



City of Lawrence

CITY ATTORNEY'S OFFICE

THOMAS M. MARKUS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
STUART BOLEY

COMMISSIONERS
LISA LARSEN
JENNIFER ANANDA, JD, MSW
MATTHEW J. HERBERT
LESLIE SODEN

December 31, 2018

Emma Barland
2305 Vermont St.
Lawrence, KS 66046

Brian Barland
2916 Flint Ct.
Lawrence, KS 66047

Re: 23rd Street Geometric and Waterline Improvements – PW1722

Dear Ms. Barland and family,

Pursuant to direction of the Governing Body at its December 18, 2018 meeting, consideration of City of Lawrence Resolution 7276 will be on the January 8, 2019 City Commission agenda. This resolution concerns the property located at 2305 Vermont Street and declares the necessity of eminent domain proceedings to obtain the needed property interests for the above project.

The Commission meetings begin at 5:45 p.m. on the first floor of City Hall.

Sincerely,

R. Scott Wagner
Management Analyst

cc: Chris Rice, Engineer, Municipal Services & Operations
Leah Morris, Engineer, Municipal Services & Operations
David Cronin, City Engineer
Toni Wheeler, City Attorney





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July 19, 2018

Emma Barland
2305 Vermont St.
Lawrence, KS 66046

Re: 23rd Street Geometric and Waterline Improvements – PW1722

Dear Property Owner,

As you may be aware, the City has plans to improve a portion of 23rd Street with construction starting in the fall of 2018. The project plans include the following items:

Construction of a center turn-lane on 23rd Street between Louisiana Street and Massachusetts Street. Replacement of approximately 2,500 feet of 12" 1950's cast iron waterline from Louisiana Street to Barker Avenue, and mill and overlay from Ousdahl Road to Learnard Avenue. Sidewalk on the north side of 23rd Street from Ohio Street to Massachusetts Street will be added and curb ramps in the corridor will be reviewed for ADA compliance as well.

At your location, various easements will be needed in order to construct the improvements. Enclosed is a strip map showing the location of the needed easements on your property. Also enclosed are the easement documents for your review and execution.


At your location additional a pedestrian easement and a temporary construction easement will be needed. The temporary easement is required to re-construct the existing sidewalk on the south side of 23rd Street. Additional pedestrian easement is needed in order to install the sidewalk in its new alignment. Enclosed is a map highlighting in blue the pedestrian easement and in yellow the temporary easement area needed.

You are entitled to just compensation. As part of the City's property acquisition process, we have hired an independent appraisal firm – Aul Appraisals, to complete an appraisal of the proposed takings. Enclosed is a copy of the section of the Aul report pertaining to your tract. At this location, the appraiser has concluded an underlying land value of \$4.66 per sq. foot. The permanent pedestrian easement has been valued at 25% of the fee simple value or \$1,075 (923 sq. ft x \$4.66 x 25%). The temporary construction easement has been valued at 10% of the fee simple value or \$211 (452 sq. ft x \$4.66 x 10%). Additionally, the appraiser has awarded \$4,000 for the loss of three trees and some shrubs. This brings the total amount of just compensation to \$5,300 (rounded). The City anticipates this work to be completed on your property beginning in the fall of 2018.



If you find the City's offer of compensation satisfactory, please execute the enclosed easements and W9 form and return them to my attention in the envelope provided. Should you have any questions about the City's property acquisition process or the enclosed easements, please do not hesitate to contact me at (785) 832-3467 or email at swagner@lawrenceks.org. Should you have questions about the project or would like to meet with City staff to review the project plans, please contact Zach Baker, Project Engineer at (785) 832-3196 or email at zbaker@lawrenceks.org. To bid this project on schedule, the City asks that you please respond to this offer by **August 12, 2018**.

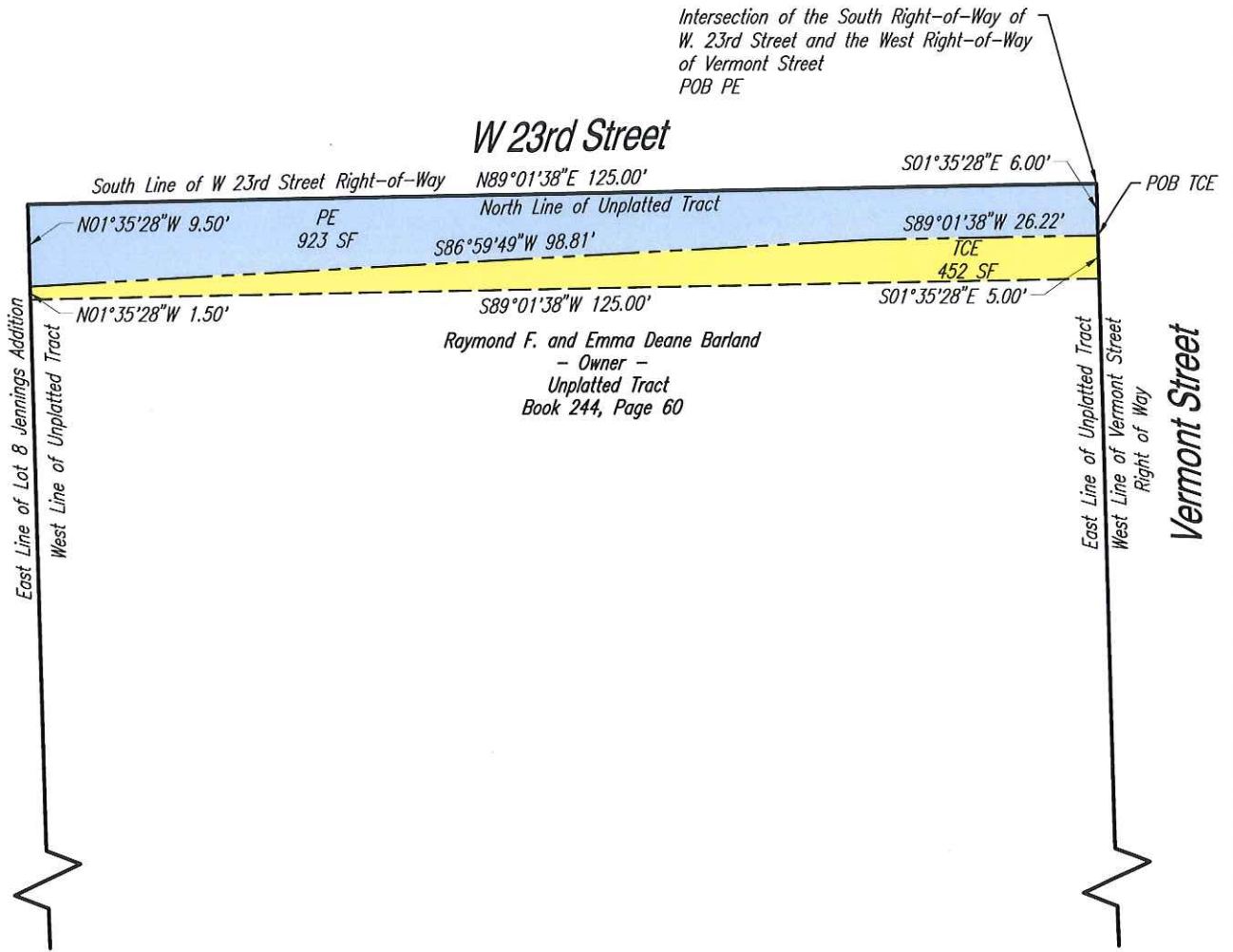
Sincerely,



R. Scott Wagner
Management Analyst

cc: Zach Baker, Engineer - Public Works

Tract 5
Exhibit B
PE and TCE

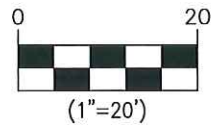


LEGEND

- POB = Point of Beginning
- POC = Point of Commencement
- = Property Line
- = Permanent Pedestrian Easement Area
- = Permanent Pedestrian Easement Line
- = Temporary Construction Easement Line
- = Temporary Construction Easement Area

City project Number: PW1722/UT1720

This Sketch has been prepared for Easement Exhibit purposes only, and does not constitute a Boundary Survey.



IPEC
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
1263 SW TOPEKA BLVD. TOPEKA, KS 66612
785-233-8300 www.pec1.com

City of Lawrence
W.23rd Street Geometric Improvements



County

Owner

Proj. No. 171385-001

Douglas

Raymond F. and Emma Deane Barland

Date: April 14, 2018



An Appraisal Report

of:

**City of Lawrence–23rd Street Project
2300 Louisiana Street, et. al.**

**Prepared For:
Mr. R. Scott Wagner
Management Analyst
City Attorney's Office
City of Lawrence, Kansas
6 East 6th Street
Lawrence, Kansas 66044**

**Prepared By:
Deedra Bailey
Aul Appraisals, L.C.**

**Date of Inspection:
June 11, 2018**

**Effective Date of Valuation:
June 11, 2018**



2305 Vermont Street

The concluded site value for this site as previously discussed is \$60,000 or \$4.66 per square foot given the 12,875 square feet of subject site area.

Conclusion– Prior to acquisition

The value prior to acquisition of 2305 Vermont Street is \$156,250 which includes the 2018 county valuation of the improvements as previously discussed.

The value shown includes the 2018 county valuation for the improvements for purposes of calculation only. Since they are not considered to be damaged by the acquisition and given the intended use of this report it was considered reasonable to utilize such a methodology.

Valuation After the Acquisition

Description of the Acquisition

As noted, the City of Lawrence intends to acquire a portion of the subject for a temporary construction easement (452 square feet) and a pedestrian easement (923 square feet) as described in the documents in the addenda to this report. The calculated easement areas are based on data from the client. The legal descriptions of the easements (provided by the client) are contained in the addenda to this report.

Effect of the Acquisition

The potential easement/acquisition does not hinder access to the remainder of the subject nor is it near the improvements. Based on these assumptions and given the location of the easement/acquisition, in the opinion of the appraiser there are no damages to the remainder land/improvements other than the loss of use of some property rights in the easement/acquisition area. The loss also does not significantly change the overall size range of the subject's remainder nor does it affect its highest and best use. The easement does not bisect the subject.

For these reasons the valuation of the subject “after” the acquisition relies on the “before” valuation minus the acquisition areas.



Severance Damages

The appraiser has estimated an amount of \$4,000 to replace three large trees and shrubs and bushes as it is considered likely they will be damaged/destroyed during the construction process. The replacement cost is based upon estimates received from Lawrence Landscape. It is assumed any other site improvements damaged during the construction process will be replaced/repared at no cost to the property owner.

Valuation Conclusion– after acquisition

Estimated just compensation is defined as the difference between the before and after value conclusions for the subject property in its entirety. As noted, the easement of the subject property includes a temporary construction easement and a pedestrian easement. The valuations before/after are calculated and shown on the chart on the following page. In summary, my total estimate of Just Compensation (rounded) for this tract is:

\$5,300



AGENCY PROJECT:	City of Lawrence DB 1737	BEFORE LAND AREA: (SF)	12,875
OWNERS OF RECORD:	Raymond and Emma Barland	BEFORE \$/SF LAND VALUE:	\$ 4.66
ADDRESS:	2305 Vermont Street Lawrence, Kansas	TOTAL BEFORE VALUE:	\$ 156,300 (R)
		FEE SIMPLE TAKING: (SF)	0
		PERMANENT EASEMENTS (SF)	923
		EASEMENT VALUE %	25%
		EASEMENT \$/SF LAND VALUE:	\$ 1.17
		TEMP. CONST. EASEMENT: (SF)	452
		ANNUAL RATE OF RETURN:	0.00%
		YEARS OF TEMP. EASEMENT:	1
		AFTER \$/SF LAND VALUE:	\$ 4.66
		TOTAL AFTER VALUE:	\$ 151,000 (R)
		JUST COMPENSATION:	\$ 5,300 (R)

VALUATION BEFORE THE TAKING:			
LAND			
12,875 SF x	\$4.66 per SF	\$60,000	
IMPROVEMENTS (CONTRIBUTORY VALUE) PER DOUGLAS COUNTY		\$96,250	
TOTAL BEFORE VALUE			\$156,250
VALUATION AFTER THE TAKING:			
UNENCUMBERED LAND			
11,500 SF x	\$4.66 per SF	\$53,592	
ENCUMBERED W/PERMANENT EASEMENTS			
923 SF x	\$3.50 per SF	\$3,226	
ENCUMBERED W/ TEMP.CONST.EASMT.FOR	1 YR(S)		
452 SF x	\$4.66 per SF	\$1,896	
IMPROVEMENTS (CONTRIBUTORY VALUE) PER DOUGLAS COUNTY		\$96,250	
MINUS SEVERANCE DAMAGES		(\$4,000)	
TOTAL AFTER VALUE			\$150,964
ESTIMATE OF JUST COMPENSATION (TOTAL BEFORE VALUE MINUS TOTAL AFTER VALUE)			\$5,286
		ROUNDED TO	\$5,300
ALLOCATION OF COMPENSATION:			
LAND			
RIGHT OF WAY ACQUISITION			
0 SF x	\$4.66 SF	\$0	
PERMANENT EASEMENTS			
923 SF x	\$1.17 SF	\$1,075	
TEMPORARY CONSTRUCTION EASEMENT			
452 SF x	\$4.66 per SF	\$211	
	0.10 x 1 YR(S)		
TOTAL LAND RIGHTS ACQUIRED			\$1,286
IMPROVEMENTS ACQUIRED			\$0
SEVERANCE DAMAGES			\$0
COST TO CURE			
(1)	Three large trees	\$ 3,000	
(2)	Shrubs/bushes	\$1,000	
(3)	-	\$0	
(4)	-	\$0	
TOTAL COST TO CURE AND OTHER			\$4,000
ESTIMATE OF JUST COMPENSATION (TOTAL ITEMIZED DAMAGES PLUS COST TO CURE)			\$5,286
		ROUNDED TO	\$5,300



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August 22, 2018

Emma Barland
2305 Vermont St.
Lawrence, KS 66046

Brian Barland
2916 Flint Ct.
Lawrence, KS 66047

Re: 23rd Street Geometric and Waterline Improvements – PW1722

Dear Property Owner,

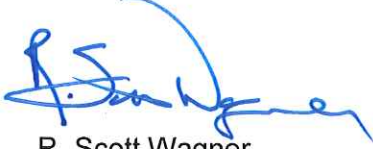
Thank you for meeting with City staff last week regarding the above project. As we indicated, we met with our City Horticulture and Forestry Manager on site at 2305 Vermont to evaluate the trees impacted by the project. She has provided valuation models for the hackberry tree and the walnut tree. The City formula for both trees total \$13,870. The Treeworks model totals \$14,300. The red oak will no longer be removed with the project as the side walk will be routed around that tree. The Osage Orange tree has no value as its size, placement and characteristics make it more of a nuisance. The City will offer a revised amount of \$14,000 as compensation for the tree loss on your property for this project.

At our meeting, I presented a revised easement – a Utility and Pedestrian easement to account for the existing utilities in the corridor of the sidewalk alignment. Appraisers typically award anywhere from 40% to 75% of the underlying fee value for such takings. A revised offer for the easement based on a 75% taking amounts to \$3,225 (923 sq ft x \$4.66 x 75%). The temporary easement has been valued at \$211. The City will offer a revised amount of \$3,500 for the two easements.

This brings the total offer of compensation to \$17,500. If you find the City's offer of compensation satisfactory, please execute the enclosed easements and W9 form and return them to my attention in the envelope provided. If you are signing as a Power of Attorney, I will need to see a copy of that instrument as well. Should you have any questions about the City's property acquisition process or the enclosed easements, please do not hesitate to contact me at (785) 832-3467 or email at swagner@lawrenceks.org. Should you have questions about the project or would like to meet with City staff to review the project plans, please contact Zach Baker, Project Engineer at (785) 832-3196 or email at zbaker@lawrenceks.org. To bid this project on schedule, the City asks that you please respond to this offer by **August 31, 2018**.



Sincerely,

A handwritten signature in blue ink, appearing to read "R. Scott Wagner". The signature is stylized with a large, sweeping initial "R" and a long, horizontal stroke extending to the right.

R. Scott Wagner
Management Analyst

cc: Zach Baker, Engineer - Public Works



TREE VALUATION FORM

Trunk Formula Method

Owner	Barland Easment
Address	2305 Vermont Street
City, State, Zip	Lawrence, KS 66044
Telephone	

TREE LOCATION:	23rd Street
TREE SPECIES:	Hackberry

*Measure tree: diameter at or circumference at breast height (if over 12 inches diameter) or 1 foot above the ground (if under 12 inches in diameter) or 6" above the ground (if under 4 inches in diameter) per ANSI Standard ANSI Z60.1-2014.

Measure tree circumference at "
breast height if

*TREE CIRCUMFERENCE (in) Measured at height of: (feet above grade)
or
*TREE DIAMETER (in) (diameter = circumference / 3.14)

Cross Sectional Area of Original Tree (in) = (= diameter² x .7854)

Species Class % (See Table 4)	<input type="text" value="50"/>	<i>Relative shade tree value in Kansas</i>
Condition Rating % (See Table 2)	<input type="text" value="40"/>	<i>Structure and health of roots, trunk, and scaffold branches combined</i>
Location Rating % (See Table 3)	<input type="text" value="60"/>	<i>Site, plus contribution and placement. City street trees (within 25' of curb)</i>

Base value of 2" replacement of same species tree (\$) *Current City Contract Cost*

size of replacement tree (in)

Cross Sectional Area of Replacement Tree (in) = (= diameter² x .7854)

Market Cost of Tree (\$) = (= Base value/Cross-sect. area)

	Tree Base Value	Cross-sectional area (in)	Species Class	Condition Class	Location Class	
Tree Value	<input type="text" value="\$ 4,774.80"/>	<input type="text" value="\$ 115.00"/>	<input type="text" value="x 346"/>	<input type="text" value="x 0.5"/>	<input type="text" value="x 0.4"/>	<input type="text" value="x 0.6"/>

Notes
TreeWorks™ city inventory value

Defects:

Co-dominant stems

Major lean over street - one sided tree branches - heavy weight over street.

Exposed roots / heaving/ surface root injury, and exposed roots on south side of tree

Major root damage / no flare root on N side of tree

Benefits.

Shade to resident / seperates home from street traffic.

TREE VALUATION FORM

Trunk Formula Method

Owner	Barland Easment
Address	2305 Vermont Street
City, State, Zip	Lawrence, KS 66044
Telephone	

TREE LOCATION:	23rd Street
TREE SPECIES:	Osage Orange <i>Not a locust</i>

*Measure tree: diameter at or circumference at breast height (if over 12 inches diameter) or 1 foot above the ground (if under 12 inches in diameter) or 6" above the ground (if under 4 inches in diameter) per ANSI Standard ANSI Z60.1-2014.

Measure tree circumference at 3"
breast height if

*TREE CIRCUMFERENCE (in) Measured at height of: (inches above grade)
or
*TREE DIAMETER (in) (diameter = circumference / 3.14)

Cross Sectional Area of Original Tree (in) = (= diameter² x .7854)

Species Class % (See Table 4)	<input type="text" value="50"/>	<i>Relative shade tree value in Kansas</i>
Condition Rating % (See Table 2)	<input type="text" value="70"/>	<i>Structure and health of roots, trunk, and scaffold branches combined</i>
Location Rating % (See Table 3)	<input type="text" value="0"/>	<i>Site, plus contribution and placement. City street trees (within 25' of curb)</i>

Base value of 2" replacement of same species tree (\$)	<input type="text" value="345"/>	<i>Current City Contract Cost</i>
size of replacement tree (in)	<input cal"="" type="text" value="2"/>	Cross Sectional Area of Replacement Tree (in) = <input type="text" value="3"/> (= diameter ² x .7854)
		Final Market Cost of Tree (\$) = <input type="text" value="\$115.00"/> (= Base value/Cross-sect. area)

	Tree Base Value	Cross-sectional area (in)	Species Class	Condition Class	Location Class	
Tree Value	<input type="text" value="Zero Value"/>	= <input type="text" value="\$ 115.00"/>	x <input type="text" value="7"/>	x <input type="text" value="0.5"/>	x <input type="text" value="0.7"/>	x <input type="text" value="0"/>

Notes
Defects:

Wrong tree, wrong place
Thorned tree with large fruit over sidewalk/street
which would be dangerous in the future.



TREE VALUATION FORM

Trunk Formula Method

Owner	Barland Easment
Address	2305 Vermont Street
City, State, Zip	Lawrence, KS 66044
Telephone	

TREE LOCATION:	23rd Street
TREE SPECIES:	Eastern Black Walnut

*Measure tree: diameter at or circumference at breast height (if over 12 inches diameter) or 1 foot above the ground (if under 12 inches in diameter) or 6" above the ground (if under 4 inches in diameter) per ANSI Standard ANSI Z60.1-2014.

Measure tree circumference at 72" at breast height if

*TREE CIRCUMFERENCE (in) 72 Measured at height of: 4.5 (feet above grade)

or

*TREE DIAMETER (in) 22.9 (diameter = circumference / 3.14)

Cross Sectional Area of Original Tree (in) = 411.9 (= diameter² x .7854)

Species Class % (See Table 4)	80	<i>Relative shade tree value in Kansas</i>
Condition Rating % (See Table 2)	40	<i>Structure and health of roots, trunk, and scaffold branches combined</i>
Location Rating % (See Table 3)	60	<i>Site, plus contribution and placement. City street trees (within 25' of curb)</i>

Base value of 2" replacement of same species tree (\$) 345

size of replacement tree (in) 2" cal

Current City Contract Cost

Cross Sectional Area of Replacement Tree (in) = 3 (= diameter² x .7854)

Market Cost of Tree (\$) = \$115.00 (= Base value/Cross-sect. area)

	Tree Base Value	Cross-sectional area (in)	Species Class	Condition Class	Location Class						
Tree Value	\$ 9,094.75	=	\$115.00	x	411.9	x	0.8	x	0.4	x	0.6

Notes
Treeworks™ city inventory value: \$7800

Defects:

Old motor vehicle would w/ compression cracks.

Wound has sealed over

Tree has a 15" lean with large branches over street.

Poor Branch architecture -w/ co-dominant stems -some leaning over the street.

Included bark in crotch angles

Sidewalk construction left dead roots on sidewalk side

No flare root on sidewalk side/ possible root rot.

Benefits.

Shade to resident / seperates home from street traffic.

TEMPORARY CONSTRUCTION EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby grants, sells, conveys, and delivers unto the City of Lawrence, Kansas, a municipal corporation, a Temporary Construction Easement for the construction of streets, sidewalks, driveways and other appurtenances thereto, in, over, under, and through the following described tracts of real estate situated in Douglas County, Kansas, to-wit:

That part of a tract described in Book 244, Page 60 recorded in the office of the Register of Deeds and located in the Northwest Quarter of Section 7, Township 13 South, Range 20 East of the Sixth Principal Meridian, City of Lawrence, Douglas County, Kansas being described as follows:

Commencing at the intersection of the South right-of-way line of W. 23rd Street and the West right-of-way line of Vermont Street; thence S01°35'28"E along said West right-of-way line a distance of 6.00 feet to the Point of Beginning; thence continuing S01°35'28"E along said West right-of-way line a distance of 5.00 feet; thence S89°01'38"W parallel with the South right-of-way line of said W. 23rd Street a distance of 125.00 feet to the East line of Jennings Addition; thence N01°35'28"W along said East line a distance of 1.50 feet; thence N86°59'49"E a distance of 98.81 feet; thence N89°01'38"E parallel with the South right-of-way line of said W. 23rd Street a distance of 26.22 feet to the Point of Beginning.

The above described contains 452 square feet, more or less.

Within reasonable time following the termination of the temporary easement, Grantee shall leave the area thereof free of litter and debris; shall cause such area to be of a level and grade compatible with that of the area around said temporary easement; and shall restore the area disturbed, including restoration of driveways, landscaping and irrigation systems, at the earliest practical time and pursuant to the project plan specifications.

This temporary easement shall terminate and be of no further force and effect ninety (90) days after the completion of the said improvements or December 31, 2019, whichever shall first occur.

Grantor shall do or cause nothing to be done to interfere with the Grantee's right of use of said Easement for the purposes herein stated.

THE UNDERSIGNED FURTHER WARRANTS that it has good and lawful right to convey said easement, and will forever defend the title thereto.

THIS AGREEMENT is and shall be binding and obligatory upon the heirs, administrators, executors, personal representatives, successors, and assigns of the parties hereto.

DATED THIS ____ day of _____, 2018.

Emma D. Barland

ACKNOWLEDGMENT

STATE OF KANSAS)
 :SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this _____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid came Emma D. Barland, who is personally known to me to be the same person who executed the within and foregoing instrument of writing, and duly acknowledged the execution of the same.

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

Notary Public

My Commission Expires: _____

UTILITY AND PEDESTRIAN EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby grants, sells, conveys, and delivers unto the City of Lawrence, Kansas, a municipal corporation, a permanent and perpetual Easement for the construction, installation, and maintenance of utilities and a sidewalk and pedestrian path and all other facilities appurtenant thereto, in, over, under, and through the following described tract of real estate situated in the City of Lawrence, Douglas County, Kansas, to-wit:

THAT PART OF A TRACT DESCRIBED IN BOOK 244, PAGE 60 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF W. 23RD STREET AND THE WEST RIGHT-OF-WAY LINE OF VERMONT STREET; THENCE S01°35'28"E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 6.00 FEET; THENCE S89°01'38"W PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID W. 23RD STREET A DISTANCE OF 26.22 FEET; THENCE S86°59'49"W A DISTANCE OF 98.81 FEET TO THE EAST LINE EXTENDED OF JENNINGS ADDITION; THENCE N01°35'28"W ALONG SAID EAST LINE EXTENDED A DISTANCE OF 9.50 FEET TO SAID SOUTH RIGHT-OF-WAY LINE; THENCE BEARING N89°01'38"E ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED CONTAINS 923 SQUARE FEET, MORE OR LESS.

Grantee shall have the right of ingress and egress upon the above described Easement for the purpose of maintaining, repairing, or replacing said sidewalk and otherwise make all uses of said Easement and do all things necessary or proper for the use of said Easement for said utilities and public facilities and structures.

Grantor shall do or cause nothing to be done to interfere with the Grantee's right of use of said Easement for the purposes herein stated.

THE UNDERSIGNED FURTHER WARRANT that it has good and lawful right to convey said easement, and will forever defend the title thereto.

THIS AGREEMENT is and shall be binding and obligatory upon the heirs, administrators, executors, personal representatives, successors, and assigns of the parties hereto.

DATED THIS _____ day of _____, 2018.

Emma D. Barland

ACKNOWLEDGMENT

STATE OF KANSAS)
 :SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this _____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid came Emma D. Barland, who is personally known to me to be the same person who executed the within and foregoing instrument of writing, and duly acknowledged the execution of the same.

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

Notary Public

My Commission Expires: _____

Zachary Baker

Subject: FW: Barland Property - 2305 Vermont - Tract 5

From: Brian Barland <bbarland66047@gmail.com>

Sent: Thursday, September 06, 2018 3:56 PM

To: Scott Wagner <swagner@lawrenceks.org>; RL Barland <rlbarland@yahoo.com>; Zachary Baker <zbaker@lawrenceks.org>

Subject: Barland Property - 2305 Vermont - Tract 5

Dear Mr. Wagner,

The Family has discussed the recent offer letter from the City and still has a few concerns that were not fully addressed, noted or resolved. I will try to concisely but fully enumerate them in this email. After walking the site and reviewing the latest drawings, here are our thoughts.

The City's own survey markings indicate that the current sidewalk encroaches on private property approximately 0.5'. This would indicate that the trees in question are on private property as there is significant distance between the trees and the existing sidewalk. Construction of existing sidewalk was at the time of last street widening project.

Not only is there a utility encroachment on private property, but there are 2 fiber-optic lines not one. Utility location flags reference City of Lawrence and also Century Link. This encroachment runs the length of the property south of the existing sidewalk and is several feet into the yard area. Estimated length of time of encroachment we would set at 10+ years.

Do not fully understand the reasoning of proposed 7' sidewalk on this property that reduces to 6' width at Vermont Street ramp and starts reducing to 6' width before the west property line. Ramp appears to be in original location, was indicated that was to shift North to follow back-of-curb.

New fence post on west fence line will need to be replaced in proper location with like-kind or approved equal and the existing fence reattached in proper workmanship manner.

Compensation for the shrubs/bushes that will be disturbed will need to be included again as in the original offer.

The large Hackberry tree (74"circumference, 22" diameter) adjacent to the proposed sidewalk, at the north end of the west fence line of the property has not been addressed. This has been brought up before in discussions. Inclusion of this tree is evidenced by location in fence line and fence materials enclosed in bark on west side of tree trunk.

The previous approach of \$1000 per tree for the large trees to be removed was grossly inadequate. The 2 methods the City is now proposing to use is more indicative of the appropriate methodology. The species class and the subjective evaluation of the condition and location ratings details need to be discussed. The City's evaluation of those 2 ratings address damage to the root systems, etc. The current situation of the trees involved were not as original located. Previous street widening/improvement projects done by the city have created the current situation and resultant damage. This is a situation the City's current plans will subject upon the existing Oak tree. Removal of the Oak, Walnut and 2 Hackberries seems project appropriate. Being able to save the large maple tree in the back yard is good news though.

The City has not provided sufficient documentation developed by the appraiser for the property value, so we would consider the City to be negotiating in good faith at the arrived figure of \$4.66/sf value for the property. We have also not received any charts associated with the tree calculations.

The following tabulation should serve as a compilation of the items discussed above:

Trees (4 mature)	28,000
Tree (1 immature)	500
Bushes	1,000

Temporary Easement	211
Sidewalk Encroachment	1,500
Fiber-optic Encroachment	5,000
Total	\$39,436

Having considered the above items, the anticipated time frame for the construction project and our willingness to work with the City we would propose that \$30,000 would be an appropriate compensation offer from the City regarding this matter.

I'm hopeful that we can resolve this in a timely manner so that the City can make plans to proceed and make any plan revisions for final approval. Signed easement forms will be forthcoming after any plan revisions have been presented for our approval. Please contact me at (785) 840-7464 should you have questions regarding this matter or wish to meet.

Brian Barland
The Barland Family



City of Lawrence

CITY ATTORNEY'S OFFICE

THOMAS M. MARKUS
CITY MANAGER

City Offices
PO Box 708 66044-0708
www.lawrenceks.org

6 East 6th St
785-832-3000
FAX 785-832-3405

CITY COMMISSION

MAYOR
STUART BOLEY

COMMISSIONERS
LISA LARSEN
JENNIFER ANANDA, JD, MSW
MATTHEW J. HERBERT
LESLIE SODEN

October 24, 2018

Emma Barland
2305 Vermont St.
Lawrence, KS 66046

Brian Barland
2916 Flint Ct.
Lawrence, KS 66047

Re: 23rd Street Geometric and Waterline Improvements – PW1722

Dear Property Owner,

The City has asked Aul Appraisals to revise its original appraisal report in light of the changed project plans and the revised pedestrian and utility easement legal description. As you may be aware, the property at 2305 Vermont Street is an unplatted tract of land. The original project plans indicated 30 feet of City street right of way along 23rd Street at this location. Additional research by the engineering firm designing the project has found that there is actually 33 feet of right of way from the section line along 23rd Street. Revised legal descriptions and a revised project plan sheet are enclosed. The City also asked Aul Appraisals to update their appraisal report. These changes have occurred since their original appraisal report dated June 11, 2018 and in response to concerns about the project that you have raised. Attached is their revised report.

You are entitled to just compensation. As part of the City's property acquisition process, we have hired an independent appraisal firm – Aul Appraisals, to complete an appraisal of the proposed takings. Enclosed is a copy of the section of the Aul report pertaining to your tract. At this location, the appraiser has concluded an underlying land value of \$4.66 per sq. foot. The permanent pedestrian and utility easement is valued at 25% of the fee simple value or \$638 (548 sq. ft x \$4.66 x 25%). The temporary construction easement has been valued at 10% of the fee simple value or \$211 (452 sq. ft x \$4.66 x 10%). Additionally, the appraiser has awarded \$1,000 for the loss of some shrubs. This brings the total amount of just compensation to \$1,900 (rounded).

If you find the City's offer of compensation satisfactory, please execute the enclosed easements and W9 form and return them to my attention in the envelope provided. If you are signing as a Power of Attorney, I will need to see a copy of that instrument as well. Should you have any questions about the City's property acquisition process or the enclosed easements, please do not hesitate to contact me at (785) 832-3467 or email at swagner@lawrenceks.org. Should you have questions about the project or would like to meet with City staff to review the project plans, please contact Zach Baker, Project Engineer at (785) 832-3196 or email at zbaker@lawrenceks.org. This project was awarded to Sunflower Paving at the September 18,



2018 City Commission meeting. Staff anticipates the sidewalk work to occur in early 2019. To meet the project construction schedule, the City asks that you please respond to this offer by **November 15, 2018**.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Scott Wagner". The signature is stylized with a large initial "R" and a long horizontal stroke.

R. Scott Wagner
Management Analyst

cc: Zach Baker, Engineer – Municipal Services & Operations



An Appraisal Report

of:

**City of Lawrence–23rd Street Project
2300 Louisiana Street, et. al.**

Prepared For:

**Mr. R. Scott Wagner
Management Analyst
City Attorney's Office
City of Lawrence, Kansas
6 East 6th Street
Lawrence, Kansas 66044**

Prepared By:

**Deedra Bailey
Aul Appraisals, L.C.**

Date of Inspection:

June 11, 2018

Effective Date of Valuation:

June 11, 2018



The estimated site value conclusion will be converted to a per square foot site amount for use in the following just compensation estimate grids.

2305 Vermont Street

The concluded site value for this site as previously discussed is \$60,000 or \$4.66 per square foot given the 12,875 square feet of subject site area.

Conclusion– Prior to acquisition

The value prior to acquisition of 2305 Vermont Street is \$156,250 which includes the 2018 county valuation of the improvements as previously discussed.

The value shown includes the 2018 county valuation for the improvements for purposes of calculation only. Since they are not considered to be damaged by the acquisition and given the intended use of this report it was considered reasonable to utilize such a methodology.

Valuation After the Acquisition

Description of the Acquisition

As noted, the City of Lawrence intends to acquire a portion of the subject for a temporary construction easement (452 square feet) and a utility and pedestrian easement (548 square feet) as described in the documents in the addenda to this report. The calculated easement areas are based on data from the client. The legal descriptions of the easements (provided by the client) are contained in the addenda to this report.

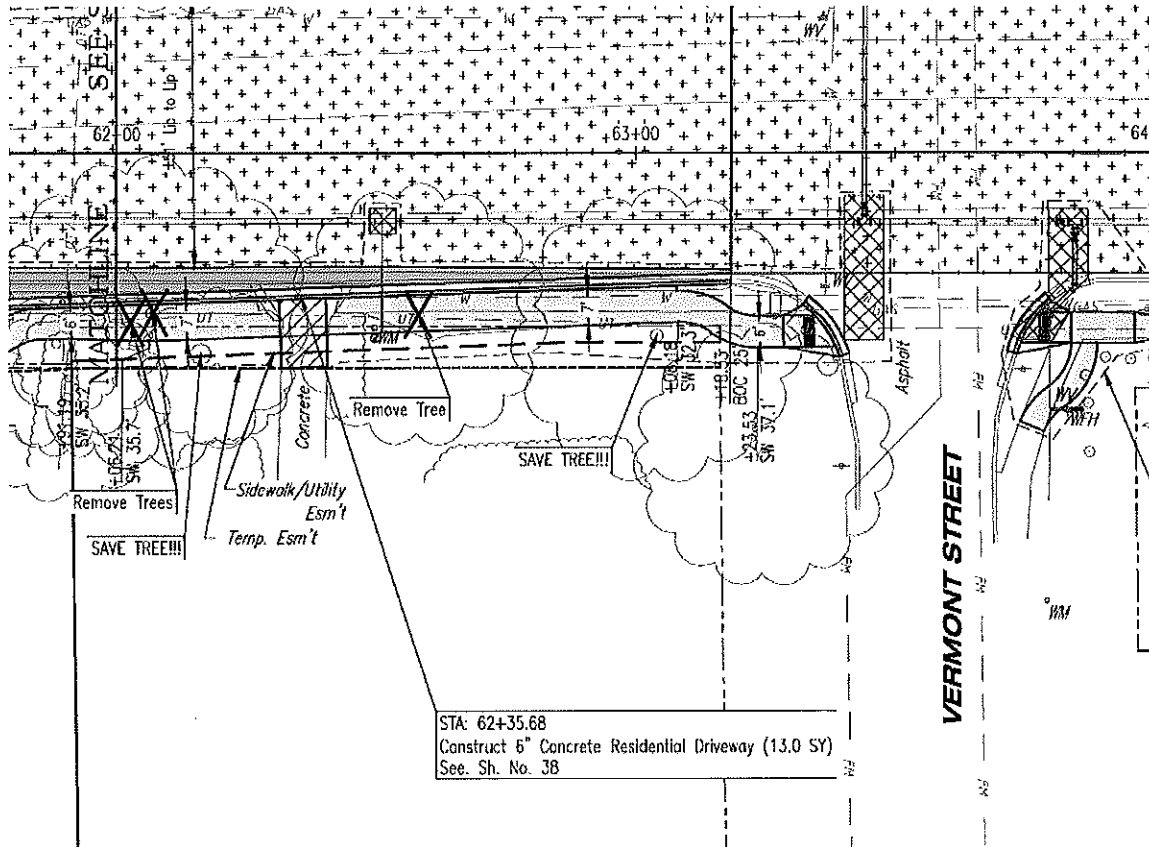
Effect of the Acquisition

The potential easement/acquisition does not hinder access to the remainder of the subject nor is it near the improvements. Based on these assumptions and given the location of the easement/acquisition, in the opinion of the appraiser there are no damages to the remainder land/improvements other than the loss of use of some property rights in the easement/acquisition area. The loss also does not significantly change the overall size range of the subject's remainder nor does it affect its highest and best use. The easement does not bisect the subject.

For these reasons the valuation of the subject “after” the acquisition relies on the “before” valuation minus the acquisition areas.

Severance Damages

Per the City of Lawrence, any trees that are to be removed during the construction process are located in the existing street right-of-way. There is one tree located within the temporary easement area that will be saved during the construction process. Please refer to the plan shown below. The appraiser has, however, estimated an amount of \$1,000 for loss of shrubs and bushes that are located upon the property and are deemed to be lost during the construction process.



Valuation Conclusion– after acquisition

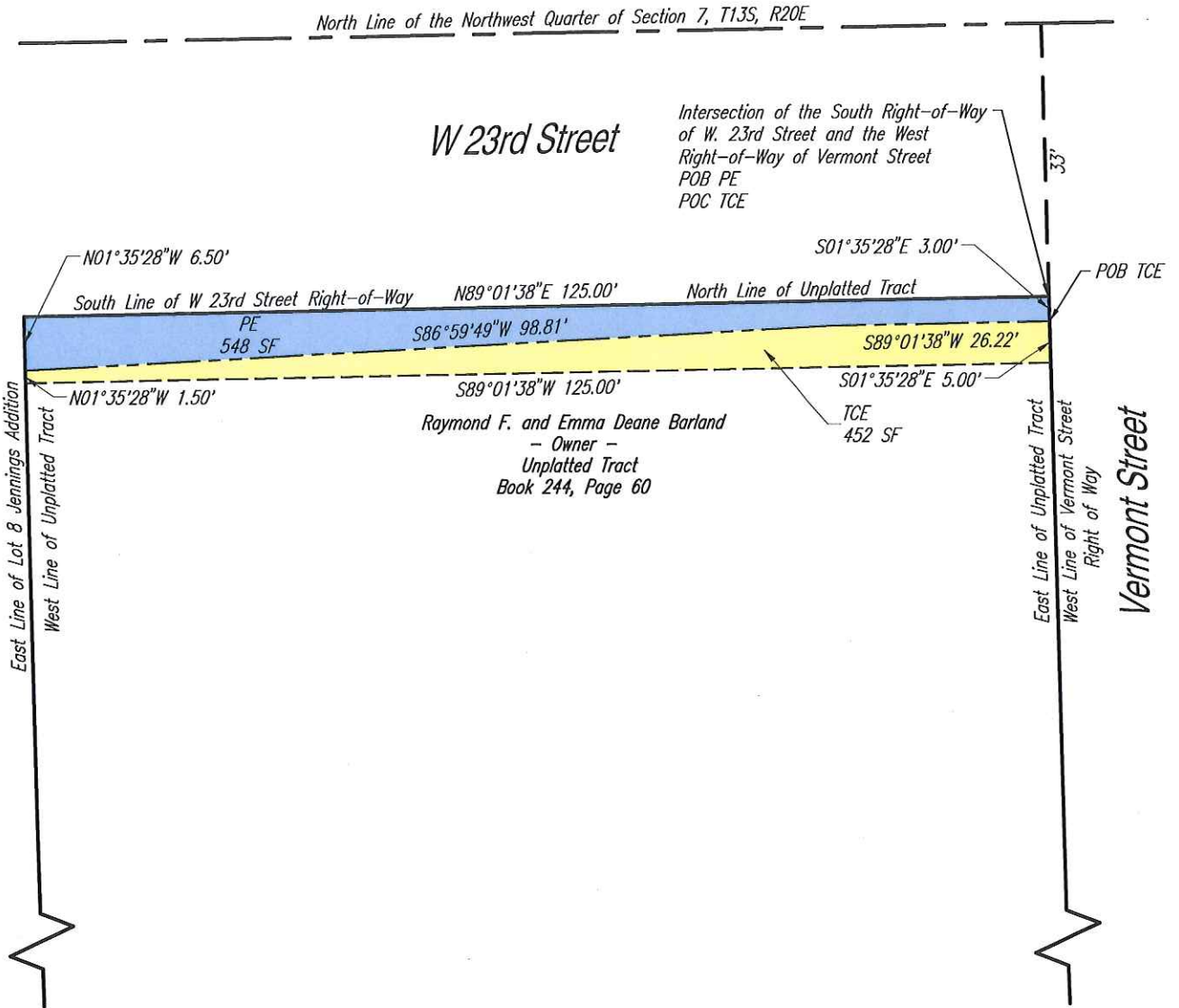
Estimated just compensation is defined as the difference between the before and after value conclusions for the subject property in its entirety. As noted, the easement of the subject property includes a temporary construction easement and a utility and pedestrian easement. The valuations before/after are calculated and shown on the chart on the following page. In summary, my total estimate of Just Compensation (rounded) for this tract is:

\$1,900



<p>AGENCY City of Lawrence PROJECT: DB 1737</p> <p>OWNERS OF RECORD: Raymond and Enma Barland</p> <p>ADDRESS: 2305 Vermont Street Lawrence, Kansas</p>	<table border="1" style="width: 100%;"> <tr><td>BEFORE LAND AREA: (SF)</td><td style="text-align: right;">2,875</td></tr> <tr><td>BEFORE \$/SF LAND VALUE:</td><td style="text-align: right;">\$ 4.66</td></tr> <tr><td>TOTAL BEFORE VALUE:</td><td style="text-align: right;">\$ 134,300 (R)</td></tr> <tr><td>FEE SIMPLE TAKING: (SF)</td><td style="text-align: right;">0</td></tr> <tr><td>PERMANENT EASEMENTS (SF)</td><td style="text-align: right;">548</td></tr> <tr><td>EASEMENT VALUE %</td><td style="text-align: right;">25%</td></tr> <tr><td>EASEMENT \$/SF LAND VALUE:</td><td style="text-align: right;">\$ 1.17</td></tr> <tr><td>TEMP. CONST. EASEMENT: (SF)</td><td style="text-align: right;">452</td></tr> <tr><td>ANNUAL RATE OF RETURN:</td><td style="text-align: right;">0.00%</td></tr> <tr><td>YEARS OF TEMP. EASEMENT:</td><td style="text-align: right;">1</td></tr> <tr><td>AFTER \$/SF LAND VALUE:</td><td style="text-align: right;">\$ 4.66</td></tr> <tr><td>TOTAL AFTER VALUE:</td><td style="text-align: right;">\$ 134,400 (R)</td></tr> <tr><td>JUST COMPENSATION:</td><td style="text-align: right;">\$ 1,900 (R)</td></tr> </table>	BEFORE LAND AREA: (SF)	2,875	BEFORE \$/SF LAND VALUE:	\$ 4.66	TOTAL BEFORE VALUE:	\$ 134,300 (R)	FEE SIMPLE TAKING: (SF)	0	PERMANENT EASEMENTS (SF)	548	EASEMENT VALUE %	25%	EASEMENT \$/SF LAND VALUE:	\$ 1.17	TEMP. CONST. EASEMENT: (SF)	452	ANNUAL RATE OF RETURN:	0.00%	YEARS OF TEMP. EASEMENT:	1	AFTER \$/SF LAND VALUE:	\$ 4.66	TOTAL AFTER VALUE:	\$ 134,400 (R)	JUST COMPENSATION:	\$ 1,900 (R)																																						
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Tract 5
Exhibit B
PE and TCE

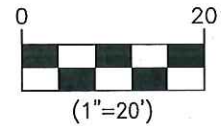


LEGEND

- POB = Point of Beginning
- POC = Point of Commencement
- = Property Line
- = Permanent Pedestrian Easement Area
- = Permanent Pedestrian Easement Line
- = Temporary Construction Easement Line
- = Temporary Construction Easement Area

City project Number: PW1722/UT1720

This Sketch has been prepared for Easement Exhibit purposes only, and does not constitute a Boundary Survey.



PEC
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
1263 SW TOPEKA BLVD. TOPEKA, KS 66612
785-233-8300 www.pec1.com

City of Lawrence W. 23rd Street Geometric Improvements	
County	Owner
Douglas	Raymond F. and Emma Deane Barland

City of Lawrence
Proj. No. 171385-001
Date: October 12, 2018

W.23rd Street Geometric Improvements
Project# 171385-001
Tract 5 - Barland
TCE

Professional Engineering Consultants, P.A.
W. David Lee, P.S.
10/12/2018

Temporary Construction Easement
Douglas County

Legal Description
TCE

That part of a tract described in Book 244, Page 60 and in Book 124, Page 245 recorded in the office of the Register of Deeds and located in the Northwest Quarter of Section 7, Township 13 South, Range 20 East of the Sixth Principal Meridian, City of Lawrence, Douglas County, Kansas being described as follows:

Commencing 33 feet South of the intersection of the North line of said Section 7 and the West right-of-way line of Vermont Street extended on the South right-of-way line of W. 23rd Street; thence S01°35'28"E along the West right-of-way line of said Vermont Street a distance of 3.00 feet to the Point of Beginning; thence continuing S01°35'28"E along said West right-of-way line a distance of 5.00 feet; thence S89°01'38"W parallel with the South right-of-way line of said W. 23rd Street a distance of 125.00 feet to the East line of Jennings Addition; thence N01°35'28"W along said East line extended a distance of 1.50 feet; thence N86°59'49"E a distance of 98.81 feet; thence N89°01'38"E parallel with the South right-of-way line of said W. 23rd Street a distance of 26.22 feet to the Point of Beginning.

The above described contains 452 square feet, more or less.



W.23rd Street Geometric Improvements
Project# 171385-001
Tract 5 - Barland
PE

Professional Engineering Consultants, P.A.
W. David Lee, P.S.
10/12/2018

Permanent Pedestrian Easement
Douglas County

Legal Description
PE

That part of a tract described in Book 244, Page 60 and in Book 124, Page 245 recorded in the office of the Register of Deeds and located in the Northwest Quarter of Section 7, Township 13 South, Range 20 East of the Sixth Principal Meridian, City of Lawrence, Douglas County, Kansas being described as follows:

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The above described contains 548 square feet, more or less.



UTILITY AND PEDESTRIAN EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby grants, sells, conveys, and delivers unto the City of Lawrence, Kansas, a municipal corporation, a permanent and perpetual Easement for the construction, installation, and maintenance of utilities and a sidewalk and pedestrian path and all other facilities appurtenant thereto, in, over, under, and through the following described tract of real estate situated in the City of Lawrence, Douglas County, Kansas, to-wit:

THAT PART OF A TRACT DESCRIBED IN BOOK 244, PAGE 60 AND IN BOOK 124, PAGE 245 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS BEING DESCRIBED AS FOLLOWS:

BEGINNING 33 FEET SOUTH OF THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 7 AND THE WEST RIGHT-OF-WAY LINE OF VERMONT STREET EXTENDED ON THE SOUTH RIGHT-OF-WAY LINE OF W. 23RD STREET; THENCE S01°35'28"E ALONG WEST RIGHT-OF-WAY LINE OF SAID VERMONT STREET A DISTANCE OF 3.00 FEET; THENCE S89°01'38"W PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID W. 23RD STREET A DISTANCE OF 26.22 FEET; THENCE S86°59'49"W A DISTANCE OF 98.81 FEET TO THE EAST LINE EXTENDED OF JENNINGS ADDITION; THENCE N01°35'28"W ALONG SAID EAST LINE EXTENDED A DISTANCE OF 6.50 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID W. 23RD STREET; THENCE BEARING N89°01'38"E ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED CONTAINS 548 SQUARE FEET, MORE OR LESS.

Grantee shall have the right of ingress and egress upon the above described Easement for the purpose of maintaining, repairing, or replacing said sidewalk and otherwise make all uses of said Easement and do all things necessary or proper for the use of said Easement for said utilities and public facilities and structures.

Grantor shall do or cause nothing to be done to interfere with the Grantee's right of use of said Easement for the purposes herein stated.

THE UNDERSIGNED FURTHER WARRANT that it has good and lawful right to convey said easement, and will forever defend the title thereto.

THIS AGREEMENT is and shall be binding and obligatory upon the heirs, administrators, executors, personal representatives, successors, and assigns of the parties hereto.

DATED THIS _____ day of _____, 2018.

Emma D. Barland

ACKNOWLEDGMENT

STATE OF KANSAS)
 :SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this _____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid came Emma D. Barland, who is personally known to me to be the same person who executed the within and foregoing instrument of writing, and duly acknowledged the execution of the same.

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

Notary Public

My Commission Expires: _____

TEMPORARY CONSTRUCTION EASEMENT

THE UNDERSIGNED, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, hereby grants, sells, conveys, and delivers unto the City of Lawrence, Kansas, a municipal corporation, a Temporary Construction Easement for the construction of streets, sidewalks, driveways and other appurtenances thereto, in, over, under, and through the following described tracts of real estate situated in Douglas County, Kansas, to-wit:

THAT PART OF A TRACT DESCRIBED IN BOOK 244, PAGE 60 AND IN BOOK 124, PAGE 245 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS AND LOCATED IN THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 13 SOUTH, RANGE 20 EAST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS BEING DESCRIBED AS FOLLOWS:

COMMENCING 33 FEET SOUTH OF THE INTERSECTION OF THE NORTH LINE OF SAID SECTION 7 AND THE WEST RIGHT-OF-WAY LINE OF VERMONT STREET EXTENDED ON THE SOUTH RIGHT-OF-WAY LINE OF W. 23RD STREET; THENCE S01°35'28"E ALONG THE WEST RIGHT-OF-WAY LINE OF SAID VERMONT STREET A DISTANCE OF 3.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S01°35'28"E ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 5.00 FEET; THENCE S89°01'38"W PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID W. 23RD STREET A DISTANCE OF 125.00 FEET TO THE EAST LINE OF JENNINGS ADDITION; THENCE N01°35'28"W ALONG SAID EAST LINE EXTENDED A DISTANCE OF 1.50 FEET; THENCE N86°59'49"E A DISTANCE OF 98.81 FEET; THENCE N89°01'38"E PARALLEL WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID W. 23RD STREET A DISTANCE OF 26.22 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED CONTAINS 452 SQUARE FEET, MORE OR LESS.

Within reasonable time following the termination of the temporary easement, Grantee shall leave the area thereof free of litter and debris; shall cause such area to be of a level and grade compatible with that of the area around said temporary easement; and shall restore the area disturbed, including restoration of driveways, landscaping and irrigation systems, at the earliest practical time and pursuant to the project plan specifications.

This temporary easement shall terminate and be of no further force and effect ninety (90) days after the completion of the said improvements or December 31, 2019, whichever shall first occur.

Grantor shall do or cause nothing to be done to interfere with the Grantee's right of use of said Easement for the purposes herein stated.

THE UNDERSIGNED FURTHER WARRANTS that it has good and lawful right to convey said easement, and will forever defend the title thereto.

THIS AGREEMENT is and shall be binding and obligatory upon the heirs, administrators, executors, personal representatives, successors, and assigns of the parties hereto.

DATED THIS _____ day of _____, 2018.

Emma D. Barland

ACKNOWLEDGMENT

STATE OF KANSAS)
 :SS
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this _____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid came Emma D. Barland, who is personally known to me to be the same person who executed the within and foregoing instrument of writing, and duly acknowledged the execution of the same.

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

Notary Public

My Commission Expires: _____

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number																																															
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Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

RECEIVED

NOV 12 2018

CITY ATTORNEY'S OFFICE
LAWRENCE, KS

November 12, 2018

Dear Mr. Wagner,

The Family has discussed the recent offer letter regarding Tract 5, the Barland Property, from the City dated October 24, 2018 for \$1,900 and find the offer unacceptable. That offer would appear to be based on several erroneous assumptions by the City.

Following our family's meeting with you and City Engineering Staff on October 31st, we met with County personnel that day regarding the Right-of-Way width on 23rd Street as you suggested. They indicated, despite the evidence the City previously presented to them regarding the width of 33', that they consider the width to be the 30' and had indicated that stance to the City prior to our meeting. Evidently the stance taken by the County is supported by county road records, property ownership records, map updating and significant research recently completed by the County related to that updating. It is therefore our stance that the Right-of-Way is 30' in width and the trees, sidewalk and fiber-optic utilities in question are on private property that is under the control of the Barland Family and not available for the construction project as currently bid and awarded to Sunflower Paving.

Doug and myself met with City Engineering staff and the Horticulture & Forest Manager involved in the tabulated tree valuations in previous City offer letters. That meeting was on-site the afternoon of November 2, 2018 to discuss the concerns raised in the meeting of the 31st, County discussions regarding the right-of-way situation and the concerns outlined in our previous offer to the City dated September 6th, 2018.

There are numerous concerns that were not fully addressed, noted or resolved. I will herein again try to concisely but fully enumerate those items of concern. I am sure that minor items may arise during construction, but those should be incidental and easily resolved between Engineering Staff and ourselves. After recently walking the site and reviewing the latest drawings, here are our thoughts.

The City's own survey markings indicate that the current sidewalk encroaches on private property approximately 0.5'. This would indicate that the trees in question are on private property as there is significant distance between the trees and the existing sidewalk. Construction of the existing sidewalk was completed at the time of last street widening project.

Not only is there a utility encroachment on private property, but there are 2 fiber-optic lines not

just one. Utility location flags reference City of Lawrence and also Century Link. These encroachments run the length of the property south of the existing sidewalk and is several feet into the yard area. An estimated length of time of encroachment we would set at 10+ years for the current negotiation. This encroachment needs to either be removed or remedied. These fiber-optic lines should also be visually located. There appears to be some confusion as to the exact location of these utilities since the utility locator has been out several times and the location flagging has been moved by them.

We do understand the reasoning of proposed 7' sidewalk on this property that reduces to 6' width at Vermont Street ramp and starts reducing to 6' width before the west property line. The ramp appears to be in original location, Zach had indicated the ramp was to shift North to follow back-of-curb. Would seem project appropriate to revisit this area and possibly narrow or straighten out the sidewalk alignment.

New fence post on west fence line will need to be replaced in proper location with like-kind or approved equal and the existing fence reattached in proper workmanship manner.

Compensation for the miscellaneous shrubs/bushes that will be disturbed will need to be included again as in the original offer dated July 19, 2018. This would include some miscellaneous rock work at the west end of the property.

The large Hackberry tree (74" circumference, 22" diameter) adjacent to the proposed sidewalk, at the north end of the west fence line of the property has not been addressed after being brought up during initial site walk-around with City Staff and indications that it was considered on our property. Inclusion of this tree to this property is also evidenced by location in fence line and fence materials enclosed in bark on both sides of tree trunk. Based on current project plans and in-field flagging unsure how damage to this tree root system and structural anchoring in the ground can be avoided.

The previous approach of \$1000 per tree for the large trees to be removed was grossly inadequate. The 2 methods the City proposed to use in the August 22, 2018 is more indicative of the appropriate methodology. We have received the tree valuation calculation details used in the previous City offers. The species class and the subjective evaluation of the condition and location ratings details need to be discussed. The City's evaluation of those 2 ratings address damage to the root systems, etc. The current situation of the trees involved were not as original located. Previous street widening/improvement projects done by the city have created the current situation and resultant damage. This damage to these trees in turn has been used in the tree evaluation by the City to reduce the value of these trees. This is also a situation the City's current plans will subject upon the existing Oak tree. Based on current project plans and in-field measurements unsure how damage to this tree root system and structural anchoring in the ground can be avoided.

Removal of the Oak, Walnut and 2 Hackberries seems project appropriate. Being able to save the large maple tree in the back yard is good news though.

The City has not provided sufficient documentation developed by the appraiser for the property value, so we would consider the City to be negotiating in good faith at the arrived figure of \$4.66/sf value for the property. At this time the City offer (923 sq ft x \$4.66 x 75%) of \$3,225 for the permanent pedestrian/utility easement and the (452 sq ft x \$4.66 x 10%) \$211 for the temporary construction easement appears appropriate. However, this payment does not remedy the situation in regards to the fiber-optic encroachment damages. The utility easement will apply only to the 2 existing fiber-optic lines and needs to be reflected in the easement agreement.

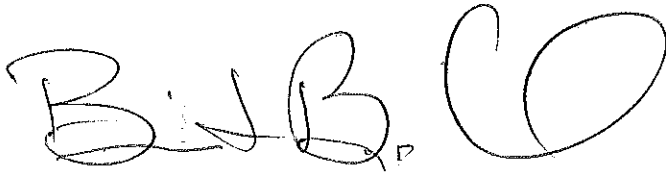
As of Friday, November 9, 2018 a stake has been placed in the northwest corner of the property that indicates that a power pole with associated street light is to be placed there. This is on private property and there has been no discussion of this item. I talked with Zach Baker regarding this item and he is to follow up. This does however bring up the concern of any other project related utilities impacts to the property. Are there any additional impacts that have not been brought to our attention ?

The following tabulation should serve as a compilation of the items discussed above:

Trees (2 mature,per City 8/22/18)	14,000
Additional Oak (NE corner)	2,500
Additional Hackberry (NW corner)	2,500
Tree (1 immature,per City 9/6/18)	500
Bushes (per City 7/19/18)	1,000
Pedestrian/Utility Easement (per City)	3,225
Temporary Easement (per City)	211
Sidewalk Encroachment (10yr x \$150)	1,500
Fiber-optic Encroachment (10yr x \$250 X 2)	5,000
Total	\$30,436

Having considered the above items, the time frame for the construction project and our willingness to work with the City to minimize delays, for current negotiating purposes we would propose that \$30,000 would be an appropriate compensation offer from the City regarding this matter.

I'm hopeful that we can resolve this in a timely manner so that the City can make plans to proceed and make any plan revisions for final approval. Signed easement forms will be forthcoming after any plan revisions have been presented for our approval. Please contact me at (785) 840-7464 should you have questions regarding this matter or wish to meet.

A handwritten signature in black ink, appearing to read 'B. Barland' followed by a large, stylized flourish.

Brian Barland

Barland Family

cc: Zach Baker - Engineer, David Cronin - Engineer, Robert Barland