

AGREEMENT

THIS AGREEMENT is entered into as of _____, 2013, by and between the **CITY OF LAWRENCE, KANSAS**, a municipal corporation (the "City") and **BAKER UNIVERSITY**, a private university ("Baker").

WHEREAS, Baker owns, or shall own, upon completion of the South Lawrence Trafficway (SLT), real property along the 35th Street Corridor from a section of the SLT to the site of the City's future Wakarusa Wastewater Treatment Plant (WWTP); and

WHEREAS, the 35th Street Corridor is generally defined as a route from the SLT south along or near existing Louisiana Street, to 35th Street, easterly to Haskell Road, southerly along Haskell Road approximately one-quarter (1/4) mile, thence easterly to the Wakarusa River and the Wakarusa WWTP; and

WHEREAS, the City has a need to install sanitary sewer force mains and facilities appurtenant thereto, including fiber optic lines or cables, along a route generally following the 35th Street Corridor to the City's WWTP; and

WHEREAS, installing said sanitary sewer force mains and appurtenant facilities along the 35th Street Corridor and under a portion of the Baker Wetlands is the most direct and shortest route to the WWTP, with the most favorable topography; and

WHEREAS, in order to design, construct, install, and maintain the sanitary sewer force mains and appurtenant facilities, the City will require temporary construction easements and a permanent utility easement of approximately ten (10) acres in, over, under, and through real property that Baker now owns or shall own upon completion of construction by the Kansas Department of Transportation (KDOT) of the SLT; and

WHEREAS, the City and Baker agree that the City's sanitary sewer infrastructure and the permanent utility easement in the Baker Wetlands will impact the Baker Wetlands; and

WHEREAS, to compensate Baker and to demonstrate the City's commitment and appreciation for the diverse natural habitat of the Baker Wetlands, a facility that is visited and enjoyed by many Lawrence residents and school children, the City and Baker have agreed to compensation for the necessary temporary construction easement(s) and the permanent utility easement(s) that includes a cash payment and the construction of certain improvements by the City as set forth herein;

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

ARTICLE I

1. A route map showing the general locations of existing and proposed facilities referenced in this Agreement is attached hereto as **Exhibit A** and incorporated herein by reference. The parties agree that this map is provided for general reference only and represents a

current understanding subject to additional assessment and does not represent the final route and/or configuration of the proposed facilities yet to be designed. The map shall be modified based upon the agreed to design criteria.

ARTICLE II

BAKER AGREES AS FOLLOWS:

1. To diligently pursue transfer of the pertinent real property from KDOT located along the existing Haskell Avenue to the Wakarusa River crossing upon completion of the SLT. It is estimated that such transfer from KDOT to Baker will occur in 2016.
2. To cooperate with the City to obtain legal descriptions, ownership and encumbrance reports, and title insurance for the temporary construction and permanent easements referenced in this Agreement.
3. To timely grant to the City temporary construction easements for construction staging and related construction work at locations determined by the City in consultation with Baker.
4. To timely execute the appropriate legal instrument(s) granting to the City permanent utility easements comprising approximately ten (10) acres.
 - a. Legal Descriptions of Permanent Utility Easements. The legal description of the permanent utility easements shall be developed once the location of the City's sanitary sewer force mains and related facilities is known. The permanent utility easements shall be located within and/or adjacent to the real property legally described in Exhibit B, which is attached hereto and incorporated herein by reference. Upon completion of design, the legal descriptions of the permanent utility easements shall reflect the actual location of the permanent easements.
 - b. Timing of Granting the Permanent Utility Easements. Baker agrees to grant the permanent easement from Point A to Point D as indicated on Exhibit A as soon as practicable after the City completes the design of this portion of the project in 2014. The permanent easement from point D to Point F as shown on Exhibit A shall be granted after KDOT has transferred title to the real property to Baker upon completion of the SLT.
5. To be reasonably available to the City, its design consultants, and contractors during the design, construction, and inspection phases of the improvements set forth herein.
6. To work with the City to coordinate the design and construction in order to limit the temporary impact on the wetlands.
7. To provide necessary access to the wetlands for design and construction activities at all times.

8. To accept the improvements more fully described in Article III of this Agreement, and to thereafter maintain them at Baker's sole cost and expense.
9. To ensure Southern Star Gas Co. prepares the sub base for Parking Area 1 in accordance with plans and this Agreement.

ARTICLE III

CITY AGREES AS FOLLOWS:

1. To pay Baker One Hundred Thousand Dollars (\$100,000) for the permanent utility easements for up to ten (10) acres, more or less, as generally represented by Exhibit A. Said \$100,000 payment shall also serve as compensation for all temporary easements deemed necessary by the City to facilitate construction. Said payment shall be made in installments as follows:
 - a. The City shall pay Baker Twenty-Five Thousand Dollars (\$25,000) upon execution of this Agreement.
 - b. The City shall pay Baker Fifty Thousand Dollars (\$50,000) upon receipt of the executed permanent utility easement from Point A to Point D (shown on Exhibit A).
 - c. The City shall pay Baker the remaining Twenty-Five Thousand (\$25,000) upon receipt of the executed permanent utility easement from Point D to Point F (shown on Exhibit A).
2. To prepare the temporary construction easement(s) as generally represented by Exhibit A for the installation and construction of the City's sanitary sewer force main project.
3. To prepare the permanent utility easement(s) as generally represented by Exhibit A. The more specific legal descriptions for the permanent utility easement(s) shall be developed by the City's engineering consultants once the location of the sanitary sewer force mains and related facilities is known to the City.
4. To design and construct, at the City's expense, the following improvements concurrent with or after completion of the SLT project and related road construction work:
 - a. Parking areas serving the Baker Wetlands as described below:

	Parking Area 1	Parking Area 2	Parking Area 3	Parking Area 4
No. of vehicles	35	6-8	7	12
Cost estimate	\$100,540	\$35,860	\$64,460	\$41,380
Paving	Asphalt	Asphalt	Aggregate	Aggregate
Sub base	By others*	Included	Included	Included
Concrete Entrance	Yes	No	No	No
Car barrier posts	Yes	Yes	Yes	Yes
Pavement markings	Yes	Yes	No	No
Site work	Yes	Yes	Yes	Yes

Construction erosion control	Yes	Yes	Yes	Yes
Drainage	No	Yes	Yes	Yes
Access gate	No	Yes	Yes	Yes

*Graded to drain with compacted rock sub-base sufficient to support planned vehicle parking shall be provided by Southern Star Gas Co.

The general location of each parking lot is indicated on Exhibit A.

- b. Recreational trails measuring approximately ten (10) feet in width and constructed of aggregate with surface treatment between the following points:

	Trail 1	Trail 2	Trail 3
Routes are generally indicated on Exhibit A.	SLT Recreation Path to Point B	Point B to Point C	Visitors Center to Point B

- c. Steel bridge, measuring approximately ten (10) feet in width, and capable of providing access for pedestrian traffic and small maintenance vehicles, to be installed over the Naismith Ditch just north of the intersection of existing Louisiana Street and existing N1250 Road, as indicated on Exhibit A.

The City further agrees with respect to the improvements set forth in paragraph numbered four, to obtain all necessary permits, approvals and consents, and to complete the improvements in a good and workmanlike fashion.

5. To pay Baker One Thousand Dollars (\$1,000) upon execution of this agreement to cover Baker's legal and related transaction expenses.

ARTICLE IV

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. This Agreement shall terminate upon the City's completion of the improvements and payment of the sums set forth in Article III of this Agreement, unless terminated earlier pursuant to Article IV, Paragraph 2 of this Agreement.
2. The City may terminate this Agreement upon 14 days' written notice to Baker if the City determines in its sole discretion that a superior route exists. If the City terminates the Agreement, Baker shall return any funds paid prior to termination to the City (other than the \$1000 for attorneys' fees).
3. The City shall have no further obligation, financial or otherwise, to Baker after the Agreement terminates.

4. Any and all duties and obligations of the City and Baker stated herein shall be in compliance with all applicable, laws, rules, and regulations.
5. No third parties are intended to benefit from this Agreement. The City and Baker expressly state that no third party beneficiaries are created.
6. 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.
7. 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.
8. 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 Baker.
9. The laws of the State of Kansas shall govern the rights of the parties with respect to this Agreement.
10. 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

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this _____ day of _____, 2013, 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 WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Notary Public

[Seal]

BAKER UNIVERSITY

A private university

By: *Susan Lindahl*
Susan Lindahl, Ph.D., Executive Vice President/Chief Operating Officer

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED that on this 19th day of December, 2013, before me, a notary public in and for said county and state, came Dr. Susan J. Lindahl, Executive Vice President for Administrative Services/Chief Operating Officer of Baker University, who is personally known to me to be the same person who executed the within instrument on behalf of Baker University and duly acknowledged the execution of the same to be the act and deed of said University.

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

Valerie V. Pfeiffer
Notary Public

[Seal]

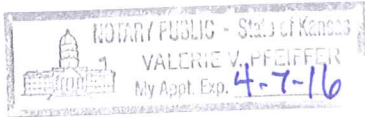
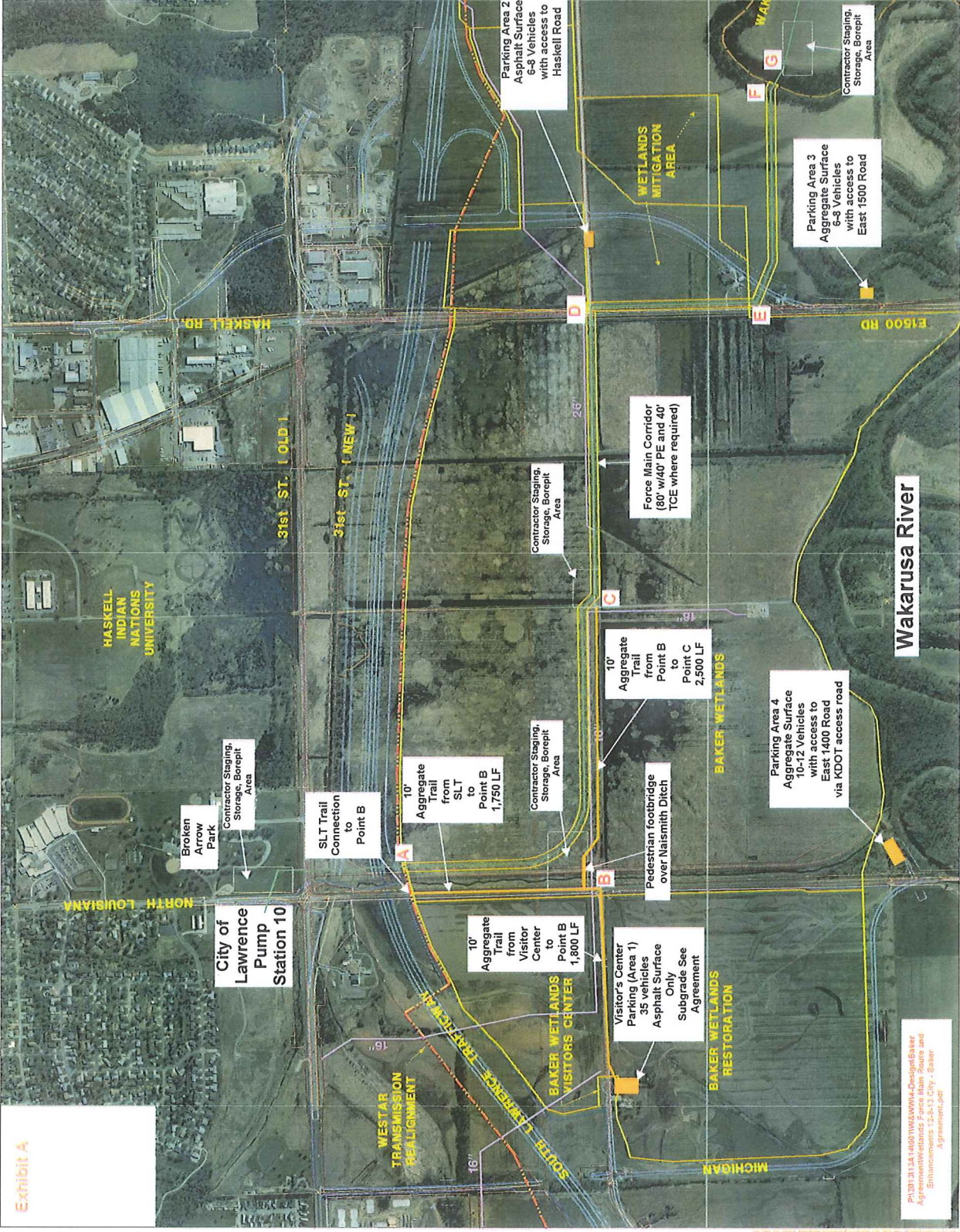


Exhibit A

CITY OF LAWRENCE
WAKARUSA CONVEYANCE SYSTEM
PUMP STATION 10 FORCE MAIN
BAKER WETLANDS ROUTE
Route and Easement Corridor
With Wetlands Enhancements
13A14



City of Lawrence
Wastewater Treatment Plant

Wakarusa River

City of Lawrence
Wastewater Treatment Plant

PL130131A14-14011W2WWT4-Original Baker
Agreement/Enhancement Plans from Plans and
Enhancement Agreement.pdf

Exhibit B

Lawrence Wakarusa FM Easement
#13A14-001

Professional Engineering Consultants, P.A.
W. David Lee, L.S.
November 20, 2013

Permanent and Temporary Construction Easements
Douglas County

LEGAL DESCRIPTION

A strip of land 80 feet wide in Sections 17 and 18, Township 13 South, Range 20 East of the Sixth Principal Meridian, Douglas County, Kansas, the centerline of said strip being described as follows:

Commencing at the Northwest corner of the Northwest Quarter of said Section 18; thence, along the North line of said Northwest Quarter on an assumed bearing of $N89^{\circ}01'34''E$, 250.02 feet; thence, parallel with and 250.00 feet East of the West line of said Northwest Quarter, $S01^{\circ}45'36''E$, 873.60 feet to the South line of Highway K-10 right-of-way and being the Point of Beginning; thence, continuing, $S01^{\circ}45'36''E$, 1069.45 feet; thence, 933.88 feet on a tangent curve concave to the Northeast, having a radius of 600.00 feet, a chord bearing of $S46^{\circ}20'59''E$, and a chord distance of 842.43 feet to a point being a perpendicular distance of 121.00 feet North of the South line of said Northwest Quarter; thence, parallel with and 121.00 feet North of the South line said Northwest Quarter, $N89^{\circ}03'38''E$, 1697.38 feet, to the West line of the Northeast Quarter of said Section 18; thence, $S45^{\circ}55'12''E$, 170.96 feet to the South line of said Northeast Quarter; thence, $N89^{\circ}01'30''E$, 2536.38 feet to the Southeast corner of said Northeast Quarter; thence, continuing, $N89^{\circ}01'30''E$, 73.00 feet; thence, parallel with and 73.00 feet East of the West line of the Southwest Quarter of said Section 17, $S01^{\circ}22'25''E$, 1499.35 feet; thence, $S68^{\circ}10'59''E$, 400.41 feet; thence, $N89^{\circ}22'51''E$, 1563.28 feet; thence, $S62^{\circ}00'23''E$, 55.70 feet to the centerline of the Wakarusa River and being the point of termination of said centerline; the sidelines of said strip being extended or shortened to terminate at the South line of Highway K-10 right-of-way and the centerline of the Wakarusa River.

The above described contains 18.36 acres, more or less, comprised of 9.18 acres of Temporary Construction Easement and 9.18 acres of Permanent Easement.

