

# Agenda

## Basehor City Council

### Work Session

January 3, 2011 7:00 p.m.

Basehor City Hall



1. Zoning Regulations Text Amendment
2. Solid Waste Collection Code Amendments
3. Employee Handbook Amendments
4. First State Bank Agreement for Triangle Property
5. Building Inspection Interlocal Agreement with the City of Tonganoxie
6. Field of Dreams Athletic Programming & Concessions Operations
7. Executive Session (if needed)



# Memorandum

To: Mark Loughry  
CC: Mr. Mayor and City Council  
From: Mitch Pleak  
Date: 12-21-10  
Re: Zoning Regulations Text Amendment

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The Zoning and Subdivision Regulations require a final plat and final development plan approval to subdivide any land within the City. After approval, the project may move forward to construction. The final development plan is utilized by Staff/Governing Body to ensure what is being platted meets the zoning regulations and to detail what is being proposed physically on the property. The action to approve or disapprove a final plat is directly correlated to the approval of the final development plan.

The Subdivision Regulations allow a plat to have a five (5) year period from the time of approval to when an actual sale results in separate ownership. If this isn't met, the plat will become null and void.

The Zoning Regulations allow a final development plan to have an eighteen (18) month period from the approval time to the issuance of a building permit and start the construction of the first phase. If this is not met, the final development plan becomes null and void. The result is a plat that complies with the City's regulations and an expired final development plan.

September 27<sup>th</sup>, Staff collected information on final development allotments from surrounding communities. The surrounding communities which have a five (5) year minimum approval time for standard development plans include:

- Lansing
- Tonganoxie
- Bonner Springs
- De Soto
- Leavenworth

December 7<sup>th</sup>, Staff brought forward to the Planning Commission the text amendment to the Zoning Regulations, which will allow a five (5) year time allotment to issue a building permit

and start the construction of the first phase. The Planning Commission approved the text amendment 6-0.

The proposed text amendments are located in Section 5N(IV)(Paragraph 2) and Section 13N(Paragraph 2) within Article 7 of the Zoning Regulations.

Staff recommends the allotment of approved time for a final development plan to be five (5) years to coincide with the final plat.

Approved Final Development Plans shall become null and void eighteen (18) months from the date of approval, if a building permit has not been issued and the start of construction of at least the first phase of the development of the approved Final development plan has not begun, unless such period is extended by the Governing Body upon written request by the applicant. Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by following the procedures outlined in Article? of these regulations.

**o. Minor Amendments To Final Development Plans:**

Minor amendments such as changes in the location, sitting, or character of buildings and structures 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 the provisions of Section n. above 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 these regulations.

All other changes in the Final Development Plan, including changes in the site plan and in the development schedule, must be made under the procedures applicable to the initial approval of a Final Development Plan or as provided in Section p. of this Article

**p. Amendment of Approved Preliminary or Final Development Plan:**

Applications for amendments to any approved Preliminary or Final Development Plan shall be submitted and processed in the same manner as though a Preliminary Development Plan had not been previously approved for the site. However, only those site development plan elements proposed to be modified or changed need be presented, except where such modifications or changes would have a material or substantial impact on the balance of the Preliminary Development Plan or the functioning of the site. For the purposes of this Section, material or substantial impact shall be deemed to result from modifications or changes which:

- I. Would be inconsistent with any two (2) or more of the guidelines in Section n. of this Article, or
- II. Would face the most intense development or uses proposed for the site toward different property line(s) than proposed by the approved Preliminary Development Plan, or
- III. Would relocate any development features or uses proposed within the site by greater than twenty five (25) feet in any direction, or
- IV. Would reduce the number of off-street parking spaces within one hundred (100) feet of any proposed building or structure by ten (10%) percent or more.

- (h) The location of any main entrance driveway shall not be varied by greater than one hundred (100) feet from its previously proposed location along any street frontage, no additional main entrance driveways shall be proposed, and no driveway access shall be proposed to streets onto which a driveway access was not previously proposed by the approved Preliminary Development Plan.
- (i) A public hearing shall be held on Final Development Plans not in substantial compliance with the approved Preliminary Development Plan. Such hearing shall also consider amending the Preliminary Development Plan and shall follow the same procedures and be conducted in the same manner required for consideration of Preliminary Development Plans.
- (j) A public hearing need not be held to consider insignificant modifications in the location and design of streets, facilities for water, disposal of storm water or sanitary sewers, or other public facilities required by the approved preliminary Development Plan. The burden shall be upon the applicant to show the City good cause why any variation between the Preliminary Development Plan as approved and the Final Development Plan as submitted for final approval should be approved.
- (k) In the event a public hearing is not required for Final Development Plan approval and the application for final approval has been filed, together with all drawings, specifications, and other documents in support thereof, the City generally shall consider such final plan for approval after prior consideration of the Final Development Plan at a public meeting of the Planning Commission.

Approved Final Development Plans shall become null and void eighteen (18) months from the date of approval, if a building permit has not been issued and the start of construction of at least the first phase of the development of the approved Final development plan has not begun, unless such period is extended by the Governing Body upon written request by the applicant. Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by following the procedures outlined in Article? of these regulations.

o. Minor Amendments to Final Development Plans:

Minor amendments such as changes in the location, sighting, or character of buildings and structures 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 the provisions of Section n. above 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 these regulations.

(Published in the Basehor Sentinel, Thursday, November 18, 2010)

**PUBLIC HEARING NOTICE  
CITY OF BASEHOR  
PLANNING COMMISSION**

Notice is hereby given that the Planning Commission of the City of Basehor, Kansas, will hold the following Public Hearings on Tuesday, December 7th, 2010, beginning at 7:00 PM in the meeting room of City Hall, located at 2620 N. 155th Street, to consider the following items:

1. The last paragraph in Section 7 (5) (n) (IV) and the last paragraph in Section 7 (13) (n) of the Zoning Ordinance shall be proposed to be amended to read as follows:

"Approved Final Development Plans shall become null and void five (5) years from the date of approval, if a building permit has not been issued and start of construction of at least the first phase of the development of the approved Final Development Plan has not begun, unless such period is extended by the Governing Body upon written request by the applicant. Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by the following the procedures outlined in Article 18 of these regulations."

All persons who desire to comment for or against said amendment request are invited to appear at the time and place mentioned above. Copies of the proposed document are available for review during normal business hours at Basehor City Hall or at our website [www.cityofbasehor.org](http://www.cityofbasehor.org). Any questions in regards to this matter may be directed to Mitch Pleak, City Engineer at 913-724-1370.

PLANNING COMMISSION  
CITY OF BASEHOR, KANSAS

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE TEXT OF THE CITY ZONING REGULATIONS

**WHEREAS**, the City Planning Commission has recommended that the text of the City Zoning Regulations be amended to include revisions to Article 7; and

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

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

**Section 1.** That Section 5N (IV) (Paragraph 2) of Article 7 of the Basehor Zoning Regulations is hereby amended to read as follows:

Approved Final Development Plans shall be come null and void five (5) years from the date of approval, if a building permit has not been issued and start of construction of at least the first phase of the development of the approved Final Development Plan has not begun, unless such period is extended by the Governing Body upon written request by the applicant. Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by the following the procedures outlined in Article 18 of these regulations.

**Section 2.** That Section 13N (Paragraph 2) of Article 7 of the Basehor Zoning Regulations is hereby amended to read as follows:

Approved Final Development Plans shall be come null and void five (5) years from the date of approval, if a building permit has not been issued and start of construction of at least the first phase of the development of the approved Final Development Plan has not begun, unless such period is extended by the Governing Body upon written request by the applicant. Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by the following the procedures outlined in Article 18 of these regulations.

**Section 3.** That the City Clerk and City Planning Staff are hereby authorized to make necessary changes to the City's official records reflecting the above changes, and to make any changes throughout the text of the Zoning Regulations to properly reflect the existence of the new zoning district.

**Section 4.** This ordinance shall take effect and be enforced from and after its publication once in the official city newspaper.

**Section 5.** Any Ordinances in conflict with the foregoing are hereby repealed.

PASSED by the Governing Body of the City of Basehor, Kansas, and approved by the Mayor on the day of     , 2011.

(Seal)

\_\_\_\_\_  
Terry Hill, Mayor

ATTEST:

\_\_\_\_\_  
Corey Swisher, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Patrick G. Reavey, City Attorney





# The City of Basehor

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**Date:** December 28, 2010  
**To:** Basehor City Council  
**From:** Corey Swisher, City Clerk  
**Re:** Solid Waste Collection Code Amendments

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**Background:**

On December 20, 2010 the Basehor City Council entered into a contract with Deffenbaugh Industries to provide carted solid waste collection and single stream curbside recycling which will begin the first week of February, 2011. Basehor City Code (15-304 – 15-306) does not currently address the mandated use of poly-carts and needs to be updated to coincide with the City's current collection and recycling practices.

Staff will provide the proposed Code Amendment language as soon as it becomes available from the City Attorney.

**Considerations:**

- Housekeeping matter.

**Options:**

- Housekeeping matter.

**Attachments:**

- Solid Waste Code.

### ARTICLE 3. SOLID WASTE

15-301. DEFINITIONS. Unless the context clearly indicates otherwise, the meaning of words and terms as used in this article shall be as follows:

(a) Commercial Waste. - All refuse emanating from establishments engaged in business including, but not limited to stores, markets, office buildings, restaurants, shopping centers, theaters, hospitals, governments and nursing homes.

(b) Dwelling Unit. - Any enclosure, building or portion thereof occupied by one or more persons for and as living quarters;

(c) Garbage. - Waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers;

(d) Multi-Family Unit. - Any structure containing more than four individual dwelling units;

(e) Refuse. - All garbage and/or rubbish or trash;

(f) Residential. - Any structure containing four or less individual dwelling units, rooming houses having no more than four persons in addition to the family of the owner or operator, and mobile homes;

(g) Rubbish or Trash. - All nonputrescible materials such as paper, tin cans, bottles, glass, crockery, rags, ashes, lawn and tree trimmings, stumps, boxes, wood, street sweepings and mineral refuse. Rubbish or trash shall not include earth and waste from building operations or wastes from industrial processes or manufacturing operations;

(h) Single Dwelling Unit. - An enclosure, building or portion thereof occupied by one family as living quarters.

(i) Solid Dwelling Unit. - An enclosure, building or portion thereof occupied by one family as living quarters.

(j) Solid Waste. - All non-liquid garbage or rubbish and trash.

(Ord. 332, Sec. 1)

15-302. COLLECTION. All solid waste accumulated within the city shall be collected, conveyed and disposed of by the city or by contractors specifically authorized to collect and dispose of solid waste. (Ord. 332, Sec. 1)

15-303. CONTRACTS. The city shall have the right to enter into a contract with any responsible person for collection and disposal of solid waste. (Ord. 332, Sec. 1)

15-304. DUTY OF OWNER, OCCUPANT. The owner or occupant of every dwelling unit or commercial enterprise shall provide at his or her own expense a suitable container for the storage of solid waste as provided in this article. No owner or occupant shall permit to accumulate quantities of refuse or other waste materials within or close to any structure within the city unless the same is stored in approved containers and in such a manner as not to create a health or fire hazard. (Ord. 332, Sec. 1)

15-305. CONTAINERS. Residential containers shall have a capacity of not more than 30 gallons. They shall be of galvanized metal or other non-rusting material of substantial construction. Each container shall have a tight fitting lid and shall be

leak-proof and fly-tight. All containers shall have handles of suitable construction to permit lifting. Plastic bags manufactured for garbage and refuse disposal may be substituted for residential containers. Plastic bags, when used, shall be securely closed. All garbage shall be drained of all liquids before being placed in bags or containers. (Ord. 332, Sec. 1)

15-306. BULK CONTAINERS. On premises where excessive amounts of refuse accumulates or where cans or bags are impractical bulk containers for the storage of refuse may be used. Containers shall have a capacity and shall be equipped with appurtenances for attaching mechanical lifting devices which are compatible with the collection equipment being used. Containers shall be constructed of durable rust and corrosion resistant material which is easy to clean. All containers shall be equipped with tight fitting lids or doors to prevent entrance of insects or rodents. Doors and lids shall be constructed and maintained so they can be easily opened. Containers shall be watertight, leakproof and weather proof construction. (Ord. 332, Sec. 1)

15-307. ENTER PRIVATE PREMISES. Solid waste collectors, employed by the city or operating under contract with the city, are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article. (Ord. 332, Sec. 1)

15-308. OWNERSHIP OF SOLID WASTE. Ownership of solid waste when placed in containers by the occupants or owners of premises upon which refuse accumulates, shall be vested in the city and thereafter shall be subject to the exclusive control of the city, its employees or contractors. No person shall meddle with refuse containers or in anyway pilfer or scatter contents thereof in any alley or street within the city. (Ord. 332, Sec. 1)

15-309. WRAPPING GARBAGE. All garbage shall be drained of all excess liquid, and wrapped in paper or other disposable container before being placed in solid waste containers. (Ord. 332, Sec. 1)

15-310. HEAVY, BULKY WASTE. Heavy accumulations such as brush, tree limbs, broken concrete, sand or gravel, automobile frames, dead trees, and other bulky, heavy materials shall be disposed of at the expense of the owner or person controlling same. (Ord. 332, Sec. 1)

15-311. HAZARDOUS MATERIALS. No person shall deposit in a solid waste container or otherwise offer for collection any hazardous garbage, refuse, or waste. Hazardous material shall include:

- (a) Explosive materials;
- (b) Rags or other waste soaked in volatile and flammable materials;
- (c) Chemicals;
- (d) Poisons;
- (e) Radio-active materials;
- (f) Highly combustible materials;
- (g) Soiled dressings, clothing, bedding and/or other wastes, contaminated by infection or contagious disease;





# The City of Basehor

**Date:** December 28, 2010  
**To:** Basehor City Council  
**From:** Mark Loughry, City Administrator  
Corey Swisher, City Clerk  
**Re:** Employee Handbook Amendments

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## **Background:**

In July of 2010 the Basehor City Council approved a revised Personnel Manual. As staff has had several months to monitor the impacts of the updated procedures two amendments are being proposed:

1. Staff feels the current language is somewhat confusing and is contradictory to other sections of the policy. This proposed amendment is only to provide clarity.

**Current Language:** E-G (c) Holidays and paid-time-off (PTO) shall be considered as "time worked" for the purpose of computing overtime.

**Proposed Language:** Delete this section.

2. Staff is proposing all new employees (hired after 01/17/11) 401-A deferred compensation benefit be tied to the match the City would incur if the City participated in the Kansas Public Employee Retirement System. The City's current contribution is tied to the Kansas Police & Fire Retirement Systems required contribution which is annually determined by the state legislature. The proposed change provides a more rational approach to compensating non-public safety personnel and provides long term savings to the City. This proposed amendment also maintains Basehor as a competitive municipal employer. Existing employees (date of hire prior to 01/17/11) will retain the current deferred compensation benefit.

**Current Language:** G-2 Employer Provided Deferred Compensation Benefits. All eligible employees, with the exception of sworn police officers, are covered under the city's deferred compensation program (401-A). Under this plan, the employer's contribution is equal to the City contribution for sworn officers in the KP&F Retirement System and may vary from year to year. The City will begin depositing funds into the 401-A plan for the employee beginning with their first paycheck. Any employee that began service with the City after the adoption of this policy will not be vested in program until their third anniversary with the City. The cost of this benefit is paid entirely by the employer.

**Proposed Language:** G-2 Employer Provided Deferred Compensation Benefits. All eligible employees *(with a hire date prior to 01/17/2011)*, with the exception of sworn police officers, are covered under the city's deferred compensation program (401-A). Under this plan, the employer's contribution is equal to the City contribution for sworn officers in the KP&F Retirement System and may vary from year to year. *For all eligible employees, with the exception of sworn police officers, hired after 01/17/2011 the City contribution will be equal to the current Kansas Public Employees Retirement System contribution requirement and may vary from year to year.* The City will begin depositing funds into the 401-A plan for the employee beginning with their first paycheck. Any employee that began service with the City after the adoption of this policy will not be vested in program until their third anniversary with the City. The cost of this benefit is paid entirely by the employer.

**Staff Recommendation:**

- Staff recommends the proposed amendments.

**Attachments:**

- Relevant Excerpts from City of Basehor Personnel Manual.

receive pay for any accrued paid-time-off (PTO) benefits. In the event of death, the employee or the employee's heirs shall be paid for any benefit hours due in accordance with other policies outlined in this Manual. Any pay for benefit hours due the terminated employee will be based on the employee's current salary at the time of termination. At the discretion of the City Administrator up to 40 hours of additional Paid Time Off may be reimbursed to an employee that provides a notice longer than two weeks.

#### **E-6. Overtime Work.**

- (a) Compensation for authorized overtime work shall be at the rate of 1½ times the employee's regular rate of pay.
- (b) Employees are not allowed to trade time worked for compensatory time.
- (c) Holidays and paid-time-off (PTO) shall be considered as "time worked" for the purpose of computing overtime.
- (d) *Exempt employees* are not required to be paid overtime in accordance with the Federal Fair Labor Standards Act (FLSA). Executives, professional employees, and certain employees in administrative positions are considered exempt employees.
- (e) *Non-exempt employees*, in accordance with the Federal Fair Labor Standards Act (FLSA), shall be eligible to receive overtime compensation for all hours worked in excess of 40 hours in one week.
- (f) All overtime work must have prior authorization by the employee's supervisor. The supervisor shall maintain records of any overtime worked.

#### **E-7. Pay Periods; Paydays.**

- (a) Payroll periods will commence at midnight on Saturday and end two weeks later at midnight. City employees are paid every 2 weeks. During the course of the year, employees will receive at least 26 paychecks. The time period covered by the 26 paychecks will consist of an employee's "payroll year" and will coincide with the benefit calendar applicable to all full-time City employees.
- (b) Paychecks will be issued every other week, usually on Friday. If the schedule for processing timecards and issuing checks must be altered, department heads will be notified at the earliest possible time so employees can make necessary arrangements.

because of their poor performance, should be demoted or dismissed, and for any other purpose related to job performance.

- (b) Supervisors are required to complete monthly performance appraisals on all probationary employees. Probationary monthly appraisals are due in the Administration office every 30-days throughout the probationary period. Thereafter, performance appraisals shall be submitted to Administration as follows:
  - (1) at the end of an employee's probationary period;
  - (2) annually, corresponding with the employee's anniversary date; or
  - (3) after 3 months if an employee has received a poor performance rating.
- (c) Direct supervisors are responsible for completing employee performance appraisals. The performance appraisal shall be reviewed by additional departmental and/or divisional supervisors, if appropriate, based upon the size of the department/division. The department head must approve all performance appraisals prior to submitting them to Administration for processing.
- (d) Performance appraisals shall be conducted on forms and in a manner approved by the City Administrator. Supervisors shall meet with their employees to discuss their performance appraisal, and employees will be required to sign the document prior to submitting it to Administration.
- (e) If an employee's performance appraisal becomes due during a time period that the employee has been placed on a probationary status, his evaluation will be postponed until the probationary status has expired.
- (f) If an employee has been on a leave of absence and it is difficult for the department head and the employee's supervisors to make a determination as to the employee's quality of work performance, the department head can extend the employee's evaluation period until such determination can be made.

#### **E-5. Pay on Termination.**

- (a) An employee terminating employment with the City will receive a final paycheck on the first regularly scheduled pay day following his termination.
- (b) If an employee is discharged involuntarily, or voluntarily terminates without giving a minimum of two weeks notice, the employee will **not** be eligible to

by the employee. A leave of absence without pay shall not be allowed for any employee to work for another employer, or for self-employment.

Leave of absence shall be subject to the following provisions:

- (a) A request for leave of absence shall be submitted in writing to the City Administrator stating the reasons for the request at least 15 working days prior to the date the leave would begin.
- (b) At the expiration of leave without pay, the employee shall return to the position held prior to the leave.
- (c) PTO shall not be earned during leave without pay.
- (d) A leave without pay shall not constitute a break in service, but time off will not be credited toward longevity pay, service awards, or any benefit based on time in position.
- (e) Failure by an employee to report promptly at the expiration of the leave of absence shall be considered as a resignation by the employee.

**F-14. Compensatory Time.** Employees will not be allowed to earn compensatory time but shall be paid overtime in accordance with the Fair Labor Standards Act (FLSA).

**F-15. Request for Leave.** All leave time must be authorized in advance and in writing by the employee's supervisor **prior** to being taken when possible. Written requests for leave that cannot be predicted in advance must be completed upon the employee's return to work. A copy of each written leave record, signed by the employee and supervisor, shall be forwarded to the Administration office and filed in the employee's personnel file for a reasonable amount of time.

## **ARTICLE G. OTHER EMPLOYEE BENEFITS**

**G-1. Social Security Benefits.** All eligible employees of the City are under the Federal Social Security System, and receive the benefits thereof in accordance with federal laws and guidelines. The cost of this benefit is paid equally by the City and the employee, with the employee contribution subject to payroll deduction.

**G-2. Employer Provided Deferred Compensation Benefits.** All eligible employees, with the exception of sworn police officers, are covered under the city's deferred compensation program (401-A). Under this plan, the employer's contribution is equal to the City contribution for sworn officers in the KP&F Retirement System and

may vary from year to year. The City will begin depositing funds into the 401-A plan for the employee beginning with their first paycheck. Any employee that began service with the City after the adoption of this policy will not be vested in the program until their third anniversary with the City. The cost of this benefit is paid entirely by the employer.

- G-3. KP&F Benefits.** The City of Basehor elected to become a member of the Kansas Police and Fire Retirement System. All eligible employees receive the benefits thereof in accordance with state laws and guidelines. The employee and employer's share is determined by the State Legislature. All employees who are contributing members of KP&F are eligible for the insured death and disability benefits provided by KPERS which is supplemental to the regular KP&F benefits. The cost of this benefit is paid entirely by the employer.
- G-4. Retirement Age.** The City of Basehor shall abide by the Federal Age Discrimination in Employment Act and therefore has no mandatory retirement age.
- G-5. Workers' Compensation Benefits.** All employees of the City receive the benefits of the Kansas Workers' Compensation Act in accordance with such law and guidelines. The cost of this benefit is paid entirely by the employer.
- G-6. Unemployment Compensation.** All employees receive the benefits of the Kansas Employment Security (unemployment compensation) Act, in accordance with such law and guidelines. The cost of this benefit is paid entirely by the employer.
- G-7. Life Insurance.** In addition to the death benefits provided under Social Security and KPERS, the City makes available to each employee who is a member of KP&F, the option of purchasing group life insurance, administered by KPERS, on a payroll deduction basis. Employees not covered by KP&F may purchase optional group life insurance in the City's other group life plan on a payroll deduction basis. The cost of this additional life insurance is paid by the employee and varies with the options selected by the employee.
- G-8. Voluntary Deferred Compensation.** All City employees may participate in the voluntary deferred compensation plans offered by the City. The amount of investment in these programs is determined by the employee, but cannot exceed limits set by federal law. Contributions are made through a payroll deduction basis. The amounts selected are invested for the employee and are not subject to federal income tax until withdrawn.

# Memo

**Date:** 12/22/2010  
**To:** Basehor City Council  
**Cc:** Mayor, Terry Hill  
**From:** Mark Loughry, City Administrator  
**RE:** First State Bank agreement for triangle property

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Council as you are aware the piece of ground referred to as the triangle property was purchased by the City, using state grant money, from Basehor Properties LLC. As part of the purchase agreement the City was to transfer certain areas of the triangle property back to the owner once the necessary right of way and easements had been taken for the realignment project. The remaining money was to be used for cleaning up the property and engineering services.

At the time the intent of the agreement and purchase was for the City to proceed with the realignment of 150<sup>th</sup> street using funds available through a state revolving loan within 90 days. The City subsequently determined that the realignment project should be placed on hold until such time as there is sufficient revenue being generated from the Transportation Development District to fund the realignment of 150<sup>th</sup> street on both the north and south side of State Avenue. The City was notified by the Attorney for Benchmark Properties LLC that they felt the City was in default of the agreement and that according to the contract ownership should be transferred back to them. The City Attorney has been in discussion and negotiations since then.

We have now been approached by First State Bank and Trust notifying us that through foreclosure proceedings Benchmark has released their claims to this property to them. First State Bank understands the need to place the project on hold and does not intend to push for the release of ownership of the property back to them until the project is complete. However to assist with marketing the remainder of Wolf Creek they would like to establish an agreement that would accomplish the original intent of the existing agreement only transferring the remaining land back to whomever would be the owner of record for the property immediately adjacent to the triangle in the Wolf Creek development. The Bank has been extremely cooperative and is genuinely interested in working with the city to resolve this in a mutually agreeable manner.

As it appears that it has always been the intent of the City to transfer this property back to the owner once the realignment was completed and the Bank is amicable to an agreement that would protect the City's rights, I have asked the City Attorney to draft an agreement that would accomplish this for your consideration.

If you have questions or require further discussion please let me know.





*Where banking is still a people business.*

November 22, 2010

Mark Loughry  
City Administrator  
City of Basehor, Kansas  
2620 N. 155<sup>th</sup> street, P. O. Box 406  
Basehor, KS 66007

RE: Wolf Creek Junction/Triangle

Mark,

Thank you for the recent meeting with you and Mitch Pleak concerning the Wolf Creek Development. As you are aware we now have control of the property and look forward to working with the City of Basehor to make this a positive development for Basehor.

Set forth below is our understanding of the framework we discussed that will provide for a satisfactory agreement for the resolution to the issues we face.

The First State Bank and Trust will work with the city to replat the Wolf Creek property which will in essence vacate the existing erroneous ROW and provide the corrected right-a-way to the city of Basehor. The expense for the replatting will be paid for by the First State Bank.

The City of Basehor and the First State Bank & Trust will cooperate in creating a blanket easement for the area to be used for the future improvement of 150<sup>th</sup> Street. The City of Basehor will transfer title to the triangle property as per the agreement with KDOT in exchange for the easement for the redesigned 150<sup>th</sup> Street. Upon completion of the construction plan and the filing of a new plat the appropriate right-a-way will transfer to the city and the balance of the property, including that portion of the existing street that's vacated, will transfer to the then existing property owner.

Please let me know if you agree that this generally reflects our discussion.

Thank you;

Steven R. Gumm  
Senior Vice President

*PO Box 219 400 Bury Street Tonganoxie, KS 66086*  
*(913)845-2500 • toll free (800)463-7782 • fax (913)845-5100 • www.firststateks.com*  
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Member FDIC



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

**By and Between**

**THE CITY OF BASEHOR, KANSAS**

**and**

**BASEHOR PROPERTIES, L.L.C.**

**Dated October 20, 2008**

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

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

**Section 1. Purpose.**

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

**Section 2. The Parties.**

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

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

**Section 3. 150<sup>th</sup> Street Right of Way.**

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

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

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

Not to exceed \$125,000.00 for preliminary engineering for the Project.

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

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

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

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

result of the Property Owner acquiring the ownership of ½ of said vacated right of way area via its ownership of the Triangle and as required by law.

**Section 4. The Project**

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

**Section 5. Project Costs Payment Procedures.**

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

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

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

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

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

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

**Section 6. Default and Remedies.**

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

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

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

**Section 7. Governing Law, Jurisdiction.**

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

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

**Section 8. Rights and Remedies Cumulative, Waivers.**

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

**Section 9. Amendments.**

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

**Section 10. Notices, Demands, Communications Among Parties.**

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

**Section 11. Entire Agreement.**

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

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

**Section 12. Severability.**

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

**Section 13. No Liability of City Officials or Employees.**

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

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

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



CITY OF BASEHOR, KANSAS

Chris [Signature]  
Mayor

Attest:

[Signature]  
City Clerk

BASEHOR PROPERTIES, L.L.C.

Ed [Signature]  
By: Ed McIntosh  
Title: Managing Member

Attest:

[Signature]  
By:  

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**EXHIBIT A**

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

PROJECT NO. \_\_\_\_\_

PRELIMINARY DESIGN AND ACQUISITION AGREEMENT

CITY OF BASEHOR, KANSAS

**A G R E E M E N T**

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

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

Collectively referred to as the "Parties."

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

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

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

**EFFECTIVE**

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

**ARTICLE I**

**SECRETARY AGREES:**

1. To provide technical information upon request to City or City's consultant in accordance with the laws and procedures established by KDOT.

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

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

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

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

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

## ARTICLE II

### THE CITY AGREES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### ARTICLE III

#### THE PARTIES MUTUALLY AGREE:

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

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

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

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

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

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

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

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

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

ATTEST:

CITY OF BASEHOR, KANSAS

  
CITY CLERK

  
MAYOR



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

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

**EXHIBIT B**  
**PROPERTY LEGAL DESCRIPTION**

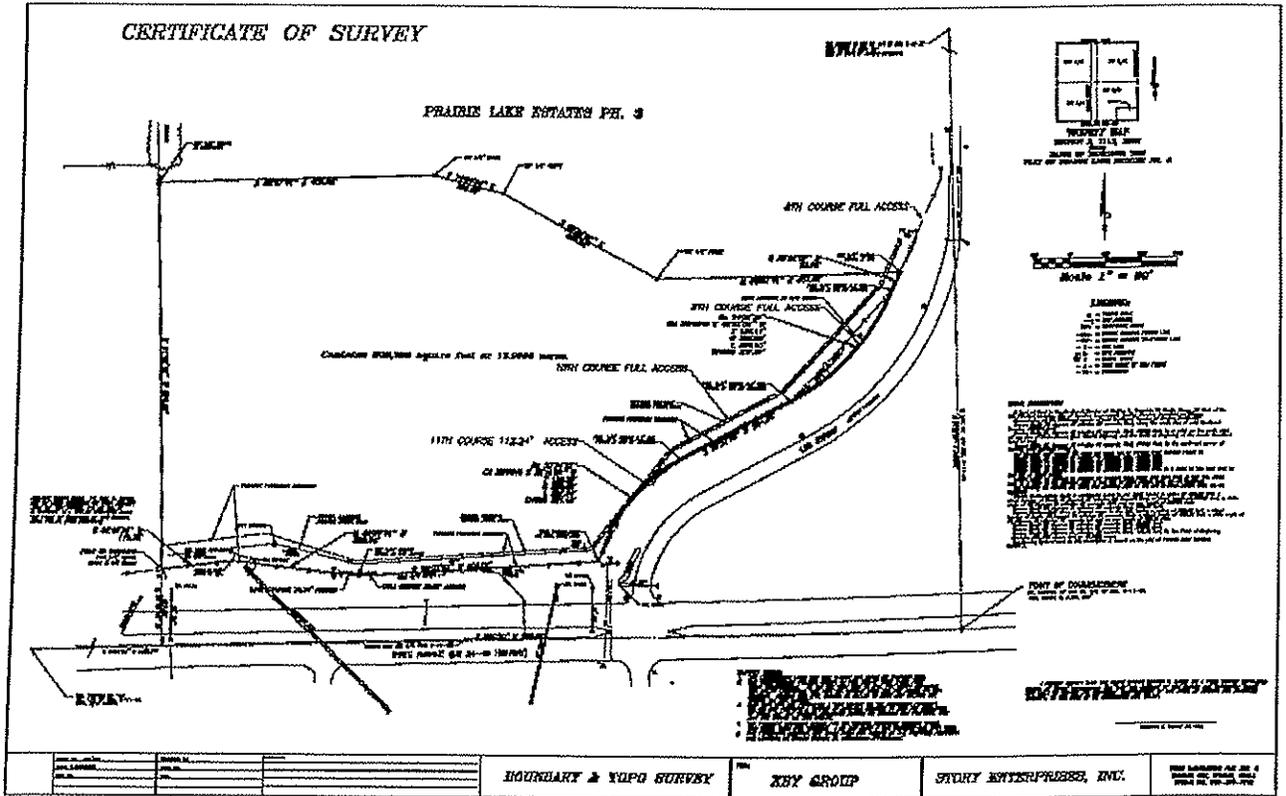


Exhibit C

TRIANGLE LEGAL DESCRIPTION

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

Beginning at a point North 01 degree 50' 14" West 145.22 feet from the Southeast corner of the Southeast  $\frac{1}{4}$  of said Section 2; thence South 88 degrees 33' 25" West 301.05 feet; thence South 86 degrees 06' 10" West 133.70 feet; thence North 59 degrees 35' 42" East 261.97 feet; thence on a curve of 555.00 feet radius to the left, an arc distance of 283.79 feet with a chord which bears North 44 degrees 56' 59" East 280.71 feet to a point on the East line of the Southeast  $\frac{1}{4}$  of said Section 2, 459.97 feet North of the Southeast corner of said Southeast  $\frac{1}{4}$ ; thence South 01 degree 50' 14" East, 314.75 feet to the point of beginning

AND ALSO

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

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

ALSO DESCRIBED AS:

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

AND

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

**Exhibit D**

**LEGAL DESCRIPTION OF DRYSDALE CONVEYANCE OF RIGHT OF WAY  
FOR 150<sup>TH</sup> STREET (LESS ACCESS RIGHTS)**

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

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



### Leavenworth County, KS



*Disclaimer:* Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale  
1 inch = 484 feet



# Memo

**Date:** 12/28/2010  
**To:** Basehor City Council  
**Cc:** Mayor, Terry Hill  
**From:** Mark Loughry, City Administrator  
**RE:** Building Inspection Interlocal agreement with Tonganoxie

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Over the past several months I have been in discussion with the Tonganoxie City Administrator Mike Yanez regarding building inspection services. In 2010 the City of Tonganoxie eliminated the position of Building Inspector and have since been contracting with a prior employee to provide those services for them. Mike and I have discussed the possibility of the Basehor building inspector providing those services via an interlocal agreement. I have evaluated the work load in Basehor and have determined that this would be feasible at this time.

The City Attorney has prepared an agreement which the Tonganoxie City Council has reviewed, made edits and sent back for our consideration. The agreement allows for an hourly rate sufficient to cover all wage and benefits expenses associated with our employee. It further details that Tonganoxie would be responsible for any mileage back and forth and they would provide a work space and vehicle for the employee while working for them. This agreement can be terminated at any time by either party.

It is my recommendation that we enter into this agreement with Tonganoxie. This allows the City to retain a full time employee with experience during slow times. Because of the flexibility of the agreement I see no down side to proceeding.

If you have questions or require further discussion please let me know.

The proposed agreement has been reviewed by the City of Tonganoxie although a response from the Basehor City Attorney has not yet been received.

**AGREEMENT FOR BUILDING INSPECTION SERVICES**

This Agreement, ~~made and~~ is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2010 by and between the City of Basehor, Kansas, a municipal corporation of the State of Kansas, 2620 N 155<sup>th</sup> Street, Basehor Kansas, (hereinafter referred to as "Basehor") and the City of Tonganoxie, Kansas, a municipal corporation of the State of Kansas, 321 S Delaware, Tonganoxie, Kansas. (hereinafter referred to as "Tonganoxie"), ~~for the purpose of Tonganoxie utilizing the building inspector of Basehor for inspection services within the City of Tonganoxie.~~

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~~Whereas, Basehor employs a full time building inspector for services to Basehor,~~  
~~And;~~

~~Whereas, Tonganoxie does not employ a full time inspector and desires to contract with Basehor for the services of its building inspector, and;~~

~~Now, Therefore, Basehor and Tonganoxie enter into this agreement upon the following terms and conditions:~~

Recitals

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~~A. Tonganoxie desires to obtain certain building inspection services from Basehor in connection with Tonganoxie's enforcement of its building codes ("Services").~~

~~B. Basehor has the ability to provide the requested Services to Tonganoxie and is willing to do so according to the terms and conditions of this Agreement.~~

~~C. For the public benefit, Basehor and Tonganoxie hereby desire to enter into this Agreement regarding the Services.~~

Agreement

~~I. 1. Basehor agrees to provide and Tonganoxie services of a member of its building inspection department for the purposes of building inspection and code enforcement. Basehor will provide an employee licensed for building inspection to Tonganoxie as needed by Tonganoxie but only upon the availability of such an employee of Basehor. The employee shall remain an employee of Basehor at all times and any work done on behalf of Tonganoxie shall be limited to the terms and conditions of this contract. Basehor shall not be required to hire additional~~

employees for their building inspection department, delay work or contract outside inspectors to provide the services to Tonganoxie.

agree that from and after the effective date of this Agreement, Basehor shall provide the Services for Tonganoxie as needed by Tonganoxie for as long as Basehor has the personnel available to perform such services. Nothing herein shall require Basehor to hire additional staff, or use staff other than Basehor's Building Inspector, to perform the services, and either party may cancel this Agreement upon 30 days' written notice to the other party.

II. Basehor agrees to provide the services of a building inspector in a timely manner and without unreasonable delay. Tonganoxie shall notify Basehor when it needs the services and an estimate of the time needed. It is understood and agreed the requirements of Basehor for the services of the building inspector employee shall have priority over the request from Tonganoxie and Basehor shall have sole discretion on the date and times the employee shall be available. Basehor shall notify Tonganoxie by telephone or email to the Tonganoxie City Administrator when the services will not be available or the services will be delayed.

2. Basehor agrees to provide the Services through the Basehor Building Inspector who shall remain a Basehor employee, and not an employee of Tonganoxie, while providing the Services. Basehor agrees that Tonganoxie will not be responsible for any compensation or benefits, including worker's compensation, other than the agreed reimbursement rate set forth herein.

III. The employee provided to Tonganoxie by Basehor shall be an employee of Basehor and Basehor shall pay all compensation due said employee including salary, contributions to FICA and Medicare, workmen's compensation coverage and unemployment contributions, and all benefits earned by Basehor employees including sick days and vacation. Tonganoxie shall pay Basehor the sum of thirty-three dollars (\$33.00) per hour per person working for each hour of services provided by Basehor and Tonganoxie shall reimburse Basehor for out of pocket expenses incurred by the employee while providing the service to Tonganoxie. The employee provided by Basehor shall maintain a detailed time record and expense report including receipts. Basehor shall provide Tonganoxie monthly invoices for the services provided and expenses incurred and Tonganoxie shall promptly remit payment for the same to Basehor. The City Administrators of

Basehor and Tonganoxie shall make good faith efforts to resolve any dispute regarding amounts due or expenses.

~~3. Basehor agrees to provide the Services in a timely manner and without unreasonable delay. However, the parties acknowledge that from time to time scheduling conflicts may arise between the duties to be performed by Basehor's Inspector for Basehor-related matters and that Basehor's Inspector shall not be required to perform the Services if doing so would hinder or prevent performance of Inspector duties for Basehor. Basehor agrees to provide notice by phone and/or email to the Tonganoxie Administrator and Tonganoxie City Superintendent as soon as practicable of a conflict that would take priority of Basehor's Inspector from providing the Services to Tonganoxie.~~

IV. The nature and scope of the services to be provided shall be designated by Tonganoxie and in conformance with the job description and duties of a building inspector as outline in the Tonganoxie employee job description which may include testifying in Court or appearing before the City Council. Tonganoxie shall not use the employee for any other purpose or service. While providing the service to the City of Tonganoxie the employee shall be considered the code enforcement officer for the City of Tonganoxie. The parties' anticipate the services to be provided shall be no more than eight hours per week but may be expanded upon the need by Tonganoxie and the availability of the employee by Basehor.

~~4. In consideration for providing the Services, Basehor shall receive from Tonganoxie Thirty-Three Dollars (\$33.00) per hour for each hour that Basehor's Building Inspector spends performing Services for Tonganoxie, plus any out of pocket expenses. Basehor's Building Inspector shall keep written records of the time spent performing the Services for Tonganoxie, and shall submit the same, as well as receipts for any out of pocket expenses, to Basehor's Financial Officer for preparation of an invoice to be submitted to Tonganoxie for payment. Tonganoxie shall remit payment once each month to Basehor in accordance with the Basehor invoice. Any disputes concerning invoices or payments shall be resolved by good faith discussions between the Basehor and Tonganoxie City Administrators.~~

V. Tonganoxie shall be responsible for any negligent acts or omissions of the employee provided by Basehor for the employee's actions while providing the service to Tonganoxie, including negligent inspection claims.

~~5. It is anticipated by the parties that Tonganoxie will only need Services performed one day a week but, in the event Tonganoxie's need for services increases, Basehor and Tonganoxie can mutually agree that Basehor's Building Inspector perform services for more than just one day a week, at the same reimbursement rate set forth in the preceding paragraph.~~

~~VI. Basehor shall provide Tonganoxie sixty (60) days' notice of any proposed change in compensation. If Basehor elects to increase the fee required Tonganoxie, at its sole election, may terminate this agreement.~~

~~6. This Agreement shall remain in effect unless terminated, in writing, by either party, with thirty days' (30) advance written notice.~~

~~VII. This agreement shall remain in effect until terminated. The agreement may be terminated by either party without cause by providing the other party thirty (30) days written notice. In such event Basehor shall deliver a final invoice to Tonganoxie and, upon approval and payment, all obligations of the parties pursuant to this agreement shall be discharged.~~

~~7. For purposes of enforcing Tonganoxie's building codes, Basehor's Building Inspector performing the Services under this Agreement shall be deemed a Tonganoxie Code Enforcement Officer, but Basehor's Building Inspector will not be considered an employee of Tonganoxie.~~

~~VIII. The initiation of any service and all directives, inquiries and requests for future service from one city to the other shall be processed through the current City Administrator for each city.~~

~~8. This Agreement may be amended or modified from time to time, provided that both parties mutually agree to the proposed amendments or modifications in writing prior to the Agreement being changed to reflect such amendments or modifications.~~

~~IX. This agreement may be modified or amended at any time upon the written agreement of both parties.~~

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~~9. Tonganoxie shall be responsible for responding to and defending any claim arising out of the Services or Basehor's performance under this Agreement, including any claim of negligent inspection by Basehor's Building Inspector. At Basehor's option, Basehor may retain legal counsel, at Tonganoxie's expense, to defend Basehor if Basehor is named in~~

~~any lawsuit arising out of such claim. It is the parties' intent that Tonganoxie, and not Basehor, be responsible for any liability arising out of the Services provided by Basehor and Tonganoxie agrees to and shall indemnify and hold Basehor harmless from any such liability. Nothing in this Agreement shall be deemed to waive any protections from liability afforded to either party by the Kansas Tort Claims Act or other statute or law.~~

~~IN WITNESS WHEREOF, the parties have executed this agreement the day and date first above written. Basehor and Tonganoxie have executed this Agreement effective as of the date and year first above written.~~

CITY OF TONGANOXIE, KANSAS

CITY OF BASEHOR, KANSAS

\_\_\_\_\_  
Jason Ward, Mayor  
For the City of Tonganoxie, Kansas

\_\_\_\_\_  
Terry Hill, Mayor  
For the City of Basehor, Kansas

Attest:

Attest:

\_\_\_\_\_  
Kathy Y. Bard,  
Tonganoxie City Clerk  
City Clerk

\_\_\_\_\_  
Corey Swisher, City Clerk  
Corey Swisher, City Clerk Basehor

Approved as to Form:

Approved as to Form:

\_\_\_\_\_  
Mike Kelly,  
Tonganoxie City Attorney

\_\_\_\_\_  
Patrick G. Reavey, City Attorney  
Basehor City Attorney



# The City of Basehor

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**Date:** December 28, 2010  
**To:** Basehor City Council  
**From:** Corey Swisher, City Clerk  
**Re:** Field of Dreams Athletic Programming and Concessions Operations

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## **Background:**

In early December, 2010 the City issued a Request for Proposals (RFP) and advertised for youth athletic programming & concessions operations providers. The RFP was advertised in the *Leavenworth Times*, *Shawnee Dispatch*, *Tonganoxie Mirror*, *Baldwin Signal*, *Bonner Chieftain*, *Basehor Sentinel* and *Lawrence Journal-World*. The RFP was also posted on the City's web-site and individually sent to multiple youth sports providers in eastern Kansas. The purpose of the RFP was to secure an operator for the Field of Dreams athletic complex for a two year period to begin at the City's discretion.

As the RFP responses are due on January 3, 2011 staff will provide all replies to Council as they are received. Staff has directly communicated with two interested parties.

## **Considerations:**

- Availability and demand for youth athletic programming in the City of Basehor.
- Council Willingness to provide youth athletic programming.

## **Options:**

1. Continue selection process and choose a third party athletic programming and concessions operations provider at the January 17 meeting.
2. Reject all proposals and have City staff provide these services.
3. Do nothing.

## **Attachments:**

- Athletic Programming and Concessions Operations.





**REQUEST FOR PROPOSALS ("RFP") FOR YOUTH ATHLETIC PROGRAMMING AND CONCESSIONS OPERATIONS FOR THE "FIELD OF DREAMS" ATHLETIC COMPLEX LOCATED AT 14333 FAIRMOUNT ROAD, BASEHOR, KANSAS, 66007**

**Proposals Due: 1:00 p.m., January 3, 2011**

The City of Basehor intends to select a single contractor to provide youth athletic programming and concessions operations for the "Field of Dreams" athletic complex located at 14333 Fairmount Road, Basehor, Kansas, 66007.

**Statement of intent:**

Proposals for the services specified will be received by the City of Basehor until the date and time as indicated above. Please submit one (1) original proposal and three (3) copies of the proposal in hard copy only.

**Mailing Address:**

City Clerk  
City of Basehor, KS  
PO Box 406  
Basehor, KS 66007

**Delivery Address:**

City Clerk  
City of Basehor, KS  
2620 N. 155<sup>th</sup> St.  
Basehor, KS 66007

Late submissions will not be considered.

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For questions regarding this RFP contact:

Corey Swisher, City Clerk/Finance Director  
(913) 724-1370  
cswisher@cityofbasehor.org

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The City of Basehor appreciates your time and effort in preparing a proposal. **Please note that all proposals must be received at the designated location by the deadline shown.** Proposals received after the deadline will not be considered for the award of the agreement and will be returned unopened.

**I. Introduction**

The City of Basehor is seeking a full service operator for a youth athletic programming and concessions provider for its "Field of Dreams" athletic facility located at 14333 Fairmount Road in Basehor. Required programming:

- a. Youth Football
- b. Flag Football
- c. Youth Baseball
- d. Youth Softball
- e. T-Ball
- f. Tournaments
- g. Optional: Special Olympics
- h. Optional: Youth Soccer

Facilities:

Approximately 30 acre site

- Baseball Fields (7)
- Office/Club House – 1,200 sq. ft.
- Maintenance Building 1,153 sq. ft.
- Souvenir Stand – 80 sq. ft.
- Football Fields (3)
- Metal Bleachers
- Gravel Parking & Drive Areas
- Canopy Covered Shelter

Past participation:

- Approximately 420 youth participate in Baseball, Softball and T-ball
- 8 Tournaments in addition to Special Olympics
- Approximately 650 youth participate in Football

**II. Submittals**

The proposal should include, but not be limited to, the following information:

**Section 1**

- Please provide the name of the contractor/organization; names of all individuals associated with the proposal and their title, mailing address, phone number, and email address.

**Section 2**

Organizational structure and league overview. This includes information such as:

(Please be as detailed and specific as possible when answering the following questions)

**A. Organizational leadership**

- Organizational chart.

**B. League formats and season overviews:**

- Provide detailed plans for practices, game days, tournaments, camps, and clinics (example: number of games and practices each team will have per season, number of tournaments, etc.).

- Provide details on how recreational teams will be formed (example: draft, by school, randomly, by grade, age specific, etc.).
  - Registration process.
  - Provide proposed registration dates and deadlines for each season.
  - Provide details of how the organization will handle the registration of participants and teams. (Example: online, walk-in, mail-in, late registration, method of payment, etc.)
  - Proposed start date and end date of each league.
  - Grievance process.
- C. Staffing (league administrators, officials, scorekeepers, etc.).
- All employees must meet the citizen and alien status requirements set forth in Federal statutes and regulations.
  - Provide a summary of the operations staff background checks, training, certifications, etc.
- D. Provide rules governing league and tournament play.
- E. Any other information that would be helpful in determining the qualifications, organizational skills, and resources of the applicants.

### Section 3

#### A. Program fees:

- Provide the City with an estimated cost per individual, per season for recreational league participants.
- Provide proposed cost for tournaments, clinics, and camps.
- Include the estimated number of individual participants per season.

### Section 4

#### A. Operations

- Provide the City with a parking management plan including proposed parking rates as well as a traffic management philosophy. **Please note City of Basehor residents will be exempt from parking charges. (The City of Basehor will manage a resident identification system.)**
- The selected contractor/organization will provide all general facilities maintenance and field preparation. Provide the City with detailed field and facilities maintenance and preparation schedule. The City will maintain adequate infrastructure (i.e. – sewer, fences, lights, building maintenance).
- Provide a detailed description of proposed concessions operations. **(Please note the City will provide an exclusive beverage vendor.)**

### Section 5

- Any prior experience in operating and managing a youth athletics facility/association or involvement in other youth sports associations, including any references.
- If you intend to sublease or contract with another organization to provide any services the City must be notified and have an opportunity to review and approve the subcontractor/organization.

### **III. Insurance Requirements**

Selected contractor/organization will be required to obtain public liability insurance of the types and the amounts set forth below from an underwriter licensed to do business in the State of Kansas. The insurance shall be the following types in the amounts not less than indicated:

1. Comprehensive General (Public) Liability or its equivalent, including \$500,000 each person, \$1,000,000 each occurrence, and property damage \$250,000 per occurrence or \$1,000,000 combined single limit for bodily injury and property damage.
2. Provide a copy of your proposed Liability Release Form (Releasing City of Basehor from any liability).

### **IV. Contract Terms**

The term of the agreement for the contractor/organization selected to be the youth sports and concessions provider for the Field of Dreams shall be for a period of two years, commencing on a date to be determined by the City of Basehor. The agreement may be terminated with or without cause by either party by giving ninety days written notice to the other party.

**Fee to be paid to the City: Minimum Fee - \$30,000 or 20% of Gross Receipts (whichever is greater).**

### **V. Evaluation Criteria**

Failure of an applicant to provide in their proposal any information requested in this RFP may result in disqualification of the proposal. The sole objective of the City will be to select the provider who presents the best overall program to the City of Basehor.

### **VI. Best and Final Offer**

The City reserves the right to request a best and final offer from any or all organizations. The City reserves the right to reject any or all proposals, with or without cause, re-issue the RFP, or proceed in any manner determined to be in the best interest of the City.

### **VII. Time Line**

The City anticipates selecting a contractor/organization in January. All received proposals will be considered binding for 90 days.