

## **ANNEXATION AGREEMENT**

**THIS ANNEXATION AGREEMENT** (this “**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2009 (the “**Effective Date**”) by and between the Lawrence Wesleyan Church and its successors and assigns (collectively “**Owner**”) and the City of Lawrence, Kansas, a municipal corporation (“**City**”).

### **RECITALS**

A. Owner is the owner of real estate (the “**Property**”) generally located at the southeast corner of West 31<sup>st</sup> Street and East 1200 Road (Kasold Drive), in Douglas County, Kansas, and legally described on Exhibit A, attached to and, by reference, incorporated in this Agreement.

B. Owner desires that the Property be annexed into the City of Lawrence, Kansas. On or about August 24, 2009, Owner submitted an annexation application to City.

C. If City annexes the Property, Owner desires to develop the Property in two (2) phases, as follows: (i) Phase I of the development to be zoned and developed for the Lawrence Wesleyan Church located in the Northwest portion of the Property; and (ii) Phase II of the development to be zoned and developed for residential purposes. Both Phases are to be developed in compliance with the City’s Comprehensive Plan, the City Code, including the Development Code and the Subdivision Regulations, and City regulations and policies.

D. The Property is bounded by the current City limits (e.g., West 31<sup>st</sup> Street) to the north, and surrounded by floodway or floodplain to the east, west, and south. The location of the Property and its surroundings present unique development issues and limitations, and the parties desire to address such issues, all in accordance with this Agreement.

### **AGREEMENT**

1. **Recitals.** The Recitals are part of this Agreement.
2. **Sewer and Water Access.** The expense of extending sanitary sewer, storm sewer, and water utilities necessary for the development of the Property shall be financed by Owner in accordance with City development policies. If Owner petitions the City to form a benefit improvement district pursuant to K.S.A. 12-6a01 *et seq.* or similar statute, the City may approve any reasonable allocation of such expenses as are permitted by such statute.
3. **Plat Requirements.** Notwithstanding anything to the contrary in the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County* (including but not limited to Section 20-801), as amended from time to time, Owner shall not be required to plat contiguous parcels to the Property if such parcels remain outside of City limits and as such parcels remain undeveloped. Nothing in this Paragraph shall be construed to limit or waive the Owner’s obligation to plat the Property itself, however, in accordance with such regulations and codes.

4. **Road Improvements.** The parties acknowledge and agree that *Transportation 2030* and the *Revised Southern Development Plan*, as adopted by the City as of the Effective Date, designate West 31<sup>st</sup> Street as a Principal Arterial roadway, and East 1200 Road (Kasold Drive) as a Minor Arterial roadway. The parties further acknowledge and agree that improvements to such roadways will be necessary for Owner's proposed development and for reasons other than the development of the Property, and the parties agree as follows:

- (a) Owner shall not be required to finance any improvements to West 31<sup>st</sup> Street for Phase 1 of Owner's proposed development so long as the site plan and associated Traffic Impact Study do not require improvements to West 31<sup>st</sup> Street. For Phase 2 of Owner's proposed development, Owner's responsibility to finance improvements at the new intersection of Atchison Way and West 31<sup>st</sup> Street, as determined by the City Code and any associated Traffic Impact Study to analyze the impact of any new street proposed to intersect with West 31<sup>st</sup> Street, shall not be limited so long as improvements are limited to those necessary for the benefit of the development of the Property and not to the benefit of the north side of the intersection; and
- (b) In consideration of floodplain and floodway located south of the Property, Owner shall have the following obligations to improve East 1200 Road (Kasold Drive):

- (i) Owner's responsibility to finance the improvements to East 1200 Road (Kasold Drive) during Phase 1 of Owner's proposed development shall be limited to expenses related to improving East 1200 Road (Kasold Drive) to a two-lane non-curbed street from the intersection of Kasold Drive and West 31<sup>st</sup> Street, extending to 50 feet South of the planned curb cut entrance for the church development, as shown on the approved site plan for such parcel. Owner's responsibility to finance the improvements in Phase 1 to East 1200 Road (Kasold Drive) shall be limited to these improvements.

- (ii) Owner's responsibility to finance the improvements to East 1200 Road (Kasold Drive) during Phase 2 of Owner's proposed development shall include expenses related to improving East 1200 Road (Kasold Drive) to a two-lane non-curbed street section from the terminus of improvements necessary in Phase 1 to a point 50 feet south of any new street or driveway intersection with East 1200 Road (Kasold Drive) necessary for the development of Phase 2. Owner's responsibility to finance the improvements in Phase 2 to East 1200 Road (Kasold Drive) shall be limited to these improvements.

- (iii) In no event shall Owner be required to execute an agreement not to protest the formation of a benefit district for future improvements to East 1200 Road (Kasold Drive); and

- (c) Owner shall agree to submit an agreement not to protest the formation of a benefit district for future intersection improvements and signalization of West 31<sup>st</sup> Street and Kasold Drive provided, however, that the Property shall not be assessed for any portion of the costs for such intersection improvements and signalization.

5. **Right-of-Way.** As part of annexation for Property, Owner shall include in its petition any and all adjacent full width perimeter rights-of-way not already incorporated into the City. Owner shall dedicate to City such additional public rights-of-way as City's subdivision regulations require for future road expansions or extensions for West 31<sup>st</sup> Street and East 1200 Road (Kasold Drive) at time of platting or for any road expansions or improvements made to West 31<sup>st</sup> Street or East 1200 Road (Kasold Drive) deemed necessary by the City prior to platting. Notwithstanding the foregoing, Owner shall have no obligation to dedicate rights-of-way located outside the Property's boundaries, and all such dedications to the City shall be made subject to existing utility easements, if any. Owner agrees to restrict access along West 31<sup>st</sup> Street except at such location, as approved by City, which would permit one street to access West 31<sup>st</sup> Street from the Property to serve Phase 2 of the development. Except as otherwise provided in this Agreement, Owner shall dedicate the necessary rights-of-way internal to the development to comply with City Code and Access Management Standards for both Phases of development.

6. **Agreements Not to Protest.** Under no condition or circumstance shall the City require, whether as part of the land use approval process or otherwise, that Owner execute an agreement not to protest the formation of a benefit district, to the extent such agreement is inconsistent with the conditions and limitations contained in this Agreement.

7. **Amendment.** This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, and by the execution of an amendment by the parties.

8. **Conditions Precedent.** The validity and effect of this Agreement is expressly conditioned upon the City's adoption and publication of an ordinance causing the Property to be annexed into the City of Lawrence, and upon the City's adoption and publication of an ordinance rezoning the Property in a manner generally consistent with that proposed in Recital "C".

9. **No Oral Agreement.** Except as otherwise expressly provided herein, this Agreement and all documents incorporated herein by reference supersedes all prior agreements, negotiations, discussions, both oral and written, relative to the subject matter of this Agreement.

10. **Severability.** If any part of this Agreement is held unenforceable by a court of competent jurisdiction, the balance of the Agreement shall remain enforceable according to the terms thereof.

11. **Governing Law.** This Agreement shall be governed by Kansas law.

12.     **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Owner's heirs, successors, assigns, and transferees, except that an owner's rights and obligations hereunder shall cease and be of no further force and effect to the extent of any conveyance of such owner's fee title interest to all or a portion of the Property.

*[Balance of Page Intentionally Left Blank]*

This Agreement has been duly authorized and executed by the parties as of the Effective Date.

**CITY OF LAWRENCE, KANSAS**

By: .....  
Robert Chestnut, Mayor

(SEAL)

ATTEST:

.....  
City Clerk

**ACKNOWLEDGMENT**

STATE OF KANSAS        )  
                                      ) SS.  
COUNTY OF DOUGLAS    )

On \_\_\_\_\_, 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Robert Chestnut and \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument as Mayor and City Clerk, respectively, of the CITY OF LAWRENCE, KANSAS, the city of the third class therein named, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

.....  
Notary Public

My commission expires:

\_\_\_\_\_

# LAWRENCE WESLEYAN CHURCH

By: \_\_\_\_\_

**Its:** \_\_\_\_\_

## **ACKNOWLEDGMENT**

**STATE OF KANSAS** )  
 ) SS.  
**COUNTY OF DOUGLAS** )

On \_\_\_\_\_, 2009, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of LAWRENCE WESLEYAN CHURCH and acknowledged to me that he executed the same in his authorized capacities, and that by such person's signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My commission expires:

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## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE PROPERTY**

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 14 AND NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN DOUGLAS COUNTY, KANSAS, NOW DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION 14; THENCE NORTH 88°10'13" EAST, ALONG THE NORTH LINE OF SAID QUARTER SECTION, 902.60 FEET; THENCE SOUTH 01°49'47" EAST, 417.40 FEET; THENCE NORTH 88°10'35" EAST, 421.79 FEET; THENCE SOUTH 01°49'40" EAST, 905.17 FEET; THENCE SOUTH 88°06'55" WEST, 1136.44 FEET; THENCE NORTH 11°06'59" WEST, 85.87 FEET; THENCE SOUTH 88°12'44" WEST, 175.02 FEET; THENCE SOUTH 88°12'53" WEST, 50.00 FEET; THENCE NORTH 01°47'07" WEST, 177.84 FEET; THENCE NORTH 88°12'53" EAST, 17.00 FEET; THENCE NORTH 01°47'07" WEST, 330.00 FEET; THENCE SOUTH 88°12'53" WEST, 17.00 FEET; THENCE NORTH 01°47'07" WEST, 731.00 FEET; THENCE NORTH 88°12'53" EAST, 50.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 37.14 ACRES, MORE OR LESS.

LESS THE FOLLOWING DESCRIBED TRACT:

COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION 14; THENCE SOUTH 01°47'07" EAST ALONG THE WEST LINE OF SAID SECTION 14, 620.00 FEET TO POINT OF BEGINNING; THENCE NORTH 88°12'53" EAST, 97.00 FEET; SOUTH 01°47'07" EAST, 40.00 FEET; THENCE SOUTH 88°12'53" WEST, 97.00 FEET; THENCE NORTH 01°47'07" WEST, 40.00 FEET TO THE POINT OF BEGINNING. THE ABOVE CONTAINS 0.09 ACRES, MORE OR LESS.

THE ABOVE DESCRIBED CONTAINS 37.05 ACRES, MORE OR LESS.