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OF COUNSEL

April 15, 2004

Via E-Mail

Mr. David Corliss
Assistant City Manager
City of Lawrence
City Hall
Six East Sixth Street
Lawrence, Kansas 66044

Re: Fox Chase South Subdivision Bicycle Paths

Dear David:

I am writing on behalf of Marla, L.L.C. (referred to as the "**Owner**"), the applicant and property owner of record for Fox Chase South (referred to as "**Fox Chase South**"), a subdivision in the City of Lawrence, Douglas County, Kansas. The Owner has an approved preliminary plat for Fox Chase South that shows the configuration of Harvard Road as 31 feet in width. The final plat for Fox Chase South also has been approved and filed of record with the Office of the Register of Deeds of Douglas County, Kansas.

Consistent with the approved preliminary and final plats, the Owner is seeking approval of the final street plans for Fox Chase South. Apparently, one or more members of the City staff will not approve the Owner's final street plans at this time, unless the Owner agrees to redesign and engineer Harvard Road to include the construction of bike lanes, at the Owner's expense.

The Owner does not oppose the addition of bike paths along Harvard Road, and the Owner will agree to instruct its engineers to redesign Harvard Road to include bike paths. However, the Owner has no obligation, legal or otherwise, to pay for the cost of designing, engineering and constructing bike paths along Harvard Road. The approved preliminary plat for Fox Chase South is based upon a 31-foot configuration of Harvard Road. Furthermore, Resolution 6517 establishing a policy for bike lanes along collector streets provides that "Bike Lanes shall be provided on all Collector streets designated for Bicycle lanes on the Bicycle Facilities Map in the Bicycle Facilities Plan, and amendments thereto." (emphasis added).

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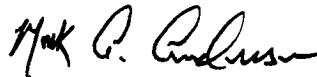
The Bicycle Facilities Map in the Bicycle Facilities Plan does not designate any bicycle lanes along this stretch of Harvard Road. Accordingly, the Owner is not required by the City's own recently adopted Resolution governing bicycle lanes to construct bike paths along Harvard Road. Furthermore, over the past several months the Owner has made a substantial investment in the development and design of Fox Chase South and Harvard Road with the knowledge and understanding that Harvard Road would be constructed to a width of 31 feet.

Under the circumstances, withholding approval of the Owner's final street plans for Fox Chase South because the Owner will not voluntarily agree at this late date to incur the additional expense of designing, engineering and constructing bike paths along Harvard Road raises a question of fundamental fairness as well as some due process issues. Accordingly, so that the Owner may move forward in a prompt and timely manner, the Owner is requesting that either (i) the requirement by City staff for bike paths along Harvard Road be deleted from the final street plans for Fox Chase South, or (ii) the City needs to determine that bike paths will be required along Harvard Road, in which event the City will also need to determine a budget for the cost of designing, engineering and constructing bike paths along Harvard Road within Fox Chase South. In either event, the Owner will not be obligated to pay the additional expenses directly related to bike paths along Harvard Road.

If you have any questions, require any additional information, or if I may be of any assistance, please do not hesitate to call me.

Very truly yours,

BARBER EMERSON, L.C.

A handwritten signature in black ink, appearing to read "Mark A. Andersen".

Mark A. Andersen

MAA:smb

cc: Mr. Doug Stephens
Mr. Phil Struble