans and specifications to bidders at cost to recover expenses of duplication and handling.
3.02 Attend bid letting.
3.03 Consult with and advise the City as to the acceptability of substitute materials and equipment when substitution prior to the award of the contract is allowed in the bidding documents.
3.04 Consult with and advise the City as to the acceptability of subcontractors and others proposed to do work by the general contractor.

3.05 Prepare written addenda to the bidding documents as required and or requested.
3.06 Assist the City in analyzing bids and making recommendation for award of the construction contract.
3.07 Prepare a bid tabulation in printed and MS Excel format.
3.08 Arrange for, attend, and prepare meeting minutes for a pre-bid conference.
3.09 Arrange for, attend, and prepare meeting minutes for a pre-construction conference with City representatives, the successful bidder, and utility companies.

Task IV. Construction Services

4.01 Be available for discussion and consultation during the construction phase.
4.02 Review shop drawings and be available for consultation with the City during construction.
4.03 Prepare plan revisions as necessitated by conditions encountered in the field during construction, with the exception of traffic control plans.
4.04 Prepare final record drawings which reflect:
A. All change orders.
B. Minor design changes.
C. Changes made in the field by City representatives and are marked on the construction plan set.
D. Submit updated CAD drawings and TIFF images of the revised sheets.
4.05 Attend weekly construction progress meetings as directed by the City.
4.06 Provide the City with Before and After pictures of the project in printed and digital format.
4.07 Provide five (5) copies of the Contract Documents (Plans and Specs) to the Contractor.
4.08 Draft Contractors Pay Estimates.

Task V. Construction Engineering

5.01 Provide qualified construction inspector to be present to observe the construction during all working hours. These have been estimated in the following table for a total of 25 working days.

PHASE	STAFF	HOURS	RATE	EXTENSION
PRE	P.M.	4	$105	$420
CONSTRUCTION	Inspector	16	$55	$880
	P.M.	8	$105	$880
CONSTRUCTION	Inspector	200	$55	$11,000
	Testing			
POST	P.M.	2	$105	$210
CONSTRUCTION	Inspector	4	$55	$220
			Estimated Total	**$13,610**

5.02 Provide material testing at intervals required by the City Engineer per KDOT. These standard services will be provided by Terracon Consultants, Inc., per Attachment C and invoiced as a direct reimbursable expense. These are estimated at $3,500.

Completion time: The Consulting Engineer hereby agrees to complete preliminary plans suitable for a public information meeting including easement and right-of-way descriptions and drawings (Task I) by December 31, 2015 and to complete all work necessary to and including preparation of final plans (Task II) by February 28, 2016.

EXHIBIT B
Professional Fee and Expense Worksheet

Task	Description	Principal Hourly $155	Project Manager Hourly $105	Project Engineer Hourly $95	Design Engineer Hourly $86	Reg. Land Surveyor Hourly $110	Senior Engineering Technician Hourly $85	Engineering Technician Hourly $80	Survey Crew Hourly $160	Clerical Hourly $50	Construction Observation Hourly $55	Project Landscape Architect Hourly $55	Total
1.0	**Preliminary Design**												$13,200.00
1.01	Data Collection			2	4				16.1				$3,106.00
1.02	Base Map/Preliminary Plans					4	24	8					$3,120.00
1.03	Submit Prel. Plans to City and KDOT						16	8					$2,000.00
1.04	Submit Plans to Utility Co.			2	2								$362.00
1.05	Preli. Cost Estimate		1	2	2								$467.00
1.06	Submit Cost. Est to City and KDOT		1	2									$295.00
1.07	Bi-Weekly Coord. Meeting			2									$190.00
1.08	Field Check with City			4									$380.00
1.09	Right of Way and Easements					8		8	8				$2,800.00
1.10	Public Information			2									$190.00
1.11	Permitting			2						2			$290.00
2.0	**Final Design**												$10,500.00
2.01	Detailed Plans	1		7	10		24	31.1					$6,207.00
2.02	Utility Coordination			4	8		4						$1,408.00
2.03	Detailed Cost Estimate			4									$380.00
2.04	Final Plans to City and KDOT	1		2			8	8					$1,665.00
2.05	Furnish CAD Drawings							1		2			$180.00
2.06	Furnish Final Plans		1					2		2			$365.00
2.07	Bi-weekly meetings		1	2									$295.00
3.0	**Bid Phase**												$1,520.00
3.01	Prepare plans for bidding			1				2		1			$305.00
3.02	Attend bid letting			1						1.1			$150.00
3.03	Consult City on material suitability			1									$95.00
3.04	Consult City on Sub-contractors			1									$95.00
3.05	Prepare addenda			1				2					$255.00
3.06	Assist City with bid analysis			1									$95.00
3.07	Bid Tabulations			1						1			$145.00
3.08	Pre-bid meeting			2									$190.00
3.09	Pre-con meeting			2									$190.00
4.0	**Construction Services**												$2,800.00
4.01	Construction Phase Consultation		1	4	2								$657.00
4.02	Review shop drawings				2								$172.00
4.03	Const. plan revisions			1	2			4					$587.00
4.04	Prepare record drawings							4					$320.00
4.05	Constrcution Progress Meetings			2									$190.00
4.06	Before and After Pics							2					$160.00
4.07	Conctract Documents			1	2					1.6			$347.00
4.08	Pay Applications			1	2					2			$367.00
5.0	**Construction Engineering**												$17,070.00
5.01	Constrcution Inspection		14								220		$13,570.00
5.02	Materials Testing *Estimated per Terracon Prop.*												$3,500.00
6.0	**Reimbursible Expenses**												$750.00
6.01	Printing, Delivenes, Mileage												$750.00
7.0	**Grand Total**												$45,840.00

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 3a

Topic: Land Acquisition Services for the Leavenworth Road Sidewalk Improvement Project.

Action Requested: Approve Resolution 2015-17 to enter into a contract with Land Company Real Estate Services, Inc.

Narrative: On August 3rd, 2015, City Council approved funding for three (3) capital improvement projects. Land acquisition services will be needed for the projects to acquire necessary right-of-way and easements to complete the projects. Staff has acquired three (3) proposals for land acquisition services regarding the Leavenworth Road Sidewalk Improvement Project. The proposals include land acquisition services for 22 tracts. Land Company Real Estate Services, Inc. provides the lowest cost for the project.

Presented by: Mitch Pleak, City Engineer

Administration Recommendation: Approve Resolution 2015-17 not to exceed $17,380.

Attachments:
9.28.15 Memo
Resolution 2015-17

Projector needed for this item?
No

Memorandum

To: Mr. Mayor and City Council

CC: Lloyd Martley

From: Mitch Pleak

Date: 9.28.15

Re: Land Acquisition Services – Leavenworth Road Sidewalk Improvement Project.

On August 3rd, 2015, City Council approved funding for three (3) capital improvement projects. Land acquisition services will be needed for the projects to acquire necessary right-of-way and easements to complete the projects. Staff has acquired three (3) proposals for land acquisition services regarding the Leavenworth Road Sidewalk Improvement Project. Land Company Real Estate Services, Inc. provides the lowest cost for the project. Please see Exhibit A for a detailed cost breakdown.

Exhibit A

Leavenworth Rd Sidewalk Project	
Land Co.	$17,380
Valbridge	$24,950
Prier Law	$33,000 to $39,600

Staff recommends the Land Company Real Estate Services, Inc. for land acquisition services for the Leavenworth Road Sidewalk Improvement Project.

RESOLUTION NO. 2015-17

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN LAND ACQUISITION SERVICES AGREEMENT BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND LAND COMPANY REAL ESTATE SERVICES, INC., REGARDING THE LEAVENWORTH ROAD SIDEWALK IMPROVEMENTS PROJECT IN BASEHOR, KANSAS

WHEREAS, the City of Basehor, Kansas wishes to enter into that certain Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., regarding sidewalk improvements from City Park to 155th Street, 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 Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., attached as **Exhibit A**.

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

PASSED by the Governing Body this ___ day of October, 2015.

APPROVED by the Mayor this ___ day of October, 2015.

[SEAL]

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

Exhibit A
Land Acquisition Services Agreement

To be attached.

Land Company Real Estate Services, Inc.

14799 Woodend Road
Bonner Springs, Kansas 66012

Office Phone - 913 441 8441
Email - TheLandCo@aol.com

August 31, 2015

Letter Agreement
For
Land Acquisition Services

Mr. Mitch Pleak, P. E.
City Engineer
City of Basehor
2620 North 155th Street
Basehor, Kansas 66007

Re: Real Estate Acquisition Services for the Leavenworth Road Sidewalk Improvement Project. (From City Park to 155th Street.)

Dear Mr. Mitch Pleak:

Pursuant to your request please consider this our formal proposal to provide real estate acquisition related services for the Leavenworth Road Sidewalk Improvement Project. (From City Park to 155th Street.)

In accordance with the information supplied to our firm, we have prepared a detailed proposal. The fee structure for this project is as follows.

Real Estate Appraisal and Acquisition Services	22 Tracts
Donation Negotiation and Acquisition	$395.00
Estimate of Just Compensation Valuation	$395.00
Total	$790.00

22 Tracts X $790.00 = $17,380.00

Total $17,380.00

Estimates of Compensation valuations will be used to determine the offers of compensation for the properties that do not donate the necessary easements for the project. The number of tracts involved in this project was determined from the overall project plans. This project contains no state or federal funds. All work product will be billed at the same unit price as shown above and upon completion of the work product and in accordance with Exhibit "A". All work will commence upon a written notice to proceed from the City of Basehor.

It appears that the Leavenworth Road Sidewalk Improvement Project from City Park to 155th Street Street has 22 tracts and all require land acquisition. Valuations can be produced within three to four weeks and offers can be made within the following week or so. This information is provided to assist with the project time line and project expectations.

We estimate that we can have all property owners contacted within the first ten days of the acquisition process. Subsequent visits are consequently not expedient because property owners are usually gathering information or conversing with others regarding the offer and or specific cost to cure concerns. Our firm estimates that the negotiation and acquisition phase will take approximately 45 - 60 days.

We estimate that the valuation and acquisition phases will be completed within approximately 100 days, assuming that all necessary information and documents, including legal descriptions and easement documents have been obtained or prepared the consultant and or City of Basehor.

Our firm feels that a turnkey project cost is $17,380.00 and can be completed within 119 days from initiation to completion.

If this proposal is acceptable to you, please sign this Letter Agreement in the space provided.

Respectfully Submitted,

City of Basehor, Kansas **Land Company Real Estate Services, Inc.**

By: _____ **By:** _____
John T. Amrein

Name _____
Title: _____ **President**

{32233 / 65827; 663910. }

Exhibit "A"

Fees For Services

The Land Company will offer each property owner the opportunity for compensation or donation for any right of way and/or easements. If the property owner chooses compensation, the Land Company will provide an estimate of just compensation valuation. If the property owner chooses donation, estimated compensation will not be needed.

The City reserves the right to deny acceptance of any work contemplated hereunder where the Land Company has failed to comply in any manner with any material requirement set out herein. If for any reason, due to changes in plans or otherwise, there shall be a major change in the scope or character of the work to be performed by the Land Company necessitating an equitable change in the amount of compensation, the City and the Land Company shall agree upon such changes in writing, the same to form a supplement to this Contract. In the event of any dispute concerning a question of fact in connection with the work to be performed by the Land Company, the City Administrator (or equivalent) shall make a determination of such fact and his/her decision shall be final. The total compensation amount is categorized as follows and any additional work will be billed at equivalent amounts per parcel and be considered additional work.

Payment Schedule

City agrees to pay the Land Company for services rendered upon completion and acceptance of all work for each property to be acquired. This project is considered to include the following steps:

1. Valuation Process, including Estimates of Compensation.
2. Acquisition Process, including offers of compensation and negotiations for each tract.
3. Miscellaneous Expenses.

The City and the Land Company agree that there will be an invoice for all of the work performed on each step of the process throughout. The Acquisition process which may have as many as seven separate invoices. Invoices will be submitted when the work pertaining to each process has been successfully completed.

Administrative Settlements

Administrative Settlements occur when the settlement price for the property to be acquired may exceed the amount offered as just compensation when reasonable efforts to negotiate on that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. This process may be preferable to condemnation in certain situations. The agent must give full consideration to all pertinent information and prepare a written justification which indicates that available information (e.g., valuations, [including the owner's appraisal, if one is available] recent court awards, estimated trial costs, and valuation problems) supports the Administrative Settlement. The Administrative

Settlement should be consistent with the situation, circumstances, and amount of money involved. Negotiating an Administrative Settlement may include new revised offer letters, new acquisition documents and deeds which may be additional work which include new document creation and justification of increased payments, and the City may agree to pay the Land Company if such work is clearly shown to be additional work.

Project Changes

The Land Company has based their proposed fees on the number of the parcels that have been supplied by the City and that the actual number of parcels required is not subject to change. The actual contract maximum shall be based upon the actual number of parcels multiplied by the appropriate unit rate as shown above. In the event that design plans change during the course of this assignment (i.e. land areas, changes in damages to specific properties, etc.), resulting in needed changes to specific appraisals or specific negotiation services (i.e. additional document preparation, etc.), the required changes will be considered extra work and will be billed as "extra work" on the basis of a negotiated per hour rate with the City. Any "extra work" billing will be specifically addressed with an approved by City staff in advance and prior to any invoice submission.

Expert Witness Testimony

All appraisal hearings, pretrial meetings, expert witness testimony, including court preparation time, may be necessary when requested by the City. All eminent domain driven meetings will be billed at $125.00 per hour. These are services beyond our scope of services and require additional time.

Extra Work

Extra work involving services beyond our scope of services outlined in this proposal will be calculated at $55.00 per hour. This identifies extra work that is not associated with eminent domain proceedings but may include work associated with Administrative Settlements and project changes.

Termination

This agreement may be terminated by either party upon sixty (60) days prior written notice to the other party for nonperformance as agreed to herein. In the event of termination as described, the Land Company shall be paid compensation in full for services performed as of the date of termination, such amount being calculated in accord with this agreement. Such amount shall be paid by City upon the Land Company delivering or otherwise making available to the City all data, drawings, reports and other information and material as may have been accumulated by the Land Company in specific performance of the services included in this agreement, whether completed or in progress.

Donations

The property owners whose real property is to be acquired for this project may make a gift of the property, or any part of it, or any of the compensation paid for it, to the City.

The property owners must be fully informed of the right to receive just compensation if they so desire. One method of informing property owners of this right is to provide them with a written document such as a brochure, which explains the land acquisition process under Kansas state law, and the owner's rights, privileges, and obligations. The information provided in the written document should be presented in nontechnical terms to the extent practicable.

The property owners must also be fully informed that they are entitled to have an appraisal made of the property, along with an offer of just compensation. In cases involving properties with a low fair market value estimate, the acquiring agency may waive the appraisal in accordance with their approved procedures.

If the property owner wants the appraisal for tax purposes and the estimated value would exceed $5,000, the Internal Revenue Service (IRS) requires that the appraisal be prepared by a disinterested, unbiased third party. While the City is not obligated to use the appraisers of The Land Company, it would be prudent to advise the property owner to select a fee appraiser, and for the City to pay the fee. .

Donations In Exchange For Construction Features

The City may accept a property owner's offer to donate property, or a portion thereof, in exchange for services rendered that will benefit the property owner.

For instance, the City may require a narrow strip of land for a street widening project. The property owner may request, and the City may agree to provide, an additional driveway or entrance in exchange for the necessary right-of-way without any cash compensation.

A comparison of the estimated value of the right-of-way against the cost of the construction features should be made for the economic justification for payment of the right-of-way by the service provided.

The offset of the cost of construction features against right-of-way costs differs from mitigation of damages. Under the mitigation of damages process, the cost of construction feature is offset against damages to the remaining property. The property owner is compensated generally in cash for the cost to construct or replace a physical feature, or for the estimated severance damage, whichever is less.

** Donations will significantly reduce the bid price on a per parcel basis. The appraisal process may or may not be utilized on each parcel if donations are favorable.

Supportive Information

The City will provide the Land Company with a legal description of each tract of land to be acquired. Each legal description will be placed on a 81/2 X 11 sheet of paper and will be supplied on a CD disk or jump drive with Microsoft Word compatible software. Microsoft Word is the preferred software. A plat map exhibit will be provided as well as construction drawings showing each property and the proposed taking will also be provided. This plat map and or construction drawing is needed to describe to the property owner the area needed for the acquisition. All title work, easement documents, right of way plans and construction drawings will also be provided by the City. Plans will be provided in 20 scale and half size sets.

Legal Information

The City will, at the request of the Land Company, if there be any doubt as to whether certain portions of the property involved are real estate or personal property, designate an attorney to make a finding as to the status of such improvements, and furnish upon request of the Land Company a statement of items generally noncompensable and furnish legal advice relative to consideration of benefits chargeable to the property involved by reason of the aforesaid proposed public improvement. Other legal opinions pertaining to this project will be furnished by the City legal counsel at no expense to the Land Company.

Independent Work Product

The Land Company agrees that all work will be prepared independent of any other contractor employed by the City for the same work and that the Land Company will not furnish to any other person or persons a copy of work completed for the City. All work prepared for the City is agreed to be confidential between the parties hereto and any breach of any confidence shall be considered a material breach of this contract, except for that information that is made available upon mutual consent of both parties.

Work Schedule

The Land Company has estimated the time schedule needed to accomplish the land acquisition services for this project. Several of the services can overlap and the time schedule forecasted may be completed in advance.

The commencement date of this agreement is to occur upon the Land Company's receipt of the executed agreement signed by the authorized person(s) representing the City and legal descriptions and plans in their entirety. Any prolonging of the time line due to changes in the design plans, legal descriptions changes, additional drawings and further engineering delays in access to information, etc., will automatically extend the parameters of the deadlines set out in any of the agreements.

Insurance

1. General

The Land Company shall maintain, throughout the duration of this Contract, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Professional Liability may be written on a "claims made" basis. The Land Company shall provide certificates of insurance and renewals thereof on forms provided by the City or on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Land Company at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

2. Notice of Claim Reduction of Policy Limits

The Land Company, upon receipt of notice of any claim in connection with the Contract, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Land Company shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the contract) if the Land Company limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Land Company shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

3. General Liability

Limits -

General Aggregate: $ 500,000
Products / Completed Operations: $ 500,000
Personal & Advertising Injury: $ 500,000
Each Occurrence: $ 500,000

Policy MUST include the following conditions:

a. Commercial General Form
b. Explosion, Collapse & Underground
c. Broad Form Contractual / Contractually Assumed Liability
d. Independent Contractors
e. Broad Form Property Damage
f. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
g. Name City of Basehor as "Additional Insured"

4. Automobile Liability

Policy shall protect the Land Company against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle.

Limits -

Each Accident, Combined Single Limits, Bodily Injury and Property Damage:
Same as General Liability

Policy MUST include the following condition:

Name City of Basehor as "Additional Insured"

5. Workers' Compensation

This insurance shall protect the Land Company against all claims under applicable state workers' compensation laws. The Land Company shall also be protected against claims for injury, disease or death of its employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employers Liability -	
Bodily Injury by Accident:	$ 100,000 Each Accident
Bodily Injury by Disease:	$ 500,000 Policy Limit
Bodily Injury by Disease:	$ 100,000 Each Employee

6. Professional Liability

The Land Company shall maintain throughout the duration of this Contract and for a three (3) year period thereafter, Professional Liability Insurance in an amount not less than One Million Dollars ($1,000,000.00) per claim and annual aggregate.

7. Industry Ratings

The City will only accept coverage from an insurance carrier who offers proof that it:

a. Is licensed to do business in the State of Kansas;

b. Carries a Best's policyholder rating of A- or better; and

c. Carries at least a Class VIII financial rating.

OR

Is a company mutually agreed upon by the City and the Land Company.

8. Subconsultants' Insurance

If a part of the Agreement is to be sublet, the Land Company shall either:

a. Cover all subconsultant in its insurance policies, or

b. Require each subconsultant not so covered to secure insurance which will protect subconsultant against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, the Land Company shall indemnify and hold harmless the City as to damages, liabilities or costs, including reasonable attorney's fees, to the extent arising out of the acts or omissions of its subconsultants.

Indemnity

1. Definition: For purposes of indemnification requirements, the term "Loss" shall have the meaning set forth as follows:

"Loss" means damage, liability or costs, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), for injury, including death, to person or persons or damages to or Loss of, property of person, firm or corporation, including the parties hereto, which to the extent arise out of or are connected with, negligent acts, errors or omissions of the Land Company whether arising before or after the completion of the Services required hereunder.

2. Indemnity: For purposes of this Agreement, the Land Company hereby agrees to indemnify, defend and hold harmless the City and its employees and agents from damages or alleged damages caused or incurred as a result of the negligence or other fault of the Land Company, its affiliates, subsidiaries, employees, agents and subconsultants and their respective servants, agents and employees.

It is agreed as a specific element of consideration of this Agreement that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that the Land Company's obligation hereunder shall not include amounts attributable to the fault or negligence of the City or any third party for whom the Land Company is not responsible.

In the case of any claims against the City, its employees or agents indemnified under this Agreement, by an employee of the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, the indemnification obligation contained in this Agreement shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Affirmative Action/Other Laws

1. During the performance of this Agreement, the Land Company agrees that:

a. the Land Company shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

b. in all solicitations or advertisements for employees, the Land Company shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

c. if the Land Company fails to comply with the manner in which the the Land Company reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Consulting Engineer/Architect shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City;

d. if the Land Company is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Land Company shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City; and

e. the Land Company shall include the provisions of subsections (a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a consultant:

- who employs fewer than four employees during the term of such contract; or
- whose contracts with the City cumulatively total $5,000 or less during the fiscal year of the City.

2. The Land Company further agrees that the Land Company shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 3b

Topic: Land Acquisition Services for the Chestnut Sanitary Sewer Improvement Project.

Action Requested: Approve Resolution 2015-18 to enter into a contract with Land Company Real Estate Services, Inc.

Narrative: On August 3rd, 2015, City Council approved funding for three (3) capital improvement projects. Land acquisition services will needed for the projects to acquire necessary right-of-way and easements to complete the projects. Staff has acquired three (3) proposals for land acquisition services regarding the Chestnut Sanitary Sewer Improvement Project. The proposals include land acquisition services for 20 tracts. Land Company Real Estate Services, Inc. provides the lowest cost for the project.

Presented by: Mitch Pleak, City Engineer

Administration Recommendation: Approve Resolution 2015-18 not to exceed $15,800.

Attachments:
9.28.15 Memo
Resolution 2015-18

Projector needed for this item?
No

RESOLUTION NO. 2015-18

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN LAND ACQUISITION SERVICES AGREEMENT BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND LAND COMPANY REAL ESTATE SERVICES, INC., REGARDING THE CHESTNUT SANITARY SEWER IMPROVEMENTS PROJECT IN BASEHOR, KANSAS

WHEREAS, the City of Basehor, Kansas wishes to enter into that certain Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., regarding the Chestnut sanitary sewer improvements from 155th Street to Parallel Street, 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 Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., attached as **Exhibit A**.

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

PASSED by the Governing Body this ___ day of October, 2015.

APPROVED by the Mayor this ___ day of October, 2015.

[SEAL]

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

Exhibit A
Land Acquisition Services Agreement

To be attached.

Land Company Real Estate Services, Inc.

14799 Woodend Road
Bonner Springs, Kansas 66012

Office Phone - 913 441 8441
Email - TheLandCo@aol.com

August 31, 2015

Letter Agreement
For
Land Acquisition Services

Mr. Mitch Pleak, P. E.
City Engineer
City of Basehor
2620 North 155th Street
Basehor, Kansas 66007

Re: Real Estate Acquisition Services for the Chestnut Sanitary Sewer Improvement Project. (From 155th Street to Parallel Street.)

Dear Mr. Mitch Pleak:

Pursuant to your request please consider this our formal proposal to provide real estate acquisition related services for the Chestnut Sanitary Sewer Improvement Project. (From 155th Street to Parallel Street.

In accordance with the information supplied to our firm, we have prepared a detailed proposal. The fee structure for this project is as follows.

Real Estate Appraisal and Acquisition Services	20 Tracts
Donation Negotiation and Acquisition	$395.00
Estimate of Just Compensation Valuation	$395.00
Total	$790.00

20 Tracts X $790.00 = $15,800.00

Total $15,800.00

Estimates of Compensation valuations will be used to determine the offers of compensation for the properties that do not donate the necessary easements for the project. The number of tracts involved in this project was determined from the overall project plans. This project contains no state or federal funds. All work product will be billed at the same unit price as shown above and upon completion of the work product and in accordance with Exhibit "A". All work will commence upon a written notice to proceed from the City of Basehor.

It appears that the Chestnut Sanitary Sewer Improvement Project from 155th Street to Parallel Street has 20 tracts and all require land acquisition. Valuations can be produced within three to four weeks and offers can be made within the following week or so. This information is provided to assist with the project time line and project expectations.

We estimate that we can have all property owners contacted within the first ten days of the acquisition process. Subsequent visits are consequently not expedient because property owners are usually gathering information or conversing with others regarding the offer and or specific cost to cure concerns. Our firm estimates that the negotiation and acquisition phase will take approximately 45 - 60 days.

We estimate that the valuation and acquisition phases will be completed within approximately 100 days, assuming that all necessary information and documents, including legal descriptions and easement documents have been obtained or prepared the consultant and or City of Basehor.

Our firm feels that a turnkey project cost is $15,800.00 and can be completed within 119 days from initiation to completion.

If this proposal is acceptable to you, please sign this Letter Agreement in the space provided.

Respectfully Submitted,

City of Basehor, Kansas **Land Company Real Estate Services, Inc.**

By: _____ **By:** _____
John T. Amrein

Name _____
Title: _____ **President**

{32233 / 65827; 663910. }

Exhibit "A"

Fees For Services

The Land Company will offer each property owner the opportunity for compensation or donation for any right of way and/or easements. If the property owner chooses compensation, the Land Company will provide an estimate of just compensation valuation. If the property owner chooses donation, estimated compensation will not be needed.

The City reserves the right to deny acceptance of any work contemplated hereunder where the Land Company has failed to comply in any manner with any material requirement set out herein. If for any reason, due to changes in plans or otherwise, there shall be a major change in the scope or character of the work to be performed by the Land Company necessitating an equitable change in the amount of compensation, the City and the Land Company shall agree upon such changes in writing, the same to form a supplement to this Contract. In the event of any dispute concerning a question of fact in connection with the work to be performed by the Land Company, the City Administrator (or equivalent) shall make a determination of such fact and his/her decision shall be final. The total compensation amount is categorized as follows and any additional work will be billed at equivalent amounts per parcel and be considered additional work.

Payment Schedule

City agrees to pay the Land Company for services rendered upon completion and acceptance of all work for each property to be acquired. This project is considered to include the following steps:

1. Valuation Process, including Estimates of Compensation.
2. Acquisition Process, including offers of compensation and negotiations for each tract.
3. Miscellaneous Expenses.

The City and the Land Company agree that there will be an invoice for all of the work performed on each step of the process throughout. The Acquisition process which may have as many as seven separate invoices. Invoices will be submitted when the work pertaining to each process has been successfully completed.

Administrative Settlements

Administrative Settlements occur when the settlement price for the property to be acquired may exceed the amount offered as just compensation when reasonable efforts to negotiate on that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. This process may be preferable to condemnation in certain situations. The agent must give full consideration to all pertinent information and prepare a written justification which indicates that available information (e.g., valuations, [including the owner's appraisal, if one is available] recent court awards, estimated trial costs, and valuation problems) supports the Administrative Settlement. The Administrative

Settlement should be consistent with the situation, circumstances, and amount of money involved. Negotiating an Administrative Settlement may include new revised offer letters, new acquisition documents and deeds which may be additional work which include new document creation and justification of increased payments, and the City may agree to pay the Land Company if such work is clearly shown to be additional work.

Project Changes

The Land Company has based their proposed fees on the number of the parcels that have been supplied by the City and that the actual number of parcels required is not subject to change. The actual contract maximum shall be based upon the actual number of parcels multiplied by the appropriate unit rate as shown above. In the event that design plans change during the course of this assignment (i.e. land areas, changes in damages to specific properties, etc.), resulting in needed changes to specific appraisals or specific negotiation services (i.e. additional document preparation, etc.), the required changes will be considered extra work and will be billed as "extra work" on the basis of a negotiated per hour rate with the City. Any "extra work" billing will be specifically addressed with an approved by City staff in advance and prior to any invoice submission.

Expert Witness Testimony

All appraisal hearings, pretrial meetings, expert witness testimony, including court preparation time, may be necessary when requested by the City. All eminent domain driven meetings will be billed at $125.00 per hour. These are services beyond our scope of services and require additional time.

Extra Work

Extra work involving services beyond our scope of services outlined in this proposal will be calculated at $55.00 per hour. This identifies extra work that is not associated with eminent domain proceedings but may include work associated with Administrative Settlements and project changes.

Termination

This agreement may be terminated by either party upon sixty (60) days prior written notice to the other party for nonperformance as agreed to herein. In the event of termination as described, the Land Company shall be paid compensation in full for services performed as of the date of termination, such amount being calculated in accord with this agreement. Such amount shall be paid by City upon the Land Company delivering or otherwise making available to the City all data, drawings, reports and other information and material as may have been accumulated by the Land Company in specific performance of the services included in this agreement, whether completed or in progress.

Donations

The property owners whose real property is to be acquired for this project may make a gift of the property, or any part of it, or any of the compensation paid for it, to the City.

The property owners must be fully informed of the right to receive just compensation if they so desire. One method of informing property owners of this right is to provide them with a written document such as a brochure, which explains the land acquisition process under Kansas state law, and the owner's rights, privileges, and obligations. The information provided in the written document should be presented in nontechnical terms to the extent practicable.

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For instance, the City may require a narrow strip of land for a street widening project. The property owner may request, and the City may agree to provide, an additional driveway or entrance in exchange for the necessary right-of-way without any cash compensation.

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The Land Company has estimated the time schedule needed to accomplish the land acquisition services for this project. Several of the services can overlap and the time schedule forecasted may be completed in advance.

The commencement date of this agreement is to occur upon the Land Company's receipt of the executed agreement signed by the authorized person(s) representing the City and legal descriptions and plans in their entirety. Any prolonging of the time line due to changes in the design plans, legal descriptions changes, additional drawings and further engineering delays in access to information, etc., will automatically extend the parameters of the deadlines set out in any of the agreements.

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The Land Company, upon receipt of notice of any claim in connection with the Contract, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Land Company shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the contract) if the Land Company limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Land Company shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

3. General Liability

Limits -

General Aggregate: $ 500,000
Products / Completed Operations: $ 500,000
Personal & Advertising Injury: $ 500,000
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Policy MUST include the following conditions:

a. Commercial General Form
b. Explosion, Collapse & Underground
c. Broad Form Contractual / Contractually Assumed Liability
d. Independent Contractors
e. Broad Form Property Damage
f. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
g. Name City of Basehor as "Additional Insured"

4. Automobile Liability

Policy shall protect the Land Company against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle.

Limits -

Each Accident, Combined Single Limits, Bodily Injury and Property Damage:
Same as General Liability

Policy MUST include the following condition:

Name City of Basehor as "Additional Insured"

5. Workers' Compensation

This insurance shall protect the Land Company against all claims under applicable state workers' compensation laws. The Land Company shall also be protected against claims for injury, disease or death of its employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employers Liability -	
Bodily Injury by Accident:	$ 100,000 Each Accident
Bodily Injury by Disease:	$ 500,000 Policy Limit
Bodily Injury by Disease:	$ 100,000 Each Employee

6. Professional Liability

The Land Company shall maintain throughout the duration of this Contract and for a three (3) year period thereafter, Professional Liability Insurance in an amount not less than One Million Dollars ($1,000,000.00) per claim and annual aggregate.

7. Industry Ratings

The City will only accept coverage from an insurance carrier who offers proof that it:

a. Is licensed to do business in the State of Kansas;

b. Carries a Best's policyholder rating of A- or better; and

c. Carries at least a Class VIII financial rating.

OR

Is a company mutually agreed upon by the City and the Land Company.

8. Subconsultants' Insurance

If a part of the Agreement is to be sublet, the Land Company shall either:

a. Cover all subconsultant in its insurance policies, or

b. Require each subconsultant not so covered to secure insurance which will protect subconsultant against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, the Land Company shall indemnify and hold harmless the City as to damages, liabilities or costs, including reasonable attorney's fees, to the extent arising out of the acts or omissions of its subconsultants.

Indemnity

1. Definition: For purposes of indemnification requirements, the term "Loss" shall have the meaning set forth as follows:

"Loss" means damage, liability or costs, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), for injury, including death, to person or persons or damages to or Loss of, property of person, firm or corporation, including the parties hereto, which to the extent arise out of or are connected with, negligent acts, errors or omissions of the Land Company whether arising before or after the completion of the Services required hereunder.

2. Indemnity: For purposes of this Agreement, the Land Company hereby agrees to indemnify, defend and hold harmless the City and its employees and agents from damages or alleged damages caused or incurred as a result of the negligence or other fault of the Land Company, its affiliates, subsidiaries, employees, agents and subconsultants and their respective servants, agents and employees.

It is agreed as a specific element of consideration of this Agreement that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that the Land Company's obligation hereunder shall not include amounts attributable to the fault or negligence of the City or any third party for whom the Land Company is not responsible.

In the case of any claims against the City, its employees or agents indemnified under this Agreement, by an employee of the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, the indemnification obligation contained in this Agreement shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Affirmative Action/Other Laws

1. During the performance of this Agreement, the Land Company agrees that:

a. the Land Company shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

b. in all solicitations or advertisements for employees, the Land Company shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

c. if the Land Company fails to comply with the manner in which the the Land Company reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Consulting Engineer/Architect shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City;

d. if the Land Company is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Land Company shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City; and

e. the Land Company shall include the provisions of subsections (a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a consultant:

- who employs fewer than four employees during the term of such contract; or
- whose contracts with the City cumulatively total $5,000 or less during the fiscal year of the City.

2. The Land Company further agrees that the Land Company shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 3c

Topic: Land Acquisition Services for the Donahoo Road Improvement Project.

Action Requested: Approve Resolution 2015-19 to enter into a contract with Land Company Real Estate Services, Inc.

Narrative: On August 3rd, 2015, City Council approved funding for three (3) capital improvement projects. Land acquisition services will needed for the projects to acquire necessary right-of-way and easements to complete the projects. Staff has acquired three (3) proposals for land acquisition services regarding the Donahoo Road Improvement Project. The proposals include land acquisition services for 3 tracts. Land Company Real Estate Services, Inc. provides the lowest cost for the project.

Presented by: Mitch Pleak, City Engineer

Administration Recommendation: Approve Resolution 2015-19 not to exceed $2,370.

Attachments:
9.28.15 Memo
Resolution 2015-19

Projector needed for this item?
No

Memorandum

To: Mr. Mayor and City Council

CC: Lloyd Martley

From: Mitch Pleak

Date: 9.28.15

Re: Land Acquisition Services - Donahoo Road Improvement Project.

On August 3rd, 2015, City Council approved funding for three (3) capital improvement projects. Land acquisition services will be needed for the projects to acquire necessary right-of-way and easements to complete the projects. Staff has acquired three (3) proposals for land acquisition services regarding the Donahoo Road Improvement Project. Land Company Real Estate Services, Inc. provides the lowest cost for the project. Please see Exhibit A for a detailed cost breakdown.

Exhibit A

Donahoo Road Project	
Land Co.	$2,370
Valbridge	$6,900
Prier Law	$9,000 to $9,900

Staff recommends the Land Company Real Estate Services, Inc. for land acquisition services for the Donahoo Road Improvement Project.

RESOLUTION NO. 2015-19

A RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN LAND ACQUISITION SERVICES AGREEMENT BY AND BETWEEN THE CITY OF BASEHOR, KANSAS AND LAND COMPANY REAL ESTATE SERVICES, INC., REGARDING THE DONAHOO ROAD IMPROVEMENT PROJECT IN BASEHOR, KANSAS

WHEREAS, the City of Basehor, Kansas wishes to enter into that certain Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., regarding Donahoo Road improvements from approximately 200 feet West of K-7 Highway to 141st Street, 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 Land Acquisition Services Agreement with Land Company Real Estate Services, Inc., attached as **Exhibit A**.

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

PASSED by the Governing Body this ___ day of October, 2015.

APPROVED by the Mayor this ___ day of October, 2015.

[SEAL]

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

Exhibit A
Land Acquisition Services Agreement

To be attached.

Land Company Real Estate Services, Inc.

14799 Woodend Road
Bonner Springs, Kansas 66012

Office Phone - 913 441 8441
Email - TheLandCo@aol.com

August 31, 2015

Letter Agreement
For
Land Acquisition Services

Mr. Mitch Pleak, P. E.
City Engineer
City of Basehor
2620 North 155th Street
Basehor, Kansas 66007

Re: Real Estate Acquisition Services for the Donahoo Road Improvement Project. (K-7 to 141st Street.)

Dear Mr. Mitch Pleak:

Pursuant to your request please consider this our formal proposal to provide real estate acquisition related services for the Donahoo Road Improvement Project. (K-7 to 141st Street.)

In accordance with the information supplied to our firm, we have prepared a detailed proposal. The fee structure for this project is as follows.

Real Estate Appraisal and Acquisition Services	3 Tracts
Donation Negotiation and Acquisition	$395.00
Estimate of Just Compensation Valuation	$395.00
Total	$790.00

3 Tracts X $790.00 = $2,370.00

Total $2,370.00

Estimates of Compensation valuations will be used to determine the offers of compensation for the properties that do not donate the necessary easements for the project. The number of tracts involved in this project was determined from the overall project plans. This project contains no state or federal funds. All work product will be billed at the same unit price as shown above and upon completion of the work product and in accordance with Exhibit "A". All work will commence upon a written notice to proceed from the City of Basehor.

It appears that the Donahoo Road Improvement Project from K-7 to 141st Street has 3 tracts and all require land acquisition. Valuations can be produced within three to four weeks and offers can be made within the following week or so. This information is provided to assist with the project time line and project expectations.

We estimate that we can have all property owners contacted within the first ten days of the acquisition process. Subsequent visits are consequently not expedient because property owners are usually gathering information or conversing with others regarding the offer and or specific cost to cure concerns. Our firm estimates that the negotiation and acquisition phase will take approximately 45 - 60 days.

We estimate that the valuation and acquisition phases will be completed within approximately 100 days, assuming that all necessary information and documents, including legal descriptions and easement documents have been obtained or prepared the consultant and or City of Basehor.

Our firm feels that a turnkey project cost is $2,370.00 and can be completed within 119 days from initiation to completion.

If this proposal is acceptable to you, please sign this Letter Agreement in the space provided.

Respectfully Submitted,

City of Basehor, Kansas **Land Company Real Estate Services, Inc.**

By: _____ **By:** _____
John T. Amrein

Name _____
Title: _____ **President**

{32233 / 65827; 663910. }

Exhibit "A"

Fees For Services

The Land Company will offer each property owner the opportunity for compensation or donation for any right of way and/or easements. If the property owner chooses compensation, the Land Company will provide an estimate of just compensation valuation. If the property owner chooses donation, estimated compensation will not be needed.

The City reserves the right to deny acceptance of any work contemplated hereunder where the Land Company has failed to comply in any manner with any material requirement set out herein. If for any reason, due to changes in plans or otherwise, there shall be a major change in the scope or character of the work to be performed by the Land Company necessitating an equitable change in the amount of compensation, the City and the Land Company shall agree upon such changes in writing, the same to form a supplement to this Contract. In the event of any dispute concerning a question of fact in connection with the work to be performed by the Land Company, the City Administrator (or equivalent) shall make a determination of such fact and his/her decision shall be final. The total compensation amount is categorized as follows and any additional work will be billed at equivalent amounts per parcel and be considered additional work.

Payment Schedule

City agrees to pay the Land Company for services rendered upon completion and acceptance of all work for each property to be acquired. This project is considered to include the following steps:

1. Valuation Process, including Estimates of Compensation.
2. Acquisition Process, including offers of compensation and negotiations for each tract.
3. Miscellaneous Expenses.

The City and the Land Company agree that there will be an invoice for all of the work performed on each step of the process throughout. The Acquisition process which may have as many as seven separate invoices. Invoices will be submitted when the work pertaining to each process has been successfully completed.

Administrative Settlements

Administrative Settlements occur when the settlement price for the property to be acquired may exceed the amount offered as just compensation when reasonable efforts to negotiate on that amount have failed and an authorized agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. This process may be preferable to condemnation in certain situations. The agent must give full consideration to all pertinent information and prepare a written justification which indicates that available information (e.g., valuations, [including the owner's appraisal, if one is available] recent court awards, estimated trial costs, and valuation problems) supports the Administrative Settlement. The Administrative

Settlement should be consistent with the situation, circumstances, and amount of money involved. Negotiating an Administrative Settlement may include new revised offer letters, new acquisition documents and deeds which may be additional work which include new document creation and justification of increased payments, and the City may agree to pay the Land Company if such work is clearly shown to be additional work.

Project Changes

The Land Company has based their proposed fees on the number of the parcels that have been supplied by the City and that the actual number of parcels required is not subject to change. The actual contract maximum shall be based upon the actual number of parcels multiplied by the appropriate unit rate as shown above. In the event that design plans change during the course of this assignment (i.e. land areas, changes in damages to specific properties, etc.), resulting in needed changes to specific appraisals or specific negotiation services (i.e. additional document preparation, etc.), the required changes will be considered extra work and will be billed as "extra work" on the basis of a negotiated per hour rate with the City. Any "extra work" billing will be specifically addressed with an approved by City staff in advance and prior to any invoice submission.

Expert Witness Testimony

All appraisal hearings, pretrial meetings, expert witness testimony, including court preparation time, may be necessary when requested by the City. All eminent domain driven meetings will be billed at $125.00 per hour. These are services beyond our scope of services and require additional time.

Extra Work

Extra work involving services beyond our scope of services outlined in this proposal will be calculated at $55.00 per hour. This identifies extra work that is not associated with eminent domain proceedings but may include work associated with Administrative Settlements and project changes.

Termination

This agreement may be terminated by either party upon sixty (60) days prior written notice to the other party for nonperformance as agreed to herein. In the event of termination as described, the Land Company shall be paid compensation in full for services performed as of the date of termination, such amount being calculated in accord with this agreement. Such amount shall be paid by City upon the Land Company delivering or otherwise making available to the City all data, drawings, reports and other information and material as may have been accumulated by the Land Company in specific performance of the services included in this agreement, whether completed or in progress.

Donations

The property owners whose real property is to be acquired for this project may make a gift of the property, or any part of it, or any of the compensation paid for it, to the City.

The property owners must be fully informed of the right to receive just compensation if they so desire. One method of informing property owners of this right is to provide them with a written document such as a brochure, which explains the land acquisition process under Kansas state law, and the owner's rights, privileges, and obligations. The information provided in the written document should be presented in nontechnical terms to the extent practicable.

The property owners must also be fully informed that they are entitled to have an appraisal made of the property, along with an offer of just compensation. In cases involving properties with a low fair market value estimate, the acquiring agency may waive the appraisal in accordance with their approved procedures.

If the property owner wants the appraisal for tax purposes and the estimated value would exceed $5,000, the Internal Revenue Service (IRS) requires that the appraisal be prepared by a disinterested, unbiased third party. While the City is not obligated to use the appraisers of The Land Company, it would be prudent to advise the property owner to select a fee appraiser, and for the City to pay the fee. .

Donations In Exchange For Construction Features

The City may accept a property owner's offer to donate property, or a portion thereof, in exchange for services rendered that will benefit the property owner.

For instance, the City may require a narrow strip of land for a street widening project. The property owner may request, and the City may agree to provide, an additional driveway or entrance in exchange for the necessary right-of-way without any cash compensation.

A comparison of the estimated value of the right-of-way against the cost of the construction features should be made for the economic justification for payment of the right-of-way by the service provided.

The offset of the cost of construction features against right-of-way costs differs from mitigation of damages. Under the mitigation of damages process, the cost of construction feature is offset against damages to the remaining property. The property owner is compensated generally in cash for the cost to construct or replace a physical feature, or for the estimated severance damage, whichever is less.

** Donations will significantly reduce the bid price on a per parcel basis. The appraisal process may or may not be utilized on each parcel if donations are favorable.

Supportive Information

The City will provide the Land Company with a legal description of each tract of land to be acquired. Each legal description will be placed on a 81/2 X 11 sheet of paper and will be supplied on a CD disk or jump drive with Microsoft Word compatible software. Microsoft Word is the preferred software. A plat map exhibit will be provided as well as construction drawings showing each property and the proposed taking will also be provided. This plat map and or construction drawing is needed to describe to the property owner the area needed for the acquisition. All title work, easement documents, right of way plans and construction drawings will also be provided by the City. Plans will be provided in 20 scale and half size sets.

Legal Information

The City will, at the request of the Land Company, if there be any doubt as to whether certain portions of the property involved are real estate or personal property, designate an attorney to make a finding as to the status of such improvements, and furnish upon request of the Land Company a statement of items generally noncompensable and furnish legal advice relative to consideration of benefits chargeable to the property involved by reason of the aforesaid proposed public improvement. Other legal opinions pertaining to this project will be furnished by the City legal counsel at no expense to the Land Company.

Independent Work Product

The Land Company agrees that all work will be prepared independent of any other contractor employed by the City for the same work and that the Land Company will not furnish to any other person or persons a copy of work completed for the City. All work prepared for the City is agreed to be confidential between the parties hereto and any breach of any confidence shall be considered a material breach of this contract, except for that information that is made available upon mutual consent of both parties.

Work Schedule

The Land Company has estimated the time schedule needed to accomplish the land acquisition services for this project. Several of the services can overlap and the time schedule forecasted may be completed in advance.

The commencement date of this agreement is to occur upon the Land Company's receipt of the executed agreement signed by the authorized person(s) representing the City and legal descriptions and plans in their entirety. Any prolonging of the time line due to changes in the design plans, legal descriptions changes, additional drawings and further engineering delays in access to information, etc., will automatically extend the parameters of the deadlines set out in any of the agreements.

Insurance

1. General

The Land Company shall maintain, throughout the duration of this Contract, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Professional Liability may be written on a "claims made" basis. The Land Company shall provide certificates of insurance and renewals thereof on forms provided by the City or on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the Land Company at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate.

2. Notice of Claim Reduction of Policy Limits

The Land Company, upon receipt of notice of any claim in connection with the Contract, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

The Land Company shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate (or otherwise required by the contract) if the Land Company limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Land Company shall promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

3. General Liability

Limits -

General Aggregate: $ 500,000
Products / Completed Operations: $ 500,000
Personal & Advertising Injury: $ 500,000
Each Occurrence: $ 500,000

Policy MUST include the following conditions:

a. Commercial General Form
b. Explosion, Collapse & Underground
c. Broad Form Contractual / Contractually Assumed Liability
d. Independent Contractors
e. Broad Form Property Damage
f. Pollution Liability (Applicable only to contracts involving pollutants such as asbestos & lead abatement, sludge or other waste abatement, etc.)
g. Name City of Basehor as "Additional Insured"

4. Automobile Liability

Policy shall protect the Land Company against claims for bodily injury and/or property damage arising out of the ownership or use of any owned, hired and/or non-owned vehicle.

Limits -

Each Accident, Combined Single Limits, Bodily Injury and Property Damage:
Same as General Liability

Policy MUST include the following condition:

Name City of Basehor as "Additional Insured"

5. Workers' Compensation

This insurance shall protect the Land Company against all claims under applicable state workers' compensation laws. The Land Company shall also be protected against claims for injury, disease or death of its employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employers Liability -	
Bodily Injury by Accident:	$ 100,000 Each Accident
Bodily Injury by Disease:	$ 500,000 Policy Limit
Bodily Injury by Disease:	$ 100,000 Each Employee

6. Professional Liability

The Land Company shall maintain throughout the duration of this Contract and for a three (3) year period thereafter, Professional Liability Insurance in an amount not less than One Million Dollars ($1,000,000.00) per claim and annual aggregate.

7. Industry Ratings

The City will only accept coverage from an insurance carrier who offers proof that it:

a. Is licensed to do business in the State of Kansas;

b. Carries a Best's policyholder rating of A- or better; and

c. Carries at least a Class VIII financial rating.

OR

Is a company mutually agreed upon by the City and the Land Company.

8. Subconsultants' Insurance

If a part of the Agreement is to be sublet, the Land Company shall either:

a. Cover all subconsultant in its insurance policies, or

b. Require each subconsultant not so covered to secure insurance which will protect subconsultant against all applicable hazards or risks of loss as and in the minimum amounts designated.

Whichever option is chosen, the Land Company shall indemnify and hold harmless the City as to damages, liabilities or costs, including reasonable attorney's fees, to the extent arising out of the acts or omissions of its subconsultants.

Indemnity

1. Definition: For purposes of indemnification requirements, the term "Loss" shall have the meaning set forth as follows:

"Loss" means damage, liability or costs, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees and the cost of defense), for injury, including death, to person or persons or damages to or Loss of, property of person, firm or corporation, including the parties hereto, which to the extent arise out of or are connected with, negligent acts, errors or omissions of the Land Company whether arising before or after the completion of the Services required hereunder.

2. Indemnity: For purposes of this Agreement, the Land Company hereby agrees to indemnify, defend and hold harmless the City and its employees and agents from damages or alleged damages caused or incurred as a result of the negligence or other fault of the Land Company, its affiliates, subsidiaries, employees, agents and subconsultants and their respective servants, agents and employees.

It is agreed as a specific element of consideration of this Agreement that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that the Land Company's obligation hereunder shall not include amounts attributable to the fault or negligence of the City or any third party for whom the Land Company is not responsible.

In the case of any claims against the City, its employees or agents indemnified under this Agreement, by an employee of the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, the indemnification obligation contained in this Agreement shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for the Land Company, its affiliates, subsidiaries, or subcontractor/assignees, under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Affirmative Action/Other Laws

1. During the performance of this Agreement, the Land Company agrees that:

a. the Land Company shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, ancestry or age;

b. in all solicitations or advertisements for employees, the Land Company shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

c. if the Land Company fails to comply with the manner in which the the Land Company reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Consulting Engineer/Architect shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City;

d. if the Land Company is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, the Land Company shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the City; and

e. the Land Company shall include the provisions of subsections (a) through (d) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

The provisions of this section shall not apply to a contract entered into by a consultant:

- who employs fewer than four employees during the term of such contract; or
- whose contracts with the City cumulatively total $5,000 or less during the fiscal year of the City.

2. The Land Company further agrees that the Land Company shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.