

AGREEMENT

THIS AGREEMENT is entered into as of _____, 2014 by and between the **CITY OF LAWRENCE, KANSAS**, a municipal corporation (the "City") and **LANGSTON HEIGHTS DEVELOPMENT, LLC**, 2103 Crossgate Circle, Lawrence, KS 66047, a limited liability company ("Developer")

WHEREAS, the City and Kansas Department of Transportation (KDOT) have entered into an agreement to construct an Interchange on K-10 Highway at Bob Billings Parkway (project) (KDOT Project No. 10-23 KA -1826-01); and

WHEREAS, KDOT, as part of its Project No. 10-23 KA – 1826-01, will construct a west-bound right-turn lane, sidewalk, and associated improvements at the NE corner of Bob Billings Parkway and Langston Way subject to the terms and conditions of this Agreement and in accordance with Supplemental Agreement No. 1; and

WHEREAS, the City deems it advisable to relocate a water main, subject to the terms and conditions of this agreement, in conjunction with the KDOT Project No. 10-23 KA – 1826 -01;

WHEREAS, the Developer agrees to pay the costs of the west-bound right-turn lane, sidewalk and associated improvements as more fully described in this Agreement at the NE corner of Bob Billings Parkway and Langston Way as well as the costs to relocate the water main, as set forth in this Agreement, in recognition that such improvements will benefit Developer's project.

NOW THEREFORE, for and in consideration of the promises and the mutual covenants herein contained, the City and Developer agree as follows:

ARTICLE I

LANGSTON HEIGHTS DEVELOPMENT, LLC AGREES AS FOLLOWS:

1. Developer shall be responsible for acquisition of all right-of-way, temporary construction easements and permanent utility easements deemed necessary by the City and/or KDOT for the road improvements, water main relocation, and appurtenant facilities. The instruments granting or dedicating the right-of-way, temporary construction easements, and utility easements shall be in a form approved by and accepted in advance by the City.
2. Developer shall deposit with the City the sum of \$50,000 for the construction of the west-bound right-turn lane, pavement, curb and gutter, subgrade, storm sewer, and sidewalk improvements. Developer shall make such payment to the City within 30 days after KDOT's letting date for the Project.

3. Developer shall deposit with the City, on or before January 31st, 2014, the sum of \$55,000 for the estimated costs to the City to relocate the water main adjacent to Bob Billings Parkway. Developer acknowledges that this sum is an estimate. The Developer agrees it will be responsible for the *actual* costs of the water main relocation including construction, engineering and inspection. Within 45 days after the water main relocation project is completed and accepted by the City, the City shall calculate the actual costs of the water main relocation. The City will invoice the Developer for any costs in excess of \$65,000, which the Developer agrees to pay promptly. If the actual costs of the water main relocation are less than \$55,000, the City shall promptly issue the appropriate refund to the Developer.

ARTICLE II

THE CITY AGREES AS FOLLOWS:

1. To enter into an agreement with the Secretary of KDOT to construct a west bound right-turn lane, sidewalk, and associated improvements at the northeast corner of Bob Billings Parkway and Langston Way as shown in the Design Plans attached hereto.
2. The City agrees to deposit with the Secretary of KDOT \$50,000 for the right-turn lane improvements within 45 days after the KDOT letting date for the Project.
3. The City agrees to design, construct, and relocate the water main adjacent to Bob Billings Parkway and shall coordinate such work so as not to conflict with the construction of the west bound right-turn lane and related improvements of the Project. The City intends to complete the water main relocation prior to KDOT's letting of the Project.
4. The City acknowledges that the construction of the right-turn lane and related road improvements satisfies the recommendation to provide a dedicated westbound right-turn lane on Bob Billings Parkway at Langston Way, one of the recommendations of the Traffic Impact Study for Langston Commons prepared by MGineering Solutions and dated June 2013 for the proposed development. Any change to the current proposed development may require a review of the Traffic Impact Study and improvements, and may result in different recommendations or requirements.

ARTICLE III

1. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.
2. This Agreement shall not be construed, interpreted or deemed as making either party to be a partner, joint venture with, or agent of the other party.
3. Any and all duties and obligations of the City and Developer stated herein shall be in compliance with all applicable, laws, rules, and regulations.

4. This Agreement contains the entire agreement between the parties regarding the subject matter of this Agreement. All prior oral or written statements relating to the subject matter are merged into this written Agreement, and no promise or agreement not herein expressed has been made by the parties. None of the provisions contained in the Agreement may be changed except by an instrument in writing signed by the City and Developer.
5. The laws of the State of Kansas shall govern the rights of the parties with respect to this Agreement.
6. Each of the persons executing this Agreement on behalf of the respective parties represents and warrants they have the legal authority to bind the party on behalf of which this Agreement is signed, and all acts requisite to the authorization to enter into this Agreement have been taken and completed.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

CITY OF LAWRENCE, KANSAS

A municipal corporation

By: _____
 Michael Dever, Mayor
 City of Lawrence

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
 COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this _____ day of _____, 2014, before me, a notary public in and for said county and state, came Michael Dever, Mayor of the City of Lawrence, Kansas, who is personally known to me to be the same person who executed the within instrument on behalf of the City and duly acknowledged the execution of the same to be the act and deed of said City.

IN WHITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

 Notary Public

[Seal]

LANGSTON HEIGHTS DEVELOPMENT, L.L.C.

By: *DWR*
Douglas W. Raney, Officer
Langston Heights Development, LLC

By: *RMS*
Robert M. Santee, Officer
Langston Heights Development, LLC

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this 30th day of December, 2014, ³ 56 CH
before me, a notary public in and for said county and state, came Douglas W. Raney, who is
personally known to me to be the same person who executed the within instrument on behalf of
Langston Heights Development, L.L.C. and duly acknowledged the execution of the same to be
the act and deed of said company.

IN WHITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day
and year last above written.

[Seal]



Carolyn S. Hicks
Notary Public

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this 30 day of December, 2014, ³ 56
before me, a notary public in and for said county and state, Robert M. Santee, who is personally
known to me to be the same person who executed the within instrument on behalf of Langston
Heights Development, L.L.C. and duly acknowledged the execution of the same to be the act
and deed of said company.

IN WHITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day
and year last above written.

[Seal]



SCB
Notary Public