

**Supplemental Agreement No. 1
For
Acquisition Services**

This Supplemental Agreement made this _____ day of _____, 20____, by and between **City of Overland Park, Kansas**, (hereinafter the "City") and **Orrick & Erskine, L.L.P.**, (hereinafter "Orrick & Erskine").

WHEREAS, the City and Orrick & Erskine have previously entered into an Agreement, dated August 1, 2012 for acquisition services to acquire real property for the Monitor Square Storm Drainage Improvements, 101st Terrace & Roe Avenue to 103rd Street & Rosewood Street, (hereinafter the "Original Agreement").

WHEREAS, Section 3 of said Original Agreement provides that the scope of services and the fee to be paid to Orrick & Erskine may be adjusted by a Supplemental Agreement; and

WHEREAS, this Supplemental Agreement between the parties heretofore is to provide services beyond the scope of the Original Agreement to address unforeseen coordination efforts related to acquisition procedures and appraisals with the City and affected landowners, and to include closing and relocation services related to the acquisition of the referenced real property (hereinafter the "Additional Services") in accordance with Exhibit A of the Original Agreement and Exhibit 1 of this Supplemental Agreement No. 1; and

WHEREAS, the CITY is desirous of entering into a Supplemental Agreement to provide for the Additional Services to be provided by Orrick & Erskine and the additional fee to be paid the Orrick & Erskine for those Additional Services rendered to the CITY; and

WHEREAS, the CITY is authorized and empowered to contract with Orrick & Erskine for the necessary Additional Services for the project, and necessary funds for the payment of said services are available.

NOW THEREFORE, the parties hereby agree as follows:

PART A - SCOPE OF SERVICES

Orrick & Erskine will complete the Additional Services to the City's full satisfaction and in accordance with Exhibit 1 of this Supplemental Agreement No. 1

PART B - SCHEDULE

Orrick & Erskine will complete the Additional Services in the time frame set forth below. All work shown in Exhibit 1 of this Supplemental Agreement No. 1 shall be completed August 1, 2013.

PART C - COMPENSATION

The Additional Services listed in Exhibit 1 of this Supplemental Agreement No. 1 will be provided at an amount not to exceed Thirty Five Thousand Six Hundred Ninety Three Dollars and 00/100 (\$35,693.00) including reimbursables.

This Supplemental Agreement raises the maximum fee to Fifty Seven Thousand Three Hundred Ninety Three Dollars and 00/100 (\$57,393.00). This is the total of the fee from the Original Agreement of Twenty-One Thousand, Seven Hundred Dollars and 00/100 (\$21,700.00) plus Thirty Five Thousand Six Hundred Ninety Three Dollars and 00/100 (\$35,693.00) for Supplemental Agreement No. 1

IN ALL OTHER RESPECTS, the terms and conditions of the Original Agreement shall remain in full force and effect, except as specifically modified by this Supplemental Agreement No. 1, including all policies of insurance which shall cover the work authorized by this Supplemental Agreement No. 1.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Agreement No. 1 to be executed as of the day and year first above written.

ORRICK & ERSKINE, L.L.P.

CITY OF OVERLAND PARK, KANSAS

Signature

Carl Gerlach, Mayor

Title

APPROVED AS TO FORM:

ATTEST:

Tammy M. Owens
Deputy City Attorney

Marian Cook
City Clerk

ORRICK & ERSKINE, L.L.P.
ATTORNEYS AT LAW

Timothy P. Orrick*
Paul G. Schepers+
Joseph J. Erskine*
Jason B. Prier*
Renee M. Gurney*
Anthony J. Orrick*
Patrick R. Watkins*

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Kathy Schoenberger
Director of Real Estate Services

Richard Pfaff
Real Estate Acquisition &
Relocation Specialist

* Licensed in Kansas and Missouri
+ Licensed in Missouri
* Licensed in Kansas

Reply to:

Overland Park Office
 Kansas City, Kansas Office

February 1, 2013

Lorraine Basalo, P.E.
City of Overland Park
8500 Santa Fe Drive
Overland Park, Kansas 66212

RE: Acquisition Services for the Monitor Square Storm Drainage Improvements –
Supplemental Agreement and Scope of Services

Lorraine:

Per your request, we provide the following items for your consideration in developing a Supplemental Agreement for Acquisition Services for the Monitor Square Storm Drainage Improvement Project.

Acquisition-Related Activities

As you are aware, we have been much more deeply engaged with City staff and the affected landowners addressing various questions and concerns related to the project, the appraisals, and the offers than we originally thought would be necessary. It is our understanding that, with our last bill (through December 31, 2012), we have essentially reached the “not-to-exceed” amount of our original Agreement. In our recent conversation, you told me there was approximately \$982 remaining on the original Agreement.

As a preliminary matter, it has come to our attention that there is an outstanding invoice of \$3,500 for review appraisal services from Right-of-Way Associates that was not submitted but should have been paid under the original Agreement. In order to account for this we have estimated that prior to January 1, 2013, I spent approximately 24 hours on activities that exceeded the scope of the original Agreement. However, those hours were billed and paid under the original Agreement. We propose to move those hours to

Overland Park, Kansas

Metcalf Bank Building
College Boulevard & Quivira
11900 College Blvd., Suite 210
Overland Park, Kansas 66210

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Kansan Building
8th Street & Armstrong
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Kansas City, Kansas 66101

the estimate for the Supplemental Agreement. With that adjustment, the Right-of-Way Associates invoice can be paid under the scope of the original Agreement, where it was intended. Please see Exhibit A for details.

I have reviewed our billing files, and through January 24, 2013, I have spent approximately 63 additional hours working on the project. I anticipate it could take an additional 30-40 hours of acquisition-related activities to bring the project through to the scheduled February 27, 2013, Public Works Committee Meeting. Those activities may include, but would not be limited to:

1. Consulting, as necessary, with City staff regarding acquisition issues;
2. Communications with affected landowners regarding status of project, questions regarding appraisals and offers, closing and relocation procedures, etc.;
3. Preparation of revised Agreements, offer letters, and other written correspondence;
4. Prepare and maintain negotiation notes;
5. Maintain files for delivery to City upon completion of project.

In consideration of the foregoing, we propose the Supplemental Agreement provide for \$18,669 to cover the above-described items, other acquisition-related activities, and any related and approved contingencies. Please see Exhibit A for details. Of course, we always strive to work as efficiently as possible and will make every effort to keep costs down, where possible.

Closing/Relocation Services

Also in response to your request, we propose to provide closing and relocation services as outlined below. Kathy Schoenberger, our Director of Real Estate Services, will be primarily responsible for these activities. However, we anticipate I will maintain a degree of ongoing involvement throughout the process. We anticipate the scope of services will include, but may not be limited to:

Closing:

1. Order Certificate of Title (“CT”) from Capital Title;
2. Review CT;

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3. Coordinate with City to obtain all fully signed Agreements;
4. Provide fully signed Agreement to title company. Request preparation for closing.
5. Orrick office will review estimated closing statement and work with City staff to obtain settlement funds either via wire transfer to Orrick trust account; or City issued check.
6. At closing, Capital Title will prepare final closing statement and all conveyance documents:
 - a. Warranty Deed
 - b. Closing statement
 - c. Request and obtain mortgage payoffs (if applicable). Capital Title will wire transfer final payoff to lender and obtain release documents.
 - d. Capital Title will effectuate recordation of Warranty Deed transferring title to the City.
 - e. Settlement funds to landowner.
 - f. Final title policy issued
7. Completed acquisition file delivered to City.

Moving Expenses (Commercial Move):

1. Landowner will obtain two written bids for moving services. Orrick office will review bids and choose Move Company (typically the lower of the two bids).
2. Orrick office will email City approved bid and order funds to pay upon completion and confirmation of move. Funds to be delivered to Orrick via wire transfer or City issued check.
3. Landowner will notify Orrick when move is completed. Orrick will inspect property to confirm same.

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4. Check issued to moving company.

Moving Expenses (Self Move):

1. Orrick office will inspect personal property to be moved and conduct room count.
2. Orrick office emails City total room count and order funds to pay to landowner upon completion of move. Funds to be delivered to Orrick via wire transfer or City issued check.
3. Landowner notifies Orrick when move is completed. Orrick will inspect property to confirm same.
4. Move reimbursement paid to landowner.

Capital Title has provided a quote of \$950 per tract for title insurance and closing documents. Kathy Schoenberger estimates six hours per tract for her involvement during the above-described processes. Her billable rate is \$100 per hour. For my time, I estimate six hours per tract for ongoing communication with landowners, various inspections and other supervisory activities. Please see Exhibit A for details. We propose the Supplemental Agreement provide for \$17,024 to cover the above-described items, other closing and relocation activities, and any related and approved contingencies.

We are hopeful this letter and the attached Exhibit A provide all the information needed to complete the Supplemental Agreement we have discussed. If you have any questions, need more information, or would like to discuss any aspect of the project further, please give me a call.

Thank you for allowing us to assist with the project. We look forward to hearing from you.

Best Regards,

ORRICK & ERSKINE, L.L.P.

Jason B. Prier

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Exhibit A		
Accounting and Estimates for Supplemental Agreement for Acquisition and Closing/Relocation Services		
City of Overland Park - Monitor Square Storm Drainage Improvement Project		
Orrick & Erskine, L.L.P.		
2.1.13		
Balance under original Agreement:		\$982
Approximate amount billed and paid outside/beyond scope of original Agreement (to be shifted to Supplemental Agreement Estimate): (Jason Prier time: 24 hrs. x \$147)		\$3,528
Amount unbilled under original Agreement for review appraisal services:		(\$3,500)
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Revised Balance under original Agreement:		\$1,010
Estimate for Acquisition-Related Services Supplemental Agreement		
Approximate amount billed and paid outside/beyond scope of original Agreement: (Jason Prier time: 24 hrs. x \$147)		\$3,528
Unbilled time: (Jason Prier time January 1, 2013 - January 24, 2103: 63 hrs. x \$147)		\$9,261
Estimated time to bring Project through February 28 PWC Meeting: (Jason Prier time 40 hrs. x \$147)		\$5,880
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Total:		\$18,669
Estimate for Closing/Relocation Services in Supplemental Agreement		
Capital Title: (Title Insurance and Closing Documents: \$950 per tract)		\$6,650
Estimated time to administer closings, relocations and related paperwork: (Kathy Schoenberger time 42 hrs. x \$100)		\$4,200
Estimated time for supervision of closing/relocation processes, ongoing communications with landowners, and various property inspections (to calculate moving expenses and confirm move): (Jason Prier time 42 hrs. x \$147)		\$6,174
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Total:		\$17,024