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ADDITION OF ITEM X.1. COUNCIL MEMBER AGENDA
PULLED CONSENT ITEM XII-14
MOVED CONSENT ITEM XII-13 TO NEW BUSINESS ITEIM III-10.

FINAL

CITY COUNCIL

CITY OF WICHITA
KANSAS

City Council Meeting
09:00 a.m. September 21, 2010

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

-- Call to Order

-- Invocation

-- Pledge of Allegiance

-- Approve the minutes of the regular meeting on September 14, 2010

AWARDS AND PROCLAMATIONS

-- Proclamations:

National Day of Remembrance for Murder Victims

-- Awards:

Fire Department Employee Recognition

I. PUBLIC AGENDA

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city manager prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

1. Roger Nunemaker - Violation of his Constitutional rights through police profiling and harassment.

COUNCIL BUSINESS

II. UNFINISHED COUNCIL BUSINESS

None

III. NEW COUNCIL BUSINESS

1. Public Hearing and Tax Exemption Request, Leading Technology Composites, Inc. (District IV)

   RECOMMENDED ACTION: Close the public hearing, and approve first reading of the Ordinance granting Leading Technology Composites a 100% tax exemption on the identified real and personal property improvements for a five year term, plus a 100% tax exemption for a second five-year term, subject to City Council review.

2. Public Hearing and Tax Exemption Request, Burnham Composite Structures, Inc./GRL Property Management, Inc. (District IV)

   RECOMMENDED ACTION: Close the public hearing and place on first reading the revised Ordinance for Burnham Composite Structures and authorize the necessary signatures.

3. Resolution Considering the Adoption of a Redevelopment Project Plan, Tax Increment Financing, Planeview Redevelopment District. (District III)

   RECOMMENDED ACTION: Adopt the resolution and authorize the necessary signatures

4. 2009/2010 HUD Consolidated Plan Annual Performance and Evaluation Report. (Districts I, III, IV and VI)

   RECOMMENDED ACTION: Close the Public Hearing, approve the HUD Consolidated Annual Performance and Evaluation Report, and authorize submission to the U.S. Department of Housing and Urban Development.

5. Water and Sewer Utility Revenue Bonds, Series 2010A and Series 2010B.

   RECOMMENDED ACTION: Direct the opening and reading of the bids; award the sale of the Bonds subject to approval of the final sizing terms of the Bonds by the City Manager; and find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond Ordinance on the date of its introduction, adopt the Bond Ordinance and Resolution and authorize the publication thereof.

6. 119th Street West Improvement, between Kellogg and Maple. (District V)

   RECOMMENDED ACTION: Approve the project, place the amending ordinance on First Reading and authorize the signing of State/Federal agreements as required.

7. 119th Street West Improvement, between Pawnee and Kellogg. (District IV)

RECOMMENDED ACTION: Approve the project, approve the pipeline relocation agreement, place the amending ordinance on First reading and authorize the signing of State/Federal agreements as required.

8. Lincoln Street Bridge and Dam Improvements. (Districts III and IV)

RECOMMENDED ACTION: Approve the project, adopt the amending resolution and authorize the signing of State/Federal agreements as required.

(9:30 a.m. or soon thereafter)

9. Public Hearing: Repair or Removal of Dangerous and Unsafe Structures

Property Address	Council District
a. 3861 East Roseberry Court	III

RECOMMENDED ACTION: Close the public hearing, adopt the resolutions declaring the building a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair the structure would be contingent on the following: (1) All taxes have been paid to date, as of September 21, 2010; (2) the structure has been secured as of September 21, 2010 and will continue to be kept secured; and (3) the premises are mowed and free of debris as of September 21, 2010, as will be so maintained during renovation.

10. ***Allocation of City funds to Child Advocacy Center (CAC)***

RECOMMENDED ACTION: Approve the allocation of this one-time funding and any necessary budget adjustments and transfers.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

IV. NON-CONSENT PLANNING AGENDA

1. CON2010-00008 – Request for a Conditional Use to allow Wrecking/Salvage Yard on property located at the southwest corner of 29th Street North and Mead Street. (District VI)

RECOMMENDED ACTION: 1) Concur with the findings of the MAPC, approve the Conditional Use, subject to the recommended conditions and authorize the Mayor to sign the resolution (requires a three-fourths majority); OR 2) Deny the Conditional Use request by making alternative findings, and override the MAPC's recommendation.

V. CONSENT PLANNING AGENDA (ITEMS 1 THROUGH 4)

1. *ZON2010-00027 – City zone change from TF-3 Two-Family Residential ("TF-3") to LC Limited Commercial ("LC") and GO General Office ("GO"); generally located southwest of the intersection of Douglas Avenue and Hillside Avenue. (District I)

   RECOMMENDED ACTION: Adopt the findings of the MAPC, approve the zone change with Protective Overlay #245 and place the ordinance on first reading. (An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

2. *ZON2010-00028 Associated with CUP2010-00016 –City zone change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse AND Creation of DP-323 Lakeside At the Moorings Commercial Community Unit Plan AND DP-78 The Moorings Amendment #4 transfer land from DP-78 to DP-323, generally located west of North Meridian Avenue and north of K-96. (District VI)

   RECOMMENDED ACTION: Adopt the findings of the MAPC and approve the zone change and creation of DP-323 Lakeside At the Moorings Community Unit Plan and Amendment #4 to DP-78 The Moorings Community Unit Plan subject to the recommended conditions; and withhold the publication of the ordinance until the plat is recorded (simple majority vote required).

3. *DER2010-0007 -- Approval of Subdivision Regulation Amendments regarding Off-Street Parking for Residential Streets.

   RECOMMENDED ACTION: Approve the amendments to the Wichita-Sedgwick County Subdivision Regulations and place the Ordinance on first reading.

4. *A10-02 Request by Unified School District No. 259 to annex lands generally located on the west side of 143rd Street East, approximately one-quarter mile north of Pawnee. (District II)

   RECOMMENDED ACTION: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

Summer Jackson, Housing Member is also seated with the City Council.

VI. NON-CONSENT HOUSING AGENDA

None

VII. CONSENT HOUSING AGENDA

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

VIII. NON-CONSENT AIRPORT AGENDA

None

IX. CONSENT AIRPORT AGENDA

None

COUNCIL AGENDA

X. COUNCIL MEMBER AGENDA

1. ***Approval of travel for Mayor Brewer to attend the Ecopartnership meeting in Wuxi, China, October 19-24, 2010 for official City business purposes, as a member of the Kansas delegation to do business with Wichita and Kansas.***

   RECOMMENDED ACTION: Approve the travel.

XI. COUNCIL MEMBER APPOINTMENTS

1. Board Appointments.

   RECOMMENDED ACTION: Approve the Appointments.

XII. CONSENT AGENDA (ITEMS 1 THROUGH 15)

1. Report of Board of Bids and Contracts dated September 20, 2010.

   RECOMMENDED ACTION: Receive and file report; approve Contracts; authorize necessary signatures.

2. Preliminary Estimates:
   a. Preliminary Estimates. (See Attached)

   RECOMMENDED ACTION: Receive and file.

3. Petitions for Public Improvements:
   a. Water Main at 119th Street West from Carr Street to Pawnee Street. (District IV)

   RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

4. Property Acquisitions:
   a. Acquisition of 1357 North Terrace for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   b. Partial Acquisition of 1355 North Green for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   c. Partial Acquisition of 3536 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   d. Partial Acquisition of 1360 North Yale for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   e. Partial Acquisition of 2517 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   f. Partial Acquisition of 1717 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)
   g. Partial Acquisition of 4703 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project. (District I)

   RECOMMENDED ACTION: Approve budgets and Contracts; authorize necessary signatures.

5. Minutes of Advisory Boards/Commissions

   Board of Appeals of Plumbers and Gas Fitters Minutes

   RECOMMENDED ACTION: Receive and file.

6. Proposed Assessment Rolls:

   Proposed Assessment Rolls have been prepared for five (5) water projects, six (6) sewer projects and one(1) storm sewer project and it is necessary to set a public hearing date. Informal hearing with City personnel will be held October 11, 2010 at 11:00 a.m. Notification of both the informal and formal public hearings regarding the proposed special assessments will be mailed to affected property owners on September 24, 2010.

   RECOMMENDED ACTION: Set the hearing on the Proposed Assessment Rolls for 9:30 a.m., Tuesday, October 19, 2010.

7. Report on Claims for August 2010. (See Attached)

   RECOMMENDED ACTION: Receive and file.

8. Request for Granting of Utility Easement, Larksfield Place. (District II)

   RECOMMENDED ACTION: Approve the Resolution authorizing the granting of the easement and authorize the necessary signatures.

9. City of Wichita Employees' Deferred Compensation Plan Amendment to Great-West Agreement for Recordkeeping and Communication Services.

   RECOMMENDED ACTION: Approve the Amendment and authorize the Mayor to sign.

10. Contracts and Agreements for August 2010.

    RECOMMENDED ACTION: Receive and file.

11. Harry and Rock Intersection Improvement. (District II)

    RECOMMENDED ACTION: Approve the revised budget; place the amending ordinance on First Reading and authorize the signing of State/Federal agreements as required.

12. Payment of Condemnation Award to Acquire Property for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project. (District III)

    RECOMMENDED ACTION: Authorize payment to the Clerk of the District Court of the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project appraisers' award in the amount of $5,725.08, together with the related appraiser fees of $2,425.50 and court costs of $175.50 for a total of $8,326.08 as per the journal entry, for acquisition of this property.

13. ***Allocation of City funds to Child Advocacy Center (CAC)***

    (MOVED TO NEW BUSINESS ITEM III-10)

14. ***Acquisition by Eminent Domain of Tracts Required for the 119th Street West from Kellogg to Maple Improvement Project. (District IV)***

    (PULLED PER CITY MANAGER)

15. Second Reading Ordinances: (First Read September 14, 2010)
    a. (List of Second Reading Ordinances)

    RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Leading Technology Composites, Inc.) (District IV)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the Public Hearing and place Ordinance on first reading.

Background: Leading Technology Composites, Inc. ("LTC") was founded in 1993 to manufacture composite based materials and products for aerospace, military and automotive applications. After having submitted a letter of intent to the City, the company recently expanded its existing facility by 25,000 square feet. LTC is now requesting approval of an exemption under the Economic Development Exemption (EDX) Program on the construction of the new manufacturing facility.

Analysis: LTC is located at 2626 West May in Southwest Wichita. The company has designed the facility to maximize production capacity and close tolerance manufacturing requirements. LTC produces parts for vehicle systems and personal body armor plates for the U.S military. The company also produces structural assemblies for aerospace manufacturers and safety products for commercial automotive clients. LTC exports 95% of its products out of Kansas; customers include BAE Systems, Lockheed Martin, Bombardier and Ford.

LTC has constructed a 25,000 square foot expansion of the current facility at a cost of approximately $1,750,000. The expansion also included investment in machinery and equipment totaling approximately $3,400,000. In order to comply with the part of the statute that outlines the property tax exemption application process (Kansas Statutes Annotated (K.S.A) 79-221(c)) a tax exemption is requested on one piece of equipment. The remaining equipment is already statutorily exempt by the State of Kansas. Because the real property is owned by a separate but related company, the real property exemption is extended to the owner; however, the equipment is owned by the tenant company. According to COTA, the tenant company must request exemption of the equipment.

LTC currently has 79 employees in Wichita; the company plans to add at least 37 jobs to support the new facility over the next five years, for a total local employment of 116 by 2015. The average wage for the new jobs will be $34,442 per year. Under the Economic Development Incentive Policy, LTC is eligible for a 99.7%, 5+5-year property tax abatement based on the combined investment and job creation commitment. Staff is recommending approval of 100% abatement.

Financial Considerations: Based on the 2009 mill levy, the estimated tax value of exempted property for the first full year is approximately $52,731. The value of the 100% real property tax exemption as applicable to taxing jurisdictions is:

City	$ 14,082	State	$ 657
County	$ 13,085	USD 259	$ 24,906

Wichita State University's Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.98 to one
City of Wichita – General Fund	1.82 to one
City of Wichita – Debt Service	2.25 to one
Sedgwick County	1.68 to one
USD 259	1.28 to one
State of Kansas	6.92 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The City Attorney's Office will approve the attached Ordinance and Economic Development Incentive Agreement as to form.

Recommendations/Actions: It is recommended that City Council close the public hearing, and approve first reading of the Ordinance granting Leading Technology Composites 100% tax exemption on the identified real and personal property improvements for a five year term, plus 100% tax exemption for a second five-year term, subject to City Council review.

Attachments: Ordinance, Economic Development Incentive Agreement

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 1, 2010_____

ORDINANCE NO. 48-838

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF LEADING TECHNOLOGY COMPOSITES, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Leading Technology Composites, Inc., requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-plus-five year term on the construction of a new building and certain pieces of equipment; and

WHEREAS, Leading Technology Composites, Inc., has operated within the City for eighty years as a manufacturer of oils, greases, and other fluids for the maintenance and operation of machinery; and

WHEREAS, Leading Technology Composites, Inc., proposes a $1,752,428 expansion by the construction of a new building expansion to be located at 2626 West May in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by Leading Technology Composites, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on August 3, 2010; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. Leading Technology Composites, Inc. is an existing business located in Wichita, Kansas,

and intends to expand its business by construction of a building expansion.

2. The construction of the expansion for which exemption is given occurred after December 14, 2006. No exemption will be given for construction which occurred before that date.

3. Such construction is to be used exclusively for manufacturing articles of commerce.

4. By such expansion, Leading Technology Composites, Inc. will create new employment for 37 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by Leading Technology Composites, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. Leading Technology Composites, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building expansion and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 2626 West May in southwest Wichita, at an estimated cost of $1,752,428. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and Leading Technology Composites, Inc. may be required to repay amounts previously abated), in the event of any failure by Leading Technology Composites, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and Leading Technology Composites, Inc. is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of Leading Technology Composites, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in Leading Technology Composites, Inc.’s written request for ad valorem tax exemptions as presented to the

City Council and to administrative staff and dated July 1, 2010 and as stated in Leading Technology Composites, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Leading Technology Composites, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which Leading Technology Composites, Inc. has executed with the City.

7. The City Council may, at its discretion, require Leading Technology Composites, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which Leading Technology Composites, Inc. has executed with the City.

8. Upon finding that Leading Technology Composites, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on Leading Technology Composites, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 28th day of September, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

Economic Development Incentive Agreement

THIS ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT (the "Agreement") is made and entered into on this ____ day of August, 2010, by and between the City of Wichita, Kansas, hereinafter referred to as the "City," and Leading Technology Composites, Inc. hereinafter referred to as the "Company."

WHEREAS, the Company currently operates a facility in Wichita, Kansas, for manufacturing of oils, greases, and other fluids**,** and, as of August 1, 2010 has completed an expansion by constructing and equipping a new manufacturing facility and acquiring and modifying existing structures at that facility; and

WHEREAS, both the City and the Company desire for the Company to continue operating its business in Wichita, Kansas; and

WHEREAS, the City desires to increase employment opportunities for the citizens of Wichita, Kansas, and to further the other goals advanced by its economic development incentive policy; and

WHEREAS, the Company warrants that it is capable of, and desires to, increase the number of employment positions at its Wichita, Kansas facility; and

WHEREAS, the City has designed an economic development incentive program to accomplish its goal of increasing employment opportunities in Wichita, Kansas; and

WHEREAS, the purpose of this Agreement is to state the terms and conditions under which the City will cooperate in furnishing said economic development incentives.

NOW, THEREFORE, in consideration of the mutual conditions, covenants and promises contained herein, the parties hereto agree as follows:

1. **THE COMPANY.** The Company agrees (to the extent not already hitherto performed) that it shall do the following:

   A. Between December 14, 2010 and August 1, 2010, the Company will have completed the construction of a new facility at its manufacturing facility, located at 2626 West May, Wichita, Kansas, at a cost of $1,752,428, to be used exclusively for the purposes of manufacturing articles of commerce;

   B. Maintain, throughout the period from the date of this Agreement to August 1, 2015, employment of not less than seventy nine (79) employees at the existing manufacturing facility;

C. On or prior to August 1, 2015, the Company will add an additional thirty-seven (37) new jobs at the new manufacturing facility, and thereafter, maintain employment of not less than one hundred sixteen (116) employees at combined manufacturing facility, through at least December 31, 2019;

D. During the entire term of this Agreement, the Company will continuously maintain the average wage paid to its employees at a level (1) equal to or greater than the average wage paid by businesses in the Wichita Metropolitan Statistical Area with the Company's NAICS classification, or alternatively, (2) greater than the average wage for all jobs in the Wichita Metropolitan Statistical Area excluding wages paid by businesses classified in NAICS Sector 326;

E. During the entire term of this Agreement, the Company will meet any Equal Employment Opportunity/Affirmative Action goals set forth in its periodic filings with the City, and will annually file its Equal Employment Opportunity/Affirmative Action Plan with the City;

F. During the entire term of this Agreement, the Company will timely pay all *ad valorem* property taxes levied on its real or personal property within Sedgwick County, Kansas;

G. During the entire term of this Agreement, the Company will ensure that it does not discriminate or permit discrimination against any person on the basis of race, color, national origin or ancestry, religion, sex, age, disability or marital status in its operations or services, and the Company will comply with all applicable provisions of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375 and 11141; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Kansas Act Against Discrimination, K.S.A. 44-1000, *et seq.*; the Code of the City of Wichita Section 2.12.950; and, any laws, amendments or regulations promulgated thereunder, including any Ordinance of the City of Wichita, Kansas, presently existing or hereafter enacted, which pertains to civil rights and equal employment opportunity;

H. During the entire term of this Agreement, the Company will comply with all applicable governmental laws, rules and regulations; and,

I. During the entire term of this Agreement, the Company will cooperate with any annual compliance audit procedure(s) the City may adopt to monitor compliance with conditions, including any annual reports required of the Company and any inspection of the Company's premises or interviews with the Company's staff.

2. **EFFECT OF COMPANY'S BREACH; REMEDIES**. The Company acknowledges that in the event of its noncompliance with any of its obligations or agreements under the foregoing Section 1, the City will not have received the social and economic development benefits expected in connection with its entry into this Agreement and its furnishing of the economic development incentives provided for hereunder, and the resulting loss to the City will be difficult to measure. In such event, Company shall be required to pay to the City, as liquidated damages, or as a payment in lieu of tax, an amount equal to the *ad valorem* taxes that would theretofore have been payable but for the tax exemption referred to in Section 3 of this Agreement, and the City shall be entitled to take action to cancel and revoke such exemption for any subsequent period. No delay or omission by the City to enforce any of its rights as provided for herein shall impair such right, nor shall any such delay or omission be construed to be a waiver of such right.

3. **THE CITY.** So long as the Company meets and performs its obligations under this Agreement, it is the City's intention that the 25,000 square foot building constructed by the Company pursuant to Section 1.A., above, shall be entitled to an 100% exemption from *ad valorem* taxation for a period of five (5) calendar years, commencing January 1, 2011, and provided proper application is made therefor. It is the City's further intention that the building expansion shall be entitled to a 100% exemption from *ad valorem* taxation for an additional period of five years from January 1, 2016 to December 31, 2020, subject to the approval, in 2015, of the then current governing body. The City agrees that, during the term of this Agreement, and so long as the Company continues to meet and perform all of its obligations under this Agreement, the City will reasonably cooperate with the Company's efforts to perfect the intended exemption before the Kansas Court of Tax Appeals, and to make all necessary annual filings required to maintain such *ad valorem* tax exemption in full force and effect during the term of this Agreement, in accordance with K.S.A. 79-210 *et seq.*

4. **TERM.** This Agreement shall commence on the date first written above, and shall end on December 31, 2020.

5. **INCORPORATION OF APPENDIX**. Appendix A (Revised Non-Discrimination and Equal Employment Opportunity/Affirmative Action Program Requirements Statement for Contracts or Agreements) is attached hereto and made a part hereof as if fully set out herein.

6. **ENTIRE AGREEMENT.** This Agreement and any Appendices attached hereto contain all the terms and conditions agreed upon by both parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties hereto. Any agreement not contained herein shall not be binding on either party, nor of any force or effect. In

the event of a conflict between the terms of this Agreement and the terms contained in an Appendix, Statement of Work or other attachment, the terms of this Agreement will control.

7. **NOTIFICATION.** Notifications required pursuant to this Agreement shall be made in writing and mailed to the addresses shown below. Such notification shall be deemed complete upon mailing.

City: Office of Economic Development
Attn: Economic Development Administrator
455 North Main, 13th Floor
Wichita, Kansas 67202

and

Department of Law
Attn: City Attorney
455 North Main, 13th Floor
Wichita, Kansas 67202

Company: Leading Technology Composites, Inc.
2626 W May
Wichita, KS 67213

8. **AUTHORITY.** Each person executing this Agreement represents and warrants that they are duly authorized to do so on behalf of the entity that is a party hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CITY OF WICHITA, KANSAS

ATTEST:

_____
Carl Brewer, Mayor

_____
Karen Sublett, City Clerk

LEADING TECHNOLOGY
COMPOSITES, INC.

APPROVED AS TO FORM:

_____
Name: _____
Title: _____

_____
Gary Rebenstorf
Director of Law

APPENDIX A

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.

B. Requirements of the State of Kansas:

1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;

2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.

C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;

2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;

3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars ($5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Public Hearing and Tax Exemption Request (Burnham Composite Structures, Inc./GRL Property Management, Inc.) (District IV)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendation: Close the Public Hearing and place Ordinance on first reading.

Background: On February 6, 2007, the City Council approved a forgivable loan for Burnham Composite Structures, Inc. in the amount of $62,000 to assist with the expansion and relocation of the company, as part of an incentive package that was negotiated by the Greater Wichita Economic Development Coalition and approved by the City Council at that time. A property tax exemption under the Economic Development Exemption (EDX) Program on the construction of the new manufacturing facility was also included in the approved incentive package.

On February 9, 2010, the City Council held a public hearing and approved first reading of an ordinance authorizing the EDX exemption of the now completed new facility. The Kansas Court of Tax Appeals ("COTA") has notified the company of a discrepancy in the application which requires a new publication of notice and public hearing and a revised ordinance.

Analysis: In order to comply with KSA 79-221 the Company has amended their request to include an exemption on a piece of personal property. This piece of personal property is already tax exempt but the request is necessary in order to comply with the State statute that was written prior to most personal property being exempted. Because the property is owned by a separate but related company, the real property exemption is extended to the owner; however, the equipment is owned by the tenant company. According to COTA, the tenant company must request exemption of the equipment.

Burnham Composite Structures, Inc. ("Burnham") was founded in 2000 and is a wholly owned subsidiary of GRL Property Management, Inc. Burnham provides composite tooling solutions for the aerospace industry. Burnham's technologies consist of high temperature layups, composite backup structures and tooling reinforcements. Customers include Northrop Grumman, Spirit Aerosystems, GKN, Raytheon and many other major aerospace manufacturers.

Burnham has constructed a new 73,400 square foot building at 6262 West 34th Street South. The facility provides Burnham with a state of the art facility to produce high quality composite tooling. Prior to the expansion, Burnham had 28 employees; the company plans to add 29 new employees within five years for a total local employment of 57 by 2014. The average wage for the new jobs will be $44,214 per year. Under the Economic Development Incentive Policy, Burnham is eligible for a 100%, 5+5-year property tax abatement based on the number of jobs to be created and the capital investment that has been made. The additional equipment is valued at $5,450.

Financial Considerations: Based on the 2009 mill levy, the estimated tax value of exempted property for the first full year is approximately $105,746. The value of the 100% real property tax exemption as applicable to taxing jurisdictions is:

City	$ 28,239	State	$ 1,318
County	$ 26,241	USD 261	$ 52,781

Wichita State University's Center for Economic Development and Business Research performed a cost-benefit analysis indicating benefit-to-cost ratios, which are as follows:

City of Wichita	1.35 to one
City of Wichita – General Fund	1.28 to one
City of Wichita – Debt Service	1.45 to one
Sedgwick County	1.22 to one
USD 261	4.67 to one
State of Kansas	1.19 to one

Goal Impact: Economic Vitality and Affordable Living. Granting an ad valorem property tax exemption will encourage the business to create new job opportunities and stimulate economic growth for the City of Wichita and Sedgwick County.

Legal Considerations: The Department of Law has approved the attached Ordinance as to form. State law requires a notice be published in the City's official newspaper at least seven days prior to the public hearing.

Recommendations/Actions: It is recommended that City Council close the public hearing and place on first reading the revised Ordinance for Burnham Composite Structures and authorize the necessary signatures.

Attachments: Ordinance

_____FIRST PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 1, 2010_____

ORDINANCE NO. 48-839

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF GRL PROPERTY MANAGEMENT, INC., SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, Burnham Composite Structures, Inc., a wholly owned subsidiary of GRL Property Management, Inc. , requests an ad valorem tax exemption on a proposed relocation project of 100% for a five-plus-five year term on the construction of a new building located on land owned by GRL Property Management, Inc. and leased to Burnham Composite Structures, Inc. as well as $5,450 in equipment; and

WHEREAS, GRL Property Management, Inc./Burnham Composite Structures, Inc., has operated within the City for ten years as a manufacturer of composite tooling solutions for the aerospace industry; and

WHEREAS, GRL Property Management, Inc./Burnham Composite Structures, Inc., proposes a $3,514,314 expansion by the construction of a new building expansion to be located at 6262 West 34th Street South in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by GRL Property Management, Inc./Burnham Composite Structures, Inc., has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 9, 2010; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. GRL Property Management, Inc./Burnham Composite Structures, Inc. is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion.

2. The construction of the expansion for which exemption is given occurred after June 9, 2005. No exemption will be given for construction which occurred before that date.

3. Such construction is to be used exclusively for manufacturing articles of commerce.

4. By such expansion, GRL Property Management, Inc./Burnham Composite Structures, Inc. will create new employment for 29 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion.

6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.

7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by GRL Property Management, Inc./Burnham Composite Structures, Inc. is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. GRL Property Management, Inc./Burnham Composite Structures, Inc. is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building expansion and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 6262 West 34th Street South in southwest Wichita, at an estimated cost of $3,514,314. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and GRL Property Management, Inc./Burnham Composite Structures, Inc. may be required to repay amounts previously abated), in the event of any failure by GRL Property Management, Inc./Burnham Composite Structures, Inc., to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and GRL Property Management, Inc./Burnham Composite Structures, Inc. is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of GRL Property Management, Inc./Burnham Composite Structures, Inc. and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in GRL Property Management, Inc./Burnham Composite Structures, Inc.'s written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated December 29, 2009 and as stated in GRL Property Management, Inc./Burnham Composite Structures, Inc.'s annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that Burnham Composite Structures, Inc. no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which GRL Property Management, Inc./Burnham Composite Structures, Inc. has executed with the City.

7. The City Council may, at its discretion, require GRL Property Management, Inc./Burnham Composite Structures, Inc. to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which GRL Property Management, Inc./Burnham Composite Structures, Inc. has executed with the City.

8. Upon finding that GRL Property Management, Inc./Burnham Composite Structures, Inc. has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on GRL Property Management, Inc./Burnham Composite Structures, Inc.'s expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 28th day of September, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary E. Rebenstorf, City Attorney

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Resolution Considering the Adoption of a Redevelopment Project Plan (Tax Increment Financing), Planeview Redevelopment District (District III)

INITIATED BY: Office of Urban Development

AGENDA: New Business

Recommendations: Adopt the Resolution.

Background: On September 14, 2010, the City Council adopted an ordinance establishing a redevelopment district in the area southeast of George Washington Boulevard and Pawnee Avenue for the purpose of providing tax increment financing (TIF) to pay a portion of the costs of a redevelopment project in that area. The next step in establishing the legal authority to use tax increment financing is the adoption by the City Council of a redevelopment project plan, which provides more detailed information on the proposed project and how tax increment financing would be used, and demonstrates how the projected increase in property tax revenue will amortize the costs financed with tax increment financing.

Similar to the process for establishing the TIF district, adoption of the TIF project plan also requires a public hearing to be held by the City Council, following the giving of proper notice, prior to adopting an ordinance that approves the project plan. The action needed to set the public hearing is by adoption of a resolution.

Analysis: The developer has presented the details of a redevelopment project in the Planeview area, which is referred to as the Planeview Grocery Project. A Project Plan has been prepared in consultation with the Wichita-Sedgwick County Metropolitan Planning Commission, which has made a finding that the project is consistent with the Comprehensive Plan for development of the area. The date of November 2, 2010 at the regular City Council meeting is proposed for the public hearing on the Planeview Grocery Project Plan.

If adopted by the City Council, the attached resolution calling for the public hearing will be sent to the owners and occupants of all property located within the Planeview Redevelopment District, by certified mail. The resolution includes a map that shows the boundaries of the redevelopment district. The resolution will also be published in the *Wichita Eagle* and copies will be provided to the Board of County Commissioners and Board of Education.

After closing the public hearing, the City Council may adopt the Project Plan by ordinance, by two-thirds majority vote. Once adopted, the City will be authorized to use tax increment financing to finance eligible project costs. However, any expenditure of public funds on any project costs will be governed by the terms of a development agreement to be approved by the City Council, and all other necessary proceedings governing the expenditure of public funds.

Vetting of the developer was conducted by Office of Urban Development Staff. No outstanding financial issues were identified. Staff identified housing code issues related to other properties owned by the Developer. The Office of Central Inspection reports that the developer has been actively addressing the issues and has an improvement plan in place to remedy the code violations in a timely manner.

Financial Considerations: All costs of reproducing, mailing and publishing the resolution will be paid from the City's Economic Development Fund and will be ultimately reimbursed from the proceeds of tax increment financing.

Goal Impact: Economic Vitality and Affordable Living and Quality of Life. Redevelopment of blighted and declining areas are needed to avoid economic stagnation. Business prospects and workers seeking to relocate are attracted to a city that takes care of its older sections.

Legal Considerations: The attached Resolution has been reviewed by the Department of Law and approved as to form.

Recommendation/Action: It is recommended that the City Council adopt the resolution and authorize the necessary signatures.

Attachment(s): Resolution Considering the Adoption of a Redevelopment Plan (Tax Increment Financing), Planeview Grocery Redevelopment District Project Plan

028001

Published in the Wichita Eagle October 22, 2010

Resolution No. 10-252

A RESOLUTION STATING THE CITY OF WICHITA IS CONSIDERING THE ADOPTION OF A REDEVELOPMENT PROJECT PLAN FOR THE PLANEVIEW REDEVELOPMENT DISTRICT.

WHEREAS, by Ordinance No. 48-837 adopted September 21, 2010, and published September 24, 2010, the City of Wichita established a redevelopment district pursuant to K.S.A. 12-1770 et seq., as amended, known as the Planeview Redevelopment District; and

WHEREAS, the City, by Resolution No. 10-209 passed August 3, 2010, set a hearing for consideration of a proposed redevelopment district plan which identifies proposed redevelopment areas and proposed buildings and facilities to be constructed or improved; and

WHEREAS, the City of Wichita proposes to undertake a Redevelopment Project within the Planeview Redevelopment District, known as Planeview Grocery Project, consisting of construction of a 16,500 sq.ft. Save-A-Lot grocery store, a 4,500 sq. ft. retail center and related public improvements as set out in the Redevelopment Project Plan; and

WHEREAS, the City has prepared a Redevelopment Project Plan for said Project in accordance with K.S.A. 12-1772 and is considering the adopting of the Plan; and

WHEREAS, a relocation assistance plan under K.S.A. 12-1777 is included in the Redevelopment Project Plan; and

WHEREAS, the Wichita Sedgwick County Metropolitan Area Planning Commission has reviewed the proposed Redevelopment Project Plan and determined that the Redevelopment Project Plan is consistent with the comprehensive general plan for the development of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

1. The City of Wichita is considering the adoption of a Redevelopment Project Plan for the Planeview Redevelopment District.

2. The City of Wichita will hold a public hearing to consider the adoption of the Redevelopment Project Plan on the 2nd day of November, 2010, at 9:00 a.m., or as soon thereafter as possible, in the City Council Chambers, City Hall, 455 N. Main, Wichita, Kansas.

3. The Redevelopment Project will be located within the Planeview Redevelopment District, a legal description of the Redevelopment District is set forth in Exhibit “A” attached hereto and incorporated herein by reference. A legal description of the area proposed to be included in the Redevelopment Project area are also set forth in Exhibit “A” attached hereto and incorporated herein by reference. A map generally outlining the boundaries of the proposed Redevelopment Project area is attached hereto as Exhibit B and incorporated herein by reference

4. The Planeview Grocery Redevelopment Project Plan including a summary of the feasibility study, relocation assistance plan and financial guaranties of the developer and a map and legal description of the area to be redeveloped is available for inspection during the regular office hours in the office of the City Clerk, City Hall, 13th Floor, 455 N. Main, Wichita, Kansas. The Redevelopment Project Plan also includes descriptions of the public improvement projects, and other information pertinent to the project.

5. The governing body will consider making findings and taking action necessary for the adoption of the Redevelopment Project Plan at the public hearing set to be heard herein.

6. It is proposed that the method of financing for the redevelopment project plan is that the City will reimburse the developer on a pay-as-you-go basis to finance the Redevelopment Project, in whole or in part.

7. A copy of this Resolution shall be delivered to the Sedgwick County Board of County Commissioners and to the Board of Education of Unified School District No. 259. Copies of this Resolution shall also be mailed by certified mail to each owner and occupant of land within the proposed redevelopment project area not more than ten (10) days following the date of adoption of this Resolution.

8. This Resolution shall be published once in the official City newspaper not less than one week or more than two weeks preceding the date fixed for the public hearing. Such publication shall include Exhibit "A", which is a legal description of the area, and Exhibit "B", which is a sketch clearly delineating the area in sufficient detail to advise the reader of the particular land proposed to be included within the project area.

ADOPTED this 21st day of September, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

APPROVED AS TO FORM:

_____

Gary Rebenstorf, City Attorney

EXHIBIT A

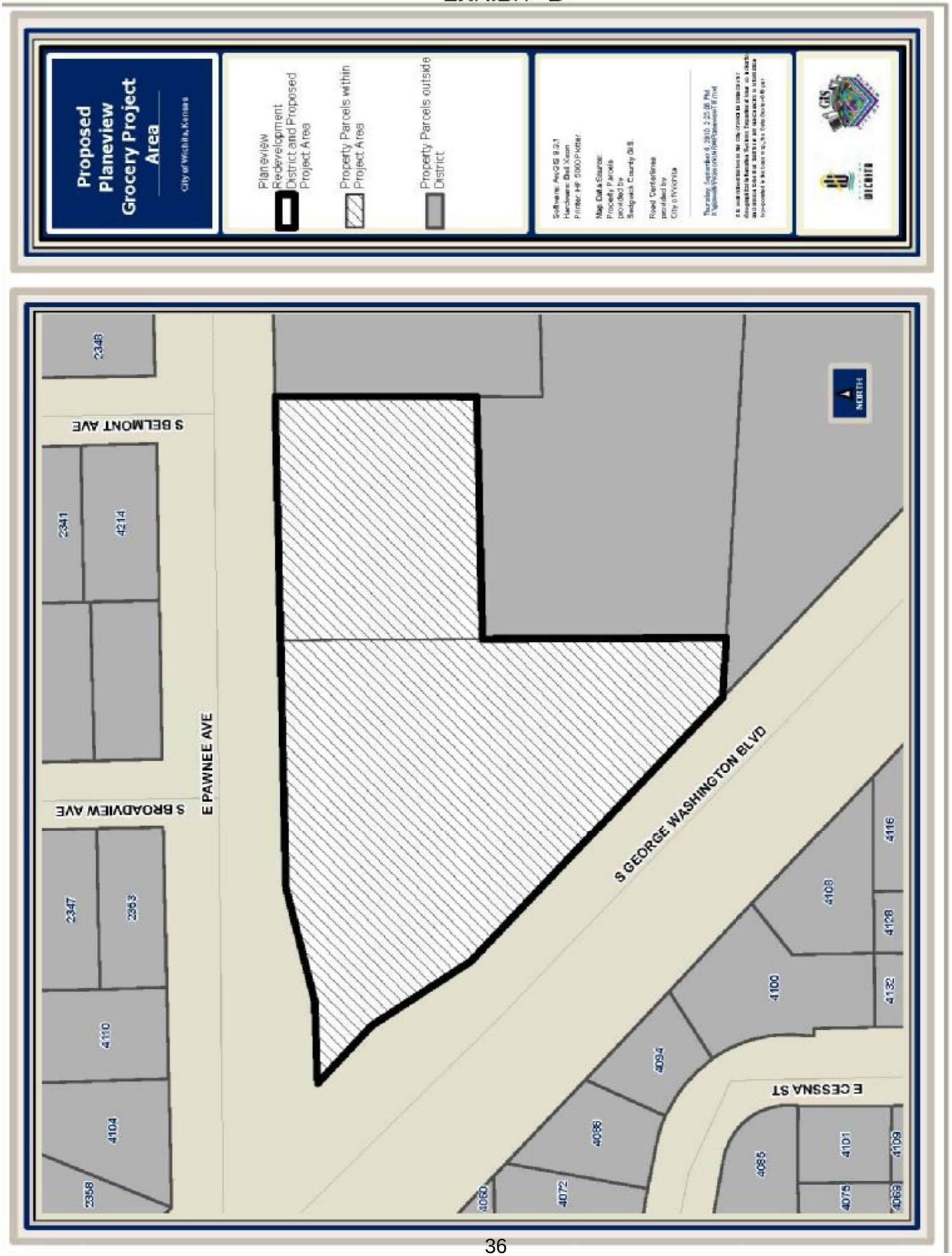
PLANEVIEW REDEVELOPMENT DISTRICT
AND PLANEVIEW GROCERY PROJECT AREA
LEGAL DESCRIPTION

Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

And:

Lot 2, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

EXHIBIT "B"



Proposed Planeview Grocery Project Area
City of Wichita, Kansas
Planeview Redevelopment District and Proposed Project Area
Property Parcels within Project Area
Property Parcels outside District
Software: ArcGIS 9.2.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter
Map Data Source:
Property Parcels provided by Sedgwick County GIS.
Road Centerlines provided by City of Wichita
NORTH
S BELMONT AVE
S BROADVIEW AVE
E PAWNEE AVE
S GEORGE WASHINGTON BLVD
E CESSNA ST
2348
2341
4214
2347
2353
4110
4104
2358
4116
4108
4128
4132
4100
4094
4086
4072
4060
4085
4101
4109
4075
4069

City of Wichita

Planeview Redevelopment District

Planeview Grocery
Project Plan

September 9, 2010

Prepared by City of Wichita
Office of Urban Development

I N D E X

1. Comprehensive Financial Feasibility Study

2. Redevelopment District Plan

3. Map and Legal Description of Property to be Redeveloped

4. Relocation Assistance Plan

5. Description of Proposed Redevelopment Project

6. Development Agreement

7. City Council Ordinances and Resolutions

8. Metropolitan Area Planning Commission Resolution

Comprehensive Financing Feasibility Study for the

Planeview Grocery Project

Within the

Planeview Redevelopment District

City of Wichita, Kansas

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PROJECTED EXPENDITURES (COSTS) ……	5
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Map of the Redevelopment District and Project Area……EXHIBIT I
Assumptions Report ……...EXHIBIT II
Projected Tax Increment Report ……EXHIBIT III
Projected Bond Cash Flow Report …….EXHIBIT IV

Overview

Sections 12-1770 through 12-1780 of the Kansas Statutes ("the Act") provide a means for cities to finance all or a portion of public infrastructure and redevelopment costs with incremental real estate and sales taxes. The purpose of the Act is to "promote, stimulate and develop the general and economic welfare of the State of Kansas and its communities, and to assist in the development and redevelopment of blighted areas and deteriorating areas which are not yet blighted, but may be so in the future, located within cities…".

A city may exercise the powers conferred under the Act provided that the governing body of the city has adopted a resolution finding that the specific area sought to be developed or redeveloped is a blighted area, a conservation area or was designated an enterprise zone prior to July 1, 1992. In addition, the city must find that the conservation, development or redevelopment of such an area is necessary to promote the general and economic welfare of the city.

One or more redevelopment projects may be undertaken within the District. Kansas Statutes require projects to be completed within 20 years from transmittal of the redevelopment project plan pursuant to K.S.A. 12-1776, with the exception of environmental investigation and remediation projects which must be completed within 20 years from the date the City enters into a consent decree with the Kansas Department of Health and Environment or the U.S. Environmental Projection Agency, unless the County and School District have expressly consented to a 10-year extension of the term.

For each redevelopment project undertaken within the District, a redevelopment project plan ("the Project Plan") must be prepared in consultation with the City Planning Commission. The Project Plan must include the following:

1. A summary or copy of the Comprehensive Financial Feasibility Study.

2. A reference to the statutorily required district plan for the District.

3. A description and map of the area to be redeveloped ("the Project").

4. The Relocation Assistance Plan (if applicable).

5. A detailed description of all buildings and facilities proposed to be constructed or improved.

6. Any other information the City deems necessary to advise the general public of the intent of the Project Plan.

The Comprehensive Financial Feasibility Study (this document) must show that the benefits derived from the specified redevelopment project will exceed the costs, and that the income therefrom will be sufficient to pay for the applicable project costs. Benefits are determined to be the aggregate revenues of the redevelopment project including increment income, assessment income, interest income, private party contributions and any other available funding sources. Costs are determined to be the total of eligible project expenditures as defined by K.S.A. 12-1770a, including the payment of principal and interest of debt used to finance the redevelopment project.

Pursuant to all the provisions of the Act, the City of Wichita has, by Ordinance No. _____ dated September 14, 2010, found a portion of the City to be a blighted area and that redevelopment of the area is necessary to promote the general and economic welfare of the City. With adoption of Ordinance No._____, the City established and designated such area as the Planeview Redevelopment District ("the District"). The District boundaries are shown in Exhibit I. Ordinance No. _____ also includes the statutorily required district plan for the redevelopment of the District.

The City is currently considering the adoption of a Project Plan for the proposed Planeview Grocery Project within the designated Planeview Redevelopment District ("the Project"). The Project consists of construction of a Save-a-lot grocery store and other retail in the Planeview area. Adoption of the Project Plan will allow the City to finance eligible Project costs associated with the redevelopment of property located in the vicinity of Pawnee Avenue and George Washington Boulevard (the "Project Area") as depicted in Exhibit I. Specifically, the City will reimburse, on a pay-as-you-go basis, for a portion site improvements as its contribution to the Project.

The City will provide public funding, including tax increment financing to finance a portion of the costs of parking, sidewalks and additional site improvements. The City will enter into a development agreement with Central Plains Development LLC., a local developer which will develop, own and operate the Project.

General Description of Tax Increment

Property tax increment financing involves the creation of an increment (increase over a base value) in the real estate taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, the total assessed value of all taxable real estate within the district for that year is determined. This valuation is referred to as the district's "Original Assessed Value". Property taxes attributable to the district's Original Assessed Value are annually collected and distributed by the county treasurer to the appropriate city, county, school district and all other applicable taxing jurisdictions in the same manner as other property taxes.

As new development occurs within the redevelopment district, the total assessed value of the district, in any given year, will normally exceed its Original Assessed Value. Property taxes generated by applying the sum of the property tax rates of all applicable taxing jurisdictions to the incremental increase in assessed value (over and above the Original Assessed Valuation) is referred to as the "property tax increment". All property tax increment is collected by the County and distributed to the City to be deposited in a special tax increment fund.

Sales tax increment financing involves the creation of an increment (increase over a base value) in the local sales taxes that are generated from a defined geographic area of a community. Upon establishment of a redevelopment district, a base value of local sales tax collections within the district is determined. As new commercial development occurs within the redevelopment district, sales tax collections are expected to increase above the base value. Pursuant to city law governing the use of general local sales tax revenue, the City does not intend to collect incremental general sales tax revenues as "sales tax increment." Central Plains Development has concurrently petitioned the City for the creation of a Community Improvement District (CID) and for the imposition of a 2% sales tax as authorized under state law. Revenue derived from the CID sales tax is included in this analysis.

Tax increment funds may only be used to pay for certain statutorily-defined eligible project costs, including principal and interest on debt issued, in whole or in part, to finance eligible project costs within the redevelopment district. Such debt includes notes, special obligation bonds, full faith and credit tax increment bonds, and other debt instruments. The City does not intend to issue its full faith and credit tax increment bonds, but instead will finance, through a pay-as-you-go structure, project costs that are eligible for tax increment financing.

Project Description

Prior to the commencement of redevelopment, the District and Project Area consisted of two vacant underutilized parcels, due to their location, that present unsafe conditions. The area is currently zoned light commercial. Redevelopment will consist of construction of a 16,510 sq.ft. Save-A-Lot grocery store, a 4,500 sq. ft. retail center and associated infrastructure and landscaping.

Projected Revenues (Benefits)
Captured Assessed Value

It is the City's intention to use the property tax increment generated by the District to provide pay-as-you-go financing for the project to reimburse the developer for eligible costs related to development of the Project. The property tax increment is based on the District's increase in assessed value over its Original Assessed Value. This increase in value is expected to be recorded in January in the years 2011-2014 and is referred to as the Captured Assessed Value.

The Total Assessed Value for the District as of January 1, 2014 is estimated to be $373,855. The Original Assessed Value of the District, as assessed in January 1, 2010 for taxes payable in 2010-2011, is $18,420, according to data provided by the City of Wichita Geographic Information Service Office. Therefore, the Captured Assessed Value of the TIF District as of January 1, 2014 is estimated to be $355,435.

Property Tax Rates

In order to determine the amount of tax increment generated by the District in any given year, the Captured Assessed Value of the District must be multiplied by the sum of the tax rates for all *applicable* taxing jurisdictions for that year. For taxes levied in 2009 and payable in 2010, the applicable rate is 98.860 mills as shown below. The State of Kansas rate of 1.5 mills and the statewide education levy of 20 mills are not applicable to TIF and have been omitted from the following total:

Jurisdiction	Mill Rate (2009)
City of Wichita	32.142
Sedgwick County	29.868
USD No. 259	36.850
TIF-Applicable Mill Rate	98.860

Projected Property Tax Increment
The projected property tax increment generated by the District is shown in column 7 of Exhibit III. Such projections are based on captured assessed values derived from captured assessed valuations and tax rates as previously discussed. It is assumed that Project construction of the grocery store will begin in fall of 2010 and be completed in the spring of 2011, with the remaining retail strip completed by 2013, and therefore achieve full valuation by January 1, 2014. It is estimated that the full property tax increment will be $35,138 starting in 2014.

All tax increment shall be allocated and paid by the Sedgwick County Treasurer to the City Treasurer in the same manner and at the same time as normal property taxes. All such taxes increment must be deposited in a special fund of the City for the payment of eligible redevelopment costs.

Projected Expenditures (Costs)
A projected budget for the eligible project costs in the Project Area is listed below.

Sources	
Pay-as-you-go	
TIF Reimbursement	$403,800.00
Uses	
Site Work	$135,000.00
Site Improvement	
Engineering	15,000.00
Parking lot	174,100.00
Sidewalks	8,200.00
Fire Hydrant	6,500.00
Utility Extension	45,000.00
Landscaping	20,000.00
	$403,800.00

The City will not issue bonds in order to finance the TIF eligible costs for the project. All eligible project costs will be financed with pay-as-you-go financing to the developer. Exhibit IV illustrates $697,678 in TIF revenue will be passed on to the developer to reimburse for eligible TIF costs.

Conclusions

Kansas Statutes require that the Comprehensive Financial Feasibility Study must demonstrate that the benefits derived from the Project will exceed the costs, and that the income therefrom will be sufficient to pay for all eligible project costs. As previously discussed, Exhibit III illustrates the projections of tax increment through the year 2030. Net tax increment revenue is available to pay, on a pay-as-you-go basis costs related to eligible project costs.

Exhibit IV (Projected TIF Cash Flow Report) illustrates that projected tax increment from the District will pay for eligible project costs. This City will not issue bonds for the project and will only use pay-as-you-go financing. As such, this report demonstrates that the revenues (benefits) of the District and Project Area exceed the expenditures (costs).

Assumptions Report

City of Wichita, Kansas
Planeview Redevelopment District
Planeview Grocery Project

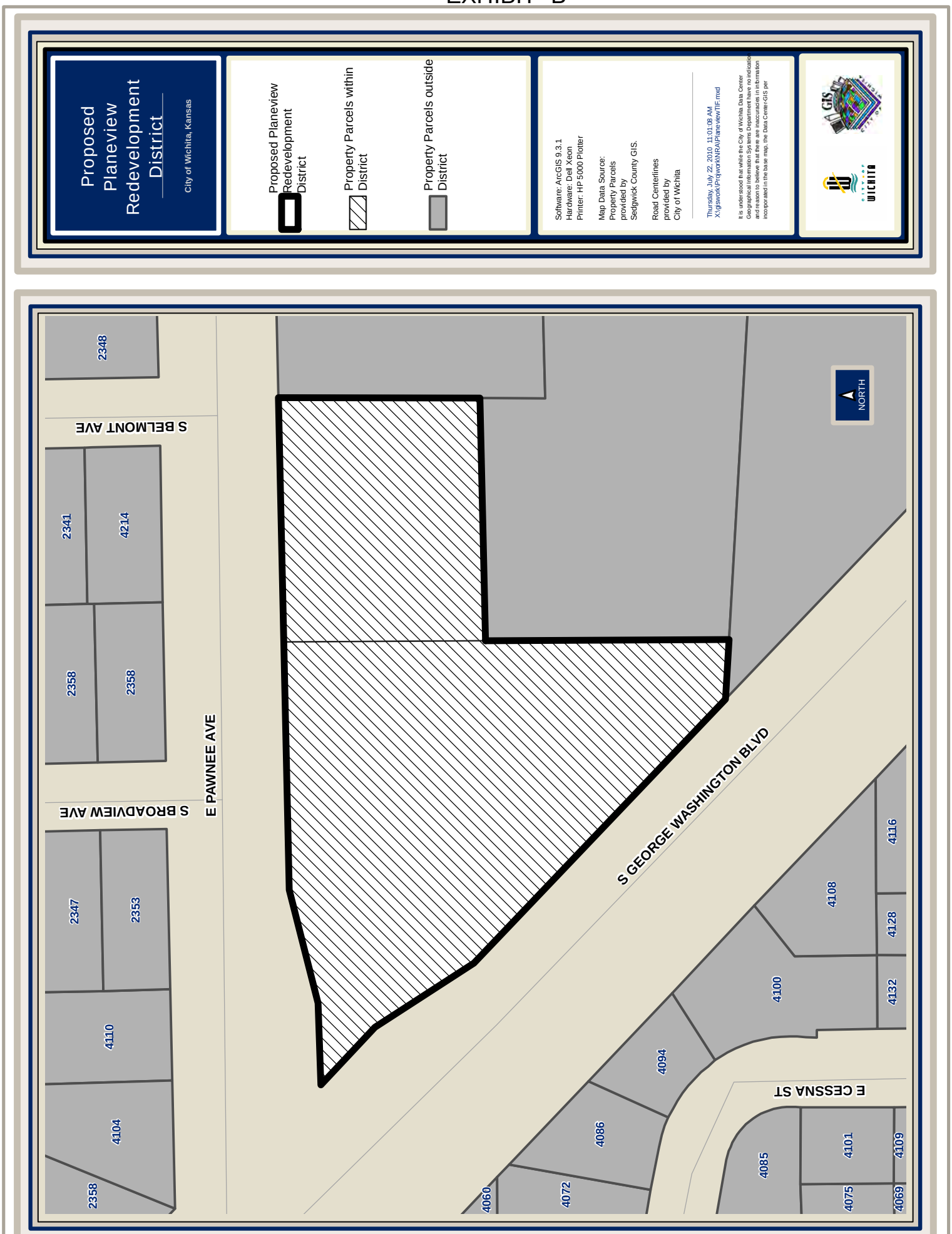
Description of Project Area	See Map (Exhibit I)
Original Appraised Value (1/1/10)	$153,500
Original Assessed Value (1/1/10)	$18,420
Projected Appraised Value (1/1/14)	$1,495,420
Projected Assessed Value (1/1/14)	$373,855

2009 Mill Rates (2010 Pay)	Total	TIF Applicable
City of Wichita	32.142	32.142
Sedgwick County	29.868	29.868
USD No. 259	56.850	36.850
State of Kansas	1.500	NA
Total	120.360	98.860

Project	Land	Improvements	Total
Save-a-lot Grocery			
Appraised Value (1/1/14)	$153,500	$1,341,920	$1,495,420
Assessed Value (1/1/14)	18,420	355,435	373,855

Property Value Inflation Rate	1.5%

EXHIBIT "B"


Proposed Planeview Redevelopment District
City of Wichita, Kansas
Proposed Planeview Redevelopment District
Property Parcels within District
Property Parcels outside District
Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter
Map Data Source:
Property Parcels provided by Sedgwick County GIS.
Road Centerlines provided by City of Wichita
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It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS per
GIS
CITY OF WICHITA
NORTH
S BELMONT AVE
S BROADVIEW AVE
E PAWNEE AVE
S GEORGE WASHINGTON BLVD
E CESSNA ST
2348
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Projected Tax Increment Report

City of Wichita, Kansas
Planeview Redevelopment District
Planeview Grocery Project

Levy & Appraised Year (1)	Year Taxes Distributed (2)	Total Assessed Value (3)	Original Assessed Value (4)	Captured Assessed Value (5)	Mill Rate (6)	Tax Increment Collected (a) (7)	Less: City Admin. Fee (9)	Net Tax Increment (10)
2010	2011	18,420	18,420	-	98.860	-	0	-
2011	2012	18,420	18,420	-	98.860	-	0	-
2012	2013	331,840	18,420	313,420	98.860	30,985	0	30,985
2013	2014	352,848	18,420	334,428	98.860	33,062	0	33,062
2014	2015	373,855	18,420	355,435	98.860	35,138	0	35,138
2015	2016	379,463	18,420	361,043	98.860	35,693	0	35,693
2016	2017	385,155	18,420	366,735	98.860	36,255	0	36,255
2017	2018	390,932	18,420	372,512	98.860	36,827	0	36,827
2018	2019	396,796	18,420	378,376	98.860	37,406	0	37,406
2019	2020	402,748	18,420	384,328	98.860	37,995	0	37,995
2020	2021	408,789	18,420	390,369	98.860	38,592	0	38,592
2021	2022	414,921	18,420	396,501	98.860	39,198	0	39,198
2022	2023	421,145	18,420	402,725	98.860	39,813	0	39,813
2023	2024	427,462	18,420	409,042	98.860	40,438	0	40,438
2024	2025	433,874	18,420	415,454	98.860	41,072	0	41,072
2025	2026	440,382	18,420	421,962	98.860	41,715	0	41,715
2026	2027	446,988	18,420	428,568	98.860	42,368	0	42,368
2027	2028	453,693	18,420	435,273	98.860	43,031	0	43,031
2028	2029	460,498	18,420	442,078	98.860	43,704	0	43,704
2029	2030	467,406	18,420	448,986	98.860	44,387	0	44,387

EXHIBIT III

Projected TIF Cash Flow Report

City of Wichita, Kansas
Planeview Redevelopment District
Planeview Grocery Project

Annual Period Ending	Rent Revenue	CID Sales Tax Revenue	State CID Administration	City CID Administration	Tax Net Increment	Total	Debt Service	Developer Contribution	Project Surplus
(1)	(2)	(3)	(4)	(5)	(7)	(8)	(9)	(10)	(11)
9/1/2011	43,752	21,888	(438)	(1,072)	-	64,129	(87,736)	23,607	-
9/1/2012	87,503	43,775	(876)	(2,145)	-	128,258	(175,471)	47,214	-
9/1/2013	87,503	44,213	(884)	(2,166)	30,985	159,650	(175,471)	15,821	-
9/1/2014	87,503	44,655	(893)	(2,188)	33,062	162,138	(175,471)	13,333	-
9/1/2015	87,503	45,101	(902)	(2,210)	35,138	164,631	(175,471)	10,840	-
9/1/2016	87,503	45,552	(911)	(2,232)	35,693	165,605	(175,471)	9,866	-
9/1/2017	87,503	46,008	(920)	(2,254)	36,255	166,592	(175,471)	8,879	-
9/1/2018	87,503	46,468	(929)	(2,277)	36,827	167,591	(175,471)	7,880	-
9/1/2019	87,503	46,933	(939)	(2,300)	37,406	168,604	(175,471)	6,868	-
9/1/2020	87,503	47,402	(948)	(2,323)	37,995	169,629	(175,471)	5,842	-
9/1/2021	87,503	47,876	(958)	(2,346)	38,592	170,668	(175,471)	4,804	-
9/1/2022	97,409	48,115	(962)	(2,358)	39,198	181,403	(175,471)	-	5,931
9/1/2023	97,409	48,356	(967)	(2,369)	39,813	182,242	(175,471)	-	6,771
9/1/2024	97,409	48,598	(972)	(2,381)	40,438	183,091	(175,471)	-	7,620
9/1/2025	97,409	48,841	(977)	(2,393)	41,072	183,952	(175,471)	-	8,480
9/1/2026	97,409	49,085	(982)	(2,405)	41,715	184,822	(175,471)	-	9,351
9/1/2027	107,315	49,330	(987)	(2,417)	42,368	195,610	(175,471)	-	20,139
9/1/2028	107,315	49,577	(992)	(2,429)	43,031	196,502	(175,471)	-	21,031
9/1/2029	107,315	49,825	(996)	(2,441)	43,704	197,406	(175,471)	-	21,935
9/1/2030	107,315	50,074	(1,001)	(2,454)	44,387	198,321	(175,471)	-	22,850
	1,727,772	871,598	(17,432)	(42,708)	697,678	3,192,521		154,954	124,108

District Plan

EXHIBIT "C"

DISTRICT PLAN FOR THE REDEVELOPMENT OF THE PLANEVIEW REDEVELOPMENT DISTRICT THROUGH TAX INCREMENT FINANCING

August 3, 2010

SECTION 1: PURPOSE

A district plan is required for inclusion in the establishment of a redevelopment district under K.S.A. 12-1771. The district plan is a preliminary plan that identifies proposed redevelopment project areas within the district, and describes in a general manner the buildings, facilities and improvements to be constructed or improved.

SECTION 2: DESCRIPTION OF TAX INCREMENT INCOME

Projects financed through tax increment financing typically involve the creation of an "increment" in real estate property tax income. The increment is generated by segregating the assessed values of real property located within a defined geographic area such that a portion of the resulting property taxes flow to the City to fund projects in the redevelopment district, and the remaining portion flows to all remaining taxing jurisdictions. The portion of property taxes flowing to the City is determined by the increase in the assessed value of the properties within the redevelopment district as a result of the new development occurring within the same area. When the current aggregate property tax rates of all taxing jurisdictions are applied to this increase in assessed property value from new development, increment income is generated. Public improvements within the district and other qualified expenditures are funded by the City and repaid over a specified period of time with this increment income. The property taxes attributable to the assessed value existing prior to redevelopment, the "original valuation," continue to flow to all taxing jurisdictions just as they did prior to redevelopment. This condition continues for the duration of the established district, as defined by statute, or until all eligible project costs are funded, whichever is of shorter duration.

SECTION 3: BUILDINGS AND FACILITIES

The proposed redevelopment district is located within the city limits of Wichita, Kansas. The district is located on the southeast corner of the intersection of George Washington Boulevard and Pawnee Avenue; it includes Lots 1 and 2, Block 1 of the replat of Spencer Gardens Addition, in Wichita, Sedgwick County, Kansas; and including all street rights of way within such described areas. The district currently consists of a vacant lot that has been ignored due to an inadequate street layout, limiting access.

Property located within a blighted area is legally eligible for establishment of a redevelopment district. The proposed redevelopment district is an area that meets the criteria for designation as a "blighted area" as defined by state law governing the establishment and financing of redevelopment districts based on the following conditions:

- <u>Inadequate street layout</u>. The layout of Pawnee and George Washington creates lots that are inadequately configured for development and traffic that is unable to access the site.

- Unsanitary or unsafe conditions. The vacant land in close proximity to the Planeview residential neighborhood is unsafe for children to play in or pass through.
- Conditions that endanger life or property due to fire or other causes. This vacant, over-grown area could be a location for illegal activities that threaten life and property.
- Deteriorating site improvements. Previous grading improvements have deteriorated, causing erosion damage and the need for new drainage improvements.
- Obsolete land use. The land has been vacant for many years with no prospect for development.
- Conditions that create economic obsolescence. As one of the most economically-challenged areas in the community, commercial development is very difficult.

SECTION 4: REDEVELOPMENT AND PROJECT AREAS

It is anticipated that all property within district will be designated as the "project area" under the redevelopment project plan, which must be adopted by the City Council by a 2/3 majority vote before the expenditure of any tax increment financing funds. The plans for redevelopment of the project area generally call for construction of a grocery store and other retail in the underserved Planeview neighborhood area.

Tax increment financing may be used to pay for the purchase of real estate and site preparation including the demolition of structures and utility relocations, as well as other public infrastructure improvements, such as streetscape, public parking, utility extensions, landscaping, and public plazas. Tax increment financing may not be used for construction of any buildings owned by or leased to a private, nongovernmental entity, except multi-story parking structures.

SECTION 5: CONCLUSION

After the establishment of the redevelopment district, any redevelopment projects to be funded with tax increment financing will be presented to the Governing Body for approval through the adoption of a Redevelopment Project Plan. The Project Plan will identify the specific project area located within the established tax increment financing district and will include detailed descriptions of the projects as well as a financial feasibility study showing that the economic benefits out-weigh the costs. The Project Plan must be reviewed by the Metropolitan Area Planning Commission and submitted to a public hearing following further notification of property owners and occupants, before it can be adopted by a two-thirds majority vote of the Governing Body. Only then can tax increment income be spent on the redevelopment projects.

Tax increment financing does not impose any additional taxes on property located within the redevelopment district. All property within the district is appraised and taxed the same as any other property. However, if property within the district increases in value as a result of the redevelopment, the resulting increment of additional tax revenue is diverted to pay for a portion of the redevelopment costs.

Map and Legal Description of Property to be Redeveloped

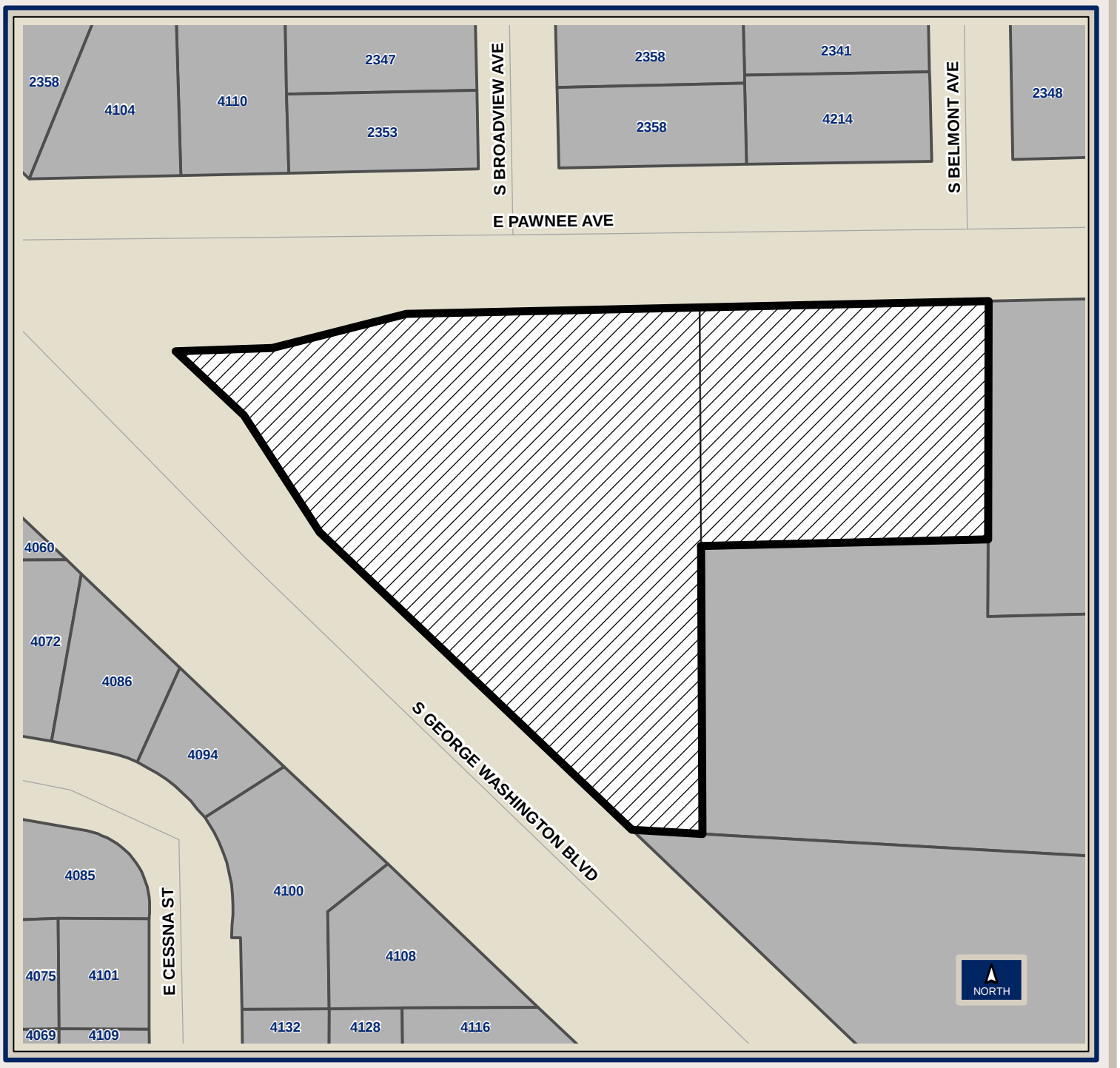
EXHIBIT A

LEGAL DESCRIPTION

Lot 1, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas

And:

Lot 2, Block 1, the replat of Spencer Gardens Addition to Wichita, Sedgwick County, Kansas



Proposed Planeview Redevelopment District

City of Wichita, Kansas

Proposed Planeview Redevelopment District

Property Parcels within District

Property Parcels outside District

Software: ArcGIS 9.3.1
Hardware: Dell Xeon
Printer: HP 5000 Plotter

Map Data Source:
Property Parcels provided by Sedgwick County GIS.

Road Centerlines provided by City of Wichita

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It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indicatio and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS per

EXHIBIT "B"

Relocation Assistance Plan

RELOCATION ASSISTANCE PLAN

(K.S.A. 12-1777)

Assistance for the relocation of persons, families or businesses from property acquired in conjunction with the Planeview Grocery Project is not required. No persons or families are currently residing in or tenants located in the Planeview Redevelopment District.

Description of Proposed Planeview Grocery Project

Planeview Redevelopment District

DESCRIPTION OF PROPOSED PLANEVIEW GROCERY PROJECT

The development of the Planeview Save-A-Lot consists of the acquisition of real property located at the corner of Pawnee and George Washington Blvd., the clean-up of the site and removal of debris and the construction of an approximately 16,510 sq. ft. Save-A-Lot grocery store, 4,500 sq. ft. retail center and associated infrastructure and landscaping. In order to provide grocery service to the underserved residents of the Planeview Neighborhood the Developer plans to perform the work described below:

Save-A-Lot Grocery Store

Central Plains Development LLC will enter into a 20 year Build-to-Suit Lease with BR&D, Inc. (a Save-A-Lot franchisee) for the construction of a 16,510 sq. ft. building to house a full-service Save-A-Lot grocery store to provide goods and services to the under-served area of Planeview. Construction is planned to start in November 2010 and be completed in February 2011, at an estimated cost of $2,083,430. Save-A-Lot provides reasonably priced grocery products and estimates that approximately fifty-percent of its sales will be to distressed households that receive assistance.

Retail Center

Following completion of the Save-A-Lot grocery store, Great Plains Development will construct a 4,500 sq. ft. retail center to the east, facing Pawnee Avenue. Construction is planned to occur once the grocery store has opened, at an estimated cost of $350,000.

USE OF TAX INCREMENT FINANCING

The City of Wichita has undertaken the legal steps necessary to establish a redevelopment district pursuant to state laws (K.S.A. 12-1770 *et seq*.) in order to use tax increment financing ("TIF") to fund a portion of the redevelopment project costs, subject to a development agreement with Central Plains Development LLC ("Developer"). Upon adoption of this project plan, the City will have established its authority under state law to reimburse the developer for eligible project costs, which will be paid from the incremental increase in property taxes resulting from the redevelopment of the Project Area, on a pay-as-you-go basis. As such, this project will not use City of Wichita financing. The TIF-funded improvements consist of the following:

- Costs for construction of site improvements for the Save-a-lot grocery store, including site work, utility extensions, parking lot, sidewalk and landscaping.

Sources of Funds

	Central Plains	Bank Loan	TIF	CID	Total
Central Plains Development LLC	$150,000				$150,000
Developer Financed Bank Loan		$1,052,990			$1,052,990
Tax Increment Financed Bank Loan			$403,800		$403,800
CID Financed Bank Loan				$476,640	$476,640
Total Sources of Funds	**$150,000**	**$1,052,990**	**$403,800**	**$476,640**	**$2,083,430**

Uses of Funds

Site Development Costs					
Site Work			$135,000		$135,000
Engineering of Site Improvements			$15,000		$15,000
Parking Lot			$174,100		$174,100
Sidewalks			$8,200		$8,200
Fire Hydrant			$6,500		$6,500
Utility Extension			$45,000		$45,000
Landscaping			$20,000		$20,000
Total Site Development Costs			**$403,800**		**$403,800**
Building Costs					
Building		$511,420		$476,640	$988,060
Finish		$217,064			$217,064
Architecture/Engineering		$65,000			$65,000
Contingency (5%)		$59,506			$59,506
Total Building Costs		**$852,990**		**$476,640**	**$1,329,630**
Land	**$150,000**	**$200,000**			**$350,000**
Total Uses of Funds	**$150,000**	**$1,052,990**	**$403,800**	**$476,640**	**$2,083,430**

Agenda Item No. III-4

City of Wichita
City Council Meeting
September 21, 2010

To: Mayor and City Council

Subject: 2009/2010 HUD Consolidated Plan Annual Performance and Evaluation Report (Districts I, III, IV and VI)

Initiated By: Housing and Community Services Department

Agenda: New Business

Recommendation: Close the Public Hearing, approve the HUD Consolidated Annual Performance and Evaluation Report, and authorize submission to the U.S. Department of Housing and Urban Development.

Background: The City is required to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) for projects covered by the HUD Consolidated Plan. The 2009-10 CAPER documents the activities undertaken during the program year beginning July 1, 2009 and ending June 30, 2010 for the Community Development Block Grant (CDBG), the HOME Investment Partnerships (HOME) and the Emergency Shelter Grant (ESG) programs.

Analysis: During the reporting period, residents of the City of Wichita received direct benefits from expenditure of CDBG, HOME and ESG funds. Neighborhood Improvement Services provided grants and loans to assist 362 households through the Home Repair Program and 14 neighborhood clean-ups were conducted. Public Service agencies received funds to assist 138 youth with summer employment and 6,088 youth participated in the after school recreation and enrichment program. The women's shelters served 665 women and children who were victims of domestic violence. The HOME program assisted 39 first-time homebuyers with down payments and closing costs and assisted in the development of 30 new construction units. The ESG program served 3,627 persons by providing short-term shelter, case management and other services to the homeless and victims of domestic abuse.

Financial Consideration: The total expenditures for the July 1, 2009-June 30, 2010 program year were $4,934,761: $2,553,672 for the CDBG program; $1,509,896 for HOME Investment Partnerships program; $748,235 for ARRA, and $122,958 in the ESG program.

Goal Impact: Support a Dynamic Core Area and Vibrant Neighborhoods.

Legal Consideration: The City is required to provide an opportunity for citizens to review and comment on the CAPER prior to submitting the CAPER to the U.S. Department of Housing and Urban Development (HUD). The City published a notice in the Wichita Eagle on August 23, 2010, advising that public comments would be accepted through September 6, 2010. Notice was also published in El Tiempo Newspaper and on City-7 Channel. The CAPER was made available to the public through the Neighborhood City Halls, Housing and Community Services Department, Planning Department, City Council Office, City Manager's Office, City of Wichita website and all branches of the Wichita Public Library. No comments were received.

Recommendation/Actions: It is recommended that the City Council close the Public Hearing, approve the HUD Consolidated Annual Performance and Evaluation Report, and authorize submission to the U.S. Department of Housing and Urban Development.

Attachments: HUD Consolidated Annual Performance and Evaluation Report (CAPER) for 2009-2010.

City of Wichita

Consolidated Plan

2009-2010 Annual Performance Report

"Creating Communities of Choice"

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I. Executive Summary

The City of Wichita proudly presents this report on activities related to the Community Planning and Development formula grant programs. This report includes highlights of all initiatives which have been undertaken during the 2009-2010 program year that have contributed to the City's goals of safe, affordable housing and neighborhood revitalization and stability.

Affordable housing goals were met through several programs. Community Development Block Grant (CDBG) funds were used for home repair for owner occupants. One of the strategies associated with the home repair program includes an allocation which is targeted to geographic areas with disproportionately high rates of neighborhood blight and on properties which have had numerous code violation citations. HOME Investment Partnerships Program (HOME) funds were used to provide construction financing for new affordable housing construction and home repair.

Emergency Shelter Grant (ESG) funds were used to support local shelters and services for the homeless. Following are a few of the statistics related to services provided by these programs in 2009-2010.

- CDBG Home Repair – 362 households; $659,467 funds expended
- HOME – 30 homes constructed; 39 homeowners provided downpayment and closing cost assistance
- ESG 3,627 persons served in shelter programs and with prevention funds

In addition to having responsibility for formula grants programs, the City of Wichita also serves as the Wichita Housing Authority and in that regard provides the majority of subsidized rental housing opportunities in the community.

- Public Housing – The City owns and maintains 578 affordable housing units in congregate and scattered site settings. This rental portfolio represents the maximum number of subsidized units allowable by HUD regulations.

- Section 8 Housing Choice Voucher Program – This program provides rental subsidies using 2,449 general purpose vouchers, 85 vouchers for homeless veterans, and 112 Shelter Plus Care certificates. The vouchers for veterans were a new addition to the program during 2008-2009 and additional allocations were made during 2009-2010 for a total of 85 housing choice vouchers.

And finally, the City of Wichita and Sedgwick County have combined resources to fund a Housing First program for the chronically homeless population. The program housed 82 persons during this program year.

Neighborhood revitalization and stability goals were achieved through the use of Community Development Block Grant and HOME Investment Partnerships Program funds.

- New Communities Initiative – provided funding for 58 home repair projects and 32 Exterior Grants to 90 eligible homeowners. $390,000 was allocated and expended
- CDBG Neighborhood Cleanups – 14 cleanups funded; $50,000 funds expended
- HOME Boarded-Up Building Demolition and Replacement – 1 project - $129,388.01 funds expended
- ARRA CDBG-R Sidewalk Replacement – the City divided the sidewalk project into three phases in hope of making the jobs small enough that Section 3 business concerns would submit bids. Phases I and III were completed toward the end of the program year and replaced 91,406 square feet of hazardous sidewalk.

All of the preceding achievements are important to the infrastructure that impacts the physical environment of many low to moderate income persons in Wichita. In addition to these improvements, however, activities were also undertaken to facilitate individuals' access to services and/or to enhance and enrich their lives. Following are highlights of **Public Services** activities funded with CDBG allocations.

- Neighborhood Assistants – $343,059 were allocated, and $301,306 was spent to provide access to services for more than 28,442 people through their program operations at the Neighborhood City Halls.

- Women's Services – $269,033 was allocated and $269,033 spent to provide services to 665 women and children who needed to escape domestic violence situations.

- Children and Youth – Provided $100,000 for supervised after school enrichment and recreation for 6,088 middle school youth; provided $163,186 for summer youth employment for over 138 youth.

As the City closes out 2009-2010, plans are being implemented to expand services to low to moderate income persons and in low to moderate income neighborhoods, utilizing funds allocated from the American Recovery and Reinvestment Act of 2009. Work includes sidewalk infrastructure improvements ($487,713 allocated and $475,034 spent), investments in façade improvements for businesses in low to moderate income areas to boost the economic development potential in those areas ($200,000 allocated), continued installation of energy saving heating and air conditioning systems in public housing properties to reduce operating costs ($1,265,098 obligated, work 90% completed) and financial assistance to homeless and near-homeless persons in the community ($1,168,490 allocated and $330,218 spent).

Summary of Resources and Distribution of Funds

Fund Source	Total	Committed	Expended
CDBG Formula	$2,848,360	$2,848,360	$2,479,068
CDBG Program Income	$244,599.81	$74,604.73	$74,604.73
HOME	$1,833,537	$1,276,267	$1,078,229
HOME Program Income	$431,668	$431,668	$431,667
ARRA	$1,932,616	$1,932,616	$748,235
ESG	$125,266	$125,266	$122,958

Geographic Distribution

Other than the Emergency Home Repair program that is open to any very low income (50% AMI) homeowner living within the city limits, services are focused in three overlapping concentrated geographic areas. The largest, shown with a blue hashed-line boundary on the map below, is the Redevelopment Incentive Area (RIA), next is the Neighborhood Revitalization Strategy Area (NRSA), shown with a bold red line boundary, and finally the Local Investment Areas (LIAs) that are all inside the NRSA boundary shown with in green shading and diagonal lines.

The different geographic limitation for each of our programs is listed below per Area.

Reinvestment Incentive Area

- Emergency Home Repair
- Home Improvement Loan
- Housing Development Loan
- HOMEownership 80

Neighborhood Revitalization Strategy Area

- Emergency Home Repair
- Home Improvement Loan
- Housing Development Loan
- HOMEownership 80
- Historic Loan

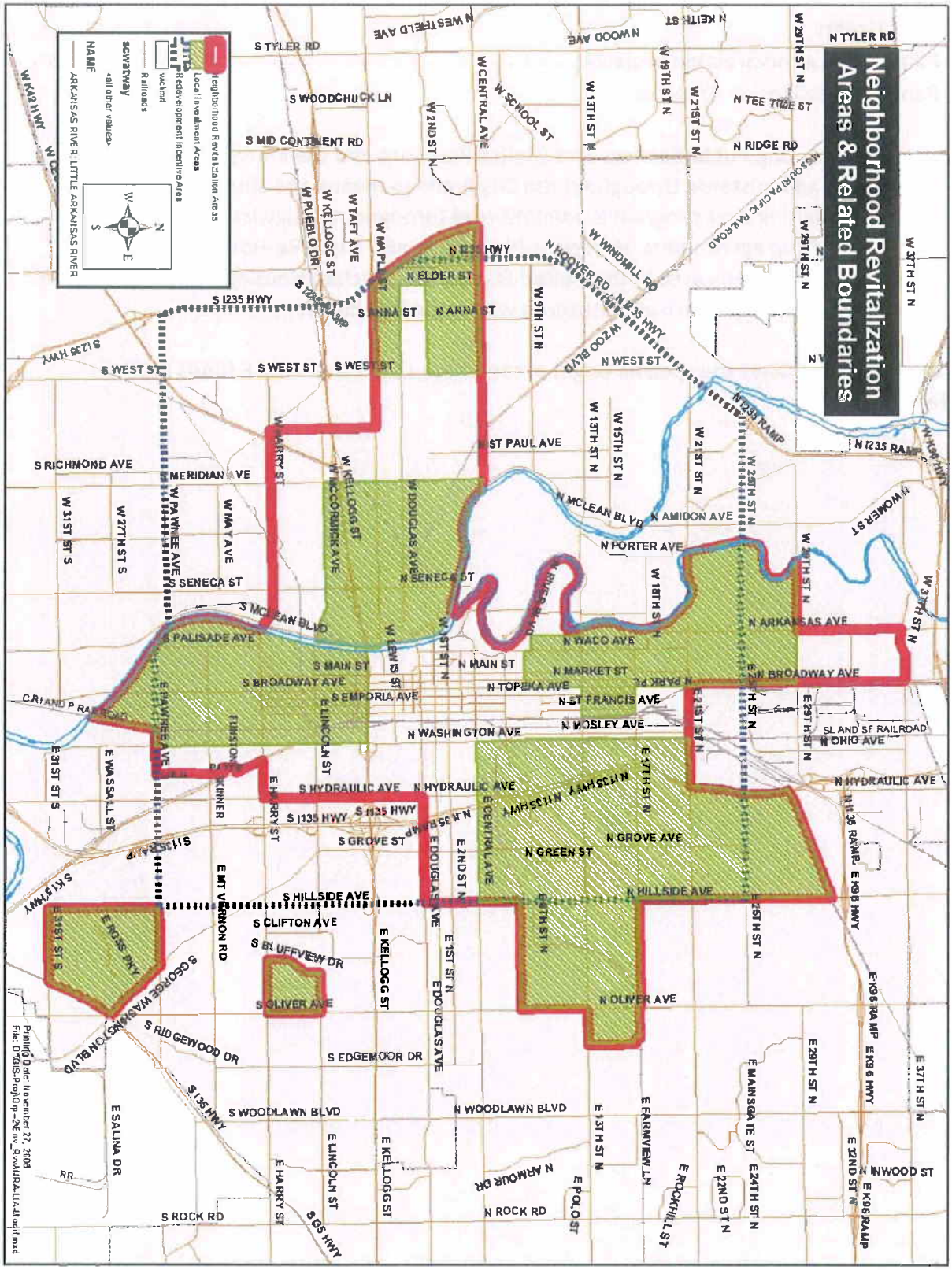
Local Investment Area

- Deferred Loan Program
- Direct Loan Program
- Emergency Home Repair
- Exterior Grants
- Home Improvement Loan
- HOMEownership 80
- Housing Development Loan

- Paint Grants
- Public facility construction projects
- Rental Rehabilitation Program

Other programs including Public Services and Shelter Plus Care and the Emergency Shelter Grant program are administered throughout the City limits to means and situation qualified participants. The Housing First program is administered throughout Sedgwick County due to funding and partnership agreements. Homeless Prevention and Rapid Re-Housing allows participants to relocate to any area in the United States. The Wichita Housing Authority Section 8 and Public Housing programs are administered within the City limits.

The following map outlines the specific target areas where CDBG and HOME funds are expended.


Neighborhood Revitalization Areas & Related Boundaries
Neighborhood Revitalization Areas
Local Investment Areas
Redevelopment Incentive Area
Railroads
NAME
ARKANSAS RIVER, LITTLE ARKANSAS RIVER
N TYLER RD
S TYLER RD
N TEE TIME ST
N RIDGE RD
S MID CONTINENT RD
S WOODCHUCK LN
W CENTRAL AVE
W SCHOOL ST
N WESTFIELD AVE
N WOOD AVE
N KEITH ST
W 29TH ST N
W 19TH ST N
W 21ST ST N
W 13TH ST N
W 2ND ST N
W 37TH ST N
W 29TH ST N
MISSOURI PACIFIC RAILROAD
W KELLOGG ST
W PUEBLO DR
W TAFT AVE
W MAPLE ST
N ELDER ST
N I235 HWY
N HOOVER RD
W WINDMILL RD
S I235 HWY
S ANNA ST
N ANNA ST
W 9TH ST N
W ZOO BLVD
N WEST ST
S WEST ST
S I235 HWY
N I235 RAMP
N I235 RAMP
ST PAUL AVE
W 13TH ST N
W 15TH ST N
W 21ST ST N
W 25TH ST N
S RICHMOND AVE
MERIDIAN AVE
W HARRY ST
W KELLOGG ST
W MCCORMICK AVE
W DOUGLAS AVE
N MCLEAN BLVD
N AMIDON AVE
N WOMER ST
W 31ST ST S
W 27TH ST S
W PAWNEE AVE
W MAY AVE
N SENECA ST
N PORTER AVE
W 18TH ST N
W 4TH ST N
S SENECA ST
S MCLEAN BLVD
N ARKANSAS AVE
S PALISADE AVE
W LEWIS ST
W ST ST N
N MAIN ST
N WACO AVE
S MAIN ST
N MARKET ST
N BROADWAY AVE
S BROADWAY AVE
S EMPORIA AVE
N TOPEKA AVE
N ST FRANCIS AVE
C R I AND P RAILROAD
E PAWNEE AVE
E LINCOLN ST
N WASHINGTON AVE
N MOSLEY AVE
E 21ST ST N
E 29TH ST N
SL AND SF RAILROAD
N OHIO AVE
E 31ST ST S
E WASSALL ST
FIRESTONE
N HYDRAULIC AVE
S HYDRAULIC AVE
N HYDRAULIC AVE
E HARRY ST
S I135 HWY
S I135 HWY
N I135 HWY
N I135 HWY
E 17TH ST N
S I135 RAMP
N I135 RAMP
E CENTRAL AVE
E 2ND ST N
S GROVE ST
N GREEN ST
N GROVE AVE
N I35 RAMP
E K96 HWY
S K7 HWY
E MT VERNON RD
S HILLSIDE AVE
N HILLSIDE AVE
E 26TH ST N
S CLIFTON AVE
E 16TH ST S
E ROSS PKY
S BLUFFVIEW DR
E KELLOGG ST
E 1ST ST N
E DOUGLAS AVE
E 6TH ST N
S GEORGE WASHINGTON BLVD
S OLIVER AVE
N OLIVER AVE
E K96 RAMP
E K96 HWY
S RIDGEWOOD DR
S EDGEMOOR DR
E 29TH ST N
E 37TH ST N
E MAINGATE ST
S I135 HWY
S WOODLAWN BLVD
N WOODLAWN BLVD
E 13TH ST N
E FAIRVIEW LN
E SALINA DR
E LINCOLN ST
E KELLOGG ST
N ARMOUR DR
E 22ND ST N
E 24TH ST N
N INWOOD ST
E 32ND ST N
E K96 RAMP
RR
E HARRY ST
S ROCK RD
N ROCK RD
E POLO ST
E ROCKHILL ST
S I35 HWY
Printing Date: November 27, 2008
File: D:\GIS\Proj\Grp-2\Neighborhood\HRA\HRA-Map.mxd

II. Five Year Plan Assessment of Progress

The 2009-2013 Consolidated Plan was developed to address local housing and community development needs in a comprehensive manner. In conjunction with the development of the Five Year Consolidated Plan, the City of Wichita developed a 2009-2010 First Program Year Action Plan that outlines ways in which the goals and priority needs established in the Consolidated Plan would be addressed in the 2009-2010 program year. The Wichita City Council approved the projects designated in the First Program Year Action Plan that are funded through the Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME) and Emergency Shelter Grant (ESG) programs.

The top two Consolidated Plan priorities reflect the recently weakened economy in our community. Housing and Public Services were given top priority over the next five years. Safe, affordable housing will provide community stability so that the Public Services which are delivered have a reasonable expectation of improving the quality of life, and leading low and moderate-income citizens in our community towards self-sufficiency.

In addition to Consolidated Plan priorities, the City of Wichita has established goals for the entire community. During the 2009-10 program year Consolidated Plan funding was used to address the City's goal of safe, affordable housing through the following programs which create and support homeownership: downpayment and closing cost assistance; development subsidies for single family home construction; and home repair for existing homeowners. A total of 30 new homes were developed, and 39 new homeowners were assisted during the year. A detailed summary of goals, accomplishments, and expenditures is included in the Narrative sections for CDBG and HOME, beginning on pages 21 and 27, respectively.

The second Consolidated Plan priority designation, Public Services, was addressed in partnership with local community agencies and organizations. Services provided include short term assistance such as providing shelter for women and children fleeing domestic violence (665 individuals served), as well as long-term services, such as engaging neighborhood residents in empowerment strategies leading them to control their own future (1,028 community residents served). Other Public Services funded include community development, infrastructure improvements, services for the homeless, and youth programming. The City of Wichita exceeded the goal of serving 100,000 community residents annually through Public Services funded with Consolidated Plan resources.

III. Assessment of Annual Progress

The projects funded in the 2009-2010 First Program Year Action plan provide for an increased supply of affordable housing through operating funding for homeless shelter agencies,

construction and rehabilitation of owner-occupied units, preservation of historic properties, and homeownership for first time buyers. Social services are supported for job training and education for youth. Together these projects offer a multi-dimensional approach to meeting priority needs and goals listed in the Consolidated Plan.

1. Affirmatively Furthering Fair Housing

The City of Wichita remains committed to affirmatively furthering fair housing. During this program year staff has begun the process of updating the Analysis of Impediments to Furthering Fair Housing (AI). It is expected that the updated AI will be completed by September 30, 2010. However the absence of an updated analysis has not diminished the City's commitment to this objective. The City's own home repair programs continue to offer ADA barrier removal for persons who have physical disabilities. In addition Wichita's Public Housing inventory includes 35 accessible apartments and 22 accessible single-family dwellings. Both programs are helping to close the gap between the housing needs for persons with disabilities.

Other impediments identified in the past continued to be addressed during this reporting period. The impediment regarding *lack of information on affordable housing* is being overcome through the publication of a list of rental properties which offer income-based rents, on the Housing and Community Services Department website.

Improving fair housing education for tenants and landlords continues to be addressed in several ways. Landlords receive fair housing information in their subsidy agreement packets with the Section 8 Housing Choice Voucher program and through the annual landlord meeting. Section 8 Housing Choice Voucher holders also receive information regarding fair housing in their enrollment packets.

Communication with realtors has continued and for the first time in many years, realtors took the lead on requesting that the City designate April (2010) as Fair Housing month. The measure was jointly sponsored by realtors and the Housing and Community Services Department and is viewed as evidence of this sector's commitment to partnerships for fair housing choice.

Another impediment which is common to most communities is the *lack of affordable housing* in large quantities. This impediment is one which is generally dependent upon funding, however it can also be addressed through policy initiatives. One such initiative is the City's continued support of tax credit projects which private and non-profit developers present for local resolutions of support. The City approved four such requests during this program year, which will result in 149 units of affordable housing if the credits are issued by the State, including 10 units of housing for persons with disabilities.

The City is conducting a community survey in 2010 which includes questions specifically related to fair housing choice. It is expected that the responses to the survey will provide additional guidance as to strategies necessary to continue this community's progress toward this goal.

2. **Affordable Housing**

Comparison of numeric goals to actual and income ranges served during program year.

Numeric Housing Assistance Goals
City of Wichita 2009-2013 Consolidated Plan

	Annual Goal	2009/10 Actual	Totals
Emergency Home Repair Loans	**80**	165	165
Rental Housing Low Interest Revolving Loans	**6**	3	3
Paint Grants	**175**	169	169
HOMEownership 80 First-time homebuyers	**40**	39	39
Family Self Sufficiency Section 8 Homeownership	**7**	5	5
Public Housing Homeownership	**5**	0	0

Numbers of Persons Assisted per Income Range
2009-2010 Program Year

Program	EL	VL	L	M
Neighborhood Improvement Services	122	168	60	26
Section 8 Housing Choice Voucher	2477	541	0	0
Shelter Plus Care	126	0	0	0
Public Housing	516	104	18	2
HOMEownership 80	3	11	9	16
HOME Rental	0	0	63	17
Housing First	82	0	0	0
New Communities Initiative	28	48	12	2
Totals	3,416	872	162	63

Key

EL Extremely Low – at or below 30% area median income
VL Very Low – 31% to 50% area median income
L Low – 51% – 80% area median income
M Moderate – 81% - 115% area median income

2010 Area Median Income for Wichita KS metropolitan statistical area - $63,700

Section 215. The City provided 39 down payment assistance loans to qualifying homebuyers, which met Section 215 requirements and are in compliance with the definitions outlined in 24 CFR 92.254 of the HOME Program regulation. Although the City did not provide HOME funding for rental projects during the 2009-2010 program year, the City currently monitors eight HOME-assisted rental developments that are subject to applicable affordability periods, which are consistent with the definitions outlined in 24 CFR 92.252 of the HOME Program regulation. These rental developments offer a total of 80 HOME-assisted units. A total of 80 income eligible households were served within these rental developments during the program year.

Efforts to address worst case housing needs. The City of Wichita's 2009-2013 Consolidated Plan lists renters, homeowners, homeless and non-homeless persons with special needs, as having the highest priority needs for affordable housing for the five year time frame. These priorities are also reflected in the following statement from the 1999 City of Wichita-Sedgwick County Comprehensive Plan, as amended in January, 2000: "every individual should have access to safe, decent, marketable and affordable housing".

- Housing First. This program provides chronically homeless individuals with rental assistance, case management and coordination of services to meet their needs. A total of 82 persons were served.

- Shelter Plus Care. HCSD provides rental assistance to persons with disabilities and partners with COMCARE of Sedgwick County, KS, Miracles Inc., and Positive Directions, Inc., who provide case management services for participants. A total of 102 clients were served.

- Section 8 Housing Choice Voucher. Section 8 Housing Choice Vouchers can relieve individuals and families of overcrowding and severe rent burden. Living in housing that receives Section 8 rental assistance ensures that clients are appropriately and adequately housed in safe, decent and affordable units. As of June 30, 2010, Section 8 Housing Choice Voucher Program had a lease up rate of 94% for its 2,449 vouchers, with 4,500 applicants on the waiting list.

- Veterans Affairs Supportive Housing Choice Voucher. This program provides rental assistance for homeless veterans with case management and clinical services provided by the Veterans Administration at its medical centers and in the community. As of June, 2010 program vouchers were increased by 15 making a total of 85 vouchers available for the Wichita community.

- Public Housing. This Housing Authority program accepted applications throughout the program year from large households of four or more members, persons aged 50 and over, and from persons with disabilities. Wait lists for other family sizes were closed due to the limited inventory turnover for smaller families. Applications are filed according to the date and time of application. Applicants are called from the list according to established preference categories first, and then according to the date and time of the application. Public Housing is sometimes thought of as housing of last resort. That is not true of the City's Public Housing portfolio. It is simple and plain in design, yet energy efficient and safe. As of June 30, 2010, Public Housing had an occupancy rate of 95.2% and 1,094 applicants on the waiting list.

Efforts to address the accessibility needs of persons with disabilities. The City of Wichita administers a Home Repair program that includes Emergency Repair Grants, Exterior Grants, Paint Grants and Paint Labor Grants), for eligible low income and disabled individuals. Elderly applicants who do not have the ability to, or access to someone who can apply the paint, may also receive a paint labor grant.

The Neighborhood Improvement Services (NIS) Division oversees the home repair program which can include ADA modifications for owner-occupants who meet CDBG income and location guidelines. Modifications may include bathroom accessibility, plumbing, and wheelchair ramps.

3. Continuum of Care

The City of Wichita Housing and Community Services Department administers several programs designed to address the needs of homeless persons, those at risk of becoming homeless and those who are not homeless but have special needs requiring supportive housing.

- Shelter Plus Care: The City of Wichita Housing Authority (WHA) received 102 Shelter Plus Care housing certificates during the 2009-2010 program year. Recipients of these certificates are housed in private rental units and receive supportive services provided by the following community agencies: COMCARE of Sedgwick County, Miracles, Inc., and Positive Directions, Inc. Their services include case management and referrals to other services for persons with serious and/or chronic mental illness, substance abuse problems, and HIV/AIDS related conditions. These services are essential to this population being able to maintain permanent housing. Renewal funding for the Shelter Plus Care program was included in the Wichita-Sedgwick County CoC Homeless Assistance grant application which will be submitted in September, 2010.

- Homelessness Prevention and Rapid Re-Housing: During this program year, the City of Wichita received Homelessness Prevention and Rapid Re-Housing funding from the American Recovery and Reinvestment Act of 2009, which is being used to assist the homeless and to help prevent homelessness. Many of those who have been assisted have presented with special needs primarily related to barriers to housing related to inability to obtain and hold a job, recovery from addictions, etc. This is also true for the chronically homeless population which is being housed through the Housing First program.

- Emergency Shelter Grant: During this program year the City received $125,266 to fund programs providing emergency shelter for specific populations including women and children fleeing domestic violence and homeless families; to provide supportive housing for individuals who are chronically homeless and mentally ill and/or dually diagnosed; and to provide homeless prevention services for individuals and families.

- Housing First: During this program year the City allocated $63,605 in CDBG funds and $191,368 in general funds, to provide supportive housing for 82 chronically homeless individuals. This program, operated in partnership with Sedgwick County provides housing services. Through partnerships with other service-providers in our community, additional services provided for participants include weekly, in-home case management and referrals for services to address mental/physical health needs, employment/education, addiction treatment and other services as appropriate.

4. Other Actions in Strategic Plan or Action Plan Taken To:

a. Address obstacles to meeting underserved needs. The City continues to offer bi-lingual written materials, and to market programs and services through neighborhood based media in English and Spanish.

b. Foster and maintain affordable housing. The City of Wichita routinely reviews and evaluates proposals submitted by developers, for housing tax credits. City staff reviews the proposals and make recommendations to the City Council to provide a resolution of support. The resolution of support is required in order for the State to evaluate tax credit proposals. Generally the City provides the resolution, acknowledging the fact that the tax credit-funded activity will provide additional affordable housing units.

Eliminate barriers to affordable housing. As noted earlier, lack of information is often cited as a barrier to affordable housing. In order to address that particular barrier, the City provides access to information pertaining to the CDBG, HOME and ESG programs at http://www.wichita.gov/CityOffices/Housing. From that website citizens can also access the

affordable housing database that is maintained by the Housing and Community Services Department. Citizens have electronic access to the following Consolidated Plan-related documents: Executive Summary, Consolidated Plan, Annual Action Plan, CAPER, as well as City Housing Codes and Federal Labor Standards, fair housing information sources and other affordable housing-related documents of interest and use to citizens and/or contractors. Links are also available to HUD websites, grant resources, housing services and community data. Other information such as eligibility for specific programs is provided to the public upon request.

The United Way of the Plains operates the 2-1-1 information and referral system of Kansas, which provides information and referrals for a variety of topics and subjects. It is available 24 hours/day, 7 days per week to link callers to community and state resources related to family and social services, basic human needs, housing, health and medical services, substance abuse, training and employment, mental and physical disabilities, government services and public schools. Services available through the City of Wichita are included in the databank of this community resource. This is the resource by which persons are able to access the Homelessness Prevention and Rapid Re-Housing program as well.

The City of Wichita continues to offer the Housing Choice Voucher Homeownership program in accordance with HUD regulations. The program allows Section 8 Housing Choice Voucher participants to use their vouchers to assist with mortgage payments for up to 15 years. Since inception in May 2001, 54 Section 8 Housing Choice Voucher clients have purchased homes through this program.

d. Overcome gaps in institutional structures and enhance coordination. In an effort to make City services more accessible to low and moderate income citizens four Neighborhood City Halls (NCHs) were established in low and moderate-income areas in 2001. Citizens can access a variety of City government and community services at these centers. One of the most popular and useful offerings at these centers, are public access computers. The computers interface with the City's information technology system, thereby making City forms and information readily available. In addition computer instruction is provided by the NCH staff and through partnerships with local agencies, as well as other continuing education opportunities for youth and their parents.

The NCHs complement other neighborhood-based services such as recreation, community policing, neighborhood courts, fire stations, code enforcement and health services. They continue to experience high levels of citizen engagement and participation.

Each NCH also has one Neighborhood Assistant funded through the CDBG program. This staff person provides a personal link between local government officials and citizens. Neighborhood

Assistants provide information on a variety of community and City services, as well as make arrangements for events which connect citizens to those services.

NCH staff provided valuable information, services and assistance to over 114,400 citizens at the neighborhood level from the Atwater, Colvin, Evergreen and Stanley Aley Neighborhood City Halls during the 2009-2010 program year.

Another effort to increase service coordination is the planned development of a homeless resource and referral center. The center will house a number of service agencies who will be able to coordinate under one roof, appropriate service plans for the homeless. During the 2009-2010 program year, $200,000 in CDBG funds were allocated for the purchase of a facility to house the center.

e. Improve public housing and resident initiatives. The Wichita Housing Authority, in addition to responding to 5,938 routine work orders and mitigating 309 emergency work orders within 24 hours, made the following improvements to its housing stock:

- Replaced 400 residential furnaces and air conditioning systems in 348 single-family dwellings and 50 apartments and 2 clubhouses with Energy Star Units
- Completely rehabilitated one single-family housing unit
- Developed plans and specifications for a major exterior rehabilitation of Greenway Manor, an 86 apartment high-rise, including the replacement of first floor windows with energy saving windows.

The Resident Opportunities and Self Sufficiency (ROSS) program grant provided a service-coordinator for elderly residents of Public Housing units, to help them remain independent, socially active versus isolated, and who enabled them to be able to age in place with dignity. Typical services included group grocery shopping trips, outings to aqua-aerobics at the YMCA, and transportation to other community events. Individualized services included in-home services and health care assessments provided by the Sedgwick County Department on Aging.

f. Evaluate and reduce lead-based paint hazards. The City of Wichita follows regulations designed to protect at-risk populations from lead-based paint hazards in housing units that receive assistance from federally-funded programs. The City has established policies and procedures for evaluating hazards that may be present by assessing risks, controlling or eliminating the hazard and advising occupants of findings and a summary of improvements made.

In the Neighborhood Improvement Services Division of Housing and Community Services Department, there are four certified Lead-Based Paint (LBP) inspectors and Risk Assessors on staff, who perform risk assessment and clearance exams on the Emergency Assistance Program,

Minor Home Repair, Exterior Grant Program, Paint & Paint Labor Programs, Home Improvement Loan Program, Secondary Demolition, and the Historic Deferred Loan Program in order to identify lead-based paint hazards in homes being considered for home repair funding of $5,000 or less. When hazards are found, the staff determines the appropriate strategy to control or eliminate them. Further, the Department restricts the use of federal funds on all housing rehabilitation projects, to contractors who are qualified in interim control and lead-safe work practices. The Department has facilitated training for contractors to qualify them for this work.

The Department has established several standards for ensuring compliance with federal lead-based paint regulations. It contracts with QuanTem Laboratories to analyze dust wipe samples collected by staff risk assessors performing LBP clearance on Emergency Assistance repair, Exterior Grants, historic Deferred, Home Improvement Loan Program, Minor Home Repair, Paint, and Paint Labor Grant projects where funding is $5,000 or less. Contractors are required to provide LBP certification for each worker performing lead remediation activities on every project where funding exceeds $5,000. The worker's certifications are placed in project files for verification and audit purposes. On projects where hard costs exceed $5,000, contractors are required to provide LBP clearance performed by a third party certified LBP Risk Assessor.

The cost of lead remediation activities (up to $7,500) is included in Deferred Loan Projects and is provided in the form of a grant, which can fund risk assessments, temporary relocation, lead abatement, interim controls and clearance during the rehabilitation of homes occupied by low and very low-income owner-occupied single-family homes. A grant up to $2,500 is available for lead remediation on Emergency Assistance, Exterior Grant, Historic Deferred Loan and Minor Home Repair projects.

g. Ensure compliance with program and comprehensive planning requirements. City staff monitors program activities according to procedures described in the Monitoring section on page 20. City staff in the Metropolitan Area Planning Department conduct environmental reviews for all CDBG activities and review all properties 50 years old or older, to determine whether they are of historical significance. Neighborhood plans are also reviewed to ensure that proposed housing activities are consistent with the plans. Environmental reviews are completed prior to any work beginning of CDBG and HOME funded projects.

h. Reduce the number of persons living below the poverty level. The City of Wichita is the designated public Community Action Program for Sedgwick County and receives Community Services Block Grant (CSBG) funds to address poverty issues at the community level. The Career Development Office (CDO), a division of the Department of Housing and Community Services, administers these CSBG funds and, with citizen input, develops programs to assist individuals

and families to overcome the challenges of poverty. Following is a summary of activities related to this goal:

- Medical Care - Through an alliance with the Central Plains Regional Health Care Foundation, Inc., the CDO provides funds for prescription medications, physician-prescribed medical supplies, durable medical equipment and the coordination of services for low-income, uninsured Sedgwick County residents. Under this collaborative project, associated physician and hospital services are donated and coordinated through the Foundation's Project Access. In its eleven years of operation, Project Access has coordinated the efforts of eight hospitals, 722 physicians (both primary care and specialists), 38 dentists and 75 pharmacies in providing care for 9,647 low-income residents of Sedgwick County, for a total value of over $107.6 million in donated services and medications. From October 2009 through June 2010, 845 persons received medical services with CDO assistance.

  With CSBG funds the CDO has also operated a dental project that has provided up to $2,500 each for 30 low-income individuals to receive dental services through individual treatment plans with their dentists.

- Employment – The CDO provides assessment, case management, job club, life skills, employment, and retention services to recipients of State assistance and low income families in Sedgwick County. From July 2009 through June 2010, 116 Section 3 residents became employed with an average wage of $9.31 per hour. In 2009 the CDO received $1.7 million in funding from the American Recovery and Reinvestment Act (ARRA) of 2009. Several programs were implemented to overcome the challenges of poverty, such as a partnership with the United Way to provide resource, referral and employment counseling assistance to 5, 523 individuals at the Laid Off Worker's Center (LOWC). ARRA dollars also made it possible to retain 11 Neighborhood Inspector positions within the City of Wichita Office of Central Inspection department to continue providing services to low income citizens through the Stop Blight program.

5. Leveraging Resources

The City of Wichita has developed significant public/private partnerships with for-profit and not-for-profit organizations to enhance and leverage the economic value of federal funds. The City's approach serves as a catalyst for additional investment and reinvestment in areas of the community which might not otherwise attract private participation. Following is a summary of federally funded projects and the private investment they generated during the report period:

Home Improvement Loan Program (HILP). CDBG expenditures of $8,135.06 leveraged $36,089.35 ($4.436 to $1) in other funds to buy down the interest rates for home repair loans.

Youth Recreation and Enrichment. After school activities to provide productive, constructive leisure activities for youth, are the goal of CDBG funding for the YMCA, Inter-Faith Ministries, and Big Brothers Big Sisters of Sedgwick County's youth recreation and enrichment programs. The YMCA total program budget of $364,376 included $74,000 in CDBG funds, and provided services to 5,565 youth. Inter-Faith Ministries total program budget of $59,682 included $18,000 in CDBG funds, and provided services to 371 youth. Big Brothers Big Sisters of Sedgwick County's total program budget of $16,218 included $8,000 in CDBG funds and provided services to 152 youth.

Summer Youth Employment. During 2009-2010 program year, YMCA coordinated employment services for 65 youth between the ages of 15 and 17. The youth worked 20 hours a week and received job skills and readiness training. Family Services Institute employed 73 youth during the 2009-2010 program year. The agencies leveraged an additional resources in the amount of $12,500.

YWCA Women's Crisis Center. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, and support groups for 203 women and 178 children who were victims of domestic violence. The CDBG allocation of $150,658 supported the total program budget of 728,110 including the City's and State's ESG program funds.

Harbor House. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, a crisis line and support groups for 151 women and 133 children who were victims of domestic violence. The CDBG allocation of $118,375 supported the total program budget of $1,525,491 including City ESG program funds.

HOME Projects. HOME expenditures of $1,775,366.44 leveraged $3,857,220.58 in other funds for mortgage and construction financing, as well as other down payment assistance. See page 36 for details on the HOME program.

6. Citizen Comments

The citizen participation process is integral to obtaining community input in the development of programs that best suit the needs of low and moderate income persons. Therefore the City of Wichita has established a comprehensive citizen participation process to help identify short term and long term priority needs. The first step in this process is to engage citizens in priority setting for the Consolidated Plan. The 2009-2013 Consolidated Plan was developed with input from the six District Advisory Boards (DABs) that correspond to each City Council district. Each board has 11 members representing a cross-section of their neighborhoods. The purpose of the DABs is to provide citizens an opportunity to provide input to the elected council members on a broad range of social and community issues affecting their neighborhoods. Their feedback on priority surveys is reflected in the Consolidated Plan.

On an annual basis a 12 member Grants Review Committee (GRC) is a major part of the Citizen Participation Process for review of annual community planning and development funding decisions. The GRC is appointed by the Mayor and City Council and its members represent neighborhood associations, the school district, higher education, large and small businesses. The GRC also has representation from four of the six the District Advisory Boards. GRC members conduct a public hearing to obtain citizen comments regarding housing and non-housing community development needs and make funding recommendations to the City Manager for CDBG, HOME, and ESG programs. The Wichita City Council also conducts several public hearings during the year pertaining to Consolidated Plan funding. Staff incorporates this information into the projects and other planned activities utilizing the Consolidated Plan funding.

Throughout these processes, public notices are published in local newspapers including the Wichita Eagle, The Community Voice, and El Tiempo (a bilingual publication which serves the Hispanic community). Information regarding public comment opportunities is also posted on the City's website and City-7 News Channel, along with the Consolidated Plan, One-Year Action Plans and CAPERs. Hard copies of these documents are distributed to the Neighborhood City Halls, all branches of the public library and various departments in City Hall for public review and comment. Each person who wishes to speak at public hearings is allowed to do so for five minutes and citizens are provided staff names, email and mailing addresses for submitting written comments.

A public notice regarding the 2009-10 CAPER was published in the Wichita Eagle on August 23, 2010, and in El Tiempo Spanish language newspaper on August 27, 2010. Both papers invited the public to make comments on the CAPER and provided a listing of the sites where copies of the CAPER could be found including the City's website. They announced the dates of the 15-day public comment period, when and how to submit written comments and the public hearing on September 14 at the regularly scheduled City Council meeting. Throughout the public comment period, notification and requests for comment were frequently broadcast on the City-7 News Channel. All public notices also include information for persons needing auxiliary aid or service for effective communication with City of Wichita personnel, as to how they can access such services.

7. Self Evaluation

The City of Wichita is committed to achieving the goals of the Consolidated Plan through grant disbursements and program management, which includes formal monitoring and technical assistance workshops for recipients of CDBG funding. The City is also committed to responsible stewardship of federal funds and has ensured that expenditures are consistent with letter of credit disbursements and HUD timeliness standards for expenditure of CDBG funds.

CDBG funds were used to support housing, capital improvements and public services while HOME funds provided first time homebuyer assistance and home repair funds for income-eligible residents in Wichita. ESG funds were disbursed to homeless service providers to support essential services, operations and homeless prevention services.

The programs funded through the 2009-2010 First Program Year Action Plan provided decent housing, and a suitable living environment for the City's low and moderate-income neighborhoods and residents. The supply of safe, affordable housing increased through programs that offered financial incentives to developers of affordable housing and financial assistance to enable people with low and moderate incomes to access such housing.

Homeownership priorities have been achieved through the HOMEownership 80 and Deferred Loan Programs which assist low-income first time homebuyers with down payment and closing costs and which provide funding for home repairs for eligible homeowners. Housing priorities are also met through the City's various home repair programs, where many of the recipients are elderly homeowners living in older homes, and whose fixed incomes cannot stretch to provide necessary health and safety improvements. The City has also continued to support rehabilitation of rental property so that it meets affordability and safety standards.

Neighborhood revitalization and stabilization was enhanced with sidewalk improvements, and other infrastructure projects. The availability of tax rebates through the Neighborhood Revitalization Program also supported the stabilization of our community.

The needs of the homeless were addressed through City contracts with local homeless service providers who utilize Emergency Shelter Grant funds in addition to their other resources. To enhance efficiency and accountability, the United Way of the Plains administers the Homeless Management Information System (HMIS), which local providers use to track and coordinate client services. Homeless needs were also addressed through the City-County Housing First program and through the City's administration of the Homelessness Prevention and Rapid Re-Housing program.

8. Monitoring

The HCSD undergoes regular internal monitoring reviews to ensure there is accountability for all federal and state funds received. Staff reviews monitoring policies and procedures annually to implement any new HUD designated regulations.

Community Development Block Grant and Emergency Shelter Grant funded programs are monitored in several ways. The monitoring process is modeled after the method outlined in the HUD's publication of Managing CDBG: A Guidebook for CDBG Grantees on Subrecipient Oversight.

As part of the initial application for funding, programs must submit a number of external audit documents to confirm their organizational capacity. Notes are made of any irregularities which must be addressed prior to entering into a funding agreement. City contracts with subrecipients for annual funding include performance measures which require submission of monthly reports on progress toward meeting those goals. Staff reviews monthly reports of accomplishments and spending for all subrecipients. At the end of each quarter, a desk audit of each program is conducted, and all subrecipients receive written feedback concerning their performance, spending, and accomplishment of goals and objectives. Strengths and weaknesses are documented, and any required corrective action must be addressed. A formal risk analysis is conducted annually for all programs to determine which subrecipients present the greatest risk in terms of their capacity to manage and administer CDBG program activities and funds. Risk factors include the subrecipients' previous experience with federal funds, their organizational capacity and experience administering programs, timeliness and accuracy of their previous reports and spending (if applicable). Subrecipients with the highest risk are most closely monitored, including on-site visits for program monitoring and technical support. Site visits are conducted routinely. Comprehensive on-site monitoring is conducted for all new programs during their first year and for all continuing programs at least every two years.

The HOME Investment Partnerships program monitoring plan includes annual on-site monitoring of all projects which have been funded with HOME funds. The monitoring occurs throughout the affordability period. Homeownership projects receiving HOME program assistance for purchase and /or rehabilitation/construction are subject to mortgage liens filed with the Sedgwick County Register of Deeds Office, which serve as the long-term deed restriction required to enforce the applicable HOME affordability period. And finally during the development process, HOME staff monitors construction progress in order to ensure the validity of reimbursement requests submitted for payment. Such payment requests are also monitored by the City's Office of Central Inspection to ensure eligibility of costs. Construction progress is monitored through the use of on-site inspections and by reviewing the on-site inspections documented by the City's Office of Central Inspection (OCI). The inspections performed by OCI verify compliance with local building codes, as required under the HOME regulation.

IV. Program Narratives

Community Development Block Grant Narrative Statement

1. Assessment of Relationship of CDBG Funds to Goals and Objectives

All activities undertaken during the 2009-2010 program year addressed priorities of the Consolidated Plan and the specific activities of the current Annual Action Plan. Public service priorities identified in the Consolidated Plan include programs to end domestic violence; youth services including training, employment and recreation; historic preservation; and neighborhood community centers.

All activities undertaken during the 2009-2010 reporting period complied with the national objective by primarily benefiting low to moderate-income persons and aiding in the prevention of slum and blight. No situations arose that required urgent needs to be addressed within the city of Wichita. Total CDBG disbursements for the program year were $3,427,220 including $2,245,668 expended for activities benefiting low to moderate-income persons.

Housing Rehabilitation Information

The City of Wichita provided several types of housing programs with CDBG funds. Following is a list of the individual programs with the number of units completed, CDBG funds expended during the year, and any public or private funds involved.

The Home Repair Program was established to address declining housing conditions in the city. Several distinct grants are offered: Exterior Grants, Emergency Repair, Paint Grants and Paint Labor Grants. A total of 351 households were assisted through the various Home Repair programs, resulting in an expenditure of $659,467. The Deferred Loan Program provides financial assistance to completely rehabilitate a very-low income household located within the LIA. A total of 3 households were assisted resulting in an expenditure of $97,972.

Eligibility for home repair assistance is based on household income and the location of the home. Emergency repair assistance is available to address health and safety issues in homes anywhere in the Wichita city limits. The homeowner must live in the home to be repaired and the household income may not exceed 50% of the area median family income for Wichita. Assistance is limited to a $5,000 deferred loan which is forgiven after 5 years provided the recipient remains owner-occupant of the residential structure. Failure to remain owner-occupant will result in the loan having to be repaid in its entirety.

The Exterior Grant is available in specific targeted areas within the LIA where other public investment projects have been completed or are underway. A minimum of fifty-one percent

(51%) of all owner-occupant recipients of the Exterior Grant must have household income that does not exceed eighty percent (80%) of median income limits. A zero percent (0%) loan may be provided to investors of property located within the special targeted area.

The Minor Home Repair Program is available within the LIA and requires the recipient to be owner-occupant, and be 65 years of age or older. One hundred percent (100%) of households assisted under this activity must have household income not exceeding 50% of the median. The assistance comes in the form of a zero interest deferred loan that is forgiven after five years, provided the recipient remains owner-occupant of the property. Failure to remain owner-occupant will result in the loan having to be repaid in its entirety.

Paint grants are available for properties located within any one of the seven Local Investment Areas (LIAs) identified in the City's Neighborhood Revitalization Area (NRA) or within the City's Redevelopment Incentive Area (RIA). At least fifty-one percent (51%) of the households assisted located within the LIA must have incomes that do not exceed eighty percent (80%) of the median. One hundred percent of households assisted located outside the LIA but within the RIA must have income that does not exceed eighty percent (80%) of median. Applicants meeting the location and income criteria can receive up to $200 in paint for the exterior of their homes. Elderly applicants (55 years of age) or disabled heads-of-household who do not have the ability to, access to, or resources to pay for someone who can apply the paint, may also receive a paint labor grant, provided they ore owner-occupants with household income of 80% of the median.. Such grants are not used for purchasing equipment such as brushes or ladders.

During the 2009-2010 program year, 169 homeowners were provided paint for their homes 12 of whom also received labor grants. The total materials cost was $40,678 and labor grants for the 12 homeowners was $27,714.

The Department also administers other housing rehabilitation programs, which are summarized below.

The Direct Loan Program provides home rehabilitation loans to low-income homeowners in the Local Investment Areas, with a variable interest rate based on income. The maximum loan amount is $35,000 with a maximum 20-year pay back, secured by a mortgage on the property. During the 2009-2010 program year no new loans were made.

The Home Improvement Loan/Grant Program (HILP) is a program which buys down the interest rate for loans provided by an external financial institution. Four homeowners received assistance from this program for a total expenditure of $8,135.06 in CDBG funds that leveraged $36,089.35 in private funds.

The Deferred Loan Program provides housing rehabilitation loans up to $35,000 in the Local Investment Areas, and is secured by a mortgage on the property. On the first five anniversaries, the loan is reduced by 10%, not to exceed 50% of the total (provided the recipient remains owner-occupant). A mortgage is filed for any assistance over $1,000. Repayment of the Deferred Loan is required when the recipient is no longer owner-occupant and the new owner-occupant does not meet program guidelines. During the 2009-2010 program year, three homeowners received Deferred Loans totaling $97,972.

The Residential Revolving Historic Loan Program provides loans to owners of local or nationally designated historic structures for renovation. The loan maximum is $25,000 however loans over that amount may be awarded with City Council approval. The interest rate is four points below the prime rate on the day of closing with a 20-year payback period. There were no new loans made during the program year.

The Rental Housing Revolving Loan-Single Unit program provides low-interest loans for rehabilitation of single unit residential rental properties in the Local Investment Areas. Re-paid funds are program income which is then allocated for additional program uses loans. Three projects were completed during the program year with loans totaling $55,175.

The Rental Housing Revolving Loan-Multi Unit program provides low-interest loans for rehabilitation of multiple unit structures in the Local Investment Areas. Re-paid funds are program income which is then allocated for additional program uses. No new loans were made during the program year.

Neighborhood Revitalization Information

The Neighborhood Clean-up Program pays for dumpsters and tire removal during one-day clean-up efforts in the Local Investment Areas. Fourteen clean-ups were completed during the 2009-2010 program year, expending $50,000.

The Secondary Structure Demolition Program provides grants to income eligible, owner-occupants of property located in the Local Investment Areas, to remove deteriorated secondary structures. The goal of this program is to eliminate blighting influences. The maximum amount of assistance is $2,500/structure. During the 2009-2010 program year three structures were removed totaling $4,178.

During 2009-2010, the Housing and Community Services Department and the Wichita Park and Recreation Department completed improvements to Evergreen Park and Emporia Park, and work is underway to complete improvements to West Douglas Park.

2. Changes in Program Objectives

During the 2009-2010 program year there were no changes in program objectives.

3. Assessment of Efforts in Carrying Out Planned Actions

During the 2009-2010 program year the City targeted housing activities and infrastructure improvements in designated Local Investment Areas (LIAs), which are located within the Neighborhood Revitalization Strategy Areas (NRSAs). The NRSA plan is required by the Kansas State Neighborhood Revitalization Act in order to create an incremental tax rebate program to encourage reinvestment and improvement of blighted, declining areas of the community. By establishing joint State and Federal (HUD) NRSAs, the City can offer rebates for home improvements outlined in the State Statute and within the flexibility of CDBG regulations.

During the 2009-2010 program year, the City provided certifications of consistency with the Consolidated Plan, to support applications which were prepared by community agencies and organizations for funding to meet community needs. Such certifications were issued after HCSD staff reviewed the application documents, and determined that the project would enhance the City's housing and community development goals as stated in the Consolidated Plan.

Staff from the Housing and Community Services Department worked with subgrantees and subrecipients to negotiate and agree upon contract language relative to programs funded with CDBG, HOME or ESG funds. Particular attention was paid to the scope of services and performance measures. HCSD staff continued to work with subrecipients throughout the term of the contract offering technical assistance as requested or necessary.

4. Use of CDBG Funds for National Objectives

All funds, other than planning and administration, were used exclusively for activities benefiting low/mod persons and addressing slum/blight issues. The City used 78.5% of its CDBG disbursement for low/mod activities, which far exceeds the minimal requirement of 70%.

5. Anti-displacement and Relocation

The City did not buy occupied housing with CDBG or HOME funding during the program year.

6. Low/Mod Job Activities

The City of Wichita did not have any economic development activities that involved CDBG during the program year.

7. Program income received

Program income in the amount of $244,599.81 was generated during the program year. A portion of the program income was loan repayments ($57,705) which were reallocated to CDBG funded housing rehabilitation programs. Other funds received through loan and lease payments

were made available for reallocation to other eligible activities for the 2010-11 Second Program Year Action Plan.

Direct Loan:	$17,705
Rental Rehabilitation:	$0
Historic revolving loan:	$40,000
Total:	$57,705

8. Prior period adjustments

No prior year adjustments were made for disallowable payments.

9. Loans and other receivables

The City did not issue CDBG funding for float loans. All funds were allocated before the beginning of the program year and held in accounts until ready to spend.

Outstanding Home Repair Loans by Program

Program	Number of Loans	Amount
Emergency Home Repair Assistance Loans	2,305	$3,274,657.98
Deferred Loans	291	$5,054,115.00
Direct Loans	5	$48,748
Historic Revolving Loans	14	$295,708
Single Family Rental Rehabilitation Loans	18	$229,085.00
Multi-Family Rental Rehabilitation Loans	5	$100,218.00
Total	2,638	$9,002,531.98

The City did not own any property acquired or improved with CDBG funding that was for sale at the end of the reporting period.

10. Lump sum agreements

The City did not issue CDBG funding in lump sums during the program year.

11. Neighborhood Revitalization Strategies

South Central Neighborhood Plan. The City/County Metropolitan Area Planning Department developed a future land use map reflecting current neighborhood conditions of predominant single-family residences in this area. Building on that project, the City Council rezoned the area in keeping with the existing predominantly single-family neighborhood. The South Broadway

Streetscape Project was a three block long endeavor between Kellogg and Gilbert Streets. Improvements included installing 21 historic-style decorative street lamp posts for pedestrian lighting, four additional street lamps for street lighting, and planting trees/landscaping in the public right-of-way between the street and sidewalk.

McAdams Neighborhood Plan. The historic Dunbar Theater, in the heart of the McAdams neighborhood, will be renovated as a community-based visual and performing arts. During the program period, architectural designs were completed and specifications developed for roof replacement work to begin, which was funded by an Economic Development Initiative (EDI) grant from HUD. POWER CDC, the Community Development Corporation leading this renovation effort, is working to acquire additional land for the project, and a capital campaign is underway to raise funds for construction.

21st Street North Corridor Revitalization Plan. During 2009-2010, construction was completed on the Nomar International Market Place, and an agreement was executed between the City of Wichita and Nomar CDC, the Community Development Corporation who will operate the Market as an outdoor cultural market and entertainment venue. The Market includes a multi-use plaza and a 1,000-square-foot building with office space, public restrooms and an outdoor covered patio. This multicultural center complements the City's current investment in upgrading public infrastructure, including a major road project on the 21st Street Corridor from Waco to Amidon.

HOME Narrative Statement

Housing priorities identified in the Consolidated Plan include small family renters and homeowners. Following is a summary of the allocation of HOME funds for the 2009-2010 program year, which were designed to address these priorities.

Community Housing Development Organization (CHDO) Operating Support Funding (Affordable Rental/Homeownership): HOME funding in the amount of $50,000 was allocated for organizational support of City-certified CHDOs during the program year. This funding is designed to assist with salaries, training, and general office expenses, to provide for organizational support while the CHDO carries out HOME-funded housing development projects.

HOMEownership 80 Program (Homeownership): HOME funding in the amount of $590,153 was allocated for the City's homeownership assistance program. The HOMEownership 80 Program has been successful in overcoming one of the more formidable barriers to homeownership, which is the accumulation of sufficient resources for down payment and closing costs. Many HOMEownership 80 Program recipients utilize down payment assistance loans to complete the purchase of homes constructed by City-certified CHDOs.

During the 1998/1999 program year, HOMEownership 80 became a component of the City's Neighborhood Revitalization Plan. This action targeted funding to the City's Local Investments Areas (LIAs). During the 2001/2002 program year, the target area was expanded to make assistance available in the City's newly established Redevelopment Incentives Area (RIA). As in previous years, loans are provided for down payments and closing costs, as well as for minor rehabilitation, in order to improve code compliance.

Applicants for HOMEownership 80 program assistance are required to attend a homeownership training class. While attending the class, applicants become familiar with the aspects involved in purchasing and financing a home, including negotiating the real estate contract, working with a real estate agent, loan qualifying and credit reparation.

HOMEownership 80 program assistance is provided in the form of a zero-interest deferred loan secured by a mortgage. The mortgage is due and payable at the time of ownership transfer or if the family ceases to use the home as its principal residence.

Boarded-up HOME Program (Homeownership/Housing Development): HOME funding in the amount of $300,000 was allocated to provide a means for City-certified CHDOs to obtain zero-interest development subsidy loans to purchase boarded-up or otherwise blighted non-commercial structures. These structures are rehabilitated or demolished to enable CHDOs to construct new homes on the sites. Newly constructed/rehabilitated homes are re-sold to HOME-eligible, owner/occupied families.

Housing Development Loan Program (HDLP): HOME funding in the amount of $400,000 was originally allocated for the HDLP. The purpose of the HDLP is to provide a means for CHDOs or for-profit developers to obtain zero-interest development subsidy loans to develop housing on idle or under-utilized real estate for underserved populations. Projects may include new construction or rehabilitation for owner/occupied households. The program is available in the City's RIA. Contracts under the HDLP were awarded to two local CHDOs for construction of new homes.

CHDO Set-Aside Funding (Housing Development/Homeownership): A total of $275,031 was allocated for housing development projects to be undertaken by City-certified CHDOs, within the City's LIAs. This amount represented the City's required 15% set-aside for CHDO housing development projects, as required under the HOME regulation. Mennonite Housing received $118,105 to develop single-family housing projects within the City's six LIAs. Power CDC received $103,012 for the development of single-family homes in the Millair Creek neighborhood. CHS received $53,914 to combine with unspent funds from a previous grant year, in order to develop single-family homes within the City's six LIAs. Projects undertaken by these organizations include the rehabilitation or construction of housing for HOME-eligible, owner-occupied and low-income families.

Deferred Loan Program: HOME funding in the amount of $35,000 was allocated to this program, which provides interest-free deferred loans for home rehabilitation within LIAs for very low-income owner-occupied homeowners who may not be able to qualify for traditional home equity loans. This program is also a component of the City's Neighborhood Revitalization Plan.

HOME Program Administration: A total of $183,353 in HOME funding was allocated for the administration of the City's HOME program, from its 2009/10 HOME Grant. This activity includes the provision of technical assistance, oversight of CHDO development activities, general administrative activities, and monitoring of existing HOME-funded rental projects currently subject to HOME-applicable affordability periods.

During the program year, the City allocated additional administration funding in the amount of $12,000. This amount represented 10% of HOME program income received in connection with 2008 program year activities.

A. Summary of Accomplishments

The HOME program plays a significant role in the City's Neighborhood Revitalization Plan by addressing the barriers to affordable housing based on the needs of low and moderate-income homebuyers and existing homeowners. During the 2009-2010 program year, HOME funds were targeted to the City's LIAs, NRA and RIA as previously described. Following is a description of goals and accomplishments in connection with HOME-funded projects, as specified in the One year action plan.

Project Name	Goal	Actual	HOME Assisted
Homeownership 80	39 Loans	39	39
Deferred Loan Program	1 Loan	2	2
CHDO Set-Aside Housing Development Projects	6 Units	6	6
Housing Development Loan Program	20 Units	16	16
CHDO Operational Funding	3 Organizations	3	N/A
CHDO Boarded-up HOME Program	4 Units	1	1

The following summary provides additional detail regarding HOME Program expenditures and accomplishments during the 2009-2010 program year, utilizing current year funding, prior year funding and allocated program income:

HOMEownership 80: A total of $11,000 in assistance loans were available to HOME-eligible, owner-occupied homebuyers under this program in connection with the purchase of an existing

home. Loans of up to $21,110 could also be provided through the HOMEownership 80 program in connection with the purchase of a newly constructed home or in connection with a purchase when the first mortgage financing was provided through the Heart of Wichita Lender Pool. In both levels of subsidy, program assistance is provided in the form of a zero-interest deferred loan for down payment and closing costs assistance. The program also includes a provision for loans for minor rehabilitation. Loans were also available for disabled homebuyers who required modifications to their home for accessibility purposes.

General Program Statistics

Total Purchases	39
Total HOME Funds	$ 551,089.17
Average Subsidy	$ 14,130.49
Households with Disabilities	3
Single Head of Household	27

Income Breakdown

61% - 80%	16
51% - 60%:	9
31% - 50%:	11
0% - 30%:	3

Race by Head of Household

	Count	Percentage
AA	12	30.77
W	23	58.98
A	1	2.56
NH	0	0
NA	2	5.13
A & W	0	0
AA & W	0	0
NA & AA	0	0
Other	1	2.56
Total	39	100

7 of the above persons are of Hispanic origin

Key: AA – African American; W – White; A – Asian; NH – Native Hawaiian; NA – Native American.

Deferred Loans (Homeownership): Like the HOMEownership 80 program, assistance provided under the Deferred Loan Program is in the form of a zero-interest deferred loan, which is secured by a mortgage on the property. The loan does not become due and payable until the property changes ownership or if the owner ceases to occupy the property. Household income for families participating in the program must be below 50% of median income.

The Deferred Loan Program has proven to be successful in overcoming the barriers to homeownership in the City's LIAs, by restoring potentially blighted homes and making them safe, clean and affordable for the owner occupying the home.

Following are the statistics regarding the Deferred Loan Program:

General Program Statistics

Total Rehabilitations	2
Total HOME Funds Invested	$ 70,000
Average Subsidy	$ 35,000
Units in very-low income CT	2
Households with Disabilities	0

Race by Head of Household

	Count	Percentage
AA	1	50
W	1	50
A	0	0
NH	0	0
NA	0	0
A & W	0	0
AA & W	0	0
NA & AA	0	0
Other	0	0
Total	2	100

None of the above persons are of Hispanic ethnicity

Following is a summary of housing development activities undertaken during the 2009/2010 program year by various housing development organizations utilizing programs made available with HOME Program funding:

Neighborhood Stability and Blight Removal:

- Boarded up House Program: A total of $129,388.01 was spent for acquisition, demolition and to leverage private construction loans, in connection with final expenses for projects completed during the prior program year, and to construct one home that was sold to HOME-eligible, owner-occupant families during the 2009-2010 program year. As of the end of the program year, three projects were in progress/under construction. Projects were undertaken by City-certified Community Housing Development Organizations.

Community Housing Services (CHS):

- 2008 New Home Construction Project (Housing Development Loan Program): HOME funding in the amount of $24,783 was expended to leverage private sector financing in order to begin construction of one home during the program year. Construction of the home was in progress, as of the end of the program year.

- 2008 LIA Revitalization Project (CHDO Set-Aside): HOME funding in the amount of $31,128.49 was expended to reimburse final expenses incurred in the construction and sale of a home in the prior program year.

- 2009 LIA Revitalization Project (CHDO Set-Aside): There were no HOME funds expended or committed during the 2009-2010 program year.

Mennonite Housing Rehabilitation Services:

- 2007 Neighborhood Homes (Housing Development Loan Program): HOME funding in the amount of $22,815.41 was expended in order to complete construction and sale of two homes during the 2009-2010 program year.

- 2008 LIA Redevelopment Project (CHDO Set-Aside): HOME funding in the amount of $10,235.72 was expended to reimburse final expenses incurred in the construction and sale of a home in the prior program year.

- 2009 LIA Redevelopment Project (CHDO Set-Aside): HOME funding in the amount of $91,633.24 was expended to leverage private sector construction financing to subsidize completion of construction of three homes in the Northeast Local Investment Area. The homes were sold to HOME-eligible owner-occupant homebuyers, during the 2009-2010 program year.

- 2009 Neighborhood Homes (Housing Development Loan Program): HOME funding in the amount of $196,920.41 was expended to leverage private sector construction financing to subsidize completion of construction of three homes in the Northeast Local Investment Area. The homes were sold to HOME-eligible owner-occupant homebuyers, during the 2009-2010 program year. Two additional homes were under construction as of the end of the program year.

Power CDC:

- 2007 Northeast LIA Redevelopment Project II, Millair Creek (CHDO Set-Aside): HOME funding in the amount of $9,653.10 was expended to reimburse final expenses in connection with a home that was constructed and sold during the previous program year.

- 2007 Northeast LIA Redevelopment Project III, (CHDO Set-Aside): One home that was constructed during the previous program year was sold during the 2009-2010 program year. There were no HOME funds expended.

- 2007 Northeast LIA Redevelopment Project, (Housing Development Loan Program): HOME funding in the amount of $55,088.51 was expended during the 2009-2010 program year, in order to leverage private sector construction financing, to construct one home located in Power CDC's Millair Creek development, which is located in the City's Northeast Local Investment Area. The home was sold to a HOME-eligible, owner-occupant homebuyer.

- 2008 Northeast LIA Redevelopment Project (CHDO Set-Aside): HOME funding in the amount of $11,302.20 was expended to reimburse final expenses in connection with homes sold during the previous program year.

- 2009 Northeast LIA Redevelopment Project (CHDO Set-Aside): HOME funding in the amount of $89,346.72 was expended during the 2009-2010 program year, in order to leverage private sector construction financing to construct two homes located in Power CDC's Millair Creek development, which is located in the City's Northeast Local Investment Area. The homes were sold to HOME-eligible, owner-occupant homebuyers. One home was under construction as of the end of the program year.

- 2009 Northeast LIA Redevelopment Project (Housing Development Loan Program): HOME funding in the amount of $52,725.64 was expended during the 2009-2010 program year, in order to leverage private sector construction financing to construct two homes located in Power CDC's Millair Creek development, which is located in the City's Northeast Local Investment Area. The homes were sold to HOME-eligible, owner-occupant homebuyers. Two homes were under construction as of the end of the program year.

Habitat for Humanity:

- 2008 Housing Development Loan Program: During the 2009-2010 program year, $64,221.36 in HOME funding was spent to provide construction subsidy loans for four homes constructed and sold during the program year, as part of the local Habitat for Humanity chapter's Habitat Village project, which is located in the City's Neighborhood Revitalization Area. The homes were sold to HOME-eligible owner-occupant homebuyers participating in Habitat for Humanity's program.

- 2009 Housing Development Loan Program: During the 2009-2010 program year, $52,270.47 in HOME funding was spent to provide construction subsidy loans for four homes constructed and sold during the program year, as part of the local Habitat for Humanity chapter's Habitat Village project, which is located in the City's Neighborhood Revitalization Area. The homes were sold to HOME-eligible, owner-occupant homebuyers participating in Habitat for Humanity's program. Two additional homes were in progress as of the end of the program year.

HOME CHDO Operating Funding/Technical Assistance: Three of the City's recognized CHDOs received operational support funding from the HOME Program. Mennonite Housing Rehabilitation Services received $28,809.22, Community Housing Services of Wichita/Sedgwick County received $6,976.43, and Power CDC received $28,720.00 during the program year. These figures include previous year grant funding.

HOME Program Administration: A total of $248,258.82 was expended to administer activities related to the City's HOME program including the provision of technical assistance, oversight of CHDO development activities, and monitoring of existing HOME-funded rental projects currently subject to HOME-applicable affordability periods.

HOME-Assisted Rental Projects: Eight rental project developments previously funded by the City are currently subject to an affordability period as required under the HOME program. The following is a summary of the tenants served, as well as a breakdown of demographic information for each project, as of June 30, 2009:

HOME-Assisted Rental Projects Performance

Project Name (in expiration date order)	Affordability Expires	Income Breakdown		General Program Statistics					Race by Head of Household (Defined Below)										# of Hispanic Origin
		0-50%	51-80%	# of Units	50% Units	60% Units	Vacant	# Female Hd/House	1	2	3	4	5	6	7	8	9	10	
SANCHO Market Street Studios	12/2009	5	0	5	5	0	0	1	2	3	0	0	0	0	0	0	0	0	0
Mosley Street Apartments (formerly South Beech Apartments)	1/2015	2	2	4	2	2	0	2	4	0	0	0	0	0	0	0	0	0	0
Innes Station Apartments	12/2016	8	2	10	8	2	0	4	9	0	1	0	0	0	0	0	0	0	2
Mennonite Housing Rehabilitation Services: Country Acre Senior Residences	07/2017	6	4	10	6	4	0	9	10	0	0	0	0	0	0	0	0	0	0
Mental Health Association: Pinecrest Place Senior Residences**	5/2020	10	0	10	10	0	0	7	1	9	0	0	0	0	0	0	0	0	0
Harvester Apartments	1/2020	2	2	4	2	2	0	0	4	0	0	0	0	0	0	0	0	0	0
Inter-Faith Villa North Apartments	11/2019	10	1	11	10	1	0	3	8	3	0	0	0	0	0	0	0	0	1
Eaton Place Apartments	11/2022	20	6	26	20	6	0	10	25	0	0	0	0	0	0	0	0	0	1
Totals		**63**	**17**	**80**	**63**	**17**	**0**	**36**	**63**	**15**	**1**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**4**

**Project is subject to a Project-Based Renal Assistance Contract

Race Definitions:

1 White

2 Black/African American

3 Asian

4 American Indian/Alaskan Native

5 Native Hawaiian/Other Pacific Islander

6 American Indian/Alaskan Native & White

7 Asian & White

8 Black/African American & White

9 American Indian/Alaskan Native & Black/African American

10 Other Multi-Racial

Affirmative Marketing: The City has established minimum Affirmative Marketing requirements for HOME-assisted rental and homebuyer projects. These requirements are incorporated into all funding agreements, when the project involves five or more HOME-assisted units, and partners must meet or exceed them.

Each recipient of HOME funds for projects requiring compliance with affirmative marketing regulations is contractually required to prepare a written Affirmative Marketing Plan for their project, when applicable. The Affirmative Marketing Plan must be available for public inspection in the recipient organization's office. A copy of the minutes of the Board of Directors' meeting or other documentation is required as evidence that the Affirmative Marketing Plan was adopted.

Each plan must contain specific steps/actions that the recipient organization will do to provide information and otherwise attract eligible persons of all racial, ethnic, and gender groups in the housing market area to the available housing.

Housing developers accessing HOME funding conduct outreach to the community by providing homeownership training services, housing counseling, and also by providing information - regarding proposed projects in community newspapers, as well as the city's newspaper.

On-Site Inspections of Rental Housing: The following is a summary of the results of on-site inspections and compliance monitoring of HOME-assisted rental housing monitored during the program year, for projects currently subject to HOME affordability periods:

- SANCHO Market Street Studio Apartments: Project was noted to be in compliance with HOME regulations and requirements. Very minor property deficiency noted and corrected.

- South Beech Apartments (now Mosley Street Apartments): Project was noted to be in compliance with HOME regulations and requirements. Very minor property deficiency noted and corrected.

- Mental Health Association (Pinecrest Place Senior Residences): Project was noted to be in compliance with HOME Program regulations and requirements.

- Innes Station Apartments: Project was noted to be in compliance with HOME regulations and requirements.

- Eaton Place Apartments: Project was noted to be in compliance with HOME regulations and requirements.

- Mennonite Housing Country Acres: Project was noted to be in compliance with HOME Program regulations and requirements for the most part. Minor correction required for the leasing document. Very minor property deficiencies were noted and corrected.

- Harvester Apartments: Project was noted to be in compliance with HOME Program regulations and requirements, for the most part. Very minor property deficiencies were noted in one unit and corrected.

- Interfaith Villa North: Noted inadvertent over-charging of rent in connection with two HOME-assisted units. Required reimbursement to City Housing Authority for affected units/tenants. Very minor maintenance/condition deficiencies noted in one unit and resolved. Project was otherwise noted to be in compliance with HOME Program regulations and requirements.

B. Leveraging Resources

A variety of funding sources were utilized to leverage City HOME funds with respect to projects completed during the year and projects currently in process. Local lenders and agencies provided over $2,545,463.00, in first mortgage loans in order to facilitate home purchases assisted through the HOMEownership 80 program. Local Lenders also provided over $1,012,702.36 in private construction financing in order to leverage CHDO single-family construction projects completed during the program year. Local non-profit CHDOs, lenders, and Habitat for Humanity provided $299,055.22 in additional down payment and closing costs assistance for HOMEownership 80 program clients through the Federal Home Loan Bank's Affordable Housing Program (AHP), and other initiatives.

The City's Neighborhood Revitalization Program continues to provide for the waiver of permit fees, water/sewer tap and plant equity fees for homes constructed in the City's designated Neighborhood Revitalization Area. These fees were waived in connection with the construction of 26 HOME-assisted single-family homes in the designated area.

C. HOME Performance Measurements

Following is a summary of the goals, inputs activities, outputs and outcomes for the City of Wichita's HOME Program:

HOME Program Projects	
Goals	Increase property values and improve neighborhood stability through increased homeownership, preservation of homeownership, and construction/rehabilitation of housing in the City's targeted areas
Inputs	Actual HOME Program expenditures, including program income, totaled $1,775,366.44, including HOME Program staff, operating support funding for three Community Housing Development Organizations (CHDOs), nine CHDO set-aside development contracts, two development contracts with a non-profit organization, two development contracts with two CHDOs, down payment assistance and rehabilitation assistance programs
Activities	HOME Program staff coordinates/oversees contracted housing development projects, administers the City's homeownership program, administers the homeowner rehabilitation program and monitors rental projects subject to long-term affordability periods. Activities include project inspections, applicant eligibility certification, preparation of construction specifications, and approval of loans
Outputs	39 families became homeowners, two families were assisted in maintaining homeownership status (homeowner rehabilitation program), and 23 new homes were constructed with home development subsidies.
Outcomes	Increased homeownership in the City's targeted areas, stabilized neighborhoods through homeownership rehabilitation.

Annual Performance Report
HOME Program

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0171
(exp. 8/31/2009)

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

The HOME statute imposes a significant number of data collection and reporting requirements. This includes information on assisted properties, on the owners or tenants of the properties, and on other programmatic areas. The information will be used: 1) to assist HOME participants in managing their programs; 2) to track performance of participants in meeting fund commitment and expenditure deadlines; 3) to permit HUD to determine whether each participant meets the HOME statutory income targeting and affordability requirements; and 4) to permit HUD to determine compliance with other statutory and regulatory program requirements. This data collection is authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act or related authorities. Access to Federal grant funds is contingent on the reporting of certain project-specific data elements. Records of information collected will be maintained by the recipients of the assistance. Information on activities and expenditures of grant funds is public information and is generally available for disclosure. Recipients are responsible for ensuring confidentiality when public disclosure is not required.

This form is intended to collect numeric data to be aggregated nationally as a complement to data collected through the Cash and Management Information (C/MI) System. Participants should enter the reporting period in the first block. The reporting period is October 1 to September 30. Instructions are included for each section if further explanation is needed.

Submit this form on or before December 31.	This report is for period (mm/dd/yyyy)		Date Submitted (mm/dd/yyyy)
Send one copy to the appropriate HUD Field Office and one copy to:	Starting	Ending	
HOME Program, Rm 7176, 451 7th Street, S.W., Washington D.C. 20410	07/01/2009	06/30/2010	09/25/10

Part I Participant Identification

1. Participant Number	2. Participant Name
MC-20-0204	City of Wichita

3. Name of Person completing this report	4. Phone Number (Include Area Code)
Mary K. Vaughn, Director of Housing and Community Services	(316) 462-3795

5. Address	6. City	7. State	8. Zip Code
322 N. Riverview	Wichita	KS	67203

Part II Program Income

Enter the following program income amounts for the reporting period: in block 1, enter the balance on hand at the beginning; in block 2, enter the amount generated; in block 3, enter the amount expected; and in block 4, enter the amount for Tenant-Based rental Assistance.

1. Balance on hand at Beginning of Reporting Period	2. Amount received during Reporting Period	3. Total amount expended during Reporting Period	4. Amount expended for Tenant-Based Rental Assistance	5. Balance on hand at end of Reporting Period (1+2-3)= 5
$ 0.00	$ 594,299.31	$ 594,299.31	$0.00	$ 75,709.39

Part III Minority Business Enterprises (MBE) and Women Business Enterprises (WBE)

In the table below, indicate the number and dollar value of contracts for HOME projects completed during the reporting period.

	a. Total	Minority Business Enterprises (MBE)				f. White Non-Hispanic
		b. Alaskan Native or American Indian	c. Asian or Pacific Islander	d. Black Non-Hispanic	e. Hispanic	
A. Contracts 1. Number	15			2	1	12
2. Dollar Amount	$151,422.01			$38,375.00	$35,000.00	$78,047.01
B. Sub-Contracts 1. Number	0					
2. Dollar Amount	0					

	a. Total	b. Women Business Enterprises (WBE)	c. Male
C. Contracts 1. Number	15	1	14
2. Dollar Amount	$151,422.01	$110.00	$15,312.01
D. Sub-Contracts 1. Number	5		5
2. Dollar Amounts	$7,915.00		$7,915.00

Part IV Minority Owners of Rental Property

In the table below, indicate the number of HOME assisted rental property owners and the total dollar amount of HOME funds in these rental properties assisted during the reporting period.

	a. Total	Minority Property Owners				f. White Non-Hispanic
		b. Alaskan Native or American Indian	c. Asian or Pacific Islander	d. Black Non-Hispanic	e. Hispanic	
1. Number	0					
2. Dollar Amount	0					

Part V Relocation and Real Property Acquisition

Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition. The data provided should reflect only displacements and acquisitions occurring during the reporting period.

	a. Number	b. Cost
1. Parcels Acquired	0	0
2. Businesses Displaced	0	0
3. Nonprofit Organizations Displaced	0	0
4. Households Temporarily Relocated, not Displaced	0	0

Households Displaced	a. Total	Minority Business Enterprises (MBE)				f. White Non-Hispanic
		b. Alaskan Native or American Indian	c. Asian or Pacific Islander	d. Black Non-Hispanic	e. Hispanic	
5. Households Displaced - Number	0					
6. Households Displaced - Cost	0					

HOME Match Report

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB Approval No. 2506-0171
(exp. 12/31/2012)

Match Contributions for
Federal Fiscal Year 7/1/09 through 6/30/10

Part I Participant Identification

1. Participant No. (assigned by HUD)	2. Name of the Participating Jurisdiction	3. Name of Contact (person completing this report)
MC-20-0204	City of Wichita	Mary K. Vaughn, Director of Housing and Community Services
5. Street Address of the Participation Jurisdiction		4. Contact's Phone Number (include area code)
332 N. Riverview (Housing and Community Services Department)		(316) 462-3795

6. City	7. State	8. Zip Code
Wichita	KS	67203

Part II Fiscal Year Summary

1. Excess match from prior Federal fiscal year	$ 2,804,884.63	
2. Match contributed during current Federal fiscal year (see Part III.9.)	$ 620,231.72	
3. Total match available for current Federal fiscal year (line 1 + line 2)		$ 3,425,116.35
4. Match liability for current Federal fiscal year.		$ 237,208.91
5. Excess match carried over to next Federal fiscal year (line 3 minus line 4)		$ 3,187,907.44

Part II Match Contribution for the Federal Fiscal Year

1. Project No. or Other ID	2. Date of Contribution (mm/dd/yyyy)	3. Cash (non-Federal sources)	4. Foregone Taxes, Fee, Charges	Appraised Land / Real Property	6. Required Infrastructure	7. Site Preparation, Construction Materials, Donated labor	8. Bond Financing	9. Total Match
2120	7/16/09	24,044.00	20,064.72					44,108.72
2121	7/22/09	4,100.00						4,100.00
2128	8/27/09	24,044.00	23,784.72					47,828.72
2129	9/10/09	25,000.00	22,861.39					47,861.39
2057	9/28/09		4,532.00					4,532.00
2198	10/22/09	24,044.00	23,814.72					47,858.72
2138	10/27/09	25,000.00	22,937.88					47,937.88
2197	10/29/09	25,000.00	22,891.39					47,891.39
2139	11/12/09	24,044.00	23,814.72					47,858.72
2201	11/18/09	20,000.00	24,611.70					44,611.70
2199	11/23/09	24,044.00	23,784.72					47,828.72

1. Project No. or Other ID	2. Date of Contribution (mm/dd/yyyy)	3. Cash (non-Federal sources)	4. Foregone Taxes, Fee, Charges	Appraised Land / Real Property	6. Required Infrastructure	7. Site Preparation, Construction Materials, Donated labor	8. Bond Financing	9. Total Match
2202	11/24/09	25,000.00	22,891.39					47,891.39
2086	12/16/09		4,581.00	6,000.00				10,581.00
2010	1/21/10		803.00					803.00
2062	1/28/10	3,500.00	4,537.00					8,037.00
2136	2/2/10		4,621.00	6,000.00				10,621.00
2137	2/26/10		4,621.00	6,000.00				10,621.00
2143	2/26/10	3,500.00	4,606.00					8,106.00
2106	3/5/10	1,500.00	905.00					2,405.00
2142	3/24/10		4,581.00					4,581.00
2205	3/24/10		4,613.00					4,613.00
2144	3/30/10	3,500.00	808.00					4,308.00
2206	5/28/10		4,606.00					4,606.00
2208	6/11/10		4,552.00					4,552.00
2210	6/23/10		4,583.00					4,583.00
2209	6/25/10		4,613.00	5,000.00				9,613.00
2224	6/30/10	25,000.00	24,205.37					49,205.37
2101	12/17/08		2,687.00					2,687.00

Emergency Shelter Grant Program Narrative

1. Assessment of Relationship of ESG Funds to Goals and Objectives

The City's Emergency Shelter Grant (ESG) program is part of the Wichita/Sedgwick County Continuum of Care, and provides funds to local agencies to help meet the needs of the homeless and near-homeless. During the reporting period the City continued to work with the local CoC to support a variety of homeless assistance programs. This local network of non-profit organizations provides a range of services, including:

Access to Mainstream Resources	Food	Permanent Supportive Housing
Emergency, short-term shelter	Case Management	Mental Health Assessments
Outreach and Referrals	Permanent Housing	Transitional Housing

In 2009-2010, the City received ESG funds in the amount of $125,266, and awarded those funds to eight agencies. All ESG funds are used for homeless prevention, operation of emergency shelters, and to provide essential services for the homeless. The City's contracts with local agencies include requirements for direct services, matching funds, record keeping and reporting as required by HUD.

For additional information on how the City is accomplishing goals and objectives to assist homeless families including chronically homeless individuals see page 52 of this report.

2. Matching Resources

All local homeless services agencies that contract with the City provide matching funds or in-kind services equal to their allocation.

3. Activity and Beneficiary Data

Catholic Charities – St. Anthony Family Shelter. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, and support groups 483 homeless individuals and family members. The City's combined ESG allocation of $24,048 supported the total program budget of $766,246.

Catholic Charities – Harbor House. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, a crisis line and support groups for 284 women and children who were victims of domestic violence. The City's combined ESG allocation of $6,662 supported the total program budget of $1,525,491.

Center of Hope. During 2009-2010 program year, this agency provided rental and utility assistance to 75 persons in danger of becoming homeless because they could not afford to pay

rent or for having their utilities turned off. The City's ESG allocation of $9,655 supported the total program budget of $715,716.

Inter-Faith Ministries – Inter-Faith Inn. During 2009-2010 program year, this agency provided emergency shelter, food, clothing, and access to health care, job counseling and transportation services for 1,005 homeless persons. The City's combined ESG allocation of $23,705 supported the total program budget of $235,394.

Inter-Faith Ministries – Ti'Wiconi Safe Haven. During 2009-2010 program year, this agency provided emergency shelter, food, counseling, case management and support services for 95 homeless persons with chronic mental illness. The City's ESG allocation of $8,719 supported the total program budget of $253,912.

Salvation Army – Emergency Lodge. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, and support groups for 378 persons who were homeless. The City's combined ESG allocation of $ 21,929 supported the total program budget of $431,422.

United Methodist Open Door – Drop In Center. During 2009-2010 program year, this agency provided day services, a place to get in out of the weather, showers, laundry facility, and advocacy for 926 persons who were homeless. The City's ESG allocation of $20,686 supported the total program budget of $166,104.

YWCA Women's Crisis Center. During 2009-2010 program year, this agency provided emergency shelter, food, advocacy, and support groups for 381 persons who were victims of domestic violence. The City's ESG allocation of $3,599 supported the total program budget of $522,299.

4. Chronic Homelessness

As noted above, $8,719 in ESG funds were allocated to Inter-Faith Ministries – Ti'Wiconi Safe Haven, an agency that provides emergency shelter, food, counseling, case management and support services for 95 chronically homeless persons with chronic mental illness. The City's ESG allocation of $8,719 supported the total program budget of $253,912.

5. Homeless Discharge Coordination

Foster Care Discharge Protocol

Kansas Department of Social and Rehabilitative Services, which includes Children and Family Services, has adopted a policy that would prevent discharging homeless individuals from publicly funded institutions or systems of care into homelessness or into HUD funded programs for the homeless. The policy was approved December 2006. The policy states that staff will ensure to the maximum extent practical and when appropriate that all individuals who are

discharged from State funded institutions or systems of care have housing options available in order to prevent being discharged into homelessness. Youth who leave the foster care system because they have attained 18 years of age are eligible to participate in Independent Living Services through the Chafee Foster Care Independence Program. This is a voluntary program and youth may choose not to participate. Prior to discharge/release at 18 years of age, youth receive information concerning transitional planning which includes information on housing, employment and educational services available to them through the Independent Living Program. Transition plans do not include direct discharge to homeless shelters.
SRS-Children and Family Services has six Regional Independent Living Coordinators who help children in Foster Care transition into adulthood.

Health Care Discharge Protocol

The Kansas Department on Aging follows state and federal regulations in relation to discharge planning however neither the state nor federal regulations address assurance that residents will be discharged into housing. The Kansas Department on Aging has agreed to be a member of the Kansas Interagency Council on Homelessness. Further discussions will occur in 2008-2009 at the KICH meetings. The same applies to general health care facilities. They are bound by state and federal regulations but assurance that housing will be available is not in the regulations. The Kansas Hospital Association will be asked to join the Kansas Interagency Council on Homelessness.

Mental Health Discharge Protocol

Kansas Department of Social and Rehabilitative Services (SRS), which includes Mental Health Services, has adopted a formal policy that would prevent discharging homeless individuals from publicly funded institutions or systems of care into homelessness or into HUD funded programs for the homeless. The policy was approved December 2006. The policy states that staff will ensure to the maximum extent practical and when appropriate that all individuals who are discharged from State funded institutions or systems of care have housing options available in order to prevent being discharged into homelessness. SRS-MH is currently developing a strategic plan to standardize the discharge planning protocol among all three State Mental Health Hospitals. A brief summary of the charge to the planning committee is: 1. Develop Discharge Protocol; a. develop a hospital discharge protocol that addresses continuing care needs; b. the protocol should address the needs of special populations and co-occurring issues (Mental Retardation/Substance Abuse, offenders, behavioral issues aging, homeless);c. protocol should describe how sharing and improving access to records will occur across systems. Agencies involved are: Social and Rehabilitative Service-Disability and Behavioral Health Services, Association of Community Mental Health Centers, Department of Education, Larned State Hospital, Mercy Regional Hospital, Area Mental Health Center, Prairie View Mental

Health Center, Kaw Valley Center, Kansas NAMI, Osawatomie State Hospital, Topeka Independent Living Center, Havilland Nursing Facility for Mental Health, Wichita State University, Value Options, consumers of mental health services and their family members.

Corrections Discharge Protocol

The Kansas Department of Corrections has a formal policy regarding release and discharge planning, with planning for all offenders beginning at 16 months pre-release, or upon admission if their length of incarceration is less than 16 months. Offenders are assessed for risk and need, and plans are developed for their return to the community. Specialized reentry and discharge planning staff are in all facilities working with offenders. Housing specialists in Topeka, Kansas City and Wichita support release and discharge planners in their effort to find suitable housing for offenders. There are still many barriers, but the issue is receiving a lot of attention by case managers and specialists in the corrections system.

Public Participation

The City of Wichita Consolidated Annual Performance Evaluation Report was available for public review from August 23, 2010 until September 6, 2010 at the following locations:

City Hall

- City Council Office — 1st Floor
- Metropolitan Area Planning Department — 10th Floor
- Controller's Office — 12th Floor
- City Manager's Office — 13th Floor

Housing and Community Services Department

Wichita Public Library

- Central Library
- Alford
- Angelou Northeast
- Comotara
- Evergreen
- Linwood Park
- Orchard Park
- Rockwell
- Westlink

Neighborhood City Halls

- Atwater
- Stanley
- Evergreen
- Colvin

Written comments could be submitted to the Housing and Community Services Department until September 6, 2010. Oral comments could be made at the September 21, 2010 Public Hearing held during the City Council meeting on the first floor of City Hall, 455 N Main, Wichita Kansas. Instructions were given in the Public Notice for anyone requiring an auxiliary aid or service for effective communication with City of Wichita personnel to contact the ADA Coordinator in the Office of the City Manager no later than 48 hours before the scheduled event.

No comments were received.

City of Wichita
City Council
September, 2010

Carl Brewer, Mayor
Jeff Longwell, District 5 and Vice Mayor
Paul Gray, District 4
Janet Miller, District 6
Sue Schlapp, District 2
Jim Skelton, District 3
Lavonta Williams, District 1

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and Members of the City Council

SUBJECT: Water and Sewer Utility Revenue Bonds, Series 2010A and Series 2010B

INITIATED BY: Finance Department

AGENDA: New Business

Recommendation: Approve the bids.

Background: The City is offering for sale two series of Water and Sewer Utility Revenue Bonds (Series 2010A and 2010B) in an amount not to exceed $50,535,000 for the purpose of providing permanent financing for duly authorized capital improvement projects of the Utility. Sealed bids for the aforementioned Bonds will be received by the City in the Finance Conference Room until 10:00 a.m. CST on September 21, 2010.

Analysis: The estimated principal amount for the bonds is based on an amount necessary to primarily reimburse current and prior cash reserve expenditures, pay for costs of issuance and provide funding for required bond reserves. The debt is structured in such a way that it allows for inter-generational equity by spreading a portion of the costs out to a total of 20 years, the typical term for utility debt.

Sealed bids will be accepted electronically through ***PARITY*** Electronic Bid Submission System until 10:00 a.m. CST in the Finance Conference Room, at which time the bids will be publicly opened. No bids will be accepted after the 10:00 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at its earliest convenience following the tabulation of the bids. By law, the City must award the sale of the bonds to the bidder whose proposed interest rates result in the lowest true interest rate.

Financial Considerations: The Series 2010A and 2010B Bonds will mature serially over twenty years and will be paid from revenues collected by the Utility. The Series 2010 Bonds will be callable on and after October 1, 2020.

Goal Impact: The permanent financing of capital costs enhances Efficient Infrastructure through construction efforts providing reliable, compliant and secure utilities. The Internal Perspective is also impacted as a result of the permanent financing of capital improvements and by offering these debt obligations through competitive sale.

Legal Considerations: Bond Counsel will review and approve the bids and the Law Department has approved the authorizing Ordinances and Resolutions which have been prepared by Bond Counsel.

Recommendations/Actions: It is recommended that the City Council: (1) direct the opening and reading of the bids; (2) award the sale of the Bonds subject to approval of the final sizing terms of the Bonds by the City Manager; and (3) find and declare, upon the request of the Mayor, that a public emergency exists, requiring the final passage of the Bond Ordinance on the date of its introduction, adopt the Bond Ordinance and Resolution and authorize the publication thereof.

Attachments: Bond Ordinance
Bond Resolution
Request for Declaration of Emergency

RESOLUTION NO. 10-257

OF

THE CITY OF WICHITA, KANSAS

ADOPTED SEPTEMBER 21, 2010

PROVIDING FOR THE ISSUANCE OF

NOT TO EXCEED $33,345,000
WATER AND SEWER UTILITY
REVENUE BONDS
SERIES 2010A

AND

NOT TO EXCEED $17,190,000
WATER AND SEWER UTILITY
REVENUE BONDS
SERIES 2010B (TAXABLE UNDER FEDERAL LAW)

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RESOLUTION NO. 10-257

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR CONSTRUCTING, RECONSTRUCTING, ALTERING, REPAIRING, IMPROVING, EXTENDING OR ENLARGING OF THE MUNICIPAL WATER AND SEWER UTILITY AND FOR FUNDING OF REQUIRED RESERVES FOR OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY OF WICHITA, KANSAS; PRESCRIBING THE FORM AND DETAILS OF NOT TO EXCEED $33,345,000 AGGREGATE PRINCIPAL AMOUNT OF WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010A, AND NOT TO EXCEED $17,190,000 AGGREGATE PRINCIPAL AMOUNT OF WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010B (TAXABLE UNDER FEDERAL LAW) PREVIOUSLY AUTHORIZED TO PAY A PORTION OF THE COST THEREOF; PROVIDING FOR THE COLLECTION, SEGREGATION AND APPLICATION OF THE REVENUES OF THE UTILITY FOR THE PURPOSES AUTHORIZED BY LAW, AND MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS AND SUPPORTING DOCUMENTS.

WHEREAS, the Governing Body the City of Wichita, Kansas (the "City"), pursuant to the Bond Ordinance (as herein defined), has authorized the issuance of the Series 2010A Bonds (as herein defined) in the aggregate principal amount of not to exceed $33,345,000 and the Series 2010B Bonds (as herein defined) in the aggregate principal amount of not to exceed $17,190,000, to provide for the issuance and delivery of revenue bonds payable from the Net Revenues (as herein defined) of the Utility (as herein defined); and

WHEREAS, the Bond Ordinance authorized the Governing Body of the City to adopt a resolution prescribing certain details and conditions and making certain covenants with respect to the issuance of the Series 2010A Bonds and the Series 2010B Bonds (collectively, the "Series 2010 Bonds"), the operation and maintenance of the Utility and the disposition of moneys deposited in the Water and Sewer Utility Revenue Fund (as herein defined);

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

ARTICLE I

DEFINITIONS; THE PROJECTS

Section 101. Definitions of Words and Terms. In addition to the words and terms defined elsewhere in this Resolution, the following words and terms as used in this Resolution shall have the following meanings:

"Act" shall mean the Constitution and Statutes of the State, including Article 12, Section 5, of the Constitution of the State, Charter Ordinance No. 211, K.S.A. 10-101 *et seq.,* as amended and supplemented, and K.S.A. 10-1201 *et seq.,* as amended and supplemented.

"Additional Bonds" shall mean any additional revenue bonds issued pursuant to and in accordance with Article IX hereof.

"Annual Budget" shall mean with respect to the Utility, the City's budget of estimated receipts and expenditures on account of all Funds and Accounts created under the provisions of this Resolution, including a budget of Current Expenses, for any Fiscal Year and adopted pursuant to the provisions of Section 1004 of this Resolution.

"Authentication Date" shall mean the date on which a Bond is registered and authenticated by the Fiscal Agent as shown on the Certificate of Authentication which is on the Bond.

"Authorized Investments" shall mean any of the following securities, and to the extent the same are at the time permitted for investment of funds held by the City pursuant to the Bond Ordinance and this Resolution:

(A) For all purposes, including as defeasance investments in refunding escrow accounts:

(1) Cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following paragraph (2)), or

(2) Direct non-callable obligations of (including obligations issued or held in book-entry form on the books of) the Department of the Treasury of the United States of America; and

(B) For all purposes other than defeasance investments in refunding escrow accounts:

(1) obligations of any of the following Federal agencies which obligations represent the full faith and credit of the United States of America, including:

-- Export - Import Bank
-- Farmers Home Administration General
-- General Services Administration
-- U.S. Maritime Administration
-- Small Business Administration
-- Government National Mortgage Association (GNMA)
-- U.S. Department of Housing & Urban Development (PHA's)
-- Federal Housing Administration;

(2) bonds, notes or other evidences of indebtedness rated "*AAA*" by Standard & Poor's Rating Services, a division of the McGraw-Hill Companies ("S&P") and "*Aaa*" by Moody's Investors Services, Inc. ("Moody's") issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;

(3) investments in shares or units of a money market fund or trust, the portfolio of which is comprised entirely of securities in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

(4) Pre-refunded Municipal Obligations defined as follows: Any bonds or other obligations of the State or of any agency, instrumentality or local governmental unit of such State which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (A) which are rated, based on an irrevocable escrow account or fund (the "escrow"), in the highest rating category of S&P and Moody's, or any successors thereto; or (B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (1) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(5) investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's or S&P;

(6) Repurchase agreements secured by direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation; and

(7) Receipts evidencing ownership interests in securities or portions thereof in direct obligations of the United States Government or any agency thereof or obligations of the Federal National Mortgage Association, Federal Home Loan Banks or Federal Home Loan Mortgage Corporation;

Provided, however, that after the defeasance of the Pre-2008 Bonds, Authorized Investments for all purposes other than defeasance investments in refunding escrow accounts shall include all investments permitted under the laws of the State.

(C) The value of the above investments shall be determined as of the end of each month. (See the definition of "Value" herein).

"Bond Counsel" shall mean Kutak Rock LLP, Kansas City, Missouri, or any other attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized and acceptable to the City.

"Bond Insurer" shall mean the issuer, if any, of a Municipal Bond Insurance Policy described on **Exhibit B** to this Resolution.

"Bond Ordinance" shall mean the ordinance of the City authorizing the issuance of the Series 2010 Bonds as further described on **Exhibit B** to this Resolution.

"Bond Registrar" shall mean the Treasurer of the State, Topeka, Kansas, and its successors and assigns.

"Bond Reserve Account" shall mean the Water and Sewer Utility Bond Reserve Account initially created by the Series 1993 Ordinance.

"Bond Reserve Requirement" shall mean, collectively, the 1998 Bond Reserve Requirement as established by the Series 1998 Ordinance, the 1999 Bond Reserve Requirement as established by the Series 1999 Ordinance, the 2000 Bond Reserve Requirement as established by the Series 2000 Ordinance, the 2003 Bond Reserve Requirement as established by the Series 2003 Ordinance, the 2005A Bond Reserve Requirement as established by the Series 2005A Ordinance, the 2005B Bond Reserve Requirement as established by the Series 2005B Ordinance, the 2005C Bond Reserve Requirement as established by the Series 2005C Ordinance, the 2006 Bond Reserve Requirement as established by the Series 2006 Ordinance, the 2008A Bond Reserve Requirement as established by the Series 2008A Ordinance, the 2009A Bond Reserve Requirement as established by the Series 2009 Ordinance, the 2009B Bond Reserve Requirement as established by the Series 2009 Ordinance, and the 2010A Bond Reserve Requirement and 2010B Bond Reserve Requirement as established by this Resolution, and any bond reserve requirement established for any subsequent series of Parity Bonds.

"Bonds" shall mean the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2003 Bonds, the Series 2005A Bonds, the Series 2005B Bonds, the Series

2005C Bonds, the Series 2006 Bonds, the Series 2008A Bonds, the Series 2009A Bonds, the Series 2009B Bonds, the Series 2010A Bonds and the Series 2010B Bonds authorized by the Bond Ordinance and this Resolution, and any Additional Bonds issued pursuant to and in accordance with Article IX hereof.

"Bondowner(s)" shall mean the Owner(s) of the Bonds.

"Business Day" shall mean a day which is not a Saturday, Sunday or a day designated as a holiday by the Congress of the United States or by the legislature of the State and on which banks in the State are not authorized to be closed.

"City" shall mean the City of Wichita, Kansas.

"City Clerk" shall mean the duly appointed and acting City Clerk of the City, or in the absence thereof, any duly appointed Deputy City Clerk or Acting City Clerk of the City.

"Code" shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with Regulations promulgated thereunder by the United States Department of the Treasury.

"Costs of Issuance" shall mean all costs of issuing the Series 2010 Bonds, and may include but are not limited to, all publication, printing, signing and mailing expenses in connection therewith, registration fees, all legal fees and expenses of Bond Counsel and other legal counsel, accounting expenses incurred in connection with the determination of Yield or Rebate Amount, all expenses incurred in connection with receiving ratings on the Series 2010 Bonds, and, if applicable, premiums or expenses incurred in obtaining municipal bond insurance.

"Consulting Engineers" shall mean the engineer or engineering firm or corporation at the time employed under the provisions of Section 1005 of this Resolution.

"Current Expenses" shall mean, as applied to either component of the Utility, the City's reasonable and necessary current expenses of operation, repair and maintenance, and shall include, without limiting the generality of the foregoing, (i) all ordinary and usual expenses of maintenance, repair and operation, which may include expenses not annually recurring, (ii) all administrative expenses, (iii) any reasonable payments to pension or retirement funds properly chargeable to each component of the Utility, (iv) insurance premiums, (v) engineering expenses relating to operation, repair and maintenance, (vi) legal expenses, (vii) any lawful fiscal agency commissions and expenses in connection with the payment of the principal of and the interest and any redemption premium on Outstanding Bonds, (viii) any taxes which may be lawfully imposed on either component of the Utility or the income therefrom and reserves for such taxes, (ix) the expenses of collecting rates, fees and charges for the use of and for the services furnished or to be furnished by the Utility, (x) if required by law, the payment of the principal of and the interest on outstanding bonds and other obligations heretofore issued by the City or by improvement districts heretofore annexed by the City to pay the cost of any portion of the

Utility to the extent that the special assessments and taxes pledged for the payment of such principal and interest shall be insufficient for such purposes and to the extent that such payment shall not be made from the Improvement Account, and (xi) any other expenses required to be paid by the City under the provisions of this Resolution or by law. "Current Expenses" shall not include any reserves for extraordinary maintenance or repair, or any allowance for depreciation, or any deposits or transfers to the credit of the Principal and Interest Account, the Bond Reserve Account, the Depreciation and Replacement Account or the Improvement Account.

"Date of Issuance" shall mean the date on which the applicable series of Series 2010 Bonds are delivered to the Underwriters and the City receives from the Underwriters the full purchase price therefor.

"Dated Date" shall mean the dated date of the Bonds. The Dated Date of the Series 2010 Bonds is October 15, 2010.

"Debt Service" shall mean the scheduled amount of interest and maturing principal payable for that Bond Year, as described in the Code.

"Debt Service Requirements" shall mean the required payments of the principal of, premium, if any, and the interest on the Bonds and any Policy Costs owing by the City, all in accordance with the terms and provisions of this Resolution or any Parity Bond Ordinance.

"Depreciation and Replacement Account" shall mean the Water and Sewer Utility Depreciation and Replacement Account initially created by the Series 1993 Ordinance.

"Direct Participants" shall have the meaning set forth in and defined by the Letter of Representations.

"Director of Finance" shall mean the duly appointed and acting Director of Finance of the City, or in the absence thereof, any duly appointed Deputy, Assistant or Acting Director of Finance of the City.

"Director of Water and Sewer" shall mean the duly appointed or acting Director of the Wichita Water Utilities or Assistant Director of the Wichita Water Utilities, or the officer succeeding to the principal functions of the Director of the Wichita Water Utilities.

"DTC" shall mean The Depository Trust Company.

"Existing Bond Ordinances" shall mean, collectively, the Series 1998 Ordinance, the Series 1999 Ordinance, the Series 2000 Ordinance, the Series 2003 Ordinance, the Series 2005A Ordinance, the Series 2005B Ordinance, the Series 2005C Ordinance, the Series 2006 Ordinance, the Series 2008A Ordinance and the Series 2009 Ordinance.

"Existing Bonds" shall mean, collectively, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2003 Bonds, the Series 2005A Bonds, the Series 2005B Bonds, the Series 2005C Bonds, the Series 2006 Bonds, the Series 2008A Bonds, the Series 2009A Bonds and the Series 2009B Bonds.

"Fiscal Agent" shall mean the Bond Registrar and/or the Paying Agent.

"Fiscal Year" shall mean the Fiscal Year of the City, currently being the 12 months ending each December 31.

"Funds and Accounts" shall mean the Funds and Accounts created or ratified, continued and confirmed by Article V of this Resolution.

"Governing Body" shall mean the duly elected and/or appointed and acting persons comprising the City Council of the City.

"Government Obligations" means (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in the following phrase (ii)), or (ii) direct non-callable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America).

"Gross Revenues" shall mean all receipts and revenues, including interest earnings, but excluding non-cash capital contributions, derived by the City from the Utility.

"Indirect Participants" shall have the meaning set forth in and defined by the Letter of Representations.

"Interest Payment Date" shall mean any date on which interest on the Bonds is due and payable. The Interest Payment Dates for the Series 2010 Bonds is April 1 and October 1 of each year, commencing April 1, 2011, and ending on the final maturity date of the applicable series of Series 2010 Bonds, or at such other time as such series of Series 2010 Bonds are paid or provision is made for the payment thereof.

"Letter of Representations" shall mean that certain Blanket Letter of Representations between the City and DTC.

"Mayor" shall mean the duly elected and acting Mayor of the City or, in the Mayor's absence the duly appointed and/or elected Vice Mayor or Acting Mayor of the City.

"Municipal Bond Insurance Policy" shall mean, if applicable, the municipal bond insurance policy issued by Bond Insurer insuring the payment when due of the principal of and interest on a series of Series 2010 Bonds when due as described on **Exhibit B** to this Resolution.

"Net Proceeds" shall mean any insurance proceeds or condemnation awards, paid with respect to the Utility, remaining after the payment therefrom of all expenses incurred in the collection thereof.

"Net Revenues" shall mean for any period the amount of the excess of Gross Revenues of the Utility including investment income deposited to the credit of the Revenue Fund, respectively, over the Current Expenses of the respective components of the Utility paid from the Revenue Fund during such period; such amount specifically excluding debt service payments, depreciation, amortization and capital expenditures for improvements to the Utility.

"Net Revenues Available for Debt Service" shall mean the Net Revenues.

"Operating Revenues" shall mean the Gross Revenues of the Utility less investment income and less costs and expenses of operation, maintenance and repair of the Utility.

"Original Proceeds" shall mean all proceeds, including accrued interest, derived from the sale of the Bonds.

"Outstanding" shall mean, as of a particular date, all Bonds theretofore issued, authenticated and delivered under the provisions of this Resolution or any Parity Bond Ordinance, except (i) Bonds theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation pursuant to this Resolution or any Parity Bond Ordinance, (ii) Bonds for the payment or redemption of which moneys or investments have been deposited in accordance with Article XIII of this Resolution or any Parity Bond Ordinance, and (iii) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered pursuant to this Resolution or any Parity Bond Ordinance.

"Owner(s)" or "Registered Owner(s)" shall mean, when used with respect to any Bond, the person or entity in whose name the Bond is registered as shown on the Registration Books maintained by the Fiscal Agent.

"Parity Bonds" shall mean Additional Bonds issued pursuant to Section 902 of this Resolution.

"Parity Bond Ordinance" shall mean, collectively, the Series 1998 Ordinance, the Series 1999 Ordinance, the Series 2000 Ordinance, the Series 2003 Ordinance, the Series 2005A Ordinance, the Series 2005B Ordinance, the Series 2005C Ordinance, the Series 2006 Ordinance, the Series 2008A Ordinance, the Series 2009 Ordinance, the Bond Ordinance and this Resolution authorizing the Series 2010 Bonds, and any subsequent ordinance of the City authorizing the issuance of Parity Bonds.

"Participants" shall have the meaning set forth in and defined by the Letter of Representations.

"Paying Agent" shall mean the Treasurer of the State, Topeka, Kansas, its successors and assigns.

"Payment to the City" shall mean the payment to the City's general fund as a payment for operation of the Utility. So long as any Series 1998 Bonds or Series 1999 Bonds remain Outstanding, the amount of the annual Payment to the City shall be not more than five percent (5%) of the Gross Revenues of the Utility for the preceding year to the extent available after other obligations of the Utility have been met. At such time as the Series 1998 Bonds and Series 1999 Bonds are no longer Outstanding, the amount of the annual Payment to the City shall be governed by the terms of such ordinances of the City which are then in effect with respect to the then outstanding Utility revenue bonds, subject to the approval of the provider of the bond insurance policy for the Series 1998 Bonds and the Series 1999 Bonds.

"Pre-2008 Bonds" shall mean, collectively, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2003 Bonds, the Series 2005A Bonds, the Series 2005B Bonds, the Series 2005C Bonds and the Series 2006 Bonds.

"Pre-2009 Bonds" shall mean, collectively, the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2003 Bonds, the Series 2005A Bonds, the Series 2005B Bonds, the Series 2005C Bonds, the Series 2006 Bonds and the Series 2008A Bonds.

"Principal and Interest Account" shall mean the Water and Sewer Utility Principal and Interest Account created by the Series 1993 Ordinance.

"Principal Payment Date" shall mean any date on which the principal of the Bonds is due and payable. The Principal Payment Dates for the Series 2010 Bonds are October 1 of each year, commencing October 1, 2011, and continuing annually thereafter until such time as the aggregate principal amount of the applicable series of Series 2010 Bonds has been paid or provision is made for the payment thereof.

"Projects," means the Series 2010A Projects and the Series 2010B Projects.

"Project Costs" shall mean, as applied to the Projects, any and all costs and expenses incurred in connection with the acquisition or construction of the Projects, and shall include, without intending thereby to limit or restrict any proper definition of such words under the provisions of the Act, the following:

(A) Obligations incurred for labor and to contractors, builders and materialmen in connection with the construction of the Projects, for machinery and equipment, and for the restoration of property damaged or destroyed in connection with such construction;

(B) Taxes or other municipal or governmental charges lawfully levied or assessed during construction upon the Projects or any property acquired therefor, and premiums on insurance (if any) in connection with the Projects during the construction thereof;

(C) Fees and expenses of engineers, including the Consulting Engineers, for

studies, surveys and estimates, engineering, and the preparation of plans and supervision of construction, as well as for the performance of all other duties of engineers in relation to the acquisition and construction of the Projects or the issuance of financing therefor;

(D) Expenses of administration properly chargeable to the Projects, legal expenses and fees, financing charges, costs of audits and of preparing and issuing the Series 2010 Bonds, and all other items of expense not elsewhere in this definition specified but incident to the acquisition and construction of the Projects and the placing of the same in operation and to the acquisition of real estate, franchises and rights-of-way therefor, including abstracts of title and title insurance, and the financing thereof, including specifically the Costs of Issuance;

(E) The costs of acquiring by purchase, if such purchase shall be deemed expedient, and the amount of award or final judgment in or any settlement or compromise of any proceedings to acquire by condemnation, such property, lands, property rights, rights-of-way, franchises, easements and other interests in land as may be deemed necessary or convenient for the acquisition or construction of the Projects, or the operation thereof, options and partial payments thereon, and the amount of any damages incident to or consequent upon the acquisition or construction of the Projects; and

(F) Any obligation or expense heretofore or hereafter incurred by the City and any amounts heretofore or hereafter advanced by the City or by any agency of the State or the Federal Government for any of the foregoing purposes, specifically including the payment and retirement of any temporary financing which may have previously been issued for any individual Project.

"Project Funds," for purposes of this Resolution, shall mean, collectively, the 2010A Sewer Project Fund, the 2010A Water Project Fund, the 2010B Sewer Project Fund and the 2010B Water Project Fund created by this Resolution.

"Purchase Price" shall mean, with respect to each series of Series 2010 Bonds, the original purchase price for such series as described on **Exhibit C** to this Resolution.

"Rating Agency" shall mean Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., the rating agency assigning a rating to the Series 2010A Bonds.

"Rebate Account" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010A, Rebate Account created by this Resolution.

"Record Date" shall mean the fifteenth (15th) day of the month next preceding an Interest Payment Date.

"Registration Books" shall mean the books maintained on behalf of the City by the Fiscal Agent for the registration and transfer from time to time of the ownership of the Bonds.

"Resolution" shall mean this Resolution adopted by the Governing Body of the City on September 21, 2010, prescribing the terms and details of the Series 2010 Bonds.

"Revenue Fund" shall mean the City's existing Water and Sewer Utility Revenue Fund.

"Series 1993 Bonds" shall mean the City's combined Series A, 1993 Bonds and Series B, 1993 Bonds.

"Series A, 1993 Bonds" shall mean the City of Wichita, Kansas Water and Sewer Utility Refunding Revenue Bonds, Series A, 1993, authorized by the Series 1993 Ordinance, issued in the original principal amount of $26,455,000, and dated February 1, 1993, none of which remain Outstanding.

"Series B, 1993 Bonds" shall mean the City of Wichita, Kansas Water and Sewer Utility Refunding and Improvement Revenue Bonds, Series B, 1993, authorized by the Series 1993 Ordinance, issued in the original principal amount of $49,865,000, and dated February 1, 1993, none of which remain Outstanding.

"Series 1998 Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Refunding Revenue Bonds, Series 1998, authorized by the Series 1998 Ordinance, in the original principal amount of $29,135,000, and dated September 1, 1998.

"Series 1999 Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 1999, authorized by the Series 1999 Ordinance, in the original principal amount of $48,950,000, and dated July 1, 1999.

"Series 2000 Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2000, authorized by the Series 2000 Bond Ordinance, in the original principal amount of $7,220,000, and dated June 1, 2000.

"Series 2003 Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2003, authorized by the Series 2003 Ordinance, in the principal amount of $120,365,000 and dated February 1, 2003.

"Series 2005A Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Refunding Revenue Bonds, Series 2005A, authorized by the Series 2005A Ordinance, in the principal amount of $45,535,000 and dated the date of issuance thereof.

"Series 2005B Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Refunding Revenue Bonds, Series 2005B, authorized by the Series 2005B Ordinance, in the principal amount of $26,695,000 and dated the date of issuance thereof.

"Series 2005C Bonds" shall mean the outstanding City of Wichita, Kansas Water and

Sewer Utility Revenue Bonds, Series 2005C, authorized by the Series 2005C Ordinance, in the principal amount of $46,975,000 and dated October 1, 2005.

"Series 2006 Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2006, authorized by the Series 2006 Ordinance, in the principal amount of $51,140,000 and dated December 1, 2006.

"Series 2008A Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2008A, authorized by the Series 2008A Ordinance, in the principal amount of $29,460,000 and dated April 1, 2008.

"Series 2009A Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2009A, authorized by the Series 2009 Ordinance, in the principal amount of $119,775,000 and dated June 30, 2009.

"Series 2009B Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2009B (Taxable Under Federal Law), authorized by the Series 2009 Ordinance, in the principal amount of $12,845,000 and dated June 30, 2009.

"Series 2010 Bonds" shall mean, collectively, the Series 2010A Bonds and the Series 2010B Bonds.

"Series 2010A Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010A, authorized by the Bond Ordinance and this Resolution, in the principal amount of not to exceed $33,345,000 and dated the Dated Date.

"Series 2010B Bonds" shall mean the outstanding City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010B (Taxable Under Federal Law), authorized by the Bond Ordinance and this Resolution, in the principal amount of not to exceed $17,190,000 and dated the Dated Date.

"Series 1993 Ordinance" shall mean Ordinance No. 41-934 of the City, adopted January 26, 1993, which authorized issuance of the Series 1993 Bonds.

"Series 1998 Ordinance" shall mean Ordinance No. 43-954 of the City, adopted September 1, 1998, which authorized issuance of the Series 1998 Bonds.

"Series 1999 Ordinance" shall mean Ordinance No. 44-257 of the City, adopted June 8, 1999, which authorized issuance of the Series 1999 Bonds.

"Series 2000 Ordinance" shall mean Ordinance No. 44-663 of the City, adopted June 13, 2000, which authorized issuance of the Series 2000 Bonds.

"Series 2003 Ordinance" shall mean Ordinance No. 45-547 of the City, adopted February 4, 2003, which authorized issuance of the Series 2003 Bonds.

"Series 2005A Ordinance" means, collectively, Ordinance No. 46-581 and Resolution No. 05-228 of the City, passed and adopted, respectively, on April 26, 2005, which authorized the issuance of the Series 2005A Bonds.

"Series 2005B Ordinance" means, collectively, Ordinance No. 46-634 and Resolution No. 05-406 of the City, passed and adopted, respectively, on August 2, 2005, which authorized the issuance of the Series 2005B Bonds.

"Series 2005C Ordinance" means, collectively, Ordinance No. 46-670 and Resolution No. 05-502 of the City, passed and adopted, respectively, on October 4, 2005, which authorized the issuance of the Series 2005C Bonds.

"Series 2006 Ordinance" means, collectively, Ordinance No. 47-300 and Resolution No. 06-609 of the City, passed and adopted, respectively, on November 14, 2006, which authorized the issuance of the Series 2006 Bonds.

"Series 2008A Ordinance" means, collectively, Ordinance No. 47-866 and Resolution No. 08-170 of the City, passed and adopted, respectively, on April 1, 2008, which authorized the issuance of the Series 2008A Bonds.

"Series 2009 Ordinance" means, collectively, Ordinance No. 48-351 and Resolution No. 09-174 of the City, passed and adopted, respectively, on June 16, 2009, which authorized the issuance of the Series 2009 Bonds.

"Sewer Utility" shall mean and include the sanitary sewer system now owned and operated by the City, and consisting of sewage disposal works, sewers, drains, pumping plants, force mains, service connections, canals, ponds, machinery, equipment and other property appurtenant thereto and any improvements, extensions and enlargements to the Sewer Utility hereafter constructed or acquired.

"State" shall mean the State of Kansas.

"Substitute Project" shall mean the substitute or additional projects authorized pursuant to Section 603 of this Resolution.

"Tax Compliance Agreement" shall mean the Certificate Relating to Arbitrage and Related Tax Matters, executed by the City, dated as of and delivered on the Date of Issuance, relating to certain matters within the scope of Section 148 of the Code, as the same may be amended or supplemented in accordance with its terms.

"Term Bonds" shall mean the Term Bonds, if any, described on **Exhibit C** to this Resolution.

"Underwriter" shall mean, with respect to each series of Series 2010 Bonds, the original purchaser of such series set forth on **Exhibit B** to this Resolution.

"Utility" shall mean the combined City of Wichita, Kansas Water Utility and Sewer Utility, and any improvements, extensions and enlargements thereto hereafter constructed or acquired.

"Value," for purposes of complying with the requirements of this Resolution shall mean the value of the Authorized Investments (which Value shall be determined as of the end of each month), calculated as follows:

(A) as to investments the bid and asked prices of which are published on a regular basis in *The Wall Street Journal* (or, if not there, then in *The New York Times)* -- the average of the bid and asked prices for such investments so published on or most recently prior to such time of determination;

(B) as to investments the bid and asked prices of which are not published on a regular basis in *The Wall Street Journal* or in *The New York Times* -- the average bid price at such time of determination for such investments by any two nationally recognized government securities dealers (selected by the City in its absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service; and

(C) as to certificates of deposit and bankers acceptances -- the face amount thereof, plus accrued interest.

Provided, however, that when the Existing Bonds are no longer Outstanding, "Value" shall be the amortized cost of an obligation or the market cost thereof, whichever is lower.

Should the value of the Authorized Investments be required for any other legal purpose, the Value shall be calculated in accordance with the applicable laws and regulations.

"Water Utility" shall mean and include the waterworks system now owned and operated by the City and consisting of real estate, water rights, purification and pumping plants, reservoirs, mains, wells, pipelines, meters, hydrants, service connections, machinery, equipment and other property appurtenant thereto, and any improvements, extensions and enlargements to the Water Utility hereafter constructed or acquired.

"2010A Bond Reserve Requirement" shall mean a sum equal to the amount of interest which shall become due and payable on the Series 2010A Bonds during the next Fiscal Year (determined in each year), except that, in no event shall the amount of the 2010A Bond Reserve Requirement ever exceed the amount which is the lesser of ten percent (10%) of the original principal amount of the Series 2010A Bonds (determined as of the date of issuance of the Series 2010A Bonds), the maximum annual principal and interest requirements on the Series 2010A Bonds (determined as of the date of issuance of the Series 2010A Bonds), or one hundred twenty-five percent (125%) of the average annual debt service on the Series 2010A Bonds (determined as of the date of issuance of the Series 2010A Bonds).

"2010A Bond Reserve Subaccount" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010A, Bond Reserve Subaccount created by this Resolution within the Bond Reserve Account.

"2010A Costs of Issuance Account" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010A, Costs of Issuance Account created by this Resolution.

"2010A Principal and Interest Subaccount" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010A, Principal and Interest Subaccount created by this Resolution within the Principal and Interest Account.

"2010A Projects," for purposes of this Resolution, shall mean the constructions, reconstructions, alterations, repairs, improvements, extensions or enlargements of the Utility authorized and provided for by this Resolution and described on **Exhibit A** to this Resolution as the Series 2010A Projects and any Substitute Project.

"2010A Sewer Project Fund" shall mean the 2010A Sewer Project Fund created by this Resolution.

"2010A Water Project Fund" shall mean the 2010A Water Project Fund created by this Resolution.

"2010B Bond Reserve Requirement" shall mean a sum equal to the amount of interest which shall become due and payable on the Series 2010B Bonds during the next Fiscal Year (determined in each year), except that, in no event shall the amount of the 2010B Bond Reserve Requirement ever exceed the amount which is the lesser of ten percent (10%) of the original principal amount of the Series 2010B Bonds (determined as of the date of issuance of the Series 2010B Bonds), the maximum annual principal and interest requirements on the Series 2010B Bonds (determined as of the date of issuance of the Series 2010B Bonds), or one hundred twenty-five percent (125%) of the average annual debt service on the Series 2010B Bonds (determined as of the date of issuance of the Series 2010B Bonds).

"2010B Bond Reserve Subaccount" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010B, Bond Reserve Subaccount created by this Resolution within the Bond Reserve Account.

"2010B Costs of Issuance Account" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010B, Costs of Issuance Account created by this Resolution.

"2010B Principal and Interest Subaccount" shall mean the Water and Sewer Utility Revenue Bonds, Series 2010B, Principal and Interest Subaccount created by this Resolution within the Principal and Interest Account.

"2010B Projects," for purposes of this Resolution, shall mean the constructions, reconstructions, alterations, repairs, improvements, extensions or enlargements of the Utility

authorized and provided for by this Resolution and described on **Exhibit A** to this Resolution as the Series 2010B Projects and any Substitute Project.

"2010B Sewer Project Fund" shall mean the 2010B Sewer Project Fund created by this Resolution.

"2010B Water Project Fund" shall mean the 2010B Water Project Fund created by this Resolution.

Section 102. Rules of Interpretation.

(A) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(B) Wherever in this Resolution it is provided that any party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(C) All references in this Resolution to designated "Articles", "Sections" and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this Resolution as originally executed. The words "herein", "hereof", "hereunder" and other words of similar import refer to this Resolution as a whole and not to any particular Article, Section or subdivision.

(D) The Table of Contents and the Article and Section headings of this Resolution shall not be treated as a part of this Resolution or as affecting the true meaning of the provisions hereof.

ARTICLE II

THE BONDS

Section 201. Authorization of and Security for Series 2010 Bonds; Pledge of Net Revenues. Pursuant to the Bond Ordinance, the Governing Body hereby authorizes, orders and directs that there shall be issued and delivered the following series of revenue bonds (referred to collectively, as the "Series 2010 Bonds"): (a) "City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010A," in the aggregate total principal amount not to exceed $33,345,000, as provided by and under the authority of the Act, for the purpose of providing the necessary funds to pay the Project Costs, fund the 2010A Bond Reserve Requirement, and pay Costs of Issuance associated with the Series 2010A Bonds; and (b) "City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010B (Taxable Under Federal Law)," in the aggregate total principal amount of not to exceed $17,190,000, as provided by and under the authority of the Act, for the purpose of providing the necessary funds to pay the Reserve Funding, fund the 2010B Bond Reserve Requirement, and pay Costs of Issuance associated with

the Series 2010B Bonds.

The principal amount of the Series 2010 Bonds, premium, if any, and the interest thereon are secured by and shall be paid by the City solely from the Net Revenues derived from the operation of the Utility, and the rates, fees and charges collected for the use thereof or service therefrom, and not from any other fund or source. The Series 2010A Bonds and the Series 2010B Bonds are hereby made a first and prior lien on the Net Revenues produced from the Utility, which lien is on a parity with and co-equal to each other and to the lien on the Net Revenues of the Existing Bonds; and the City hereby irrevocably pledges the Net Revenues derived from the operation of the Utility to the payment of the Series 2010 Bonds.

The Series 2010A Bonds and the Series 2010B Bonds shall not have any priority with respect to the payment of principal or interest over each other or over any revenue bonds of the City hereafter issued in accordance with the provisions of Section 902 of this Resolution which are on a parity with the Series 2010 Bonds, nor shall any other revenue bonds of the City heretofore or hereafter issued have any priority over the payment from the Net Revenues of the principal of or the interest on the Series 2010 Bonds.

The Series 2010 Bonds shall not be nor constitute general obligations of the City nor shall they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, and the City shall be under no obligation to levy any taxes to pay any of the principal of or the interest on the Series 2010 Bonds.

Section 202. Description of Series 2010 Bonds. The Series 2010 Bonds shall be issued in denominations of $5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, and shall be numbered in such manner as the Bond Registrar shall determine. The Series 2010 Bonds shall be dated the Dated Date. The Series 2010 Bonds shall mature or be subject to mandatory redemption on the dates and shall bear interest at the rates per annum (computed on the basis of a 360-day year of 12 30-day months) set forth on **Exhibit B** to this Resolution. Such interest shall be payable on the Interest Payment Dates to the Owners as their names appear on the Registration Books at the close of business on the Record Dates. The Series 2010 Bonds shall mature in the amounts on the Principal Payment Dates or be subject to mandatory redemption in the amounts set forth on **Exhibit C** to this Resolution. The City Manager or his designee is hereby authorized to approve the final principal amount, the amount due on each maturity or mandatory redemption date, the amount to deposit in the 2010A Costs of Issuance Account, 2010B Costs of Issuance Account, 2010A Bond Reserve Subaccount and 2010B Bond Reserve Subaccount and the amount of Purchase Price for the Series 2010 Bonds as to be set forth on **Exhibit C** to this Resolution; provided (a) the final principal amount shall not exceed the maximum principal amount for each series of Series 2010 Bonds set forth in Section 201 of this Resolution, (b) the principal shall mature or be subject to mandatory redemption on the dates and at the interest rates shown on **Exhibit B** to this Resolution, (c) the amount deposited in the 2010A Bond Reserve Subaccount shall equal the 2010A Bond Reserve Requirement, (d) the amount deposited in the 2010B Bond Reserve Subaccount shall equal the 2010B Bond Reserve Requirement and (e) such amounts approved by the City Manager or his designee are consistent with the other terms and provisions of this Resolution.

Each series of Series 2010 Bonds will be issued and distributed in book-entry-only form through DTC, by depositing with DTC one certificate for each maturity in fully registered form, registered in the name of DTC's nominee, Cede & Co., in an amount equal to the total principal amount of the Series 2010 Bonds maturing on the respective Principal Payment Dates as authorized herein. The manner of payment of the principal of and the interest on the Series 2010 Bonds to DTC, and other matters relating to the distribution of the Series 2010 Bonds in book-entry-only form through DTC, shall be governed by the Letter of Representations.

In the event, subject to the operational rules of DTC, (i) DTC determines not to continue to act as securities depository for one or both series of Series 2010 Bonds, or (ii) the City determines that continuation of the book-entry-only system of evidence and transfer of ownership of one or both series of Series 2010 Bonds would adversely affect the interests of the beneficial owners of such Series 2010 Bonds, the City will discontinue the book-entry-only system with DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will cause replacement Series 2010 Bonds in the form of fully registered certificates in denominations of $5,000, or integral multiples thereof not exceeding the principal amount thereof maturing on any Principal Payment Date, to be authenticated and delivered to the beneficial owners. If issued in certificated form, the certificates representing the Series 2010 Bonds shall be numbered in such manner as the Series 2010 Bond Registrar shall determine.

Section 203. Designation of Paying Agent and Bond Registrar. Pursuant to K.S.A. 10-620 *et seq.*, the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Series 2010 Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are hereby authorized and empowered to execute on behalf of the City all necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

The Paying Agent shall make payment directly to DTC, as the Owner, for the principal of and the interest on the Series 2010 Bonds; and DTC will remit such principal and interest to its Direct Participants for distribution to the beneficial owners in the manner set forth in the following Section 204(A) and as governed by the terms of the Letter of Representations.

In the event that one or both series of Series 2010 Bonds should be issued and delivered in certificated form at anytime after the initial delivery of such series of Series 2010 Bonds, the Fiscal Agent shall maintain Registration Books for the ownership of such Series 2010 Bonds on behalf of the City; and the Paying Agent will make payment for such Series 2010 Bonds directly to the Owners as shown by said Registration Books in the manner set forth in the following Section 204(B).

Section 204. Method and Place of Payment of Series 2010 Bonds.

(A) Series 2010 Bonds Issued and Delivered in Book-Entry-Only Form. One certificate per maturity registered in the name of DTC's nominee, Cede & Co., for the total

principal amount of each series of Series 2010 Bonds maturing on the respective Principal Payment Dates will be issued to DTC in New York, New York; and such certificates will be immobilized in its custody. Purchases of the Series 2010 Bonds in denominations permitted by Section 202 hereof must be made by or through Direct Participants of DTC, which will receive a credit for the applicable series of Series 2010 Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2010 Bond (the "beneficial owner") is in turn to be recorded on the Direct and Indirect Participants' records. Transfers of ownership will be effected on the records of DTC and its Participants pursuant to the rules and procedures established by DTC and its Participants. Payment of principal and interest on the Series 2010 Bonds will be made in same day funds directly to DTC. The transfer of principal and interest to Participants of DTC will be the responsibility of DTC; the transfer of principal and interest to beneficial owners by Participants of DTC will be the responsibility of such Participants. Neither the City nor the Paying Agent and Bond Registrar will be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its Participants or persons acting through such Participants.

(B) In the Event Certificated Series 2010 Bonds are Subsequently Issued. The principal of, premium, if any, and the interest on the Series 2010 Bonds shall be payable in lawful money of the United States of America by check or draft of the Paying Agent. The principal of and any premium, if any, on the Series 2010 Bonds shall be paid to the Owner of each Series 2010 Bond upon presentation and surrender of the Series 2010 Bond to the Paying Agent for payment and cancellation on the maturity date, or the redemption date, as the case may be, of the Series 2010 Bond. The interest on the Series 2010 Bonds shall be mailed by the Paying Agent to the Owner of each Series 2010 Bond at the Owner's address as it appears on the Registration Books on the Record Dates, or at such other address as is provided in writing by such Owner to the Bond Registrar.

Section 205. Method of Execution and Authentication of Series 2010 Bonds. The Series 2010 Bonds shall be executed for and on behalf of the City by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be affixed or imprinted thereon. The Series 2010 Bonds shall be registered in the office of the City Clerk, which registration shall be evidenced by the manual or facsimile signature of the City Clerk with the seal of the City affixed or imprinted thereon. The Series 2010 Bonds shall also be registered in the office of the State Treasurer, which registration shall be evidenced by the manual or facsimile signature of the State Treasurer with the seal of the State Treasurer affixed or imprinted thereon. In the event that any of the aforementioned officers shall cease to hold such offices before the Series 2010 Bonds are issued and delivered, the Series 2010 Bonds may be issued and transferred to other owners as though said officers had not ceased to hold office, and such signatures appearing on the Series 2010 Bonds shall be valid and sufficient for all purposes as if they had remained in office until such issuance or transfer.

The Series 2010 Bonds shall not be valid obligations under the provisions of the Bond Ordinance and this Resolution until authenticated by a duly authorized representative of the Bond Registrar by the manual execution of the Certificate of Authentication appearing on each Series 2010 Bond. It shall not be necessary that the same representative of the Bond Registrar execute the Certificate of Authentication on all of the Series 2010 Bonds.

Section 206. Payment of Costs of Bonds. The City shall pay all fees and expenses incurred in connection with the printing, issuance, transfer, exchange, registration, redemption and payment of the Bonds, including the fees and expenses of the Fiscal Agent, except (i) reasonable fees and expenses in connection with the replacement of a Bond or Bonds mutilated, stolen, lost or destroyed, or (ii) any tax or other governmental charge imposed in relation to the transfer, exchange, registration, redemption or payment of the Bonds, or (iii) any additional costs or fees that might be incurred in the secondary market.

Section 207. Registration, Transfer and Exchange of Bonds. In the event one or both series of Series 2010 Bonds are subsequently issued in certificated form, the City shall cause books evidencing the registration and transfer of the ownership of the Bonds as provided in this Resolution to be kept by the Bond Registrar (the "Registration Books"), and the Bonds may be transferred only upon the Registration Books and upon the surrender thereof to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the Owner thereof, or his agent, in such form as shall be satisfactory to the Bond Registrar. Upon the surrender for transfer of any certificated Bond at its office, the Bond Registrar shall authenticate and deliver in the name of the transferee or transferees a new certificated Bond or Bonds of authorized denominations in the aggregate principal amount of the surrendered certificated Bond. The Bond Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation to such transfer or exchange.

Upon the presentation of the necessary documents as hereinbefore described at the principal office of the Bond Registrar, the Bond Registrar shall transfer or exchange any Bond(s) for new Bond(s) in an authorized denomination of the same maturity and for the same aggregate principal amount as the Bond(s) presented for transfer or exchange. All Bonds presented for transfer or exchange shall be surrendered to the Bond Registrar for cancellation. Prior to delivery of any new Bond(s) to the transferee, the Bond Registrar shall register the same in the Registration Books and shall authenticate each such new Bond.

The City and the Bond Registrar shall not be required to issue, register, transfer or exchange any Bonds during a period beginning on the day following the Record Date preceding any Interest Payment Date and ending at the close of business on the Interest Payment Date.

Bonds delivered upon any transfer or exchange shall be valid obligations of the City, evidencing the same debt as the Bonds surrendered, shall be secured by the Bond Ordinance and this Resolution and shall be entitled to all of the security and benefits hereof and pledges made herein to the same extent as the Bonds surrendered. The person(s) in whose name any Bond is registered as shown on the Registration Books shall be deemed and regarded as the absolute Owner thereof for all purposes. Payment of, or on account of the principal of and the interest on any Bond shall be made only to or upon the order of the Owner or his duly authorized agent; except that, so long as a series of the Series 2010 Bonds remains issued in book-entry-only form, DTC shall be considered to be the Owner of such series of Series 2010 Bonds, and such payments shall be made only to DTC in accordance with Section 204(A) of this Resolution. All such payments shall be valid and effectual to satisfy and discharge the City's liability upon such series of Series 2010 Bonds, including the interest thereon, to the extent of the sum or sums so

paid.

Section 208. Surrender and Cancellation of Bonds. Whenever any Outstanding Bond shall be delivered to the Bond Registrar for cancellation pursuant to this Resolution, upon payment of the principal amount thereof and the interest thereon or for replacement pursuant to this Resolution, such Bond shall be canceled by the Bond Registrar and the canceled Bond shall be returned to the City Clerk, or such canceled Bond shall be destroyed by the Bond Registrar and a certificate evidencing such destruction shall be furnished to the City.

Section 209. Mutilated, Lost, Stolen or Destroyed Bonds. In the event any certificate representing a Bond is mutilated, lost, stolen or destroyed, the City may execute and the Bond Registrar may authenticate a new certificate of like date, maturity, denomination and interest rate as that mutilated, lost, stolen or destroyed; provided, that in the case of any mutilated certificate, such mutilated certificate shall first be surrendered to the City or the Bond Registrar, and, in the case of any lost, stolen or destroyed certificate, there shall first be furnished to the Bond Registrar and the City evidence of such loss, theft or destruction satisfactory to them, together with an indemnity satisfactory to the City and the Bond Registrar. In the event any such certificate shall have matured, then and in such event instead of issuing a duplicate certificate, the City and the Bond Registrar may pay the same without the physical surrender of such certificate. The City and the Bond Registrar may charge to the Owner of such certificate their reasonable fees and expenses in connection with replacing a mutilated, stolen, lost or destroyed certificate.

Section 210. Execution and Delivery of Series 2010 Bonds. The Mayor and City Clerk are hereby empowered, authorized and directed to prepare and execute the Series 2010 Bonds without unnecessary delay in the form and manner herein specified, including a reasonable quantity of replacement bond certificates for use in accordance with the provisions of this Resolution; and when executed the Series 2010 Bonds shall be registered in the Office of the City Clerk and in the Office of the State Treasurer, as required by law and as hereinbefore provided, and shall thereupon be deposited with the Fiscal Agent for authentication. When a series of the Series 2010 Bonds shall have been executed, registered and authenticated as required by this Resolution, such Series 2010 Bonds shall be delivered at one time to or upon the order of the applicable Underwriter, but only upon receipt by the City of the full Purchase Price therefor; and the proceeds of such series of the Series 2010 Bonds shall immediately be applied by the City as in the Bond Ordinance and this Resolution provided.

Upon the issuance of a series of the Series 2010 Bonds, there shall be filed with the Fiscal Agent and with the Treasurer of the State, the following:

(A) an executed original or certified copies of the Bond Ordinance and this Resolution, together with an affidavit of publication of the Bond Ordinance;

(B) an opinion of Bond Counsel to the effect that the applicable series of Series 2010 Bonds constitute valid and legally binding special obligations of the City and that the interest on the Series 2010A Bonds is not

includable in gross income for purposes of Federal income taxation and is exempt from Kansas income taxation, subject to such restrictions and limitations as shall be described therein; and

(C) such other certificates, opinions, statements, receipts and documents as are required by the Act or as Bond Counsel shall reasonably require for delivery of such series of the Series 2010 Bonds.

Section 211. Official Statement. The Governing Body hereby approves the form and content of the "deemed final" Preliminary Official Statement prepared in the initial offering and sale of the Series 2010 Bonds, and the subsequent insertion of interest rates, yields and related information for the Series 2010 Bonds. The lawful use of the final Official Statement in the reoffering of the Series 2010 Bonds by the Underwriters is hereby approved and authorized.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Optional Redemption. The Series 2010 Bonds maturing 2011 through 2020, inclusive, shall become due on their respective maturities without the option of prior payment. At the option of the City, the Series 2010 Bonds maturing October 1, 2021, and thereafter, may be called for redemption and payment prior to their respective maturities on and after October 1, 2020. The Series 2010ABonds called for redemption and payment may be called in whole or in part at any time from and after the first date authorized for redemption as aforesaid, at a redemption price of par, plus accrued interest thereon to the date established for such redemption and payment.

Section 302. Sinking Fund Redemption. Any Term Bonds shall also be subject to mandatory redemption and payment as described on **Exhibit C** to this Resolution.

Section 303. Selection of Bonds to be Redeemed.

(A) The Series 2010 Bonds shall be redeemed only in the principal amount of $5,000, or integral multiples thereof. When less than all of the Outstanding Series 2010 Bonds of a series are to be redeemed and paid prior to maturity, such Series 2010 Bonds shall be redeemed in such manner as the City shall determine, with Series 2010 Bonds of less than a full maturity to be selected by lot in units of $5,000.

(B) In the case of a partial redemption of Series 2010 Bonds when Series 2010 Bonds of denominations greater than $5,000 are then Outstanding, then for all purposes in connection with such redemption each $5,000 of face value shall be treated as though it were a separate Series 2010 Bond in the denomination of $5,000. If it is determined that one or more, but not all, of the $5,000 units of face value represented by any Series 2010 Bond is selected for redemption, then upon notice of intention to redeem such $5,000 unit or units, the Owner or the Owner's duly authorized agent shall forthwith present and surrender such Series 2010 Bond to the Bond Registrar and Paying Agent (i) for payment of the redemption price (including the redemption premium, if any, and interest to the date fixed for redemption) of the $5,000 unit or units of face

value called for redemption, and (ii) for exchange, without charge to the Owner thereof, for a new Series 2010 Bond of the aggregate principal amount of the unredeemed portion of the principal amount of such Series 2010 Bond. If the Owner of any Series 2010 Bond of a denomination greater than $5,000 shall fail to present such Series 2010 Bond as aforesaid, such Series 2010 Bond shall, nevertheless, become due and payable on the redemption date to the extent of the amount called for redemption.

Section 304. Notice of Redemption. If the City elects to call any Series 2010 Bond for redemption and payment prior to the maturity thereof, it shall give written notice of such intention to the Paying Agent not less than sixty (60) days (or such lesser period of time acceptable to the Paying Agent) prior to the date selected for payment of the Series 2010 Bonds to be so called. The Paying Agent shall, upon receipt of any such written notice from the City, mail a written notice of redemption which notice shall specify the date selected for redemption and describe the Series 2010 Bonds to be so called (such description to include the series, principal amount, maturities and CUSIP numbers, if any, of the Series 2010 Bonds to be so called). Such written notice to be given by the Paying Agent shall be mailed by United States first class mail on a date which is not less than thirty (30) days prior to the date fixed for redemption to the Owners of the Series 2010 Bonds subject to the call as shown by the Registration Books, unless any Owner has waived such written notice of redemption, and, if applicable, to the Bond Insurer. The City shall also give or cause to be given such additional notice of any call for redemption and payment as may be required by the laws of the State which are in effect as of the date of giving any such notice. A second notice of redemption shall be given by the Paying Agent by first class United States mail to the Owners of any Series 2010 Bonds which have been called for redemption (in whole or in part), but which Series 2010 Bonds have not been presented and surrendered to the Paying Agent within one hundred twenty (120) days following the date of the redemption. However, failure to give any notice by mailing as aforesaid, or any defect therein, shall not affect the validity of any proceedings for the redemption of the Series 2010 Bonds. Any notice of redemption shall state the date of the redemption, the place or places at which Series 2010 Bonds shall be presented for payment, the series, maturities and numbers of the Series 2010 Bonds or portions thereof to be redeemed and the principal amount thereof being redeemed, the price to be paid for the Series 2010 Bonds to be redeemed, shall state that interest on the Series 2010 Bonds described in the notice will cease to accrue from and after the date established for redemption, and shall state that the redemption is conditioned upon there being on deposit on the date of redemption, sufficient money to pay the full redemption price of the Series 2010 Bonds to be redeemed.

Section 305. Effect of Call for Redemption. On or before the redemption date, funds or Government Obligations shall be deposited with the Paying Agent in an amount sufficient to provide for the payment of the redemption price of the Series 2010 Bonds called for redemption on the date established for redemption. Upon the deposit of such funds or Government Obligations, and notice having been given as provided in Section 304 above, the Series 2010 Bonds or portions thereof thus called for redemption shall cease to bear interest on the specified redemption date and shall no longer be entitled to the protection, benefit or security of the Bond Ordinance and this Resolution and shall not be deemed to be Outstanding under the provisions hereof.

ARTICLE IV

FORM OF BONDS

Section 401. Form of Bonds Generally. The definitive typewritten or printed form of the certificates representing Bonds issued under the Bond Ordinance and this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act.

Section 402. Form of Series 2010 Bonds. The definitive typewritten or printed form of the certificates representing the Series 2010 Bonds issued under the Bond Ordinance and this Resolution, including the registration certificates and certificate of authentication thereon, shall be in the form required by the laws of the State, and shall contain the usual and required recitals and provisions, including a recital that they are issued under the authority of the Act. The Governing Body hereby approves the form and text of the certificates to be prepared for the Series 2010 Bonds, and hereby authorizes, orders and directs Bond Counsel to prepare the certificates to be used for the initial delivery of the Series 2010 Bonds; and hereby further authorizes, orders and directs Bond Counsel, in the event the Series 2010 Bonds are issued in certificated form at any time after the initial issuance and delivery of the Series 2010 Bonds, to prepare the form of and cause such certificated Series 2010 Bonds to be printed.

ARTICLE V

FUNDS AND ACCOUNTS

Section 501. Ratification of Existing Funds and Accounts of the Utility; Administration. Simultaneously with the issuance of the Series 1993 Bonds, and as directed by the Series 1993 Ordinance, there were created within the Treasury of the City the following separate Funds and Accounts of the Utility:

(A) Water and Sewer Utility Principal and Interest Account (the "Principal and Interest Account");

(B) Water and Sewer Utility Bond Reserve Account (the "Bond Reserve Account");

(C) Water and Sewer Utility Depreciation and Replacement Account (the "Depreciation and Replacement Account"); and

(D) Water and Sewer Utility Improvement Account (the "Improvement Account"), and within the Improvement Account, the following subaccounts:

(1) Improvement Account Subaccount for Water Utility Improvements (the

"Water Improvement Account"), and

(2) Improvement Account Subaccount for Sewer Utility Improvements (the "Sewer Improvement Account").

The foregoing Funds and Accounts originally created by the Series 1993 Ordinance, and the subaccounts thereof ratified, confirmed and continued by the Series 1998 Ordinance, the Series 1999 Ordinance, the Series 2000 Ordinance, the Series 2003 Ordinance, the Series 2005A Ordinance, the Series 2005B Ordinance, the Series 2005C Ordinance, the Series 2006 Ordinance, the Series 2008A Ordinance and the Series 2009 Ordinance are hereby ratified, confirmed and continued for the security and benefit of the Owners of the Bonds; and the City consents and agrees that so long as any of the Bonds remain outstanding and unpaid, the City will maintain and administer said funds and accounts in accordance with the provisions of the Series 1998 Ordinance, the Series 1999 Ordinance, the Series 2000 Ordinance, the Series 2003 Ordinance, the Series 2005A Ordinance, the Series 2005B Ordinance, the Series 2005C Ordinance, the Series 2006 Ordinance, the Series 2008A Ordinance, the Series 2009 Ordinance and the Bond Ordinance and this Resolution.

Section 502. Creation of Additional Funds and Accounts of the Utility; Administration. Simultaneously with the issuance of the Series 2010 Bonds, there shall be created within the Treasury of the City the following additional separate Funds and Accounts of the Utility:

(A) Within the Principal and Interest Account, the following additional subaccount:

(1) Principal and Interest Subaccount for Water and Sewer Utility Revenue Bonds, Series 2010A (the "2010A Principal and Interest Subaccount");

(2) Principal and Interest Subaccount for Water and Sewer Utility Revenue Bonds, Series 2010B (the "2010B Principal and Interest Subaccount");

(B) Within the Bond Reserve Account, the following additional subaccount:

(1) Bond Reserve Subaccount for Water and Sewer Utility Revenue Bonds, Series 2010A (the "2010A Bond Reserve Subaccount");

(2) Bond Reserve Subaccount for Water and Sewer Utility Revenue Bonds, Series 2010B (the "2010B Bond Reserve Subaccount");

(C) Costs of Issuance Account for Water and Sewer Utility Revenue Bonds, Series 2010A (the "2010A Costs of Issuance Account");

(D) Costs of Issuance Account for Water and Sewer Utility Revenue Bonds,

Series 2010B (the "2010B Costs of Issuance Account");

(E) 2010A Sewer Utility Project Fund (the "2010A Sewer Project Fund");

(F) 2010A Water Utility Project Fund (the "2010A Water Project Fund");

(G) 2010B Sewer Utility Project Fund (the "2010B Sewer Project Fund");

(H) 2010B Water Utility Project Fund (the "2010B Water Project Fund"); and

(I) Rebate Account for Water and Sewer Utility Revenue Bonds, Series 2010A (the "Rebate Account").

The Governing Body hereby covenants and agrees that the Funds and Accounts created by this Section, shall be maintained and administered by the City in accordance with the provisions of this Resolution; and the Governing Body hereby covenants and agrees that the City shall make deposits into, disbursements from, and shall invest moneys in, each and all of said Funds and Accounts as hereinafter in this Resolution provided. The Governing Body hereby further covenants and agrees that (i) the Accounts referred to in subsections (A)(1) and (B)(1), and each of them, shall be continued for the security and benefit of the Owners of the Series 2010A Bonds for so long as any of the Series 2010A Bonds remain Outstanding and unpaid; (ii) the Accounts referred to in subsections (A)(2) and (B)(2), and each of them, shall be continued for the security and benefit of the Owners of the Series 2010B Bonds for so long as any of the Series 2010B Bonds remain Outstanding and unpaid; (iii) that the Costs of Issuance Accounts referred to in subsections (C) and (D) shall be administered and terminated as provided by Section 503 hereof; (iv) that the Project Funds referred to in subsections (E), (F), (G) and (H) shall be administered and terminated as provided by Section 602 hereof; and (v) that the Rebate Account referred to in subsection (I) shall be administered and terminated as provided by Section 704 hereof and the Tax Compliance Agreement.

The City shall maintain a practice of keeping separate and distinct accounts and subaccounts within the Funds and Accounts herein referred to and as created by this Resolution for the separate operations of the Water Utility and the Sewer Utility for budget and accounting purposes; provided, however, such segregation of the Funds and Accounts, and any subaccounts thereof, for such purpose shall have no effect upon the pledge and lien of the Bonds on the Net Revenues of the Utility.

Section 503. Costs of Issuance Accounts. The Governing Body hereby further covenants and agrees that the moneys deposited to the 2010A Costs of Issuance Account shall be immediately expended, to the extent possible, to pay the Costs of Issuance of the Series 2010A Bonds, and, that any moneys remaining in the 2010A Costs of Issuance Account on the date which is thirty (30) days prior to the first Principal Payment Date of the Series 2010A Bonds shall all be transferred to the 2010A Principal and Interest Subaccount to pay a portion of the first principal due on the Series 2010A Bonds; and that the 2010A Costs of Issuance Account shall thereafter be terminated. The Governing Body hereby further covenants and agrees that the moneys deposited to the 2010B Costs of Issuance Account shall be immediately

expended, to the extent possible, to pay the Costs of Issuance of the Series 2010B Bonds, and, that any moneys remaining in the 2010B Costs of Issuance Account on the date which is thirty (30) days prior to the first Principal Payment Date of the Series 2010B Bonds shall all be transferred to the 2010B Principal and Interest Subaccount to pay a portion of the first principal due on the Series 2010B Bonds; and that the 2010B Costs of Issuance Account shall thereafter be terminated.

ARTICLE VI

DISPOSITION OF BOND PROCEEDS AND OTHER MONEYS

Section 601. Disposition of Series 2010 Bond Proceeds.

(A) ***Series 2010A Bonds.*** The proceeds of the Series 2010A Bonds (*i.e.*, the Purchase Price), upon receipt shall be immediately deposited and credited as follows:

(1) to the credit of the 2010A Costs of Issuance Account, the sum set forth on **Exhibit C** to this Resolution;

(2) to the credit of the 2010A Principal and Interest Subaccount, the amount of accrued interest received as a portion of the Purchase Price to be applied to the first interest payment on the Series 2010A Bonds;

(3) to the credit of the 2010A Bond Reserve Subaccount, the sum equal to the 2010A Bond Reserve Requirement set forth on **Exhibit C** to this Resolution., the;

(4) to the credit of the 2010A Water Project Fund, the sum set forth on **Exhibit C** to this Resolution; and

(5) to the credit of the 2010A Sewer Project Fund, the sum set forth on **Exhibit C** to this Resolution.

(B) ***Series 2010B Bonds.*** The proceeds of the Series 2010B Bonds (*i.e.*, the Purchase Price), upon receipt shall be immediately deposited and credited as follows:

(1) to the credit of the 2010B Costs of Issuance Account, the sum set forth on **Exhibit C** to this Resolution;

(2) to the credit of the 2010B Principal and Interest Subaccount, the amount of accrued interest received as a portion of the Purchase Price to be applied to the first interest payment on the Series 2010B Bonds;

(3) to the credit of the 2010B Bond Reserve Subaccount, the sum equal to the 2010B Bond Reserve Requirement set forth on **Exhibit C** to this Resolution.,

the;

(4) to the credit of the 2010B Water Project Fund, the sum set forth on **Exhibit C** to this Resolution; and

(5) to the credit of the 2010B Sewer Project Fund, the sum set forth on **Exhibit C** to this Resolution.

Section 602. Project Funds; Construction of Projects. The City covenants that in constructing the Projects it will perform all duties and obligations relative thereto as are now or may hereafter be imposed by the Act and the provisions of this Resolution. Withdrawals from the Project Funds, or either of them, shall be made only upon duly authorized and executed warrants which are accompanied by a statement of the Director of Finance to the effect that such payment is being made for a purpose within the scope of this Resolution. Any moneys remaining in the 2010A Water Project Fund and the 2010A Sewer Project Fund upon the full and final completion of the 2010A Projects and the payment of all Project Costs for such projects, including the payment and redemption of any general obligation temporary notes of the City issued to provide interim financing for the 2010A Projects, shall be transferred to the 2010A Principal and Interest Subaccount and shall be used for the payment of the principal of and the interest on the Series 2010A Bonds, and the Project Funds shall thereafter be terminated. To the extent no other available funds are held under this Resolution, any moneys remaining in the 2010A Water Project Fund and the 2010A Sewer Project Fund upon an event of default with respect to the Series 2010A Bonds as set forth in Section 1101 (A) or (B) hereof shall be transferred to the 2010A Principal and Interest Subaccount and shall be used for the payment of the principal and interest on the Series 2010A Bonds. Any moneys remaining in the 2010B Water Project Fund and the 2010B Sewer Project Fund upon the full and final completion of the 2010B Projects and the payment of all Project Costs for such projects shall be transferred to the 2010B Principal and Interest Subaccount and shall be used for the payment of the principal of and the interest on the Series 2010B Bonds, and the Project Funds shall thereafter be terminated. To the extent no other available funds are held under this Resolution, any moneys remaining in the 2010B Water Project Fund and the 2010B Sewer Project Fund upon an event of default with respect to the Series 2010B Bonds as set forth in Section 1101 (A) or (B) hereof shall be transferred to the 2010B Principal and Interest Subaccount and shall be used for the payment of the principal and interest on the Series 2010B Bonds.

Section 603. Substitute Projects. The City may elect to substitute or add other projects pursuant to this Section provided the following conditions are met: (a) the Substitute Project and the issuance of bonds, the principal of and interest on which are payable from Net Revenues of the Utility, to pay the cost of the Substitute Project has been authorized by the Governing Body of the City in accordance with the laws of the State, (b) the Attorney General of the State has approved the amendment to the transcript of proceedings for the applicable series of Series 2010 Bonds to include the Substitute Project and (c) the City has received an opinion of Bond Counsel to the effect that the Substitute Project will not adversely affect the tax-exempt status of the Series 2010A Bonds under State or federal law and the Substitute Project has been authorized pursuant to this Section and the laws of the State.

ARTICLE VII

COLLECTION AND APPLICATION OF REVENUES; INSUFFICIENT FUNDS; REBATE ACCOUNT

Section 701. Collection, Segregation and Disposition of Revenues. The City covenants and agrees that from and after the date of adoption of the Bond Ordinance and this Resolution, the Gross Revenues derived by the City from the operation of the Utility, including the Gross Revenues from all extensions and improvements to the Utility hereafter constructed or acquired by the City, will be deposited into the Water and Sewer Utility Revenue Fund (the "Revenue Fund") heretofore created and currently maintained by the City, and shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City. From and after the adoption of this Resolution, the City will allocate all of the moneys held in the Revenue Fund to the Funds and Accounts of the Utility as follows:

(A) The cost of operating and maintaining the Utility shall be paid currently as bills accrue. Such amount as may be necessary in the opinion of the Governing Body to pay the reasonable and proper expenses of operation and maintenance for the ensuing sixty (60) days may be retained and accumulated in the Revenue Fund before making transfers to other Funds and Accounts.

(B) There shall next, on the first (1st) day of each month, be transferred from the Revenue Fund and deposited to the Principal and Interest Account, for credit to the respective Subaccounts thereof, the following amounts:

(1) an equal pro rata portion of the amount of interest which will become due on the Outstanding Bonds on the next succeeding Interest Payment Date; plus

(2) an equal pro rata portion of the amount of principal that will become due on the Outstanding Bonds on the next succeeding Principal Payment Date;

to the end that at all times thirty (30) days prior to each Interest Payment Date and Principal Payment Date, or to any date of redemption, if applicable, there shall be sufficient moneys in the Principal and Interest Account to transmit the amount of maturing interest and principal on the Outstanding Bonds to the Paying Agent for payment to the Owners when due.

All amounts paid and credited to the 2010A Principal and Interest Subaccount shall be used for the sole purpose of paying the interest on and the principal of the Series 2010A Bonds as and when the same become due, and may also be used for paying any fees of the Bond Registrar and Paying Agent in connection with the Series 2010A Bonds.

All amounts paid and credited to the 2010B Principal and Interest Subaccount shall be used for the sole purpose of paying the interest on and the principal of the Series 2010B Bonds as and when the same become due, and may also be used for paying any fees of the Bond Registrar and Paying Agent in connection with the Series 2010B Bonds.

(C) There shall next, on the first (1st) day of each month, be transferred from the Revenue Fund and deposited to the Bond Reserve Account, for the credit of the respective subaccounts thereof as appropriate, the amount, if any, required to restore the Bond Reserve Account to the Bond Reserve Requirement.

Simultaneously with the issuance of the Series 2010A Bonds, the City shall deposit in the 2010A Bond Reserve Subaccount proceeds of the Series 2010A Bonds in an amount equal to the 2010A Bond Reserve Requirement. All earnings on investments from the 2010A Bond Reserve Subaccount (other than any required deposits to the Rebate Account) shall accrue to and become a part of the 2010A Bond Reserve Subaccount until it achieves and is being maintained at the 2010A Bond Reserve Requirement at which time such investment earnings shall be transferred to the 2010A Principal and Interest Subaccount. The 2010A Bond Reserve Subaccount shall be used solely for the payment of principal and interest on the Series 2010A Bonds for which funds might not otherwise be available, or to pay a like amount of final maturing Series 2010A Bonds. Should the City expend any portion of the 2010A Bond Reserve Subaccount and thereby reduce it below the 2010A Bond Reserve Requirement (except for the purpose of retiring all Outstanding Series 2010A Bonds), or should a valuation of the 2010A Bond Reserve Subaccount indicate that it is below the 2010A Bond Reserve Requirement, the City shall resume the monthly transfers to the 2010A Bond Reserve Subaccount as set forth above such that the 2010A Bond Reserve Subaccount will accumulate to the 2010A Bond Reserve Requirement within twelve (12) months of the date of the related deficiency.

Simultaneously with the issuance of the Series 2010B Bonds, the City shall deposit in the 2010B Bond Reserve Subaccount proceeds of the Series 2010B Bonds in an amount equal to the 2010B Bond Reserve Requirement. All earnings on investments from the 2010B Bond Reserve Subaccount shall accrue to and become a part of the 2010B Bond Reserve Subaccount until it achieves and is being maintained at the 2010B Bond

Reserve Requirement at which time such investment earnings shall be transferred to the 2010B Principal and Interest Subaccount. The 2010B Bond Reserve Subaccount shall be used solely for the payment of principal and interest on the Series 2010B Bonds for which funds might not otherwise be available, or to pay a like amount of final maturing Series 2010B Bonds. Should the City expend any portion of the 2010B Bond Reserve Subaccount and thereby reduce it below the 2010B Bond Reserve Requirement (except for the purpose of retiring all Outstanding Series 2010B Bonds), or should a valuation of the 2010B Bond Reserve Subaccount indicate that it is below the 2010B Bond Reserve Requirement, the City shall resume the monthly transfers to the 2010B Bond Reserve Subaccount as set forth above such that the 2010B Bond Reserve Subaccount will accumulate to the 2010B Bond Reserve Requirement within twelve (12) months of the date of the related deficiency.

(D) After providing for the payments and transfers set forth in and required by the preceding subsections, there shall next be transferred from the Revenue Fund proportionate monthly amounts equal to the next required Payment to the City.

(E) The Required Status of the Depreciation and Replacement Account shall be fifteen percent (15%) of the Operating Revenues of the Utility for the preceding year. The City shall, after providing for the payments and transfers set forth in and required by the preceding subsections, next set aside and transfer monthly from the Revenue Fund, minimum monthly amounts to the end that the Depreciation and Replacement Account will reach its Required Status within a period of thirty (30) months from the first such transfer. All earnings on investments from the Depreciation and Replacement Account shall accrue to and become a part of the Depreciation and Replacement Account until it achieves its Required Status, and thereafter shall be transferred to the Improvement Account.

Except as hereinafter provided, all amounts credited to the Depreciation and Replacement Account shall be used by the City for the purpose of (i) extraordinary maintenance and repairs to the Utility, (ii) capital improvements in and to the Utility, and (iii) keeping the Utility in good repair and working order so that it may continue in effective and efficient operation. If no other funds are available therefor, moneys in the Depreciation and Replacement Account may be used to pay the costs of operating and maintaining the Utility.

If the City shall ever be compelled to use and expend any part of the Depreciation and Replacement Account for the purposes specified above, and such use shall reduce the amount of the Depreciation and Replacement Account below its Required Status, then the City covenants

and agrees that after making all payments or credits at the time required to be made by the City under the provisions of the foregoing subsections, it will thereafter resume the minimum monthly payments and credits from the Revenue Fund into the Depreciation and Replacement Account to the end that it shall have again attained its Required Status within a period of eighteen (18) months.

(F) In addition to the monthly transfers set forth in and required by the preceding subsections, the provisions of the Series 1998 Ordinance, the Series 1999 Ordinance, the Series 2000 Ordinance, the Series 2003 Ordinance, the Series 2005A Ordinance, the Series 2005B Ordinance, the Series 2005C Ordinance, the Series 2006 Ordinance, the Series 2008A Ordinance and the Series 2009 Ordinance, all moneys remaining in the Revenue Fund on each January 1, which shall not be required for the operation and maintenance of the Utility or for the transfers required by the preceding subsections for a period of ninety (90) days, shall be credited to the Improvement Account. Moneys in the Improvement Account may be used for the following purposes:

(1) to pay operational and maintenance expenses of the Utility;

(2) to make payments into or increase the amounts in any of the Funds and Accounts referred to in the preceding subsections to cover potential deficiencies in or to anticipate future requirements of those Funds and Accounts;

(3) to pay the costs of making repairs to or extending, enlarging or improving the Utility;

(4) to pay and redeem at or prior to maturity, or to purchase, Bonds or other outstanding indebtedness of the Utility at the fair market price thereof, or to transfer moneys to the Improvement Account to be used to pay debt service on general obligation debt of the City which were issued to pay the costs of extensions, enlargements or improvements to the Utility; or

(5) to make transfers to the Revenue Fund.

The Improvement Account shall be continued and maintained until all Series 2010 Bonds authorized by the Bond Ordinance and this Resolution are no longer Outstanding.

Section 702. Insufficient Moneys in Funds and Accounts. Should there be at any time insufficient moneys in any or all of the Funds and Accounts described in the preceding subsections to pay any deficiencies in principal or interest payments required by the terms of any Outstanding Bonds, then such principal and interest shall be payable out of the first available Net

Revenues received thereafter by the City from the operation of the Utility, including transfers from the Depreciation and Replacement Account and the Improvement Account, after providing only for immediately necessary operation and maintenance expense of the Utility.

Section 703. Transfer of Funds to Paying Agent. The Director of Finance is hereby authorized and directed to withdraw from the Principal and Interest Account and forward to the Paying Agent sums sufficient to pay both the principal of and premium, if any, and the interest on the Outstanding Bonds as and when the same become due, and also to pay the charges of the Paying Agent for acting in such capacity in the payment of the principal of and the interest on the Bonds, and said charges shall be forwarded to the Paying Agent over and above the amount for the payment of the principal of and the interest on the Bonds.

Section 704. Deposits into and Application of Moneys in Rebate Account.

(A) The City shall deposit into the Rebate Account such amounts as are required to be deposited therein pursuant to the Tax Compliance Agreement. All earnings on investments of moneys held in the Rebate Account shall be retained in the Rebate Account. Subject to the payment provisions provided in subsection (B) below, all amounts on deposit in the Rebate Account shall be held by the City in trust, to the extent required to satisfy the Rebate Amount (as defined in the Tax Compliance Agreement), for payment to the United States of America, and neither the City nor the Owner of any Series 2010A Bond shall have any right in or claim to such money. All amounts held in the Rebate Account shall be governed by this Section and by the Tax Compliance Agreement.

(B) The City shall remit part or all of the balance in the Rebate Account to the United States of America in accordance with the Tax Compliance Agreement (such amounts herein referred to as the "Rebate Amounts"). Any funds remaining in the Rebate Account after redemption and payment of all of the Series 2010A Bonds and payment and satisfaction of any Rebate Amount, or provision having been made therefor, shall be withdrawn and released from the Rebate Account and shall be deposited into the Revenue Fund and be used only for Utility purposes.

(C) Notwithstanding any other provision of this Resolution, including in particular the provisions of this Section, the City's obligation to remit the Rebate Amount to the United States of America and to comply with all other requirements of this Section and the Tax Compliance Agreement shall survive the defeasance or payment in full of the Series 2010A Bonds.

(D) The City shall maintain records designed to show compliance with the provisions of this Section and the Tax Compliance Agreement for at least six (6) years after the date on which no Series 2010A Bonds shall remain Outstanding.

(E) The terms, conditions and provisions under which the City will perform its duties regarding the Rebate Account and any Rebate Amount are set forth in a "Tax

Compliance Agreement", dated as of the Date of Issuance of the Series 2010A Bonds. The form and text of the Tax Compliance Agreement is hereby approved and accepted by the Governing Body, and all of the covenants, duties and responsibilities therein contained which are to be performed by and on behalf of the City are hereby declared to be the covenants, duties and responsibilities of the City as though fully set forth at this place. The Mayor and the City Clerk or the Director of Finance are hereby authorized to execute and deliver the Tax Compliance Agreement for and on behalf of the City.

ARTICLE VIII

DEPOSIT AND INVESTMENT OF MONEYS; TAX COVENANTS

Section 801. Deposits. Cash moneys in each of the funds and accounts herein created and established shall be deposited in accordance with the laws of the State.

Section 802. Investments. Moneys held in the funds and accounts herein created or established may be invested by the City in Authorized Investments in such amounts and maturing at such times as shall reasonably provide for moneys to be available when required in said funds and accounts; provided that, such moneys shall not be invested in such manner as will violate the provisions of the Tax Compliance Agreement. Interest on any obligations held in any fund or account shall (except the amounts which are required to be deposited into the Rebate Account in accordance with the Tax Compliance Agreement) accrue to and become a part of said fund or account, except as might hereafter or elsewhere in this Resolution be required. The Value of the investments held in the funds and accounts as provided by this Article shall be determined as of the end of each calendar month. Except as otherwise provided herein, in the event that the amount held in any fund or account is in excess of the amount required to be held in such fund or account, such excess shall be transferred to the Revenue Fund. Authorized Investments in the 2010A Bond Reserve Subaccount and the 2010B Bond Reserve Subaccount shall mature within five (5) years of the investment therein.

All investments made pursuant hereto shall be made in accordance with the Tax Compliance Agreement.

Section 803. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Series 2010A Bonds remain Outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Series 2010A Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same be amended, and any applicable Rules and Regulations of the United States Treasury Department thereunder, to the extent applicable to the Series 2010A Bonds.

The Governing Body of the City hereby further covenants that it will use and expend the proceeds of the Series 2010A Bonds for the purpose for which they are issued as soon as

practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Series 2010A Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, to have caused the Series 2010A Bonds to be "arbitrage bonds" within the meaning of the Code; and to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Series 2010A Bonds for so long as any of the Series 2010A Bonds remain Outstanding and unpaid.

Without limiting the generality of the foregoing, the City agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury Regulations as may be applicable to the Series 2010A Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Series 2010A Bonds; and the City specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Resolution, the Rebate Amounts as described in the Tax Compliance Agreement.

ARTICLE IX

ADDITIONAL BONDS

Section 901. Prior Lien Bonds. The City covenants that it will not hereafter issue any revenue bonds which would in any way be superior to the Bonds or have any prior claim to the Net Revenues of the Utility.

Section 902. Parity Lien Bonds. The City may issue additional revenue bonds for Utility extensions, enlargements and improvements, which additional bonds shall be co-equal with the Bonds in stature and priority, but only under the following conditions:

(A) When the issuance of additional revenue bonds payable from Net Revenues of the Utility of equal stature and priority is permitted by the statutes of the State.

(B) When the average annual Net Revenues Available for Debt Service derived by the City from the operation of the Utility for the two (2) years next preceding the issuance of such additional bonds, together with estimated additional net income from rate increases in existence at the time of such new issue, which would have been generated for the two (2) years preceding issuance of such additional bonds, shall be in an amount equal to at least one hundred twenty percent (120%) of the maximum annual Debt Service Requirements (expressly including the City's obligations with respect to the repayment of amounts then due and owing under the terms of any Bond Reserve Insurance Policy) for any ensuing year of all then outstanding revenue indebtedness of the Utility when added to the Debt Service Requirements of such proposed additional

bonds. Whenever it is provided in this Section that an estimate shall be obtained of the income which would have been derived from rate increases, such estimates shall be prepared by the Consulting Engineers.

(C) When the City shall not be in default in the making of any payments at the time required to be made by it into the respective Funds and Accounts of the Utility and shall not be in default in any covenants or procedures established in any ordinance or resolution of the City authorizing existing indebtedness of the Utility.

(D) When all reductions in the Bond Reserve Account shall be restored thereto.

(E) When provision is made for a deposit to the Bond Reserve Account in such amount as will be required, following such deposit, to maintain in the Bond Reserve Account an amount which has the same relationship to the total amount of Outstanding Bonds as the 2010A Bond Reserve Requirement bears to the Series 2010A Bonds and as the 2010B Bond Reserve Requirement bears to the Series 2010B Bonds.

(F) When the Resolution authorizing such additional bonds shall contain substantially the same terms, conditions, covenants and procedures as established in this Resolution.

As an alternative to the foregoing, the City may issue additional revenue bonds for the purpose of refunding Outstanding Bonds, which additional revenue refunding bonds shall be on a parity with and co-equal with the Bonds.

Section 903. Subordinate Lien Bonds. In addition to the authority to issue parity lien bonds as set forth in the preceding Section, the City may issue revenue bonds which shall be junior and subordinate to the Bonds. If at any time the City shall be in default in paying any of the interest on or the principal of the Bonds or in making any of the transfers required to any of the Accounts or Funds herein specified, then the City shall make no payment of either the principal of or the interest on such subordinate bonds until all conditions of default shall be cured.

ARTICLE X

COVENANTS OF THE CITY

Section 1001. Rate Covenant. While any of the Bonds remain Outstanding, the rates, fees and charges for the use of the services rendered by the Utility shall be reasonable and just and subject to the conditions and limitations in the Bond Ordinance and this Resolution provided; and it is hereby covenanted and agreed that such rates, fees and charges, after payment of the costs of operating and maintaining the Utility, shall be sufficient to produce Net Revenues Available for Debt Service each year equal to not less than one hundred twenty percent (120%) of the current year's Debt Service Requirements for all revenue bond

indebtedness of the Utility; shall be sufficient to comply with the conditions of the Bond Ordinance and this Resolution and the terms of the Bonds and provide adequate reserves; and shall provide for at least one hundred percent (100%) coverage of the City's obligations with respect to the Payment to the City; provided that, in determining the Net Revenues Available for Debt Service, estimated additional net income to be derived from rate increases in effect and being charged prior to the end of the applicable year, as determined by the Consulting Engineers, may be taken into account, and that, without giving effect to any such adjustments from rate increases, Net Revenues Available for Debt Service shall be equal to at least one hundred percent (100%) of the current year's Debt Service Requirements for all revenue bond indebtedness of the Utility.

In providing for compliance with the covenants and provisions contained in this Section 1001, it shall be the policy of the City that the rates, fees and charges established for the Water Utility and the Sewer Utility shall each be sufficient to provide Net Revenues Available for Debt Service with respect to revenue bonds issued for improvements to each such component of the Utility which meet the coverage requirements set forth herein to the extent reasonably practical.

Section 1002. Maintenance of Utility. The City covenants and agrees that it will faithfully and punctually perform all duties with respect to the Utility required by the Act, by the applicable rate ordinances and by this Resolution, including the fixing and collecting of rates, fees and charges for the use of the Utility and the deposit of the same in the special Funds and Accounts created by this Resolution; and the City covenants and binds itself not to sell, mortgage, lease or rent or in anyway dispose of the Utility or any substantial part thereof, until the principal of and all of the interest on all Outstanding Bonds shall have been paid in full, or unless and until provision shall have been made for the payment of the full amount of said principal of and interest then remaining outstanding and unpaid; and the City, will continuously maintain the Utility in good repair and working order, and will operate its Utility in a business like and efficient manner.

Section 1003. Insurance. The City will carry and maintain such reasonable amount of all risk insurance on all properties and all operations of the Utility as would be carried by a privately owned utility with similar property and performing similar functions, insofar as the properties are of an insurable nature; and in the event of loss or damage, the City will use the proceeds of such insurance to reconstruct or replace the damaged or destroyed property, or if such reconstruction or replacement be unnecessary, then such proceeds shall be used in redeeming or paying off Outstanding Bonds of the Utility, in accordance with their call provisions. The City also will carry general liability insurance in amounts not less than the then maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the State's tort claims act or other similar future law (currently $500,000.00 per occurrence). In lieu of the foregoing, the City may establish a self-insurance program which will provide substantially the same protection for the Owners.

Section 1004. Financial Reports. As long as any Bonds are Outstanding, the City shall keep proper and separate books of records and accounts in which complete and correct entries shall be made showing the Gross Revenues collected for services by the Utility and all sums

expended in the operation thereof and all sums deposited in the Funds and Accounts above mentioned and all disbursements, transfers and transactions relating to the Utility as a whole, and to the several components of the Utility separately.

The Utility shall make comparative quarterly reports to the Office of the City Manager relative to Utility incomes, Utility expenses and net income from operations. If any such quarterly report shall disclose that the City will not have available the necessary funds for carrying out and complying with all of the requirements of this Resolution, then the City shall within sixty (60) days proceed to cause to be charged and collected rates, fees and charges for the use and services of the Utility which will provide adequate funds to meet such requirements.

The City shall annually cause an audit to be made by a certified public accountants' firm of the operation of the Utility, which audit shall be open to public inspection and shall be completed within one hundred eighty (180) days after the completion of the City's Fiscal Year. If the audit shall disclose that proper provision has not been made for carrying out and complying with all of the requirements of this Resolution, then the City shall within sixty (60) days proceed to cause to be charged and collected rates, fees and charges for the use of services of the Utility which will provide adequate funds to meet all such requirements. The City shall also prepare an Annual Budget in its customary form estimating anticipated expenditures and income and containing a statement relative to the amounts of insurance being carried and to be carried. The books and accounts shall be kept in accordance with generally accepted accounting principles.

As long as the Pre-2009 Bonds are Outstanding, the audit shall include the following information:

(A) A classified statement of the Gross Revenues received, the expenditures for operation and maintenance, the expenditures for all other purposes, the net Operating Revenues and the amount of any capital expenditures made from such Operating Revenues during the year.

(B) A complete balance sheet of the Fiscal Year's operations, particularly indicating the amount of moneys set aside for the various Funds and Accounts as herein provided for.

(C) A statement showing all Outstanding Bonds which have been called, purchased, matured or paid during the year and a statement of all interest thereon paid during the year.

(D) A statement of the number of customers served by the Utility at the end of the year.

(E) A statement of the gross amount of insurance carried on the Utility's properties, showing the names of the insurers, the expiration dates of the policies and the premiums thereon.

(F) A statement by the auditor of any recommendations suggested as to financial procedures and accounting practices employed by the City.

(G) A statement of the Net Revenues Available for Debt Service of the Utility.

(H) A statement of any amounts to be deposited in the Rebate Account.

As long as the Pre-2009 Bonds are Outstanding, the Annual Budget shall contain normal budgetary items, including:

(A) An estimate of the receipts from the Utility during the next ensuing Fiscal Year.

(B) A statement of the estimated cost of operating the Utility during the next ensuing Fiscal Year.

(C) A statement of any anticipated unusual expenses for the Utility during the next Fiscal Year.

(D) A statement of any necessary replacements to the Utility which may be anticipated during the next Fiscal Year.

(E) A statement of the amount of principal and interest to be paid on Outstanding Bonds and any general obligation bonds to be paid from Gross Revenues of the Utility during the next Fiscal Year.

(F) A statement of the total estimated expenditures to be made from the Gross Revenues of the Utility during the next Fiscal Year.

(G) A statement of the estimated Net Revenues Available for Debt Service during the next Fiscal Year.

As long as the Pre-2009 Bonds are Outstanding, copies of such audit and such budget shall be mailed to the Underwriters, to the Bond Insurer, if any, and to the Kansas Bank Commissioner within thirty (30) days after the same are received by the City.

The Owner of any Bond or such Owner's duly authorized attorney, accountant or investment counselor and, the Bond Insurer, if any, shall have the right at all reasonable times during normal business hours to inspect the any records, accounts or data relating thereto in accordance with State law.

Section 1005. Consulting Engineers; Consulting Engineers' Report. The City covenants that it will, for the purpose of performing and carrying out the duties imposed on the Consulting Engineers by this Resolution, employ an independent engineer or engineering firm or corporation having a nationwide and favorable reputation for skill and experience in such work.

Not less than every three (3) years, the City will cause the Consulting Engineers to make an examination and written report on the condition and operation of the Utility, such report to include recommendations as to any changes in such operation deemed desirable. Such report shall also make references to any unusual or extraordinary items of maintenance and repair and any extensions, enlargements or improvements that may be needed in the period prior to the preparation of the next consultant's report required by this Section. A copy of such report will be filed in the Office of the City Clerk, and duplicate copies thereof shall be mailed promptly to the Underwriters and to the Bond Insurer, if any.

ARTICLE XI

DEFAULT AND REMEDIES

Section 1101. Default. Each of the following occurrences is hereby declared to be an "Event of Default" under this Resolution:

(A) Payment of the principal and of the redemption premium, if any, of any Outstanding Bond shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption or otherwise; or

(B) Payment of any installment of interest on any Outstanding Bond shall not be made when the same shall become due and payable; or

(C) The City shall for any reason be rendered incapable of fulfilling its obligations hereunder; or

(D) Any substantial part of the Utility shall be destroyed or damaged to the extent of impairing its efficient operation or adversely affecting its Gross Revenues and the City shall not within a reasonable time commence the repair, replacement or reconstruction thereof and proceed thereafter to complete with reasonable dispatch the repair, replacement or reconstruction thereof; or

(E) Final judgment for the payment of money shall be rendered against the City as a result of the ownership, control or operation of the Utility and any such judgment shall not be discharged within one hundred twenty (120) days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to stay the execution of or levy under such judgment, order, decree or process or the enforcement thereof, or

(F) An order or decree shall be entered, with the consent or acquiescence of the City, appointing a receiver or receivers of the Utility or any part thereof or of the Gross Revenues thereof, or if such order or decree, having been entered without the consent or acquiescence of the City, shall not be vacated or discharged or stayed on appeal within sixty (60) days after the entry thereof; or

(G) Any proceeding shall be instituted, with the consent or acquiescence of the City, for the purpose of effecting a composition between the City and its creditors or for the purpose of adjusting the claims of such creditors pursuant to any Federal or State statute now or hereafter enacted, if the claims of such creditors are under any circumstances payable from the Net Revenues Available For Debt Service of the Utility; or

(H) The City shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Outstanding Bonds, the Bond Ordinance or in this Resolution on the part of the City to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring same to be remedied shall have been given to the City by the Bond Insurer, if any, or the Owner of any Outstanding Bond.

In determining whether an Event of Default shall have occurred with respect to the due and prompt payment of the principal of and/or the interest on any Series 2010 Bonds or whether a payment on the Series 2010 Bonds has otherwise been made under the terms and provisions of this Resolution, no effect shall be given to payments made under any Municipal Bond Insurance Policy.

If an Event of Default shall have occurred and be continuing, the City shall request the Paying Agent to promptly notify the Bond Insurer, if any, and the Owners of such default.

Section 1102. Remedies. The Bond Ordinance and this Resolution and all of the provisions thereof and hereof shall constitute a contract between the City, the Bond Insurer, if any, and each of the Owners of Series 2010 Bonds issued under the Bond Ordinance and this Resolution, and any such Owner of any one or more of the Series 2010 Bonds may by suit, action, mandamus, injunction or other proceeding, either at law or in equity, enforce and compel performance of all duties, obligations and conditions determined and required by this Resolution, subject to the limitations of Section 1103 hereof.

Upon the happening and continuance of any Event of Default, then and in every such case any Owner may proceed, subject to the provisions of this Section and of Section 1103 hereof, to protect and enforce the rights of the Owners by a suit, action or special proceeding in equity, or at law, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy as such Owner shall deem most effectual to protect and enforce such rights.

Anything in this Resolution to the contrary notwithstanding, if at any time moneys in the Principal and Interest Account shall not be sufficient to pay the interest on or the principal of the Bonds as the same shall become due and payable, such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Section or otherwise, shall be applied as follows:

(A) If the principal of all the Bonds shall not have become due and payable, all such moneys shall be applied:

first: to the payment of the persons entitled thereto of all installments of interest then due and payable in the order in which such installments became due and payable, and, if the amount available shall not be sufficient to pay in full any particular installments, then to the payment, ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds;

second: to the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Resolution), in the order of their due dates, with interest on the principal amount of such Bonds at the respective rates specified therein from the respective dates upon which such Bonds became due and payable, and, if the amount available shall not be sufficient to pay in full the principal of the Bonds due and payable on any particular date, together with such interest, then to the payment first of such interest, ratably, according to the amount of such interest due on such date, and then to the payment of such principal, ratably, according to the amount of such principal due on such date, to the persons entitled thereto without any discrimination or preference; and

third: to the payment of the interest on and the principal of the Bonds, to the purchase and retirement of the Bonds and to the redemption of the Bonds, all in accordance with the provisions of this Resolution.

(B) If the principal of all of the Bonds shall have become due and payable, all such moneys shall be applied:

first: to the payment to the persons entitled thereto of all installments of interest due and payable on or prior to maturity, if any, in the order in which such installments became due and payable and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any

discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds, and then to the payment of any interest due and payable after maturity on the Bonds, ratably, to the person entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Bonds; and

second: to the payment of the principal of the Bonds, ratably, to the persons entitled thereto, without preference or priority of any Bond over any other Bond.

Whenever moneys are to be applied by the City pursuant to the provisions of this Section, such moneys shall be applied at such times, and from time to time, as the Director of Finance in her sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future; the deposit of such moneys with the Paying Agent in trust for the proper purpose shall constitute proper application by the City; and the City shall incur no liability whatsoever to any Owner or to any other person for any delay in applying any such moneys, so long as the City acts with reasonable diligence, having due regard to the circumstances, and ultimately applies the same in accordance with such provisions of this Resolution as may be applicable at the time of application by the Director of Finance. Whenever the Director of Finance shall exercise such discretion in applying such moneys, she shall fix the date (which shall be an Interest Payment Date unless she shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Director of Finance shall give such notice as she may deem appropriate of the fixing of any such date, and shall not be required to make payment to the Owner of any unpaid Bond until such Bond shall be surrendered to the Paying Agent for appropriate endorsement, or for cancellation if fully paid.

In case any proceeding taken by any Owner on account of any default shall have been discontinued or abandoned for any reason, then and in every such case the City and the Owners shall be restored to their former positions and rights hereunder, respectively, and all rights and remedies of the Owners shall continue as though no such proceedings had been taken.

No Owner of any of the Bonds shall have any right in any manner whatever to affect, disturb or prejudice the security of this Resolution or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners.

No remedy herein conferred on the Owners is intended to be exclusive of any other remedy or remedies, and each and every remedy conferred shall be cumulative and shall be in addition to every other remedy given hereunder and under the Act or now or hereafter existing at law or in equity or by statute.

No delay or omission of any Owner to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and

remedy given by this Article to the Owners may be exercised from time to time and as often as may be deemed expedient.

Section 1103. Limitation on Exercise of Remedies by Owners. No Owner of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of the Bond Ordinance or this Resolution or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (i) an Event of Default shall have occurred, (ii) the Owners of twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding shall have made written request to the City, shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and (iii) the City shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case, at the option of the City, to be conditions precedent to the execution of the powers and trusts of the Bond Ordinance and this Resolution, and to any action or cause of action for the enforcement of the Bond Ordinance and this Resolution, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the Bond Ordinance or this Resolution by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of the Bonds then Outstanding. Nothing in the Bond Ordinance or this Resolution contained shall, however, affect or impair the right of any Owner to payment of the principal of and the interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of, premium, if any, and the interest on each of the Bonds issued hereunder to the respective Owners thereof at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 1104. Remedies Cumulative. No remedy herein conferred on the City, the Bond Insurer, if any, or the Owners is intended to be exclusive of any other remedy or remedies, but each and every such remedy conferred shall be cumulative and shall be in addition to every other remedy given hereunder and under the Act or now or hereafter existing at law or in equity or by statute.

No delay or omission of any Owner to exercise any right or power accruing upon any default occurring and continuing as aforesaid shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Article to the Owners may be exercised from time to time and as often as may be deemed expedient. No waiver of any Event of Default hereunder, whether by the City, the Bond Insurer, if any, or by the Owners, shall extend to or shall affect any subsequent Event of Default or shall impair any rights or remedies consequent thereon.

Section 1105. No Obligation to Levy Taxes. Nothing contained in the Bond Ordinance or this Resolution shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or the interest on the Bonds.

ARTICLE XII

AMENDMENTS

Section 1201. Amendments. Except as set forth herein, the provisions of the Bonds authorized by the Bond Ordinance and this Resolution, and the provisions of the Bond Ordinance or this Resolution may be modified or amended at any time by the City with the prior written consent of the Bond Insurer, if any, and the Owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds herein authorized at the time Outstanding; provided, however, that no such modification or amendment shall permit or be construed as permitting (i) the extension of the maturity of the principal of any of the Bonds issued hereunder, or the extension of the maturity of any interest on any Bonds issued hereunder, or (ii) a reduction in the principal amount of any Bonds or the rate of interest thereon, or (iii) a reduction in the aggregate principal amount of Bonds, the consent of one hundred percent (100%) of the Owners of which, together with the prior written consent of any Bond Insurer, if any, is required for any such amendment or modification.

The City may from time to time, without the consent of or notice to any of the Owners, but with fifteen (15) days written notice to any rating agency which has assigned a rating to the Series 2010 Bonds, provide for amendments to the Bonds, the Bond Ordinance or this Resolution, for any one or more of the following purposes:

(A) to cure any ambiguity or formal defect or omission in the Bond Ordinance or this Resolution or to make any other change not prejudicial to the Owners;

(B) to grant to or confer upon the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners;

(C) to provide for the issuance of coupon bonds and the exchange of fully registered Series 2010 Bonds for coupon bonds upon such terms and conditions as the City shall determine; provided, however, that no such amendments shall become effective unless and until the City shall have received an opinion of Bond Counsel, in form and substance satisfactory to the City, to the effect that the issuance of such coupon bonds or the exchange of the Series 2010 Bonds for such coupon bonds will not cause the interest on the Series 2010A Bonds to be includable in the gross income of the recipients thereof under the provisions of applicable Federal law; or

(D) to conform this Resolution to the Code or future applicable Federal law concerning tax exempt obligations.

Any provision of this Resolution expressly recognizing or granting rights in or to any Bond Insurer may not be amended in any manner which affects the rights of such Bond Insurer

hereunder without the prior written consent of such Bond Insurer.

Section 1202. Written Evidence of Amendments. Every amendment or modification of a provision of the Bonds, the Bond Ordinance or of this Resolution to which the prior written consent of the Owners and/or of any Bond Insurer is given as above provided shall be expressed in an ordinance or resolution of the City, as applicable, amending or supplementing the provisions of the Bond Ordinance or this Resolution and shall be deemed to be a part of the Bond Ordinance or this Resolution, as applicable. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification, if any. Prior to the adoption of such ordinance or resolution, the City shall receive an opinion from Bond Counsel to the effect that the proposed amendment is in compliance with the requirements of the preceding Section and that the passage of the ordinance or resolution authorizing such amendment will not adversely affect the tax-exempt status of the interest on the Bonds. At least fifteen (15) days prior to the execution of any such amendment or modification of the Bond Ordinance or this Resolution, the City shall furnish the Bond Insurer, if any, and any rating agency which has assigned a rating on the Series 2010 Bonds with a copy of the amendment, change or modification proposed to be made. A certified copy of every such amendatory or supplemental ordinance or resolution, if any, and a certified copy of the Bond Ordinance and this Resolution shall always be kept on file in the Office of the City Clerk and shall be made available for inspection by the Owners of any Bond or prospective purchaser or Owners of any Bond authorized by the Bond Ordinance and this Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental ordinance or resolution will be sent by the City Clerk to any such Owner or prospective Owner. A certified copy of all proceedings relating to the execution of every such amendatory or supplemental ordinance or resolution, if any, shall be furnished to any Bond Insurer.

Section 1203. Consent Required in Addition to Owner Consent. Unless otherwise provided in this Section, if any series of Series 2010 Bonds are insured under a Municipal Bond Insurance Policy, the Bond Insurer's consent shall be required in addition to Owner consent, when required, for the following purposes (i) the execution and delivery of any supplemental Ordinance or Resolution; (ii) removal of the Paying Agent and selection and appointment of any successor paying agent; and (iii) the initiation or approval of any action not described in the foregoing clause (i) or (ii) which requires Owner consent.

ARTICLE XIII

DEFEASANCE

Section 1301. Defeasance. When the principal of all of the Series 2010 Bonds and any Parity Bonds, the premium thereon, if any, and the interest thereon shall have been paid and discharged, then the requirements contained herein and the pledge of Net Revenues made hereunder and all other rights granted hereby shall cease and determine. Bonds shall be deemed to have been paid and discharged within the meaning of this Resolution if there shall have been deposited with the Paying Agent or a bank located in the State and having full trust powers, at or prior to the maturity or redemption date of the Bonds, as the case may be, in trust for and irrevocably appropriated thereto, cash moneys and/or non-callable direct obligations of the

United States of America, or obligations the principal of and interest on which are guaranteed by the United States of America (if approved by any applicable Bond Insurer), or other investments allowed by State law (if approved by any applicable Bond Insurer) which, together with the interest to be earned on such investments, will be sufficient for the payment of the principal of the Bonds, the premium thereon, if any, and the interest accrued to the date of maturity or redemption, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments, provided always that if any such Bonds shall be redeemed prior to the maturity thereof, the City shall have elected to redeem such Bonds and notice of such redemption shall have been given as provided in this Resolution. Any moneys which at any time shall be deposited with the Paying Agent or said bank in the State by or on behalf of the City for the purpose of paying and discharging any of the Bonds shall be and are hereby assigned, transferred and set over to the Paying Agent or such bank in the State in trust for the respective Owners of the Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys deposited with the Paying Agent or said bank in the State shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Resolution. At such time as a Bond shall be deemed to be paid, it shall no longer be secured by or entitled to the benefits of this Resolution, except for the purposes of any such payment from such moneys or Government Securities.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Parties Interested Herein. Nothing in the Bond Ordinance or this Resolution expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Bond Insurer, if any, the Bond Registrar and Paying Agent and the Owners of the Series 2010 Bonds, any right, remedy or claim under or by reason of the Bond Ordinance or this Resolution, or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in the Bond Ordinance or this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Bond Insurer, if any, the Bond Registrar and Paying Agent and the Owners of the Series 2010 Bonds.

Section 1402. Severability. In case any one or more of the provisions of the Bond Ordinance, this Resolution or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of the Bond Ordinance, this Resolution, or of the Bonds appertaining thereto, but the Bond Ordinance, this Resolution and said Bonds shall be construed and enforced as if such illegal or invalid provision had not been contained herein. In case any covenant, stipulation, obligation or agreement contained in the Bonds, the Bond Ordinance or in this Resolution shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the City to the full extent permitted by law.

Section 1403. Continuing Disclosure Certificate. To assist each Underwriter in complying with Rule 15c2-12 of the Securities and Exchange Commission, the City is hereby

authorized to execute and deliver certain Continuing Disclosure Certificate dated as of the Date of Issuance of the applicable series of Series 2010 Bonds (the "Continuing Disclosure Certificate"), under which the City will provide certain annual financial information and notice of the occurrence of certain material events, all as more particularly set forth therein.

Section 1404. Further Authority. The Mayor, the City Clerk, the City Manager, the Director of Finance, and other City officials as necessary or required, are hereby authorized, ordered and directed to execute any and all documents and agreements required to be executed pursuant to this Resolution or in connection with the issuance, sale and delivery of the Series 2010 Bonds, including, but not limited to, this Resolution, the Official Statement, the Continuing Disclosure Certificates, together with any and all supporting documents and certificates required in the issuance of the Series 2010 Bonds, including final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Series 2010 Bonds, all for and on behalf of, and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body concurrently with adoption of this Resolution, with such minor corrections or amendments thereto as the Mayor or other signatory shall approve, which approval shall be evidenced by his execution thereof; and the Mayor, the City Clerk, the City Manager, the Director of Finance, and other City officials as necessary or required, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Resolution and to give effect to the transactions contemplated hereby; and further, to furnish and provide any and all notices and documents at the times indicated to the various parties as required in the several Articles of this Resolution, including, but not limited to, the Underwriter for each series of Series 2010 Bonds and the Bond Insurer, if any.

The execution and attestation of this Resolution, the Official Statement, the Continuing Disclosure Certificates and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Resolution, shall be conclusive as to the approval, correctness and completeness of said documents and each of them.

The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of this Resolution and to carry out, give effect to and comply with and perform the duties of the City with respect to the Series 2010 Bonds, the Official Statement, the Continuing Disclosure Certificates, and the Utility, all as necessary to carry out, give effect to and comply with the transactions contemplated hereby and thereby.

Section 1405. Previous Ordinances Controlling. To the extent any provision of this Resolution is in conflict with the Series 1998 Ordinance, the Series 1998 Ordinance shall control so long as any Series 1998 Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 1999 Ordinance, the Series 1999 Ordinance shall control so long as any Series 1999 Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2000 Ordinance, the Series 2000 Ordinance shall control

so long as any Series 2000 Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2003 Ordinance, the Series 2003 Ordinance shall control so long as any Series 2003 Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2005A Ordinance, the Series 2005A Ordinance shall control so long as any Series 2005A Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2005B Ordinance, the Series 2005B Ordinance shall control so long as any Series 2005B Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2005C Ordinance, the Series 2005C Ordinance shall control so long as any Series 2005C Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2006 Ordinance, the Series 2006 Ordinance shall control so long as any Series 2006 Bonds remain outstanding; to the extent any provision of this Resolution is in conflict with the Series 2008A Ordinance, the Series 2008A Ordinance shall control so long as any Series 2008A Bonds remain outstanding, and to the extent any provision of this Resolution is in conflict with the Series 2009 Ordinance, the Series 2009 Ordinance shall control so long as any Series 2009 Bonds remain outstanding.

Section 1406. Governing Law. The Bond Ordinance, this Resolution and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1407. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the Governing Body.

[Remainder of page intentionally left blank]

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, on September 21, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

By_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

EXHIBIT A

THE PROJECTS

EXHIBIT B

ADDITIONAL TERMS OF THE SERIES 2010 BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Bond Ordinance" means Ordinance No. _____ of the City passed by the Governing Body on September 21, 2010, and authorizing and providing for the issuance of the Series 2010 Bonds.

"Underwriter" means, with respect to the Series 2010A Bonds, _____, _____, _____, and, with respect to the Series 2010B Bonds, _____, _____, _____.

Maturity Schedule. All of the Series 2010 Bonds shall be become due or be subject to mandatory redemption on the dates and shall bear interest as the rates per annum as follows:

SERIES 2010A BONDS

Principal or Mandatory Redemption Date	Interest Rate Per Annum
October 1, 2011	%
October 1, 2012	
October 1, 2013	
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	
October 1, 2028	
October 1, 2029	
October 1, 2030	

SERIES 2010B BONDS

Principal or Mandatory Redemption Date	Interest Rate Per Annum
October 1, 2011	%
October 1, 2012	
October 1, 2013	
October 1, 2014	
October 1, 2015	
October 1, 2016	
October 1, 2017	
October 1, 2018	
October 1, 2019	
October 1, 2020	
October 1, 2021	
October 1, 2022	
October 1, 2023	
October 1, 2024	
October 1, 2025	
October 1, 2026	
October 1, 2027	
October 1, 2028	
October 1, 2029	
October 1, 2030	

EXHIBIT C

FINAL SIZING TERMS OF THE SERIES 2010B BONDS

Definitions. The following terms defined in the Resolution shall have the meanings ascribed below:

"Purchase Price" for the Series 2010A Bonds shall be the par value of the Series 2010A Bonds, *i.e.*, $_____, plus accrued interest to the date of delivery [, plus an original issue premium of $_____], and for the Series 2010B Bonds shall be the par value of the Series 2010B Bonds, *i.e.*, $_____, plus accrued interest to the date of delivery [, plus an original issue premium of $_____].

["20__ Term Bonds" shall mean the Series 2010_ Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Series 2010_ Bonds maturing in the year 20__.

"20__ Term Bonds" shall mean the Series 2010_ Bonds maturing in the year 20__.]

Maturity Schedule. All of the Series 2010 Bonds shall be become due in the amounts and on the dates set forth below:

SERIES 2010A SERIAL BONDS

Principal Payment Date	Amount of Principal Payment
October 1, 2011	$1,295,000
October 1, 2012	1,275,000
October 1, 2013	1,295,000
October 1, 2014	1,325,000
October 1, 2015	1,360,000
October 1, 2016	1,395,000
October 1, 2017	1,435,000
October 1, 2018	1,475,000
October 1, 2019	1,520,000
October 1, 2020	1,565,000
October 1, 2021	1,615,000
October 1, 2022	1,665,000
October 1, 2023	1,735,000
October 1, 2024	1,805,000
October 1, 2025	1,880,000
October 1, 2026	1,960,000

October 1, 2027	2,045,000
October 1, 2028	2,135,000
October 1, 2029	2,230,000
October 1, 2030	2,335,000

[SERIES 2010A TERM BONDS

Principal Payment Date	Amount of Principal Payment
October 1, 20__	$,000
October 1, 20__	,000

2010A Bonds Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	Principal Amount
20__	$,000
20__	,000
20__	,000
20__*	,000

* Final maturity]

SERIES 2010B SERIAL BONDS

Principal Payment Date	Amount of Principal Payment
October 1, 2011	$ 605,000
October 1, 2012	590,000
October 1, 2013	605,000
October 1, 2014	625,000
October 1, 2015	650,000
October 1, 2016	675,000
October 1, 2017	700,000
October 1, 2018	730,000
October 1, 2019	765,000
October 1, 2020	795,000
October 1, 2021	830,000
October 1, 2022	870,000
October 1, 2023	915,000
October 1, 2024	955,000
October 1, 2025	1,000,000

October 1, 2026	1,055,000
October 1, 2027	1,115,000
October 1, 2028	1,170,000
October 1, 2029	1,235,000
October 1, 2030	1,305,000

[SERIES 2010B TERM BONDS

Principal Payment Date	**Amount of Principal Payment**
October 1, 20__	$,000
October 1, 20__	,000

2010B Bonds Mandatory Redemption. Each of the 20__ Term Bonds shall also be subject to mandatory redemption and payment on October 1, 20__, or on any Principal Payment Date thereafter, pursuant to the redemption schedule set out below, at the principal amount, plus accrued interest to date fixed for redemption and payment, without premium. The City agrees to redeem the following principal amounts of the 20__ Term Bonds in each of the following years:

Year	**Principal Amount**
20__	$,000
20__	,000
20__	,000
20__*	,000

* Final maturity]

Deposits. Proceeds of the Series 2010A Bonds shall be deposited as follows:

(1) to the credit of the 2010A Costs of Issuance Account, the sum of $_____;

(2) to the credit of the 2010A Bond Reserve Subaccount, the sum of $_____;

(3) to the credit of the 2010A Water Project Fund, the sum of $_____; and

(4) to the credit of the 2010A Sewer Project Fund, the sum of $_____.

Proceeds of the Series 2010B Bonds shall be deposited as follows:

(1) to the credit of the 2010B Costs of Issuance Account, the sum of $_____;

(2) to the credit of the 2010B Bond Reserve Subaccount, the sum of $_____;

(3) to the credit of the 2010B Water Project Fund, the sum of $_____; and

(4) to the credit of the 2010B Sewer Project Fund, the sum of $_____.

Approved by:

_____
City Manager
City of Wichita, Kansas

(Published in *The Wichita Eagle* on September 24, 2010)

ORDINANCE NO. 48-834

AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR CONSTRUCTING, RECONSTRUCTING, ALTERING, REPAIRING, IMPROVING, EXTENDING OR ENLARGING OF THE MUNICIPAL WATER AND SEWER UTILITY AND FOR FUNDING OF REQUIRED RESERVES FOR OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY OF WICHITA, KANSAS; AUTHORIZING THE ISSUANCE OF THE CITY'S WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010A, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $33,345,000 AND WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010B (TAXABLE UNDER FEDERAL LAW), IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $17,190,000 TO PAY A PORTION OF THE COST THEREOF; MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS AND SUPPORTING DOCUMENTS.

WHEREAS, the City of Wichita, Kansas (the "City"), is a first class city duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the City is authorized under the laws of the State to issue general obligation bonds to construct, reconstruct, alter, repair, improve, extend or enlarge its municipal utilities; and

WHEREAS, the Governing Body of the City has heretofore by Ordinance No. 39-888, adopted May 26, 1987, and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility" (the "Utility"); and

WHEREAS, pursuant to the provisions of the Act (as such term is defined herein) and Ordinance No. 41-934 of the City, adopted January 26, 1993 (the "Series 1993 Ordinance"), the City issued $76,320,000 original principal amount of Water and Sewer Utility Refunding and Improvement Revenue Bonds, Series 1993, dated February 1, 1993 (the "Series 1993 Bonds"), which Series 1993 Bonds were payable from and had a first and prior lien on the Net Revenues (as such term is defined herein) derived by the City from the operation of the Utility; and

WHEREAS, pursuant to the provisions of the Act, the Series 1993 Ordinance and various ordinances and resolutions of the City, the City has heretofore issued $64,930,000 original principal amount of Water and Sewer Utility Revenue Bonds, Series 1997 (the "Series 1997 Bonds"); $29,135,000 original principal amount of Water and Sewer Utility Refunding Revenue Bonds, Series 1998 (the "Series 1998 Bonds"); $48,950,000 original principal amount of Water and Sewer Utility Revenue Bonds, Series 1999 (the "Series 1999 Bonds"); $7,220,000 original principal amount of Water and Sewer Utility Revenue Bonds, Series 2000 (the "Series 2000 Bonds"); $16,325,000 original principal amount of Water and Sewer Utility Refunding Revenue Bonds, Series 2001 (the "Series 2001 Bonds"); $120,365,000 original principal amount of Water and Sewer Utility Revenue Bonds, Series 2003 (the "Series 2003 Bonds"); $45,535,000 original principal amount of Water and Sewer Utility Refunding Revenue Bonds, Series 2005A (the "Series 2005A Bonds"); $26,695,000 Water and Sewer Utility Refunding Revenue Bonds, Series 2005B (the "Series 2005B Bonds"); $46,975,000 Water and Sewer Utility Revenue Bonds, Series 2005C (the "Series 2005C Bonds"); $51,140,000 Water and Sewer Utility Revenue Bonds, Series 2006 (the "Series 2006 Bonds"); $29,460,000 Water and Sewer Utility Revenue Bonds, Series 2008A (the "Series 2008A Bonds"); $119,775,000 Water and Sewer Utility Revenue Bonds, Series 2009A (the "Series 2009A Bonds"); and $12,845,000,000 Water and Sewer Utility Revenue Bonds, Series 2009B (Taxable Under Federal Law) (the "Series 2009B Bonds"); and

WHEREAS, the Series 1993 Bonds, Series 1997 Bonds and Series 2001 Bonds are no longer Outstanding; and

WHEREAS, the Outstanding Series 1998 Bonds, Series 1999 Bonds, Series 2000 Bonds, Series 2003 Bonds, Series 2005A Bonds, Series 2005B Bonds, Series 2005C Bonds, Series 2006 Bonds, Series 2008A, Series 2009A and Series 2009B Bonds (collectively, the "Outstanding Parity Bonds") are payable from and have a co-equal first and prior lien on the Net Revenues (as such term is defined herein) derived by the City from the operation of the Utility; and

WHEREAS, pursuant to the provisions of the ordinances of the City authorizing such existing revenue bond indebtedness of the Utility, the City is authorized to issue additional revenue bonds for extensions, enlargements and improvements to the Utility, and such additional revenue bonds may be on a parity with and co-equal in priority and lien to the existing revenue bond indebtedness of the Utility, provided that certain conditions are satisfied; and

WHEREAS, the Governing Body has heretofore by various resolutions, duly adopted, found and determined it to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend or enlarge the Utility and has found and determined it to be necessary and advisable to issue revenue bonds pursuant to the provisions of K.S.A. 10-1201 *et seq.*, as amended and supplemented, and Charter Ordinance No. 211 of the City (the "Act"), in order to pay the costs thereof; and

WHEREAS, the Governing Body caused to be published in the City's official newspaper, notices of the City's intention to construct the Projects and issue such revenue bonds

determined necessary by the aforesaid resolutions; and within the 15-day period after the publication of each such notice as required by the Act, no written protest was filed in the Office of the City Clerk against the Projects and the issuance of such revenue bonds, and the City is, therefore, now authorized to construct the Projects and to issue said revenue bonds; and

WHEREAS, the Governing Body hereby finds and determines that each and all of the conditions precedent to the issuance of additional revenue bonds on a parity with and co-equal in priority and lien to the existing revenue bond indebtedness of the Utility have, or can and will be satisfied prior to or upon the issuance of such additional revenue bonds; and

WHEREAS, the Governing Body hereby finds it necessary and desirable to provide for the issuance and delivery of the Series 2010 Bonds payable from Net Revenues of the Utility and to authorize and provide for the execution and delivery of certain agreements and supporting documents;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Definitions. All capitalized terms and phrases not otherwise defined herein shall have the meanings set forth in the Resolution herein referenced.

Section 2. Authorization of and Security for Series 2010 Bonds; Pledge of Net Revenues. Pursuant to the Bond Ordinance, the Governing Body hereby authorizes, orders and directs that there shall be issued and delivered the following series of revenue bonds (referred to collectively, as the "Series 2010 Bonds"): (a) "City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010A," in the aggregate total principal amount not to exceed $33,345,000, as provided by and under the authority of the Act, for the purpose of providing the necessary funds to pay the Project Costs, fund a bond reserve for the Series 2010A Bonds, and pay Costs of Issuance associated with the Series 2010A Bonds; and (b) "City of Wichita, Kansas Water and Sewer Utility Revenue Bonds, Series 2010B (Taxable Under Federal Law)," in the aggregate total principal amount not to exceed $17,190,000, as provided by and under the authority of the Act, for the purpose of providing the necessary funds to pay Project Costs, fund a bond reserve for the Series 2010B Bonds, and pay Costs of Issuance associated with the Series 2010B Bonds.

The principal amount of the Series 2010 Bonds, premium, if any, and the interest thereon are secured by and shall be paid by the City solely from the Net Revenues derived from the operation of the Utility, and the rates, fees and charges collected for the use thereof or service therefrom, and not from any other fund or source; and the Series 2010A Bonds and Series 2010B Bonds are hereby made a first and prior lien on the Net Revenues produced from the Utility, which lien is on a parity with and co-equal to each other and to the lien on the Net Revenues of the Series 1998 Bonds, the Series 1999 Bonds, the Series 2000 Bonds, the Series 2003 Bonds, the Series 2005A Bonds, the Series 2005B Bonds, the Series 2005C Bonds, the Series 2006 Bonds, the Series 2008A Bonds, the Series 2009A Bonds and the Series 2009B Bonds; and the City hereby irrevocably pledges the Net Revenues derived from the operation of the Utility to the payment of the Series 2010 Bonds.

The Series 2010A Bonds and Series 2010B Bonds shall not have any priority with respect to the payment of principal or interest over each other or over any revenue bonds of the City hereafter issued in accordance with the provisions of the Resolution (as hereinafter defined) which are on a parity with the Series 2010 Bonds, nor shall any other revenue bonds of the City heretofore or hereafter issued have any priority over the payment from the Net Revenues of the principal of or the interest on the Series 2010 Bonds.

The Series 2010 Bonds shall not be nor constitute general obligations of the City nor shall they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, and the City shall be under no obligation to levy any taxes to pay any of the principal of or the interest on the Series 2010 Bonds.

Section 3. Terms, Details and Conditions of the Bonds. Each series of Series 2010 Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity thereof, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in a resolution (the "Resolution") hereafter adopted by the Governing Body of the City. In all matters relating to the issuance, registration and delivery of the Series 2010 Bonds, the City will comply with the provisions, requirements and restrictions of K.S.A. 10-101 *et seq.*, as amended and supplemented.

Section 4. Rate Covenant. While any of the Series 2010 Bonds remain Outstanding, the rates, fees and charges for the use of the services rendered by the Utility shall be reasonable and just and subject to the conditions and limitations in this Ordinance and the Resolution, provided, and it is hereby covenanted and agreed that, such rates, fees and charges, after payment of the costs of operating and maintaining the Utility, shall be sufficient to produce Net Revenues Available for Debt Service each year equal to not less than one hundred twenty percent (120%) of the current year's Debt Service Requirements for all revenue bond indebtedness of the Utility; shall be sufficient to comply with the conditions of this Ordinance and the Resolution and the terms of the Series 2010 Bonds and provide adequate reserves; and shall provide for at least one hundred percent (100%) coverage of the City's obligations with respect to the Payment to the City and to the repayment of Policy Costs then due and owing to the Initial Provider; provided that, in determining the Net Revenues Available for Debt Service, estimated additional net income to be derived from rate increases in effect and being charged prior to the end of the applicable year, as determined by the Consulting Engineers, may be taken into account, and that, without giving effect to any such adjustments from rate increases, Net Revenues Available for Debt Service shall be equal to at least one hundred percent (100%) of the current year's Debt Service Requirements for all revenue bond indebtedness of the Utility.

In providing for compliance with the covenants and provisions contained herein and the Resolution, it shall be the policy of the City that the rates, fees and charges established for the Water Utility and the Sewer Utility shall each be sufficient to provide Net Revenues Available for Debt Service with respect to revenue bonds issued for improvements to each such component of the Utility which meet the coverage requirements set forth herein to the extent reasonably practical.

Section 5. Maintenance of Utility; Collection, Segregation and Disposition of Revenues. The City hereby covenants to operate and maintain the Utility in accordance with the requirements set forth in the Resolution. The City hereby further covenants and agrees that from and after the date of passage of this Ordinance, the Gross Revenues derived by the City from the operation of the Utility, including the Gross Revenues from all extensions and improvements to the Utility hereafter constructed or acquired by the City, will be deposited into the Water and Sewer Utility Revenue Fund created and currently maintained by the City, and shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City, all as more specifically provided in the Resolution.

Section 6. Tax Covenants. The Governing Body hereby covenants and agrees that so long as any of the Series 2010A Bonds remain outstanding and unpaid, it will not take any action, or fail to take any action in its power, if any such action or the failure to take such action, would adversely affect the continued exclusion from gross income for purposes of Federal income taxation of the interest on the Series 2010A Bonds under Section 103 of the Code, and further covenants to comply with all other provisions of the Code, as the same may be amended, and any applicable rules and regulations of the United States Treasury Department thereunder, to the extent applicable to the Series 2010A Bonds.

The Governing Body hereby further covenants that it will use and expend the proceeds of the Series 2010A Bonds for the purpose for which they are issued as soon as practicable and with all reasonable dispatch, and that it will not directly or indirectly use or permit the use of the proceeds of the Series 2010A Bonds or any other funds of the City, or take or omit to take any action which, if such use or taking or omission of action had been reasonably expected on the Date of Issuance, would have caused the Series 2010A Bonds to be "arbitrage bonds" within the meaning of Section 103(b)(2) of the Code and to that end, it will comply with all applicable requirements of Section 148 of the Code and the rules and regulations of the United States Treasury Department thereunder to the extent applicable to the Series 2010A Bonds for so long as any of the Series 2010A Bonds remain outstanding and unpaid.

Without limiting the generality of the foregoing, the Governing Body agrees that there shall be paid from time to time, all amounts required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and any temporary, proposed or final Treasury regulations as may be applicable to the Series 2010A Bonds from time to time. This covenant shall survive payment in full or the defeasance of the Series 2010A Bonds and the Governing Body specifically hereby covenants to pay or cause to be paid to the United States of America, at the times and in the amounts determined under this Ordinance and the Resolution, the Rebate Amount as described in the Tax Compliance Certificate.

Section 7. **Designation.** Pursuant to K.S.A. 10-620 *et seq.,* the Governing Body elects to have the provisions of the Kansas Bond Registration Law apply to the Bonds. The Treasurer of the State of Kansas, Topeka, Kansas, is hereby designated as the initial Paying Agent and Bond Registrar for the Bonds; provided, however, the City reserves the right, in its sole discretion, to designate successor Paying Agents and Bond Registrars with respect to the Bonds upon fifteen (15) days' written notice to the then acting Paying Agent and Bond Registrar. The Mayor and City Clerk are authorized and empowered to execute on behalf of the City all

necessary agreements with the initial or any successor Bond Registrar and Paying Agent in connection with such designation.

Section 8. Further Authority. The Governing Body hereby authorizes, orders and directs the Mayor to execute, and the City Clerk to attest by signing and affixing the official seal of the City, and thereupon deliver this Ordinance and the Official Statement relating to the offering and sale of the Series 2010 Bonds, in accordance with the provisions of the Resolution. The Governing Body hereby further authorizes, orders and directs the Mayor and the City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, to execute and deliver any and all supporting documents and certificates required in the issuance of the Series 2010 Bonds, final certificates required to be included in the official Transcript of Proceedings relating to the authorization and issuance of the Series 2010 Bonds, all for and on behalf of and as the act and deed of the City and without further action by the Governing Body, such documents to be in substantially the forms thereof as are presented to the Governing Body on this date, with such minor corrections or amendments thereto as the Mayor shall approve, which approval shall be evidenced by his execution thereof and the Mayor and City Clerk, or the Director of Finance, as appropriate, or such other officers, officials, agents and employees of the City as the Mayor may designate and direct, are also authorized to execute and deliver such other documents, certificates and instruments as may be necessary or desirable in order to carry out, give effect to and comply with the intent of this Ordinance and to give effect to the transactions contemplated hereby.

The execution and attestation of this Ordinance, the Official Statement, and such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the intent of this Ordinance, shall be conclusive as to the approval of said documents and each of them.

The Governing Body shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out, give effect to and comply with the provisions of and transactions contemplated by this Ordinance and to carry out, give effect to and comply with and perform the duties of the City with respect to the Series 2010 Bonds and the Official Statement.

Section 9. Effective Date. This Ordinance shall be in force and take effect from and after its passage and approval by the Governing Body of the City, and the publication hereof one time in the City's official newspaper.

(The Remainder of This Page Was Intentionally Left Blank)

PASSED AND APPROVED by the Governing Body of the City of Wichita, Kansas on September 21, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

APPROVED AS TO FORM:

By: _____
Gary E. Rebenstorf, Director of Law

REQUEST FOR DECLARATION OF EMERGENCY

REQUEST OF THE MAYOR OF THE CITY OF WICHITA, KANSAS, FOR THE DECLARATION BY THE CITY COUNCIL OF SAID CITY OF THE EXISTENCE OF A PUBLIC EMERGENCY REQUIRING THE FINAL ADOPTION OF AN ORDINANCE AS DESIGNATED BELOW.

I, CARL BREWER, Mayor of the City of Wichita, Kansas, hereby request that the City Council declare that a public emergency exists requiring the final adoption and passage on the date of its introduction, *to-wit,* September 21, 2010, of an ordinance entitled:

"AN ORDINANCE OF THE CITY OF WICHITA, KANSAS, AUTHORIZING AND PROVIDING FOR CONSTRUCTING, RECONSTRUCTING, ALTERING, REPAIRING, IMPROVING, EXTENDING OR ENLARGING OF THE MUNICIPAL WATER AND SEWER UTILITY AND FOR FUNDING OF REQUIRED RESERVES FOR OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY OF WICHITA, KANSAS; AUTHORIZING THE ISSUANCE OF THE CITY'S WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010A, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $33,345,000 AND WATER AND SEWER UTILITY REVENUE BONDS, SERIES 2010B (TAXABLE UNDER FEDERAL LAW), IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $17,190,000 TO PAY A PORTION OF THE COST THEREOF; MAKING CERTAIN COVENANTS AND AGREEMENTS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE EXECUTION AND DELIVERY OF CERTAIN AGREEMENTS AND SUPPORTING DOCUMENTS."

The general nature of such emergency is due to bond market expectations that the authorization of the issuance of the Bonds occur on the same day bids are received and to enable the City to deliver the Bonds authorized by said Ordinance on September 21, 2010.

It is, therefore, expedient at this time that the City Council find and declare that a public emergency exists by reason of the foregoing, and that the above entitled Ordinance be finally adopted on the date of its introduction.

(The Remainder of This Page Was Intentionally Left Blank)

EXECUTED at Wichita, Kansas, on September 21, 2010.

(Seal)

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: 119th Street West Improvement, between Kellogg and Maple (District V)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The Capital Improvement Program (CIP) adopted by the City Council includes funding to improve 119th Street West between Kellogg and Maple. On July 6, 2009, the District V Advisory Board held a neighborhood hearing on the project. The Board voted 5-2 to recommend approval of the project. On August 4, 2009, the City Council approved the project design concept and funding for right-of-way acquisition.

Analysis: The approved design concept is a five lane roadway with four through lanes and a center two-way left turn lane. Roadway drainage improvements will be included with the project as well as a six foot wide sidewalk on the west side, and a 10 foot wide multi-use path on the east side of 119th Street West. Landscaping will be installed in the available right-of-way. A new waterline will be constructed in conjunction with the project. Construction is planned to begin in February, 2011 and be completed in the fall, 2011. Traffic will be carried one lane, one-way northbound only during the first phase of construction.

Financial Considerations: Estimated project cost is $4,750,000 with $2,750,000 paid by Federal grants administered by the Kansas Department of Transportation and $2,000,000 by City General Obligation bonds. The City Council previously approved $1,100,000 for right-of-way acquisition for a total budget of $5,850,000, with $2,750,000 paid by Federal grants and $3,100,000 by the City. The funding is included in the CIP. The estimated construction cost for the waterline project is $30,000 and is included in the water CIP, within the Project W-65 Unidentified Mains-Development.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through a major transportation corridor.

Legal Considerations: The Law Department has approved the amending ordinance as to legal form.

Recommendation/Action: It is recommended that the City Council approve the project, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, amending ordinance.

132019

Published in the Wichita Eagle on OCTOBER 1, 2010

ORDINANCE NO. 48-840

AN ORDINANCE AMENDING ORDINANCE NO. **48-402** OF THE CITY OF WICHITA, KANSAS DECLARING **119TH STREET WEST, BETWEEN KELLOGG AND MAPLE (472-84850)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF THE SAME.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. SECTION 2 of Ordinance No. **48-402** is hereby amended to read as follows:

"SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **119th Street West, between Kellogg and Maple (472-84850)** as a main trafficway in the follow particulars:

The design, construction of a roadway, acquisition of right-of-way, relocation of utilities, installation of traffic signals, and landscaping, as necessary for a major traffic facility."

SECTION 2. SECTION 3 of Ordinance No. **48-402** hereby amended to read as follows:

"SECTION 3. The cost of the construction of the above described improvements is estimated to be **Five Million Eight Hundred Fifty Thousand Dollars ($5,850,000)** exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements is not paid by Federal Grants administered by the Kansas Department of Transportation, the City of Wichita, Kansas, is authorized to issue general obligation bonds to pay such costs under the authority of K.S.A. 12-689 up to a maximum amount of $5,850,000, exclusive of the cost of interest on borrowed money."

SECTION 3. The original SECTIONS 2 and 3 of Ordinance **No. 48-402** are hereby repealed.

SECTION 4. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of September, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____

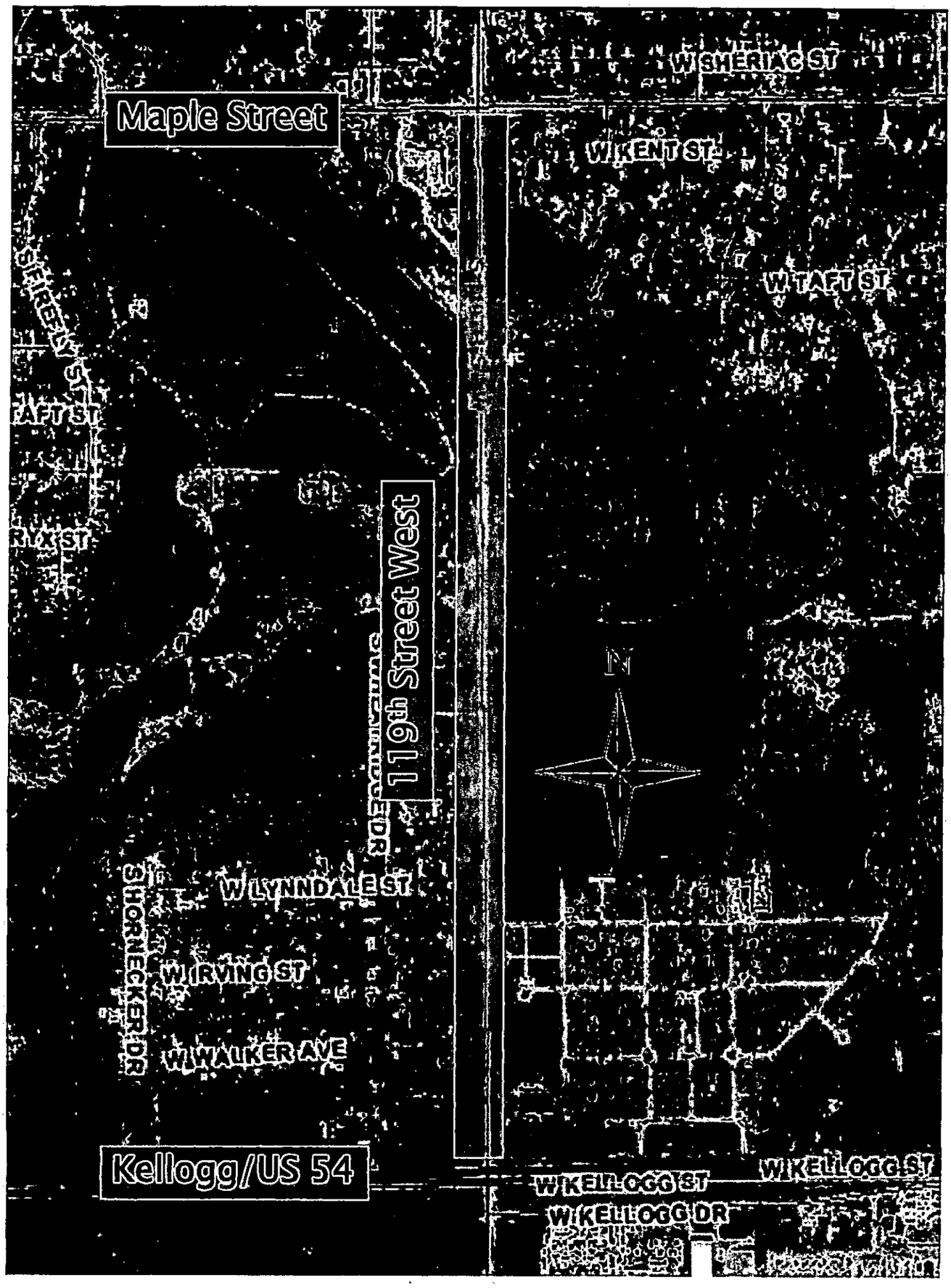
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____

Gary E. Rebenstorf
Director of Law


Maple Street
W SHERIAC ST
W KENT ST
W TAFT ST
119th Street West
W LYNNDALE ST
W IRVING ST
W WALKER AVE
S HORNECKER DR
Kellogg/US 54
W KELLOGG ST
W KELLOGG DR
W KELLOGG ST

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	9/1/2010	119th St West Improvement, Kellogg - Maple

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$3,100,000		$2,750,000	$5,850,000
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Freeway				
Totals	$3,100,000		$2,750,000	$5,850,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84850

13. Recommendation: Approve the project and place the amending ordinance on 1st Reading

Division Head	Department Head	Budget Officer	City Manager
Jan Amon	Robert M. Cox	Date	Date

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: 119th Street West Improvement, between Pawnee and Kellogg (District IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The Capital Improvement Program (CIP) adopted by the City Council includes funding to improve 119th Street West, between Pawnee and Kellogg. On August 19, 2008, the City Council approved funding to design the project. The District IV Advisory Board held a neighborhood hearing on the project on April 7, 2010. The Board voted 6-1 to recommend approval of the project. On May 4, 2010, the City Council approved the project design concept and funding for right-of-way acquisition.

Analysis: The approved design concept provides four through lanes on 119th Street West and a center two-way left turn lane with landscaped medians. Left turn lanes will be provided at all four approaches to the intersection at Pawnee, and drainage improvements within street right-of-way will be included with the project. A six foot wide sidewalk will be constructed on the west side of 119th Street, and a ten foot wide multi-use path on the east, with the available right-of-way and medians being landscaped. A new waterline will be constructed with the project. Construction is planned to begin in the spring of 2011, pending right-of-way acquisition and utility relocation work, and be completed in late fall, 2011. Traffic will be carried one-way north bound during the first phase of construction. A SemCrude pipeline located within private easement is in conflict with the project and will be relocated in advance of the project. An agreement with SemCrude for the relocation has been prepared.

Financial Consideration: The estimated construction cost is $4,000,000 with the total paid by City General Obligation bonds. The City Council previously approved $277,000 for design and right-of-way acquisition costs for a total budget of $4,277,000, with the total paid by the City. Funding is included in the CIP. The estimated cost of the companion waterline project is $480,000 and is also included in the water CIP, as Project W-859.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through an important transportation corridor.

Legal Considerations: The Law Department has approved the amending ordinance and pipeline relocation agreement as to legal form.

Recommendation/Action: It is recommended that the City Council approve the project, approve the pipeline relocation agreement, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, pipeline agreement and amending ordinance.

132019

First Published in the Wichita Eagle on October 1, 2010

ORDINANCE NO. 48-841

AN ORDINANCE AMENDING ORDINANCE NO. **48-739** OF THE CITY OF WICHITA, KANSAS DECLARING **119TH STREET WEST, BETWEEN PAWNEE AND KELLOGG (472-84694)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. SECTION 1 of Ordinance No. **48-739** is hereby amended to read as follows:

"SECTION 1. SECTION 2 of Ordinance No. **47-972** is hereby amended to read as follows:

SECTION 2. It is hereby deemed and declared to be necessary by the governing body of the City of Wichita, Kansas, to make improvements to **119th Street West, between Pawnee and Kellogg (472-84694)** as a main trafficway in the following particulars:

The design, relocation of utilities, acquisition of right-of-way and construction of a roadway as necessary for a major traffic facility."

SECTION 2. SECTION 2 of Ordinance No. **48-739** is hereby amended to read as follows:

"SECTION 2. SECTION 3 of Ordinance No. **47-972** is hereby amended to read as follows:

SECTION 3. The cost of the construction of the above described improvements is estimated to be **Four Million Two Hundred Seventy-Seven Thousand Dollars ($4,277,000)** exclusive of the cost of interest on borrowed money, with the total paid by the City of Wichita. Said City cost, when ascertained, shall be borne by the City of Wichita, at large by the issuance of General Obligation Bonds under the authority of K.S.A. 12-689."

SECTION 3. The original SECTIONS 1 and 2 of Ordinance No. **48-739** are hereby repealed.

SECTION 4. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of September, 2010.

_____
CARL BREWER, MAYOR

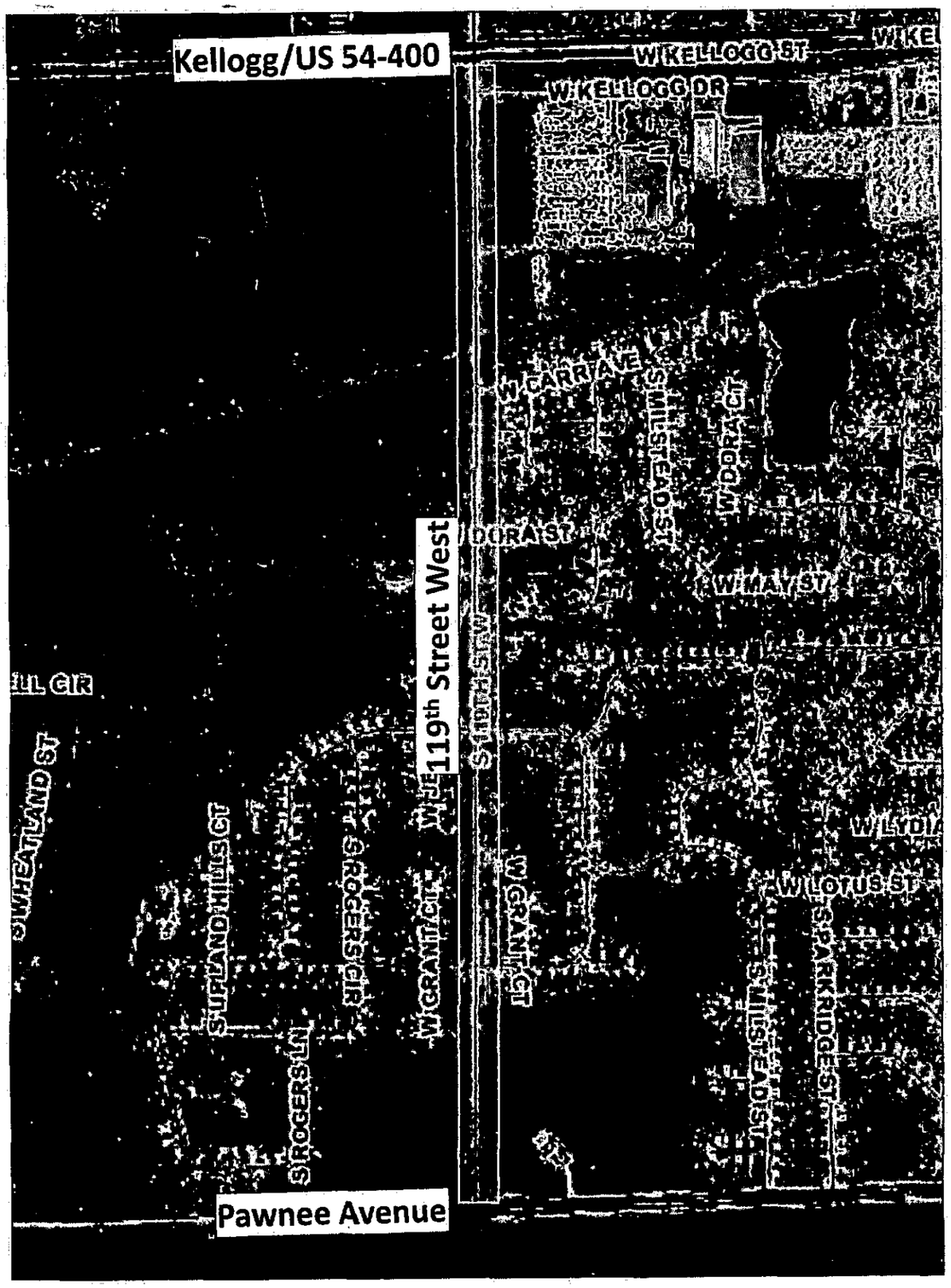
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW


Kellogg/US 54-400
W KELLOGG ST
W KELLOGG DR
W CARR AVE
S MILSTEAD ST
W DORA CT
W DORA ST
W MAY ST
S 119TH ST W
119th Street West
W GRANT CT
W LOTUS ST
S PARKRIDGE ST
S MILSTEAD ST
S WHEATLAND ST
S UPLAND HILLS CT
S ROGERS LN
S ROGERS CIR
W GRANT CT
Pawnee Avenue

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	9/1/2010	119th St West Improvement, Pawnee - Kellogg

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$4,277,000			$4,277,000
Bridge & Culverts				
Drainage				
Sanitary Sewer	-			
Sidewalk				
Water				
Freeway				
Totals	$4,277,000			$4,277,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84694

13. Recommendation: Approve the project and place the amending ordinance on 1st Reading

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

SEMCRUDE, L.P.

CAPITAL COST ESTIMATE

Project: Kansas 4" - Adjustment for 119th Street Widening
NEW PIPE, MOVE OVER 5-10 FT

Sections: Survey:
Township: County:
Range: State:

	Qty	Unit	Unit Cost	Estimate	Actual
Land and Land Rights					
Right of Way Acquisition					
Right of Way Condemnation					
Right of Way & Easement Damages	285	rods@	$ 35.00	$9,975	
			Total Land Costs:	$9,975	
Contract Services & Labor:					
Mechanical:					
Lay 4" pipe	4800	ft. @	$ 20.00	$96,000	Expect Water Table Problems
Road Bores	600	ft. @	$ 40.00	$24,000	
Road Bores (rock)	0	ft. @	$ 75.00	$0	
Xray	12	days	$ 1,300.00	$15,600	
Coating (included above lay cost)	1	lot	$ -	$0	
Nitrogen Purge	1	lot	$ 25,000.00	$25,000	
Sand Pad, Silt Fence, Etc	1	lot	$ 15,000.00	$15,000	
Electrical:					
Powerline	1	lot	$10,000.00	$10,000	Elec Utility cost to hold back on power poles
Other					
Instrumentation:					
Civil:					
Purge & Take Up Old 4"	1	lot	$ 25,000.00	$25,000	
Stopples	1	lot	$ 25,000.00	$25,000	
Traffic Control	1	lot	$ 5,000.00	$5,000	
Outside Engineering					
Consultants					
Survey	10	days@	$ 1,750.00	$17,500	
Drafting	1	dwg	$ 2,500.00	$2,500	
Inspection					
Chief Inspector	20	days@	$ 700.00	$14,000	
Clerk	5	days@	$ 450.00	$2,250	
Welding	10	days@	$ 600.00	$6,000	
Utility	10	days@	$ 575.00	$5,750	
Legal, General					
			Total Contract Costs:	$288,600	
Material:					
Pipe:					
4.5" x .237" WT, X-42 ERW, FBE	4200	ft.@	$12.87	$54,054	
4.5" x .337" WT, X-42 ERW, ARO	600	ft.@	$15.45	$9,270	
Fabricated Bends	1	lot	$ 2,800.00	$2,800	
Tax & Freight	$66,124	%	0.15	$9,919	
			Subtotal Pipe: $76,043		
Field Coating					
Control Valves					
Valves					
Fittings/Bends					
Scraper Traps					
Cathodic Protection Material	1	lot	$5,000.00	$5,000	
Miscellaneous (extra welds, silt fence)	1	lot	$2,500.00	$2,500	
			Total Material Cost:	$83,543	
Other Equipment (rental)					
Vehicles - Owned					
Vehicles - Capital Leases					
Environmental Permits					
Construction Permits					
Office Costs (Software)					
Insurance / Bonds					
Training					
SemCrude Emp Labor & OH - Corp	1	lot	$ 5,670.00	$5,670	Includes 35% for overheads
SemCrude Emp Labor & OH - Field	60	hr	$ 60.75	$3,645	Includes 35% for overheads
			Total Other Cost:	$9,315	
		SUBTOTAL		$391,433	
		CONTINGENCIES @	10%	$39,143	
		GRAND TOTAL		$430,576	
REIMBURSEMENT BY CITY OF WICHITA			50.00%	$215,288	
TOTAL SEMCRUDE PORTION				$215,288	

Agenda Item No. III-8

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Lincoln Street Bridge and Dam Improvements (Districts III and IV)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Approve the project.

Background: The Capital Improvement Program (CIP) adopted by the City Council includes funding for improvements to the Lincoln Street Bridge and dam on the Arkansas River. Currently, the dam is located under the existing bridge. Both the bridge and dam are in deteriorating condition and need to be rehabilitated or replaced. On September 1, 2009, the City Council authorized applications for Federal grants to possibly fund a part of the project cost, if received. All six District Advisory Boards were presented the design concepts during their October 2009, meetings and all Boards recommended approval of a design concept that would replace the bridge and construct a new dam downstream from the bridge. On April 20, 2010, the City Council approved a design concept that provides for reconstruction of the bridge at its current location and construction of a new dam downstream from the bridge. The City Council also approved final design funding for the separate structures.

Analysis: The approved design concept includes a new bridge; new dam with gates to more effectively control the level of the river; a combined boat and fish passage; and enhancements to the east bank of the river. Construction is planned to begin in late 2010 and be completed in the spring of 2012. The Lincoln Street Bridge will be closed for a majority of that time.

Financial Consideration: The budget included in the CIP is $11,800,000, with $7,000,000 funded by General Obligation (GO) bonds and $4,800,000 by Federal transportation funds in the Transportation Improvement Program (TIP). The $4,800,000 in the TIP can be applied to the bridge only. In addition, agreements are in place for the City to receive $710,000 in grant funding, as follows: $500,000 from the US Coast Guard; $175,000 from US Fish and Wildlife; and $35,000 from the Kansas Department of Wildlife and Parks. The total budget available for the project is $12,510,000, which includes $7,000,000 GO ($430,000 of which was previously approved for final design), $4,800,000 in Federal transportation funds, and $710,000 in reimbursable grants. The estimated project cost is $13,000,000. The scope of the project will be reduced to be within the available budget, if that is necessary once the project is actually bid.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing improvements to an existing bridge and dam at the Arkansas River.

Legal Considerations: The Department of Law has approved the amending resolution as to form.

Recommendation/Action: It is recommended that the City Council approve the project, adopt the amending resolution and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet, resolution.

132019

First Published in the Wichita Eagle on September 24, 2010

RESOLUTION NO. 10-258

A RESOLUTION AMENDING RESOLUTION NO. 10-100 AUTHORIZING THE ISSUANCE OF BONDS BY THE CITY OF WICHITA AT LARGE TO IMPROVE THE **LINCOLN STREET BRIDGE AND DAM AT THE ARKANSAS RIVER (472-84883).**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS;

SECTION 1. SECTION 1 of Resolution No. **10-100** is hereby amended to read as follows:

"SECTION 1: That the City of Wichita finds it necessary to make certain related improvements as follows:

The design and construction of a bridge as necessary for a major traffic facility and a dam located approximately 300 feet south of the bridge."

SECTION 2. SECTION 2 of Resolution No. **10-100** hereby amended to read as follows:

"SECTION 2. The cost of the above described improvements is estimated to be **Twelve Million Five Hundred Ten Thousand Dollars ($12,510,000)** exclusive of the cost of interest on borrowed money. To the extent the cost of such improvements is not paid by Federal and State Grants, the City of Wichita, Kansas, is authorized to issue general obligation bonds to pay such costs under the authority of Wichita Charter Ordinance No. 156 up to a maximum amount of $12,510,000, exclusive of the cost of interest on borrowed money."

SECTION 3. The original SECTIONS 1 and 2 of Resolution No. 10-100 are hereby rescinded.

SECTION 4. That the City Clerk shall make proper notification of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this 21st day of September, 2010.

_____
CARL BREWER, MAYOR

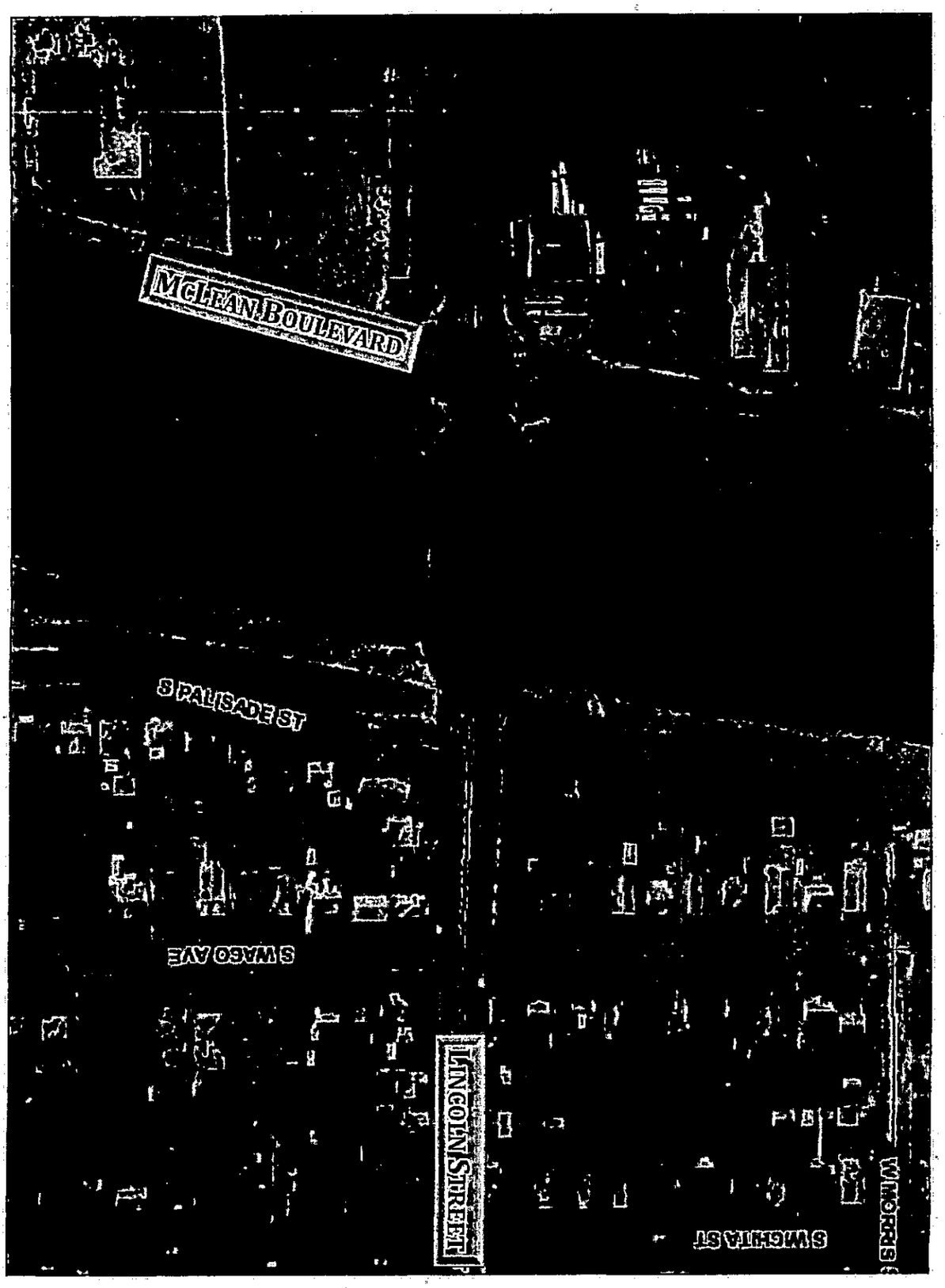
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW


McLEAN BOULEVARD
S PALISADE ST
S WACO AVE
LINCOLN STREET
S WICHITA ST
W MORRIS

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:

To Initiate Project	
To Revise Project	X

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	9/1/2010	Lincoln Dam & Bridge

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
B-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	OTHER *	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Dam	$7,000,000		$5,510,000	$12,510,000
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Traffic Signals				
Totals	$7,000,000		$5,510,000	$12,510,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

$4,800,000 TIP 472-84883

$500,000 Coast Guard

$175,000 US Fish & Wildlife

$35,000 KS Wildlife & Parks

13. Recommendation: Approve the project and adopt the amending resolution

Division Head	Department Head	Budget Officer	City Manager
James L. Armour	[illegible]	Date	Date

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Repair or Removal of Dangerous & Unsafe Structure (District III)

INITIATED BY: Office of Central Inspection

AGENDA: New Business

Recommendations: Adopt the resolution.

Background: On August 10, 2010, a report was submitted with respect to the dangerous and unsafe conditions on the property below. The Council adopted a resolution providing for a public hearing to be held on the condemnation action at 9:30 a.m. or soon thereafter, on September 21, 2010.

Analysis: On July 12, 2010, the Board of Code Standards and Appeals (BCSA) held a hearing on the residential property listed below

Property Address	Council District
a. 3861 East Roseberry Ct.	III

Detailed information/analysis concerning this property are included in the attachments.

Financial Considerations: Structures condemned as dangerous buildings are demolished with funds from the Office of Central Inspection Special Revenue Fund contractual services budget, as approved annually by the City Council. This budget is supplemented by an annual allocation of federal Community Development Block Grant funds for demolition of structures located within the designated Neighborhood Reinvestment Area. Expenditures for dangerous building condemnation and demolition activities are tracked to ensure that City Council Resolution No. R-95-560, which limits OCI expenditures for non-revenue producing condemnation and housing code enforcement activities to 20% of OCI's total annual budgeted Special Revenue Fund expenditures, is followed. Owners of condemned structures demolished by the City are billed for the contractual costs of demolition, plus an additional $500 administrative fee. If the property owner fails to pay, these charges are recorded as a special property tax assessment against the property, which may be collected upon subsequent sale or transfer of the property.

Goal Impact: This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Dangerous building condemnation actions, including demolitions, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: Pursuant to State Statute, the Resolutions were duly published twice on August 13, 2010 and August 20, 2010. A copy of each resolution was sent by certified mail or given personal service delivery to the owners and lien holders of record of the described property.

Recommendations/Actions: It is recommended that the City Council close the public hearing, adopt the resolution declaring the building to be a dangerous and unsafe structure, and accept the BCSA recommended action to proceed with condemnation, allowing 10 days to start demolition and 10 days to complete removal of the structure. Any extensions of time granted to repair any structure would be contingent on the following: (1) All taxes have been paid to date as of September 21, 2010; (2) the structure has been secured as of September 21, 2010, and will continue to be kept secured; and (3) the

premise is mowed and free of debris as of September 21, 2010, and will be so maintained during renovation.

If any of the above conditions are not met, the Office of Central Inspection will proceed with demolition action and also instruct the City Clerk to have the resolutions published once in the official city paper and advise the owner of these findings.

Attachments: Memorandums to Council, case summaries, and resolutions.

DATE: August 30, 2010

CDM SUMMARY

COUNCIL DISTRICT # III

ADDRESS: 3861 E. ROSEBERRY CT

LEGAL DESCRIPTION: LOT 5, BLOCK F, PLANEVIEW SUBDIVISION NO. 1, BEING A SUBDIVISION IN SECTION 2, TOWNSHIP 28 SOUTH, RANGE 1 EAST OF THE 6TH P.M., SEDGWICK COUNTY, KANSAS

DESCRIPTION OF STRUCTURE: A one story frame duplex about 24 x 65 feet in size. Vacant for at least 6 months; this structure has a shifting and cracking concrete block foundation, with missing blocks; broken and missing asbestos tile siding; sagging composition roof; four dilapidated porches; rotted wood trim and wall sheathing; and the two 8 x 10 foot metal sheds are deteriorated.

Description of dangerous or unsafe condition(s): The property is found to be dangerous and unsafe because of the following conditions:

A. Those, which have been damaged by fire, wind, want of repair, or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the city.

B. The structure fails to provide the necessities to decent living, which makes it, unfit for human habitation.

C. Those whose use, equipment or want of good housekeeping constitutes a decided fire or safety hazard to the property itself or its occupants or which presents a decided fire or safety hazards to surrounding property or a menace to the public safety and general welfare.

City Ordinance states that any one of the above categories is just cause to declare the building a public nuisance and shall be repaired or demolished.

_____ _____

Superintendent of Central Inspection Date
Enforcing Officer

DATE: August 30, 2010

BCSA GROUP # 3

ADDRESS: 3861 E. ROSEBERRY CT

ACTIVE FIELD FILE STARTED: November 5, 2009

NOTICE(S) ISSUED: Since November 5, 2009, a notice of violation has been issued. In November 2009, a Neighborhood Nuisance Enforcement case was initiated on this property resulting in City of Wichita contractor abatement. On December 4, 2009, Central Inspection staff received a returned certified mailing from the United States Postal Service indicating the owners were deceased. On June 1, 2010, a Tall Grass Weeds case was initiated resulting in compliance. On July 23, 2010, a Tall Grass and Weeds case was started and on August 11, 2010 a Neighborhood Nuisance Enforcement case was started both remain open.

PRE-CONDEMNATION LETTER: November 5, 2009

TAX INFORMATION: The 2007, 2008 and 2009 taxes are delinquent in the amount of $1,100.15, which includes interest.

COST ASSESSMENTS/DATES: There is a 2010 special assessment for lot cleanup in the amount of $930.41, which includes interest.

PREMISE CONDITIONS: Tall grass and weeds, volunteer trees and tree debris.

VACANT NEGLECTED BUILDING REPORT: None

NUISANCE ABATEMENT REPORT: Lot cleanup on March 17, 2010, in the amount of $812.45.

POLICE REPORT: From July 1993 through September 2005, there have been three reported police incidents at this location including miscellaneous report, suspicious character other and burglary residence.

FORMAL CONDEMNATION ACTION INITIATED: March 29, 2010

RECENT DEVELOPMENTS: No repairs have been made and the structure is secure.

OWNER'S PAST CDM HISTORY: None

BOARD OF C.S.&A. RECOMMENDATION: At the June 7, 2010, BCSA hearing Craig Gable was present as an interested party.

Mr. Gable addressed the Board as an interested party attempting to purchase this property. If he is able to buy the property, he said he intended to repair it.

Board Member Harder made a motion to allow thirty days for the sale of the propery to be accomplished or the property will be sent to the City Council with a recommendation of condemnation, with ten days to initiate wrecking of the structure and ten days to finish the demolition. Board Member Coonrod seconded the motion. The motion was approved.

At the July 12, 2010, BCSA hearing appearing before the Board as an interested party, Craig Gabel was present.

Mr. Gabel informed the Board that he had been unable to arrange the purchase of this property.

The previously approved motion to send the property to the City Council with a recommendation of condemnation, with ten days to begin wrecking and ten days to complete removal of the structure, was upheld by the Board.

STAFF RECOMMENDATION/REMARKS: Adopt the recommendation of the Board of Code Standards and Appeals. However, any extensions to repairs would be providing that all provisions of City Council Policy 33 are complied with. If any of these conditions are not met, staff is directed to proceed to let for bids to demolish the structure.

September 21, 2010
City Council Hearing
Removal of Dangerous Structures Case Summary

Address	Cncl. Dist.	Hsng. Case Age	Cndm. Init. Date	BCSA Hrng. Date	Owner/ Rep. At BCSA ?	BCSA Recomm.	Open or Secure	Premise Cond. Status	Prop. Tax Status	Assmnts / Pending Assmnts	Pending Incurred Costs
3861 E. Roseberry Ct	III	10 mos.	03/29/10	6/7/2010 07/12/10	Yes Yes	30 days to purchase property (or) 10/10 10/10	Secure	Tall grass and weeds, volunteer trees and tree debris.	The 2007, 2008 and 2009 taxes are delinquent in the amount of $1,100.15, which includes interest.	There is a 2010 special assessment for lot cleanup in the amount of $930.41, which includes interest.	None

(Revised-moved to new business item III-10)

Agenda Item No. *XII-10.*

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Allocation of City funds to Child Advocacy Center (CAC)

INITIATED BY: Wichita Police Department

AGENDA: ***New Business***

Recommendation: Approve a $50,000 allocation to the local Child Advocacy Center.

Background: The nonprofit Child Advocacy Center (CAC) of Sedgwick County was initiated in 2007. The purpose of the Center is to improve services to children and families who suffer through child abuse and neglect issues by creating a one stop shop where all services are available including medical triage/treatment, law enforcement, and family/individual counseling. In the fall of 2009, the CAC initiated a fund raising campaign in an effort to continue to provide services to area youth. Executive Director Diana Schunn met with members of the Sedgwick County Commission and the City of Wichita City Council.

Analysis: The Child Advocacy Center of Sedgwick County serves over 1,300 children annually who are victims of neglect and abuse. The CAC is currently housed in the State Office Building and works with the Exploited and Missing Children's Unit (EMCU), which is comprised of Wichita Police Officers, Sedgwick County Sheriff's Deputies, and SRS workers. The CAC is funded through a series of grants and private funding. This $50,000 allocation represents a one-time funding to this organization.

Financial Considerations: Staff has identified a non-recurring funding source for this one-time contribution. A capital project for at risk youth programs was established in 2002 with the transfer of $157,600 from the General Fund, but not fully expended. Staff recommends that the project be closed out and the remaining balance transferred back to the General Fund in order to fund a $50,000 contribution to the Child Advocacy Center of Sedgwick County.

Legal Considerations: None.

Goal Impact: Provide Safe and Secure Neighborhoods by improving services for children and families who have experienced abuse and/or neglect.

Recommendation/Action: It is recommended that the City Council approve the allocation of this one-time funding and any necessary budget adjustments and transfers.

Attachments: None.

Agenda Item No. IV-1

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: CON2010-00008 – Request for a Conditional Use to allow Wrecking/Salvage Yard on property located at the southwest corner of 29th Street North and Mead Street. (District VI)

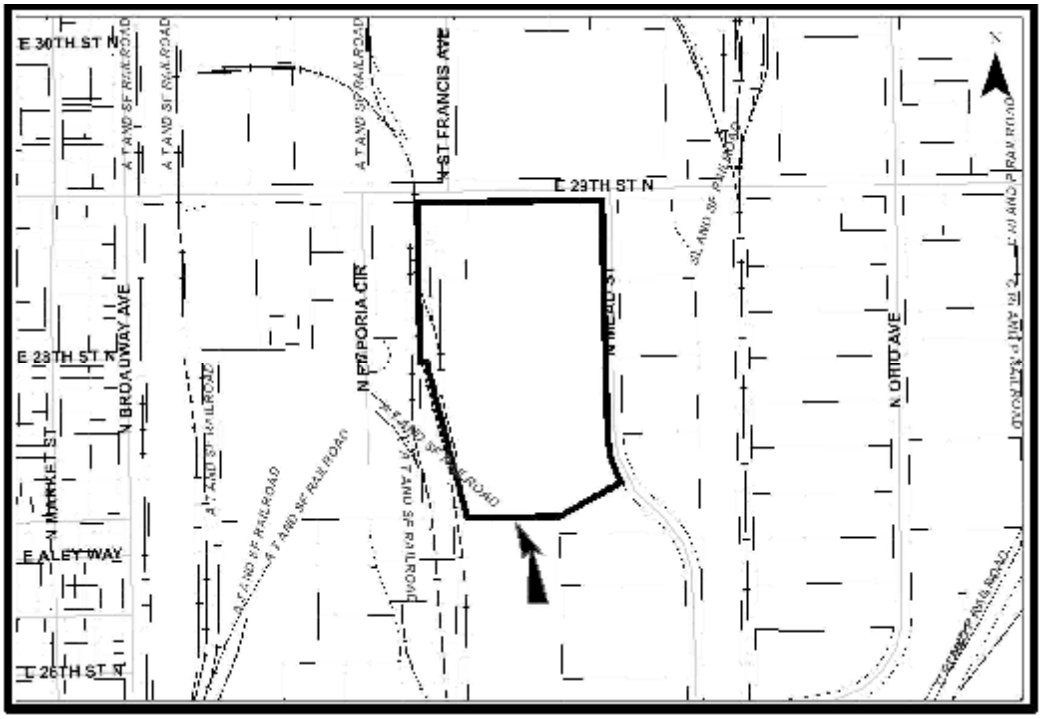
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Non-Consent)

MAPC Recommendations: Approve, subject to amended staff conditions (6-5; 8-1).

MAPD Staff Recommendations: Approve, with conditions.

DAB VI Recommendation: Deny (5-0); Approve, with conditions (4-3).



Background: This application was originally heard by the Wichita City Council on June 15, 2010. At that time, the action of the City Council was to return the request to District Advisory Board VI and the Metropolitan Area Planning Commission (MAPC) for further consideration. In comparison to the agenda report presented on June 15, 2010, the "background" section and the conditions of approval contained in this report have been amended to reflect modifications made as a result of the subsequent meetings.

The application area is located at the southwest corner of 29th Street North and Mead Street and is zoned GI General Industrial ("GI"). The applicant, Midwest Scrap Management, Inc., is seeking a Conditional Use to permit "wrecking/salvage yard." Initially, the application area included the entire 25.68-acre site; however, the application area has been reduced to only that part of the site (approximately 12.4 acres) located south of the existing office building that temporarily houses Cargill Meat Solutions; except for traffic circulation to permit trucks to enter the site from 29th Street North. The southern side of the existing office building is located approximately 586 feet south of 29th Street North, and, except for traffic circulation, activities permitted by the proposed Conditional Use will not be permitted in the northern approximately 586 feet of the applicant's ownership.

Midwest Scrap Management, Inc. intends to operate a metal and scrap salvaging, sorting and shredding operation. Material will be brought in primarily by truck; however, processed material is primarily shipped out by rail. Trucks will be used for local delivery. It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 60 on busier days. Access to the site will be from 29th Street North; access from Mead will be prohibited, except for emergency vehicles. Scrap piles may reach 35 feet in height. The applicants do not part-out vehicles. Inoperable vehicles located on-site will be shredded into "fist-sized" pieces. The business expects to employ up to 50 office workers, truck drivers and heavy equipment operators.

The *Wichita-Sedgwick County Unified Zoning Code*, Sec. II-B.14.r defines "wrecking/salvage yard as a lot used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials; and/or for the sale of parts thereof. A wrecking/salvage yard is allowed by Conditional Use permit in the LI Limited Industrial ("LI") and GI districts and is allowed by right in the Air Force Base ("AFB") District, subject to Supplementary Use Regulations Sec. III-D.6.e (1) the use is not abutting an arterial street, expressway or freeway; (2) in the opinion of the Planning Commission, the use will not adversely affect the character of the neighborhood; and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent of the area of such fence. With respect to the requirement that the use not abut an arterial street, Planning staff has been advised by the Office of Central Inspection that as long as the use is located at least 150 from arterial street right-of-way, it is considered to not be abutting. The existing chain-link fence depicted on the submitted site plan does not meet the opacity requirement mentioned above. The screening wall needs to also meet the standards outlined in Sec. IV-B.3.h: "Screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood."

All surrounding property is zoned GI and is used for a variety of industrial uses including: warehousing, steel fabricating, grain elevators, outside storage of trailers, offices and manufacturing, and salvage and wrecking. Glickman Metal Recycling is located just west of the application area and contains significant piles of scrap metal.

In response to the concerns expressed at the initial DAB VI and MAPC meetings, the applicant has modified the proposal by offering enhanced screening. Both the MAPC and DAB VI have seen the modified proposal; however, the applicant has shown the proposal to members of the Bridgeport Area Business Association (BABA). The applicant's enhanced proposal is to construct a six to eight-foot berm that would be topped with an eight-foot tall masonry wall. Combined the berm and masonry wall would create a 14 to 16-foot tall screen that should effectively screen from view along Mead Street and 29th Street North scrap piles up to approximately 75 feet in height. The screening is proposed to be

located along the southern property line, beginning adjacent to the northern end of the grain elevator, then east to Mead Street, then north along Mead to the entrance on Mead, then west along the southern side of the driveway into the proposed facility. The berm and wall would then resume on the north side of the Mead Street driveway, then run north to 29th Street North and then west along 29th Street to the corner of the main driveway serving the parking lot to be located east of the main office building. The screening is proposed to be further enhanced by the addition of trees or shrubs.

Analysis: District Advisory Board ("DAB") VI heard this request the first time at their March 17, 2010, meeting. The DAB voted (5-0) to deny the request. Eight property owners spoke in opposition, many of them referencing an association with the Bridgeport Area Business Association ("BABA"). The property owners' opposition centered on the argument that the businesses that they run are primarily indoor activities that do not involve the outdoor processing or storage of materials like those that are typically associated with a wrecking and salvage yard. The speakers asserted that they have made significant investments in higher quality facilities than are found in a typical industrial area, and approval of the requested use will devalue their investments. Some of the protesters referred to their area as an "industrial park" as a way to contrast their ownerships with the proposed project. It is their contention that a wrecking and salvage yard will bring visual blight; that the screening offered will not hide the scrap piles; traffic will increase and the potential for explosions and air and ground pollution will also increase.

DAB VI heard this request a second time on August 18, 2010, and they voted (4-3) to recommend approval. Seven members of the public spoke in opposition; three spoke in favor. People who spoke in opposition cited arguments similar to those made at the earlier DAB meeting. The people speaking in support noted that wrecking and salvage is an activity that is essential to Wichita; recycling is an essential business and the location is the appropriate site. (See the attached March 17, 2010, and August 19, 2010, DAB VI memos and opposition letters.)

Initially, the MAPC heard this request at their March 18, 2010, meeting. Approximately, the same number of folks that spoke in opposition at the DAB VI meeting also spoke in opposition at MAPC, citing concerns similar to those expressed at the DAB meeting. The MAPC voted (6-5) to approve the request subject to conditions.

The MAPC heard the application for a second time on August 19, 2010. As at the previous meetings, a similar number of people spoke in opposition citing concerns similar to those presented at previous meetings. There were also speakers in support of the application repeating comments similar to those made at the second DAB VI meeting. The MAPC voted (8-1) to recommend approval, subject to the following amended conditions that were agreed to by the applicant:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials on the approximately 12.4 acres located 586 feet south of 29th Street's southern right-of-way. Recycling, salvage or wrecking activity, except traffic circulation, is not permitted within 586 feet of 29th Street's southern right-of-way (or north of the south elevation of the existing principal building).

2. Screening shall consist of landscaping, and a combination of earthen berms and masonry walls with a minimum total height of 14 feet. Landscaping, berms and walls shall be installed as shown on the color site plan submitted by the applicant dated 4-6-09. Except for deviations listed in this Conditional Use, screening shall comply with Unified Zoning Code, Sec. IV-B.3.h. The use of large rectangular concrete blocks as fencing material is prohibited.

3. Unless modified by this Conditional Use, the site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Access is restricted to 29th Street. Except for emergency access, access to Mead Street is prohibited. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection. Materials stored outside shall not exceed 35 feet in height.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

A 47.08 percent protest has been registered, triggering a three-fourths vote requirement by the governing body to approve the request. (Since this request was returned to the MAPC, the two-thirds vote requirement normally required to override the MAPC's recommendation has been eliminated.)

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The resolution has been reviewed and approved as to form by the Law Department.

Attachments: Resolution, DAB and MAPC minutes, correspondence.

Recommendation/Actions:

1. Concur with the findings of the MAPC, approve the Conditional Use, subject to the recommended conditions and authorize the Mayor to sign the resolution (requires a three-fourths majority); or

2. Deny the Conditional Use request by making alternative findings, and override the MAPC's recommendation.

RESOLUTION No. 10-255

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO ALLOW A WRECKING AND SALVAGE YARD ON A PORTION OF THE 25.68 ACRES ZONED GI GENERAL INDUSTRIAL ("GI"), GENERALLY LOCATED ON THE SOUTHWEST CORNER OF 21ST STREET NORTH AND MEADE AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 48-451, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, permit a wrecking and salvage yard on a portion of the 25.68 acres zoned GI General Industrial, legally described below:

Case No. CON2010-00008

Lot 1, Block 1, North Industrial Park Addition to Sedgwick County, Kansas, except the north 586.00 feet, generally located on the southwest corner of 21st Street North and Meade Avenue.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials on the approximately 12.4 acres located 586 feet south of 29th Street's southern right-of-way. Recycling, salvage or wrecking activity, except traffic circulation, is not permitted within 586 feet of 29th Street's southern right-of-way (or north of the south elevation of the existing principal building).

2. Screening walls shall consist of landscaping, and a combination of earthen berms and masonry walls with a total height of 14 feet. Landscaping, berms and walls shall be installed as shown on the color site plan submitted by the applicant dated 4-6-09. Except for deviations listed in this Conditional Use, screening shall comply with Unified Zoning Code, Sec. IV-B.3.h. The use of large rectangular concrete blocks as screening or fencing material is prohibited.

3. Unless modified by this Conditional Use, the site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Access is restricted to 29th Street. Except for emergency access, access to Mead street is prohibited. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection. Materials stored outside shall not exceed 35 feet in height.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

_____

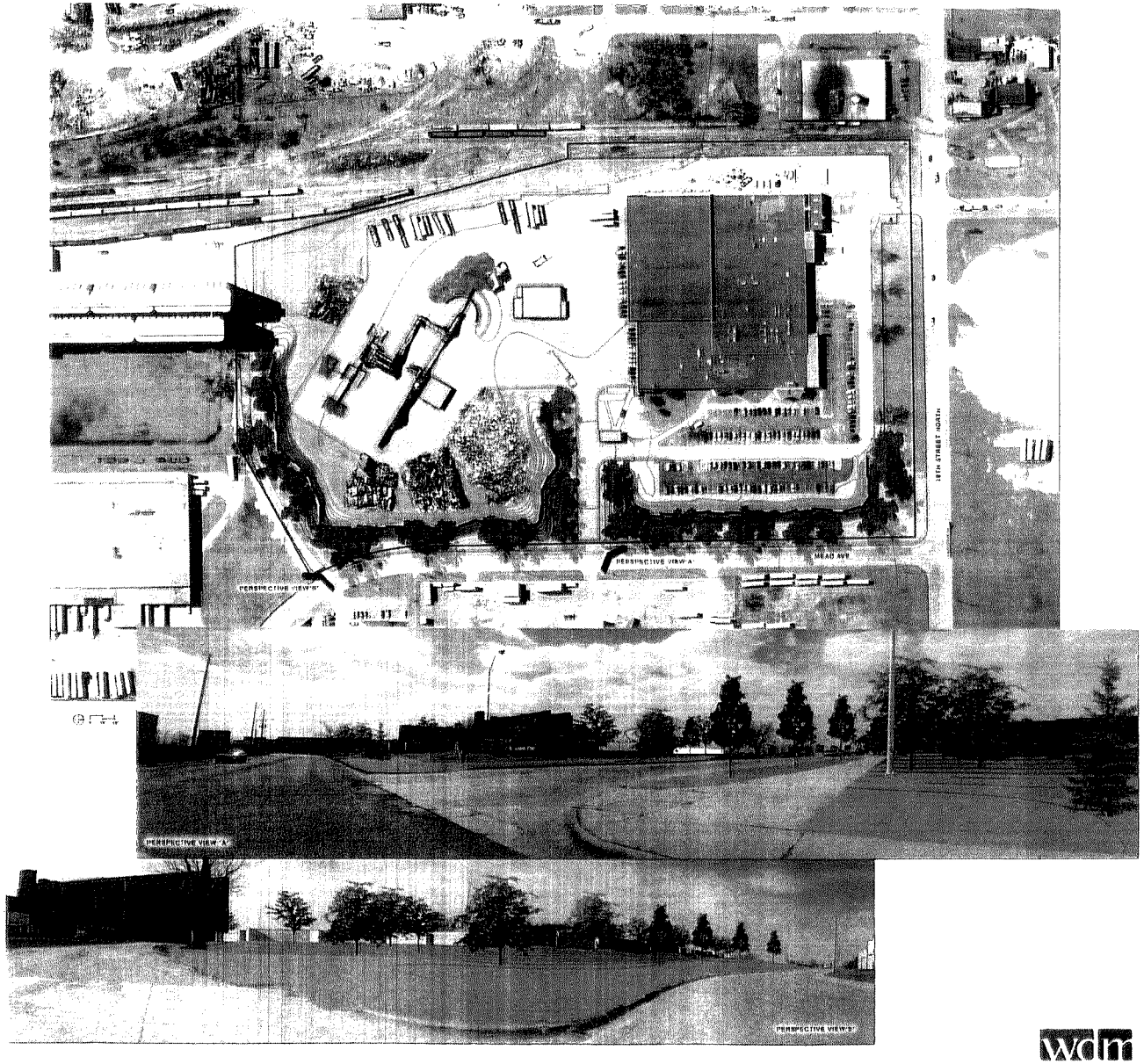
_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, City Attorney



wdm ARCHITECTS

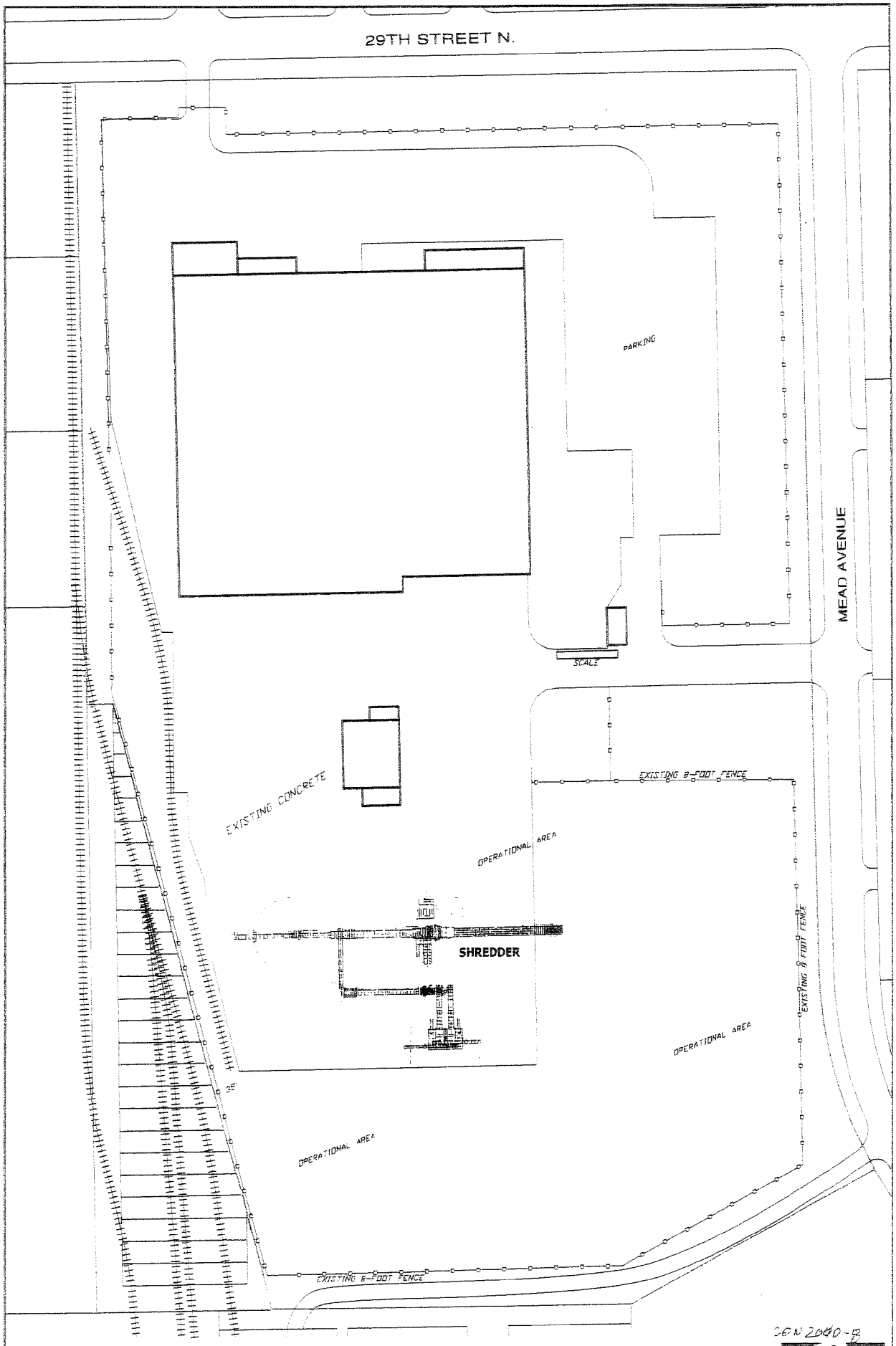
04.08.09

PROPOSED METAL RECYCLING FACILITY

MASTER PLAN - 2010

WICHITA, KANSAS

75'



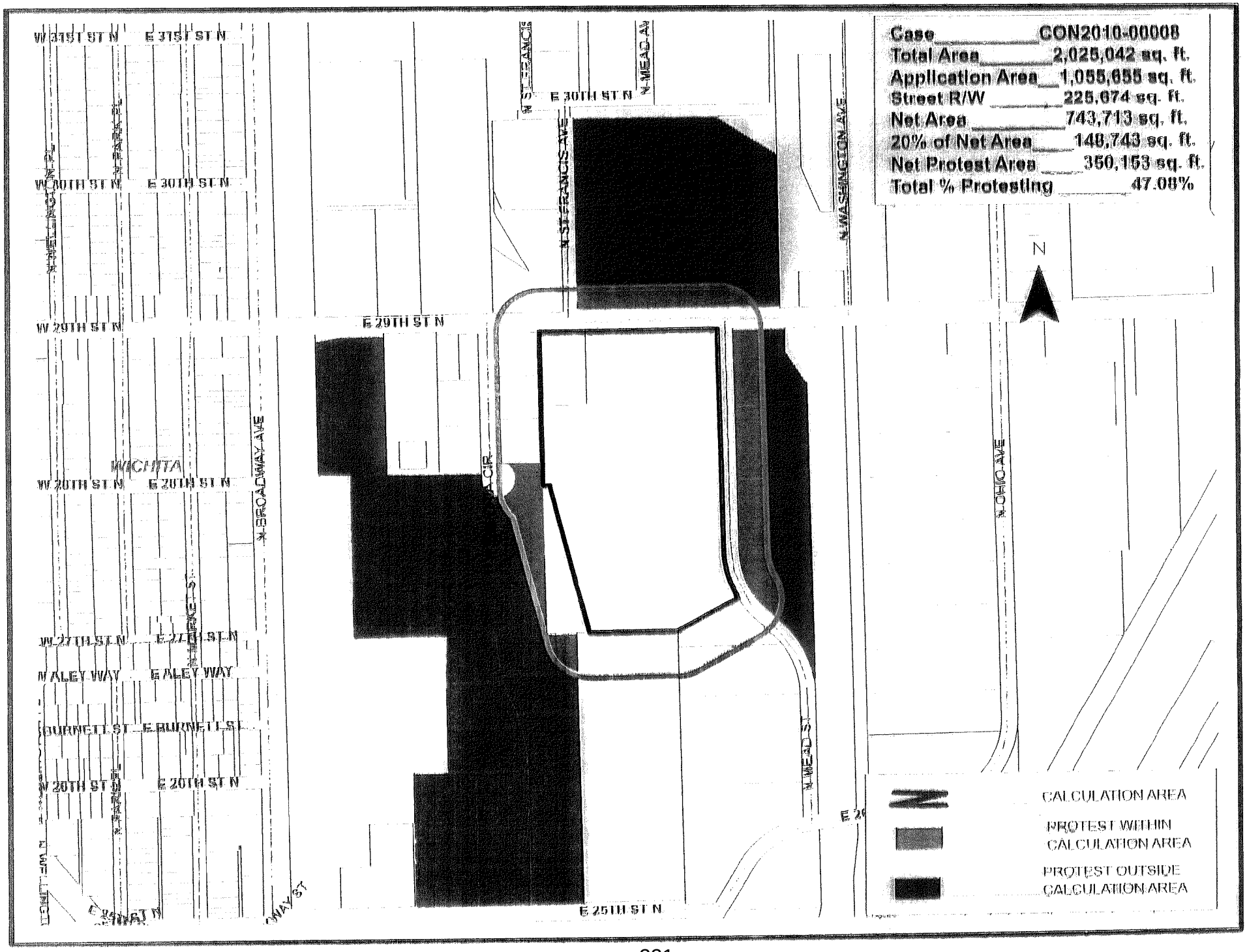
CON 2010-??

SITE PLAN - CON2010-??

MIDWEST SCRAP MANAGEMENT

SCALE: 1" = 100'

Baughman


Case CON2010-00008
Total Area 2,025,042 sq. ft.
Application Area 1,055,655 sq. ft.
Street R/W 225,674 sq. ft.
Net Area 743,713 sq. ft.
20% of Net Area 148,743 sq. ft.
Net Protest Area 350,153 sq. ft.
Total % Protesting 47.08%
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA
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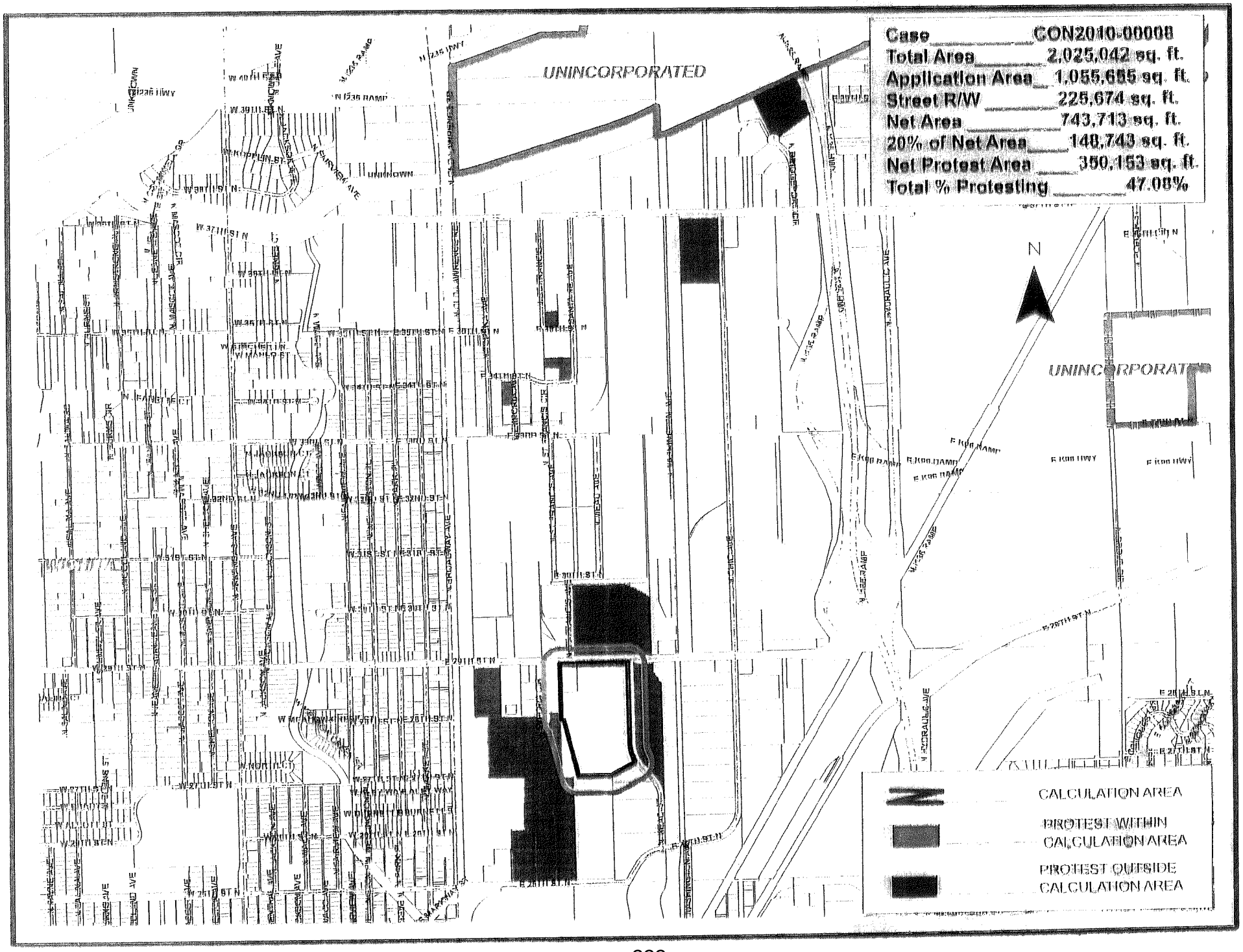
N ST FRANCIS AVE
N MEAD AVE
N WASHINGTON AVE
N OHIO AVE
WICHITA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Total % Protesting 47.08%
UNINCORPORATED
UNINCORPORATED
N
CALCULATION AREA
PROTEST WITHIN CALCULATION AREA
PROTEST OUTSIDE CALCULATION AREA

EXCERPT OF THE MARCH 18, 2010 MAPC HEARING

Case No.: CON2010-08 - Cargill Meat Solutions Corporation (property owner), Midwest Scrap Management, Inc. (prospective purchaser) / Robert Kaplan (agent) requests a City Conditional Use to permit wrecking and salvage on property described as:

Lot 1 except beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; thence West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas.
AND
Beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas. Generally located at the southwest corner of 29th Street North and North Mead Avenue (2901 N. Mead).

BACKGROUND: The application area is located at the southwest corner of north 29th Street and Meade Street, and is zoned GI General Industrial ("GI"). The applicant is seeking a Conditional Use to permit "wrecking and salvage" on the 25.68-acre site that is developed with an office building that currently houses Cargill Meat Solutions. The current owner intends to sell the property to Midwest Scrap Management, Inc., who intends to operate a metal and scrap salvaging, sorting and shredding operation. Material will be brought in primarily by truck; however processed material is primarily shipped out by rail. Trucks will be used for local delivery. It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day. Scrap piles may reach 30 feet in height. The applicant's do not part-out vehicles. Inoperable vehicles located on-site will be shredded. Shredded material ends up in "fist-sized" pieces. The application area has one access point each to 29th Street and to Meade. The business expects to employ up to 50 office workers, truck drivers and heavy equipment operators.

The *Wichita-Sedgwick County Unified Zoning Code*, Sec. II-B.14.r defines "wrecking/salvage yard as a lot used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials; and/or for the sale of parts thereof. A wrecking and salvage yard is allowed by Conditional Use permit in the LI Limited Industrial ("LI") and GI districts, and allowed by right in the Air Force Base ("AFB") District, subject to Supplementary Use Regulations Sec. III-D.6.e (1) the use is not abutting an arterial street, expressway or freeway; (2) in the opinion of the Planning Commission, the use will not adversely affect the character of the neighborhood; and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent the area of such fence. With respect to the requirement that the use not abut an arterial street, planning staff has been advised by the Office Central Inspection that as long as the use is located at least 150 from arterial street right-of-way it is considered to not be abutting. The existing chain-link fence depicted on the submitted site plan does not meet the opacity requirement mention above. The screening wall needs to also meet the standards outlined in Sec. IV-B.3.h: screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood. In the past, staff has received complaints regarding the use of large rectangular concrete blocks as screening material. It is recommended that such fencing material be prohibited from meeting the screening requirement.

Surrounding property is all zoned GI, and is used for a variety of industrial uses including warehousing, steel fabricating, grain elevators, outside storage of trailers, offices and manufacturing, and salvage and wrecking. Glickman Metal Recycling is located just east of the application area, and contains significant piles of scrap metal.

CASE HISTORY: The site appears to have been zoned heavy industrial in 1958, and was platted as the North Industrial Park Addition in June 1972.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	General Industrial; elevator, manufacturing
SOUTH:	GI	General Industrial; grain elevator
EAST:	GI	General Industrial; outside storage of semi-truck trailers and mobile home-type trailers, warehousing
WEST:	GI	General Industrial; outside metal recycling; steel fabricating

PUBLIC SERVICES: 29th Street is a paved four-lane arterial with approximately 50 feet of half-street right-of-way. Meade is a paved two-lane street with 35 feet of half-street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this site as being appropriate for "employment / industry center." Employment / industry centers encompass areas with uses that constitute center or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The GI zoning district is the most intense zoning district contained in Wichita-Sedgwick County Unified Zoning Code ("UZC"), except for the Air Force Base ("AFB") district.

The application area is still subject to the amended November 27, 1972, General Urban Renewal Plan. The General Land Use Plan map of that document depicts this site as appropriate for "heavy manufacturing" that is a category of industries which are apt to have an extensive impact on the surrounding area. Included are heavy assembly and fabrication uses which may create considerable traffic volume, noise, dust, odor, blast and smoke. Floor area to lot area ratio shall not exceed 3.00 with maximum lot coverage limited to a maximum of 50 percent. As currently developed the site complies with these development standards.

The January 4, 2005, 21st Street North Corridor Revitalization Plan's Preferred 20+ Land Use Plan depicts the site as appropriate for "general industrial" uses, that acknowledges the importance of heavy industry in the Wichita region and specifically the importance of rail dependent uses in the plan area. Rail dependent and heavy industrial uses are allowed in this category. Light industrial uses area also allowed.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials. Recycling, salvage or wrecking activity is not permitted within 150 feet of 29th Street's southern right-of-way.

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited.

3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned GI General Industrial, and is used for industrial activities ranging from outside storage of trailers, warehousing, manufacturing, steel fabricating or wrecking and salvage. The wrecking and salvage operation has extensive piles of scrap.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GI General Industrial which permits a very wide range of commercial, office and industrial uses. The site is developed with an office building and has some room for additional building. The site could be used as currently zoned; however, there has been increasing interest in wrecking and salvage, as demonstrated by two recent development applications within the vicinity of this application, and city-wide there have been a total of 10 requests in the last two years.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval are designed to minimize foreseen impacts to nearby property owners.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide another location for the disposal of scrap material. Denial would presumable present the prospective purchaser with delays that could result in a loss of income and business opportunity.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with adopted plans as described in the conformance with plans and policies section located above.

6. Impact of the proposed development on community facilities: Existing community facilities are in place to address anticipated demand on community facilities. Truck traffic would potentially increase but the streets in the area were developed to accommodate industrial traffic.

DALE MILLER, Planning Staff presented the Staff Report.

He reported that Cargill was not related to this application, it is an application by Midwest Scrap Management, Inc. He said the sale had not been finalized when the ownership list was received from the title company. He reported that eight to nine people spoke in opposition to the proposal at the DAB VI meeting. He said the DAB voted 5-0 to recommend denial of the request. He said he would like to address some of the questions that came up at the DAB meeting in case the same issues come up today. He said the Glickman northern property line is 640 feet from 29th Street and he said 29th Street is 571 feet from the rear of the existing (formerly Cargill) building at the site. He said another issue that was discussed was the 2005 application located further north of 33rd Street on St. Francis which was the Campbell's wrecking and salvage application. He said that case was put on hold by the MAPC while staff developed an amendment to the Unified Zoning Code (UZC) which would have liberalized the recycling processing code. He said that proposed amendment was denied by the MAPC. He said the Campbell's took their case to the City Council who in turn denied their proposal.

MITCHELL asked so to the best of staff's knowledge the Campbell operation is still going on.

MILLER said yes. He said the original legal use is going on, but they did not get approved for the extra recycling processing they requested. He said how legal the operation is today may be debatable.

BOB KAPLAN, AGENT FOR THE APPLICANT introduced **NICK HAYES, MIDWEST SCRAP MANAGEMENT, INC.** who he said will be managing the local facility if the proposal is approved. He showed a short slide presentation of the operation including the proposed sample screening fencing, which was cast concrete. There was also a short slide presentation entitled "Today's Scrap Recycling Industry" by the Institute of Scrap Recycling Industries, Inc.

KAPLAN commented that **MR. HAYES** was present to answer any questions regarding the operational aspect of the proposal. He said **RUSS EWY, BAUGHMAN COMPANY, PA.,** was present to speak to the land plan and **GRANT TIDMAN, J.P. WIEGAND,** was present to discuss finding an available site. He said this site they have acquired is appropriate for this type of business because it is in a GI General Industrial zoned district. He said the Bridgeport area permits outright most manufacturing and large industrial uses such as asphalt and concrete plants, gas and fuel storage, landfills, rock crushing operations, transfer stations and wrecking and salvage operations. He said Bridgeport is an industrial area and that is why it is zoned the way it is. He said what they propose is similar to the Glickman Iron and Metal shredder next door, which they feel is the beauty of the site, a similar use already exists in the area. He said they will build screening along 29th Street and have no plan to do anything with the building so that will remain as is to buffer and screen to 29th Street. He said the operations and shredding will take place on the south side of the site. He said all non-ferrous metal will go inside the warehouse. He said steel will be stored outside. He said GI is the most intensive zoning district. He said this proposed use complies with the 2030 Functional Land Use Guide and also with the 21st Street North Corridor Revitalization Plan. He said the property is attractive because it is already zoned properly and it is next to rail service which is critical to a wrecking/salvage operation. He said all scrap materials are shipped out by rail car. He said there are environmental monitoring wells on site; they have a dust suppression system and they will screen off the shredder. He said they feel all conditions in the Staff Report are appropriate and they will comply. He said they located this property after a two-year search and that Midwest Scrap Management will be investing approximately $20 million in the operation. He said they operate "state of the art" facilities and referred Commissioners to the booklet distributed as a handout with pictures of the Kansas City operation. He said he understood the neighborhood opposition and the complaint that the storage piles exceed the height of the screening fence, but he said they will have those two objections no matter where they go.

MOTION: To give the agent/applicant an additional two minutes.

HENTZEN moved, **DOWNING** seconded the motion, and it carried (11-0).

NICK HAYES, MIDWEST SCRAP MANAGEMENT, INC., 5539 RUSSELL STREET, MISSION, KS said this will be a "state of the art" shredding operation. He said they will invest $20 million in the shredder alone in addition to the property, equipment and additional materials they will acquire for the site. He said this site will be built from the ground up and will be environmentally compliant. He said there is ground water monitoring on site and they will use a closed-loop water injection system to keep dust down. He said the closed loop system injects water into the mill where the material is shredded and the system recycles the water. He said the machine will have a screen over the area where material falls. He said they use a produced called "Fluff" for trash which is a favorite of local landfills because it provides a top coat which helps with odor control. He said the system they would like to install shreds 300 tons an hour. He said it can shred one car and sort it every 15 seconds. He said all cars will have gas tanks and fluids removed from the cars before shredding. He said they will be generating additional revenue streams for materials, equipment, trucks, etc. to service customers in the area.

HILLMAN asked about a fence tall enough to cover and shade materials.

HAYES said the piles of material will be right around 30 feet which is what they keep at their current location. He said the material will be piled in the middle of the operation and he didn't know what height would be high enough to cover that. He said the machine processes materials very quickly so the majority of piling will be about the size of a fist and that will be shipped out to be reused. He said they will build a cast concrete fence to the height that is required.

MARNELL asked about the existing shredder that has explosions and asked if that was from the gas tanks?

HAYES said yes, but they will require that gas tanks be removed before they accept cars at this facility.

MITCHELL clarified that **MR. KAPLAN** said the proposal complies with the 2030 Functional Land Use Guide.

KAPLAN replied yes sir it does.

MITCHELL asked how many employees are anticipated at this operation.

KAPLAN said between 30-40 initially, and probably expanding to 50-60 and they will not be minimum salary jobs, but skilled individuals like truck drivers and machine operators, which he said they believe fits the description of "employment industry center."

KLAUSMEYER asked for a clarification on the screening.

KAPLAN said the fence will be solid cast concrete. He said the UZC requirement is eight feet in height; however, they will take the fence to any reasonable height that the Commission requires.

RICK LOWE, 1509 SOUTH SPRINGHOLLOW CIRCLE said he owns and operates a business in Bridgeport and that he was present as President of the Bridgeport Area Business Association (BABA) which was founded in 2007. He said one of the first things the Association did was contact city staff and start working on land use issues just like the type of things that are being discussed today. He commented that the group has a great deal of regard for Planning Staff and their tremendous help with what the Association is trying to do in the Bridgeport area. He said there are several reasons why BABA members object to this proposal. He said he would like to take exception to staff's findings, specifically item #5 on page 4. He said he was not sure if he agreed with the comment that this is in accordance with the Comprehensive Plan, especially the 21st Street North Corridor Revitalization Plan. He mentioned a previous case which was CON2005-11, a conditional use for wrecking and salvage that was denied because of the conflict between the proposed use and the 21st Street North Corridor Revitalization Plan and added that property was not located on an arterial. He also mentioned item #3 which talked about the extent to which removal of the restrictions will detrimentally affect nearby property. He said the salvage piles can be up to 30 feet high. He said at the company's current operations in Kansas City, (which another speaker has pictures of) the piles look to be considerably taller than that. He said an eight-foot screening fence is not going to do a whole lot to block a 30-foot pile of scrap metal. He said it is impossible to have a 30-foot high pile of metal with only a 150-foot setback from the arterial and not have a detrimental effect on nearby property. He reiterated that DAB VI voted unanimously to deny the request. He referred to the booklet entitled "Bridgeport Area Business Association – Working Together for Business Success" which highlighted the types of businesses that are located in the Bridgeport area. He said although it is a GI zoned area which is the heaviest use in the zoning code, a lot of the businesses in the area are very nice, high quality, very pristine and if this request is approval, it will be very detrimental to the businesses in the area. He mentioned several other businesses that have located to Bridgeport and made multi-million dollar investments in the area.

MITCHELL asked for an estimate of the number of employees in the Bridgeport business district.

LOWE responded off the cuff between 5,000 – 6,000 people.

HILLMAN commented that there were nice businesses in the area that he has visited and done business with and he appreciates what they are trying to do. He said he noticed Glickman, as well as a number of other salvage yards, was not one of their members. He asked if BABA has approached those people.

LOWE said yes. He added that BABA refers to itself as the area east of Broadway; west of I-135; south of the Big Ditch; then south of 29th Street to 25th Street. He said they have members south of 29th Street, but Glickman is not on the list because they have not joined BABA. He said Glickman has talked to them about on-going land use issues and cleaning up the area.

HILLMAN asked if they have had discussions concerning screening fences or containment of blowing of trash.

LOWE responded to date, no they haven't

HILLMAN asked if the Commission approves this application, will BABA have interactions with this group.

LOWE said that discussion is appropriate for this board to have if the application is approved it is reasonable and prudent for this body to discuss types of restrictions such as the height of the screening and depth of setback. He said he doesn't think the 150-foot setback noted in the report is adequate. He said that would allow the piling of scrap three to four stories tall north of the frontage of the building. He said if the application is approved there is nothing that would keep them from tearing the building down and stacking material up to 29th Street.

LEONARD HICKS, 2230 CARDINAL DRIVE, MEMBER OF BABA said he owns two buildings in the Bridgeport area. He said he took time to take pictures of Midwest Scrap Management's Kansas City operation, which he referred to in a presentation. He mentioned a conditional use case from 2003 that requested expansion on 21st Street east of Broadway and at that time Planning Staff stated expansion of salvage operations in this corridor was a major concern due to the recruitment and retention of industrial businesses. He said he has previously lived in Kansas City and that there was a constant problem with salvaged cars because the salvage yards did not take gas tanks. He said the gas tanks were basically thrown all over the city. He said 135 is an elevated expressway that looks down into this area. He said an eight to ten-foot screening fence is not going to help. He said the gas tanks are a major concern of his. He concluded by stating that Glickman was a non-conforming site that should not be taken into consideration to accept this use. He referred to the picture presentation which showed that most of the piles were over 30 feet tall.

FARNEY asked if that location was in the state of Kansas or Missouri.

HICKS said Kansas City, MO. in a hidden area so the fencing was not as critical.

TOM OLSEN, EXECUTIVE VICE PRESIDENT, HOC INDUSTRIES, 3511 NORTH OHIO said he has worked for HOC Industries for 29 years. He said they moved to Bridgeport in 1997, when there wasn't much up there. He said within the last 10 years millions of dollars have been invested in property in the area including several Fortune 500 companies including Wal-Mart, Family Dollar, Dollar General, Coleman Company, U.S. Department of Defense, Bed Bath and Beyond and many others. He said they

have corporate clients that come to their offices. He said Johnson Controls, who has 1,200 employees, also has corporate clients coming in and they were a major objector to the 2005 application that was eventually rejected by the MAPC. He said they have spent millions of dollars to make a nice business park in this area. He said he understood that there has to be recycling somewhere, but that there were certain things that just do not fit in this area. He said the Planning Department is currently working with BABA to create a "protective overly" which will give them the opportunity to attract other quality businesses into the area who may employee 500-1,000, and they have the area to do it up there. He said these types of businesses are not going to move into areas that have salvage yards, he can guarantee and in fact, some businesses may move out if this continues to happen. He said once these things are approved it opens "Pandora's Box" for those types of businesses to come in all over the area. He said BABA has made tremendous strides and they would appreciate it if they didn't go backwards. He reiterated that DAB VI recommended denial. He said this business is just not a fit for the business park. He said the Planning Department is currently working on a protective overlay for the area and added that there are several types of businesses they would like to exclude including wrecking and salvage type operations. He said a wrecking and salvage yard is not a "permitted business" in GI zoning. He said it is only permitted with a conditional use. He said he thought it was kind of arrogant to buy a property and spend that much money knowing you haven't got permission to use it as a wrecking and salvage yard. He referred to map which showed the businesses that are willing to agree to the protective overlay. He said they defined the Bridgeport area as businesses on Meade, 25th Street, Ohio and boundaries of Broadway, 135 and 29th Street. He said the owner of the company owns a lot of property in the area and they are concerned about the value of their properties falling. He said they have one piece of property directly across the street from this site and they are scared to death that the property will be worth zip if this conditional use is approved. He concluded by asking the Commission to support denying this application.

MARNELL asked if the Glickman Salvage operation has been there for an extended period of time?

OLSEN said Glickman has been there since they moved in 1987.

MARNELL asked about another salvage operation north of 29th

OLSEN said the only other one he can think of since 1986-87 is the Campbell's, but he said that is very limited but neighbors say they are not abiding by the limitations on which they received the permit.

MARNELL asked what type of business was that.

OLSEN responded a recycling business but they are not supposed to be doing any industrial recycling.

MARNELL asked if he had any idea how long that business has been there?

OLSEN said a couple of years.

MARNELL commented then it is relatively new, but Glickman has been there a long time.

OLSEN said yes it has and been a physical blight to the area for a long time.

MARNELL commented so your company still chose to build there anyway?

OLSEN said yes they did.

BOB ALDRICH, VICE PRESIDENT FOR WINDY CITY RAILWAY SERVICES, MEMBER OF BABA said for the last couple of years BABA has been working with Planning Staff to develop a

protective overlay to limit the type of businesses that are going into the Bridgeport area such as salvage yards, rock crushers and sexually oriented businesses. He said this is a very pristine industrial park area with nice, clean types of businesses. He said a salvage yard will have a detrimental effect on the other businesses in the area. He said these businesses have sunk millions of dollars into their businesses and clean up of the area. He said at one time it wasn't so nice up there. He said these businesses employee 6,000 plus employees. He said this area is literally the gateway to the northern part of Wichita along I35. He said the first thing you see is this nice industrial park area. He said if this salvage yard is approved, it will be the first thing that will hit you as you drive into Wichita and it will have a negative effect on Wichita. He mentioned the photographs of the Kansas City operations with a crane and a pile of scrap that is well over 60 feet high. He said no screening, unless you come up with a bubble, is going to hide that from the area. He said he believes this is going to have an adverse affect on some of the other businesses and he is afraid that once the door is opened up, they will not be able to stop it because of the zoning. He said just because it is a GI area and everything is allowed in there but the kitchen sink doesn't necessarily mean that all types of businesses are appropriate for the area. He said especially after they have spent many hours developing the protective overlay. He said it is very rare that businesses come in and police themselves. He said this is a unique area to the City. He concluded by asking the Planning Commission to deny this because this would have an adverse effect on what they are trying to do in the area. He commented that Campbell Recycling is very limited in what they can do, but they are doing baling, scraping and processing which they do not have permission to do. He said they came back to the Commission and tried to get approval but he recalls that Commissioner McKay commented at the time of the denial that it would have an adverse effect on the quality type industrial park they are trying to do at Bridgeport.

MARNELL asked if the type of business he conducts at his location could be conducted in a lower zoning classification than GI.

ALDRICH said his office is located downtown, but he is a member of BABA. He said he buys and sells railroad car parts, so that is not issue with the Bridgeport area.

RITA _____HOSPITALS OF HOPE, 3545 NORTH SANTA FE said she was present to express her concern about this issue. She said she agreed with Mr. Lowe and Mr. Hicks and said there was no way that this kind of visual blight and noise pollution will not affect property values in a negative way. She said they are also concerned that this may cause increased crime by lowering property values and providing motivation for crime. She said they have had issues in the past when parts were stolen off of their vehicles for scrap and they are concerned that this could happen again.

MARNELL asked if she knew if Hospitals of Hope could operate in lower zoning than GI.

RITA _____ said they are a non-profit organization with an office and warehouse located in Bridgeport and that she didn't know exactly what the zoning requirement would be for that.

DENISE GERBER, 2612 N. LONFGELLOW, FINANCIAL MANAGER AND RECORDING SECRETARY FOR MOORES COLLECTIONS, LLC. she said Moores Collections invests in commercial real estate and leases property for rental income. She said typically they hold real estate long term and acquire quality and functional properties in good locations and lease them to financially sound and quality tenants that take pride in operating their businesses at these locations. She said last June the company acquired 3030 N. Ohio, which is located two blocks east of 29th Street and Meade. She said this 10,000 square foot warehouse is located in the Bridgeport Industrial Park and they have made a substantial investment. She said they were successful in leasing the property in less than 6 months to a truck servicing operation, which they felt was good considering the downturn in the economy. She said the tenant and company have made substantial investments in property improvements. She said their

major concern is retaining the economic value in this property. She said they are worried that the market value of this property will be difficult to sustain if this conditional use for a scrap yard is approved. She said they worry if they will have difficulty retaining their current tenant or attracting any future tenants. She said they are also concerned about visual blight. She asked the Commission to visualize three floors of piled junk cars or scrap metal. She also mentioned potential noise, airborne and ground pollution, and extra traffic. She said they believe allowing a wrecking and scrap operation will detract from other businesses in the area and negatively affect property value; therefore, they oppose the proposed conditional use.

JOHN C. WADSWORTH, 1418 SPORT OF KINGS, PRESIDENT AND OWNER, PIPING AND EQUIPMENT CO., 1111 EAST 37TH STREET NORTH said they are a 64-year old mechanical contractor that builds refineries, power plants, pipelines and other stuff that people don't want in their backyard. He said they have been in the Bridgeport area for 64 years and employee anywhere from 150-300 employees on a full-time basis and spend between $10-$15 million dollars per year in salaries. He said they were located on North Topeka Street, but three years ago he purchased property on North Ohio and 37th Street and has invested approximately $3.5 million dollars on that manufacturing facility that includes an office building and fabrication shop. He said he is against the proposal and staff report and recommendation. He said he believes they need to ask more questions on some of the staff report recommendations. He specifically referred to page 4 of the report, item #5 that talked about storage of materials, bales, and scrap metals on surfaces approved by the Office of Central Inspection (OCI). He said he did not know what an "approved surface" was and he said he was not sure whether OCI has the staff to enforce that, which he said has been proven over and again by the condition of the Campbell Scrap Yard. He said the Campbell Recycling Center has a lot of industrial waste that is not permitted but they continue to be in operation. He referenced item #7 that talked about "storage of all metals shall be organized and in an orderly manner." He said he was not sure what that definition means. He asked how you store scrap metal that is over 30-feet tall. He mentioned Cornejo's storage of materials in south Wichita and said he assumed that was considered orderly. He mentioned item #9 which talked about weed control. He said he would like to know how to do that on his eight acres because weeds are very tough to control. He mentioned Kansas Department of Health and Environment (KDHE) regulations and said he would like to know how you take in salvage vehicles without liquids. He asked how you get liquids out of vehicles and motors. He said he understands gas tanks will not be part of this process and will be disposed of in other places. He concluded by saying in short Piping and Equipment located on North Ohio is against staff's recommendation without further information.

MARNELL asked if Mr. Wadsworth's manufacturing facility required GI zoning?

WADSWORTH responded yes, their operation requires GI type zoning. He added that when he was recruited to move his business to Park City, he decided to stay in the Bridgeport area because of the zoning and the location of the highways. He also said he believed the Siemens plant would have been located in Wichita if the city had done a better job of promoting the Bridgeport area.

LOU EFTINK, PRESIDENT OF DESIGN BUILD CONSTRUCTION said he also bought property a couple of years ago at **1330 E. 37th STREET NORTH.** He said he is a member of BABA who has been working diligently on a protective overlay. He said he strongly opposes this proposal, not because he agrees there are areas that you can put this operation other than GI. He opposes it because the applicants themselves said everywhere they go they are opposed to. He said because they pile trash so high and then only have an eight-foot fence, they are not trying to be a good neighbor. He said he does not have the answer. He said he knows things can be done inside and that things don't have to be piled 30-feet high. He said these are not even options. He said once they move in, they can pile debris 30-feet high and are not limited to three stories; it can be up to four and five stories. He said we can't control it. He said just because Glickman is there, they can't change that but they don't have to compound it. He said they are

just asking that they become a good neighbor and figure out a solution. He said they are the ones bringing this problem into the area. He said anyone in this room who owns property knows this is not going to increase the value of their property. He said he strongly opposes this until they come up with an environmentally friendly plan to be in an upper end industrial zone. He asked the Commission not to accept the proposal as it was presented today. He said once they are there OCI does not have authority to enforce the conditional use and the language is so generic, how do they enforce it? He asked how you define controlling weeds. He said they are battling in other areas and when it is brought to the City's attention, someone says that is acceptable. He concluded by saying that the City spends a lot of time trying to enforce something that just should not have been approved to begin with.

KAPLAN referred to a map that depicted 12 recycling facilities, scrap facilities, and auto recycling facilities between 21st and 31st Streets, and from the Bypass to Broadway. He said those are similar industries to what he is seeking a conditional use for today. He said there are one dozen of them and there is a reason they are located within this area. He said they are not there coincidentally or by accident. He said they are there because that is the area that was designed and planned to house them. He said they are concentrated in that area for a reason, it just didn't happen. He said that is where the City put them because that is the suitable area for them. He said they have GI zoning and access to rail. He said he tries very hard not to put on his lawyer's hat and not to get adversarial at administrative hearings; he saves that for the courtroom. He referred to several slides of areas located in Bridgeport. He said the slides are self-explanatory. He said they have heard that this is a pristine area. He mentioned the recycle oil plant, trailer storage and a pipeline. He commented these slides are the nature of area the area and that is what you see from 135 and the immediate neighborhood. He said this is an industrial park that houses many recyclers and salvage operations. He concluded by saying that he tried very hard to get a meeting with these folks to discuss these matters and said he got no response.

HENTZEN asked when this area for this type of activity was established by the City?

MILLER said between 1937 and 1958. He said when researching that question, he found a 1937 map that showed "F" Zoning which was the old heavy industrial designation south of 29th Street, then in 1958 there was a City map that showed heavy industrial zoning up to 37th Street.

SHERMAN referenced a letter in the applicant's packet from Westar Energy concerning energy estimates from someone who reports to him. He said this was a service Westar provides to all new customers. He asked if that put him in conflict on this proposal.

LANG said he would not think that would cause a conflict of interest. He said that was someone providing information and not part of the application.

HENTZEN said he should ask the same question, since he owns and operates out of 3711 N. Hillside.

LANG said that address was not located in the notice area for this application.

MITCHELL said he was going to recommend denial of the application on the basis that it is not compatible with the 2030 Functional Land Use Guide; does not increase the potential for employment and it has not been shown to be a compatible use for this area.

MOTION: To deny the application.

MITCHELL moved, **HILLMAN** seconded the motion.

MARNELL said he was going to be the "odd man out" today. He said he was going to make a substitute motion to approve per staff comments. He said he has commented before that this is zoned GI, which is the most heavily zoned area the City has. He said since the 1970's the City has spent a lot of money dealing with groundwater issues in the Bridgeport area to make the land usable for industrial use. He said he believed some purchasers took advantage of the lower land costs in the area and now want to have the area be something other than what it is which is a heavy industrial area. He said that is why he is making the motion.

> **SUBSTITUTE MOTION:** To approve subject to staff recommendation. (And later added a 35-foot height restriction and that no materials could be stored outdoor further north than the south side of the existing building.)
>
> **MARNELL** moved, **SHERMAN** seconded the motion.

SHERMAN asked if there was any limitation on how high the stacks can be.

MILLER said he couldn't remember if there was a height limit in the zoning district, but said typically that is a building issue which means it is unlimited, other than just being able to hold the pile with a slope.

SHERMAN asked if it was prudent to amend that motion to have a height limit.

MILLER responded that the Commission could place a maximum height limit.

MILLER commented there was an 80-foot building height limit.

MARNELL suggested a maximum of 35-feet in height.

HAYES commented that they would be okay with 35-feet if that is what it takes to satisfy the Commission.

HILLMAN asked if they would be willing to build a 35-foot wall.

HAYES said he didn't know if that was possible. He said they would like to work with the Commission, but he didn't know about that.

HILLMAN suggested a 20-foot wall and limiting the stacks to 20 feet.

HAYES commented that 20 feet was pretty low and they would rather get approval for something that was 30-35-feet high.

SHERMAN asked about the buffer from 29th Street.

HAYES said the building was going to remain, but if the Commission would like more restrictions where they are actually storing materials outside, they would be fine with that. He said they have no intention of storing materials in front of the building on 29th Street.

KAPLAN asked for clarification on the height restriction.

SHERMAN said 35-feet from the motion maker.

KAPLAN replied that they would accept the lesser height restriction if that was the will of Commission.

MARNELL said he would like to change the substitute motion to include a 35-foot height restriction; and no materials being stored outdoor further north than the south side of the building.

HILLMAN asked the motion maker if he wanted to add anything to the eight-foot designated wall.

MARNELL responded that he didn't think there was anything you can do in terms of the interstate being an elevated road. He said as far back from 29th Street as this operation is going to be, he said he believes it will pretty much over most of the operation.

FOSTER asked if the there has been any discussion about limits of the proposed protective overlay within this GI zoning

MILLER deferred to **DONNA GOLTRY,** Planning Staff.

GOLTRY said geographically the protective overlay mostly focused on 29th Street and south. But he may want to ask the members of BABA who were present for clarification on that.

FOSTER clarified that if for unknown reasons the building is taken down at the site, the only requirement is an eight-foot solid screening 150 feet south of 29th Street.

MILLER asked for clarification of the current motion to see if the height of the screening was higher than the 8-feet required by the UZC.

FOSTER asked for clarification on the protective overlay limits.

MILLER explained that the property owners in the area submitted a proposal, but that staff doesn't have anything drafted up yet.

HENTZEN said this question applies to the bigger picture of Wichita and Sedgwick County because of the hundreds and of thousands of cars. He asked what are we going to do about them if we can't put them in the lowest zoning area that the City has? He said this is a real problem and suggested that they get it settled because they spend three to four hours on discussion every time there is an application for a salvage yard. He said what are they going to do and what should they do?

DIRECTOR SCHLEGEL commented that sounded more like a rhetorical question. He said Wichita-Sedgwick County does not have a wrecking/salvage yard plan. He said each case is addressed on a case-by-case basis, with each case being judged on its individual merits.

MITCHELL asked that the map be displayed reflecting salvage operations in the area. He said with all those salvage companies in one area, it doesn't seem to him like there is a pressing need to add one more.

HENTZEN said he thinks it is pressing with the number of cars in the area.

SUBSTITUE MOTION PASSED (6-5).
DOWNING, HENTZEN, HILLMAN, MILLER STEVENS and **MITCHELL** – No.

EXCERPT OF THE AUGUST 19, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING HEARING

Case No.: CON2010-08 (Returned by City Council 6-15-2010) - Midwest Scrap Management, Inc. (owner) / Robert Kaplan (agent) Request City Conditional Use to permit wrecking and salvage at 2901 N. Mead Avenue on property described as;

Lot 1 except beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; thence West 213.12 feet; thence North 340 feet to beginning, Block 1,
North Industrial Park Addition to Sedgwick County, Kansas.
AND
Beginning at the Northwest corner of Lot 1; thence East 213.12 feet; thence South 340 feet; West 213.12 feet; thence North 340 feet to beginning, Block 1, North Industrial Park Addition to Sedgwick County, Kansas, generally located At the southwest corner of 29th Street North and North Mead Avenue.

BACKGROUND: The application area is located at the southwest corner of north 29th Street and Meade Avenue, and is zoned GI General Industrial ("GI"). The applicant is seeking a Conditional Use to permit "wrecking and salvage" on the 25.68-acre site that is developed with an office building. Midwest Scrap Management, Inc., intends to operate a metal and scrap salvaging, sorting and shredding operation. Material will be brought in primarily by truck; however processed material is primarily shipped out by rail. Trucks will be used for local delivery. It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day. Scrap piles may reach 30 feet in height. The applicant's do not part-out vehicles. Inoperable vehicles located on-site will be shredded. Shredded material ends up in "fist-sized" pieces. The application area has one access point each to 29th Street and to Meade. The business expects to employ up to 50 office workers, truck drivers and heavy equipment operators.

The *Wichita-Sedgwick County Unified Zoning Code*, Sec. II-B.14.r defines "wrecking/salvage yard as a lot used for the collecting, dismantling, storing, and/or salvaging of machinery, equipment, appliances, inoperable vehicles, vehicle parts, bulky waste, salvage material, junk or discarded materials; and/or for the sale of parts thereof. A wrecking and salvage yard is allowed by Conditional Use permit in the LI Limited Industrial ("LI") and GI districts, and allowed by right in the Air Force Base ("AFB") District, subject to Supplementary Use Regulations Sec. III-D.6.e (1) the use is not abutting an arterial street, expressway or freeway; (2) in the opinion of the Planning Commission, the use will not adversely affect the character of the neighborhood; and (3) is enclosed by a fence or wall not less than eight feet in height and having cracks and openings in excess of five percent the area of such fence. With respect to the requirement that the use not abut an arterial street, planning staff has been advised by the Office Central Inspection that as long as the use is located at least 150 from arterial street right-of-way it is considered to not be abutting. The existing chain-link fence depicted on the submitted site plan does not meet the opacity requirement mention above. The screening wall needs to also meet the standards outlined in Sec. IV-B.3.h: screening walls and fences shall be constructed of standard building materials customarily used for wall and fence construction such as brick, stone, concrete masonry, stucco, concrete or wood. In the past, staff has received complaints regarding the use of large rectangular concrete blocks as screening material. It is recommended that such fencing material be prohibited from meeting the screening requirement.

Surrounding property is all zoned GI, and is used for a variety of industrial uses including warehousing, steel fabricating, grain elevators, outside storage of trailers, offices and manufacturing, and salvage and wrecking. Glickman Metal Recycling is located just east of the application area, and contains significant piles of scrap metal.

CASE HISTORY: The site appears to have been zoned heavy industrial in 1958, and was platted as the North Industrial Park Addition in June 1972. The request was sent to the City Council on June 15, 2010. The action of the City Council was to return the request to the District Advisory Board and the MAPC for further consideration. The City Council minutes of June 15, 2010, are attached.

ADJACENT ZONING AND LAND USE:

NORTH:	GI General Industrial; elevator, manufacturing
SOUTH:	GI General Industrial; grain elevator
EAST:	GI General Industrial; outside storage of semi-truck trailers and mobile home-type trailers, warehousing
WEST:	GI General Industrial; outside metal recycling; steel fabricating

PUBLIC SERVICES: 29th Street is a paved four-lane arterial with approximately 50 feet of half-street right-of-way. Meade is a paved two-lane street with 35 feet of half-street right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide depicts this site as being appropriate for "employment / industry center." Employment / industry centers encompass areas with uses that constitute center or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices. The GI zoning district is the most intense zoning district contained in Wichita-Sedgwick County Unified Zoning Code ("UZC"), except for the Air Force Base ("AFB") district.

The application area is still subject to the amended November 27, 1972, General Urban Renewal Plan. The General Land Use Plan map of that document depicts this site as appropriate for "heavy manufacturing" that is a category of industries which are apt to have an extensive impact on the surrounding area. Included are heavy assembly and fabrication uses which may create considerable traffic volume, noise, dust, odor, blast and smoke. Floor area to lot area ratio shall not exceed 3.00 with maximum lot coverage limited to a maximum of 50 percent. As currently developed the site complies with these development standards.

The January 4, 2005, 21st Street North Corridor Revitalization Plan's Preferred 20+ Land Use Plan depicts the site as appropriate for "general industrial" uses, that acknowledges the importance of heavy industry in the Wichita region and specifically the importance of rail dependent uses in the plan area. Rail dependent and heavy industrial uses are allowed in this category. Light industrial uses area also allowed.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use shall permit the torch cutting, crushing, shearing, baling, shredding, storage and shipping of motor vehicles, appliances and other industrial scrap materials. Recycling, salvage or wrecking activity is not permitted within 570 feet of 29th Street's southern right-of-way.

2. Screening walls shall comply with Sec. IV-B.3.h, except that the use of the large rectangular concrete blocks as fencing material is prohibited.

3. The site shall be developed and operated in compliance with all of the conditions of UZC, Art III, Sec. III-D.6.e, including the use of approved fencing or wall materials, and the approved site plan. Material used for the screening wall shall be identified on the approved site plan.

4. Employee parking spaces shall be provided per the UZC on an area paved with asphalt or concrete.

5. Stored materials, containers or bales shall be stored on a surface approved by the Office of Central Inspection.

6. A revised site plan addressing the conditions of approval shall be approved by the Planning Director prior to the beginning of the operation.

7. Storage of all of scrap materials (vehicles, metals, appliances, etc., including baled material) waiting to be processed and the containers they are stored in shall be organized and be maintained in an orderly manner, including an exposed perimeter, as specified by Environmental Services to prevent rodent harborage and breeding.

8. The applicant shall maintain at all times an active program for the eradication and control of rodents.

9. Weeds shall be controlled within the subject property and adjacent to and along the outside perimeter of the screening fence.

10. Any locking devices on entrance gates shall meet Fire Department requirements. Access to and within the site shall be provided by fire lanes per the direction and approval of the Fire Department.

11. Access to the subject property shall be provided for on-going inspections of the site for groundwater and soil contaminants by Environmental Services and other applicable governmental agencies. If the inspections determine it to be necessary, the applicant shall be required to install monitoring wells and/or perform soil testing on the property to monitor the quality of groundwater and/or soil, and shall pay the cost of an annual groundwater and/or soil test for contaminants as designated by the Environmental Services.

12. Notification shall be given to Environmental Services of any on-site storage of fuels, oils, chemicals, or hazardous wastes or materials. A disposal plan for fuels, oils, chemicals, or hazardous wastes or materials shall be placed on file with Environmental Services. All manifests for the disposal of fuels, oils, chemicals, or hazardous wastes or materials must be kept on file at the site and available for review by the Environmental Services.

13. The applicant shall implement a drainage plan approved the City Engineer prior to the commencement of operations that minimizes non-point source contamination of surface and ground water.

14. The applicant shall obtain and maintain all applicable local, state, and federal permits necessary for the operation of the storage of scrap metal waiting to be processed and storage of the scrap metal bales.

15. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth

in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned GI General Industrial, and is used for industrial activities ranging from outside storage of trailers, warehousing, manufacturing, steel fabricating or wrecking and salvage. The wrecking and salvage operation has extensive piles of scrap.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned GI General Industrial which permits a very wide range of commercial, office and industrial uses. The site is developed with an office building and has some room for additional building. The site could be used as currently zoned; however, there has been increasing interest in wrecking and salvage, as demonstrated by two recent development applications within the vicinity of this application, and city-wide there have been a total of 10 requests in the last two years.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval are designed to minimize foreseen impacts to nearby property owners.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide another location for the disposal of scrap material. Denial would presumable present the prospective purchaser with delays that could result in a loss of income and business opportunity.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with adopted plans as described in the conformance with plans and policies section located above.

6. Impact of the proposed development on community facilities: Existing community facilities are in place to address anticipated demand on community facilities. Truck traffic would potentially increase but the streets in the area were developed to accommodate industrial traffic.

DALE MILLER, Planning Staff presented the Staff Report. He reported that DAB VI voted 4-3 to recommend approval of the application.

FOSTER asked about the noise ordinance with regard to the decibels generated by the shredding machine.

MILLER commented that the noise ordinance addresses "ambient level" where readings are taken to see if noise generates a certain level of decibels above the ambient level. He said in industrial areas there are more tolerant noise levels.

FARNEY asked if there was any update on the number of truck trips or on the rail issue.

MILLER said the applicants have indicated that it is important to their operation that they have railroad access and that was one of the keys to their selection of this site. He said at the DAB meeting the applicants indicated that there would be up to 60 heavy trucks a day coming and going from the site.

BOB KAPLAN, 1600 EPIC CENTER, AGENT FOR THE APPLICANT said Landscape Architect Dan Wilson from Wilson, Darnell and Mann was present to review the revised, updated landscape plan for the site, as well as Rick Hayes from Midwest Scrap Management, Inc., who will be the Operations Manager of the site. He reminded the Commission that they approved this conditional use on March 18, 2010. He said when the matter went before the City Council; the Council referred the issue back to the DAB and Planning Commission due in part to concerns expressed by the neighbors. He said DAB VI reheard the case last night and recommended approval of the application. He said enhancements have occurred to the plan since previously approved by the Commission including a very sophisticated landscape plan designed by Wilson, Darnell and Mann. He said they have also been discussing and will offer not to use Mead Street for ingress/egress onto the property but use 29th Street only. In addition, he said they have decreased the size of the application area from approximately 25 acres to 12.4 acres. They will also make no changes to the building facing on 29th Street. He referred to a booklet which was a handout and briefly outlined the contents including a cover letter highlighting several issues they felt were salient to consideration of the application, a letter from Westar Energy, site map, several landscape renderings of the site and pictures of surrounding properties. He mentioned that this was a GI General Industrial zoned area with close access to I-135. He said this is not near a residential area, and asked the question "If not here, where." He concluded by mentioning the private covenant and conditions the applicant has offered the Bridgeport Area Business Association (BABA), which included not only staff conditions but additional conditions they have agreed to. He also mentioned that Recreational Vehicle Products has withdrawn their protest petition, and the 47% protest included about three properties.

DAN WILSON, WILSON, DARNELL AND MANN, LANDSCAPE ARCHITECTS, 105 SOUTH WASHINGTON referred Commission members to several renderings of the landscaping plan for the property. He mentioned the proposed berm along Mead Street and a portion of 29th Street. He said this will provide screening from a lot of different locations; however, the top of the shredder can be seen from the southeast. He said there will be an 8-foot decorative concrete wall on top of the 6-8- berm. He said in addition, there will be landscaping to soften the view including trees and low level plantings that will be large enough to make the landscape meaningful. He said the perspective or visual cone works well close to the site but added that away from sight you might be able to see a little more.

DIRECTOR SCHLEGEL asked Mr. Wilson to describe the boundaries of the smaller conditional use application area and the proposal to cut off access to the site from the east along Mead Street.

WILSON said it is the applicant's intention to use 29th Street as the main access onto the site. He said they had planned to leave the access drive from Mead Street onto the site open; however, if the Commission desires that closed, they are willing to do that. He said the 12.4 acres encompasses from the end of the building to the south property line, which is approximately one half of the original site application.

NICK HAYES, WICHITA OPERATIONS MANAGER, MIDWEST SCRAP MANAGEMENT, INC, 5539 RUSSELL ST, MISSION, KS said they will be operating a state of the art facility not only visually but the shredder operation itself. He said this is identical to the plant they operate in Kansas City. He said this shredder has the capacity to shred and sort a car in 15 seconds. He briefly explained the operation and commented that the landfills like to use the "fluff" which is one of the byproducts to keep down odor. He said all materials will be stored on concrete until they are trucked to the landfill. He said the steel will be loaded onto rail cars to be sent to steel mills across the country where it will be recycled. He reviewed the collection process; compliance regulations; and dust suppression system. He said they take no cars with gas tanks or fluids or any kind. He mentioned they obtain most of the cars from auto salvage and other scrap yards so the tanks and fluids are removed before they receive them.

MOTION: To grant the speaker two additional minutes.

JOHNSON moved, **FARNEY** seconded the motion, and it carried (9-0).

He said as far as any environmental issues, they are closely monitored by Kansas Department of Health and Environment (KDHE); there is concrete around the shredder; and they have a water reclamation system which they use to keep dust down at the site. In addition, he said any run-off is collected in concrete tanks and recycled to cut down on dust. He said a crane; other equipment; and improvements to the site will be incorporated into the project.

DOWNING asked for clarification about the "fluff " material keeping down odors.

HAYES clarified that the "fluff" was used at the landfill sites to cut down odors.

DOWNING asked the applicant if they were willing to physically close the entrance from Mead Street onto the site.

HAYES replied yes; however, he noted that the Fire Department may request that it be left open as an alternative entrance into the site and for emergency purposes.

FOSTER asked if the revised conditional use application area to 50% of what was originally requested will affect the viability of the operation.

HAYES said they did not think so because the machine processes materials so quickly.

FOSTER asked about the decibel level of the shredding operation.

HAYES said since the machine is larger with thicker inner linings, it actually cuts down on the noise level, but he added they will comply with the City Ordinance.

HENTZEN (In @ 2:40 P.M.)

FARNEY asked how long the material sits on the ground before it is loaded onto a railcar.

HAYES said not longer than one month because they are constantly processing material.

GEORGE E. PEARSON, 821 EAST 25TH STREET, PEARSON EXCAVATING said he works close by and drives by the site on his way to work. He said sitting in his office he sees the same thing down the street from him. He said this type of operation fits into the area since people are conducting this type of operation already. He said he sees nothing wrong with the application and added that it creates jobs and adds to the tax base. He said the bottom line is he is in favor of approval of the application.

SCOTT EILERT, CARGILL, 2901 NORTH MEAD STREET said they rent the facility from Midwest Scrap Management and that he was speaking in favor of their proposal. He commented that Midwest purchased the site from Cargill and that they are leasing the facility from Midwest for approximately 18-24 months while they are finishing their new facility to be located on First Street downtown. He said he wanted to acknowledge that Midwest purchasing this property was a key element in their project to build a $15,000,000 facility downtown. He said they felt this was a win/win situation. He said Midwest is creating jobs and is a company willing to move in and invest in Wichita. He said granted, not at the same level as Cargill, but they are supportive of businesses that are willing to make investments in the area and create jobs. He said the proposal is consistent with zoning in the area. He added that he felt they would set a new precedent for curb appeal and appearance with the improvements

the owners are willing to make to the property. He concluded by saying that he hoped the Commission would look favorably on the proposal.

MCKAY asked if there were any conditions on the sale of the property, such as approval of this conditional use permit or did Midwest buy the property outright.

EILERT responded that Midwest bought the property outright.

RANDY SPARKMAN said as a former City employee and zoning supervisor in the Office of Central Inspection (OCI) he was present to speak in favor of the proposed project. He said he was not only speaking for this project but for use of the GI General Industrial district in general. He said he understands owners in the area are concerned and want this GI zoned area restricted to some other uses. He commented that the GI zoning district is the least restrictive zoning district and hazardous uses are very rarely restricted in the district. He said he believed staff has levied some very good restrictions on the proposed business and specifically mentioned the 35-foot material height. He said there was a statement made at the DAB that you can see this product from the highway and various other locations. He said he submits that someone has to have extremely good vision to identify exactly what the material is from the highway. He said he was very impressed with the proposed screening and landscaping the applicant was willing to provide to protect the surrounding neighborhood. He said this area was designed specifically for this kind of use.

FOSTER asked what type of screening is required and mentioned some of the operations along 21st Street east and the 21st Street Revitalization Plan. He asked about screening where this site abuts the railroad tracks.

SPARKMAN said he was not wholly familiar with the 21st Street Revitalization Plan. He said most of the operations on east 21st Street are not wrecking and salvage, but recycling which he believed required different levels of screening. He said the Office of Central Inspection (OCI) currently has enforcement issues on screening along 21st Street.

MILLER commented that Glickman Metal Recycling is between Broadway and the applicant's site.

BRIAN TURNER, HALL INDUSTRIAL SERVICES, 1221 EAST MURDOCK AVENUE said he owns lots 2 and 3 in the Bridgeport Industrial Addition which are adjacent to this site. He said he was in favor of the proposal. He said he has personally been in scrap yards in Kansas City, Oklahoma City, Dallas and Houston and said he has never been in one that looks as nice as this one does. He also mentioned that there were similar businesses in the area. He concluded by saying he was in favor of the application.

LAURIE CAMPBELL, OWNER, 3423 NORTH ST. FRANCIS, 3428 NORTH EMPORIA, AND LOT 2, BLOCK 3 BRIDGEPORT INDSUTRIAL ADDITION said she is in the recycling business and supports Midwest's conditional use request. She said this is the type of business that belongs in the area since Bridgeport and the surrounding area is GI General Industrial zoned. She said she has not been approached by BABA concerning this proposal. She mentioned increased traffic in the area which resulted in the installation of a stop sign at 29th Street and Ohio Street. She said if trucks are moving in the area, that means people are doing business and money is being made, which is better than having a for sale sign on the property. She commented that you have to wait for the train in the area now. She said Midwest is making a huge investment in the community, creating jobs, paying taxes, using utilities and that this operation will provide a beneficial service to the community. She said the aircraft companies not working at their full potential right now. She said there is a shredding operation a stone's throw from this site and added that is another reason this is the best place for this type of activity. She said GI zoning will

accommodate the Midwest Scrap operation and that Midwest has bent over backwards to try to accommodate the neighbors. She said Midwest has the right to operate a business and that this is the correct location to put it in. She concluded by asking the Planning Commission to approve the conditional use request.

BOB ALDRICH, 804 NORTH MAIN STREET said he was present to speak in opposition of the proposed scrap and metal salvage yard. He said the Bridgeport area was created by the City of Wichita to clean up a blighted area, create tax revenues and produce jobs. He mentioned the three phases of the Bridgeport Development. He said 18 companies originally located in the industrial park because they believed it was going to be a high end industrial park. He said these companies included Coleman, Love Box, Excel and others. He said that number has grown to 43 companies on the 80-acre Bridgeport site ranging in size from ½ acre to 18 acre lots. He said this area is ideal because of its close proximity and access from K-96, I-135 and I-235 highways. He said the main purpose and intent of the City in creating this high end industrial park was to attract more job opportunities into the area. He said several of the companies' employee several thousand employees, whereas the scrap metal business will only create approximately 20 jobs. He mentioned the 21st Street Revitalization Plan and added that just because GI zoning was a catch all area, that doesn't mean everything fits into that zoning. He said if this request is approved it will be detrimental to the rest of the businesses in the area who will hesitate to expand and create more jobs. He asked the Planning Commission to consider denial of the application.

RICK LOWE, 1509 SOUTH SPRINGHOLLOW CIRCLE said he owns and operates two businesses in the area and is President of BABA (Bridgeport Area Business Association). He gave a brief review of the origin of BABA which began in conjunction with discussion of the 21st Street Revitalization Plan. He said land use issues are what brought the group together. He pointed out the fact that just because the area is zoned GI, doesn't mean anything and everything fits into it. He said the conditional use procedure was put in place and designed so the City can address each application on a case-by-case basis. He said they are looking for higher end industrial use and something that will fit the character of the neighborhood. He said they are currently working on a Protective Overlay (PO) for the area with Planning Staff and added that just because a site isn't in the PO area doesn't mean they shouldn't be concerned about it. He said they will be notifying landowners within 200 feet of the PO. He commented that the Planning Commission denied a conditional use permit for a piece of property further north of 29th Street on Ohio Street. He said if this request is approved it doesn't take a rocket scientist to realize that next month the Commission will be talking about a permit on Ohio Street again. He said they don't want to see a trend started of these types of industry processing uses in the area. He mentioned the 2030 Functional Land Use Guide that said the area should be used as an employment industry center. He said taking this 25 acre site and converting it to use that will employ 10-15-20 people is not compatible with the Land Use Guide. He concluded by stating that he did not believe this conditional use application was a good fit for this neighborhood and suggested they locate south of 25th Street where the other wrecking/salvage yards are located.

JOHN C. WADSWORTH, 14810 SPORT OF KINGS, OWNER AND PRESIDENT OF PIPING AND EQUIPMENT said he employees over 200 people with a payroll of $10,000,000 - $12,000,000 annually. He referred to the map of scrap yards in the area provided by Mr. Kaplan at the March 18, 2010, Planning Commission Hearing. He said he did not believe the map was accurate and was misleading as to the actual number of operations in the area. He briefly went through the 12 locations one-by-one referring to pictures he took of each operation. He said of the 12 locations referred to on the map, only seven were actually in operation, and five of those seven were located on east 21st Street. He referred to the area along north 21st Street between Broadway and I-135 and commented that there was absolutely no development in that area. He concluded by referring to a map of the Bridgeport area today and commented that it was not an area for recyclers. He referred to the newspaper articles provided as a handout where the St. Joseph Fire Chief suggested closing down the Midwest Scrap Management

operation in Kansas City. He ended his presentation by asking the Commission to deny the conditional use application.

JOHN PRATHER, 1833 RIDGE ROAD, EL DORADO, VICE PRESIDENT CORPORATE RELATIONS, GROENDYKE TRANSPORTATION, INC., 3550 NORTH OHIO STREET provided a hand out which was two articles from the *St. Joseph News-Press* dated March, 2004, regarding fires and repeated Code violations at the Midwest Scrap Management facility in St. Joseph. He said as a safety supervisor and member of the State Commission on emergency preparedness and response he has witnessed a lot of operations and been involved with safety issues and public responsibility in transporting and dealing with hazardous materials. He said Groendyke moved from Valley Center to the Bridgeport Industrial Park for ease of access to the interstate and currently has 100 employees at the Ohio Street address. He said they want to be located with "like" neighbors who are conscientious of safety and security. He said they have concerns about the track record of this operation making application to come into the Bridgeport area. He referred to the newspaper articles and said that operational issues such as these are just the tip of the iceberg. He mentioned transportation congestion and railroad tie ups and added that this operation just does not fit into this area. He commented that when Groendyke moved to Bridgeport they were looking into the future and willing to invest; however, he said this operation is contrary to the future development of Bridgeport. He concluded by saying that compliance with City, State, and Federal regulations is important and the neighbors don't feel that any fence or berm to hide a bad operation or one that is not in total compliance with regulations will help the area.

DENISE GERBER, MORRIS COLLECTION, 128 SOUTH DELLROSE said they own a commercial rental property at 3030 N. Ohio Street located a couple of blocks east of Ohio and 29th Streets. She said they have it rented to a transportation service operation that employees approximately 80 people. She said she would like to talk to the Commission about land valuations in the north industrial corridor. She referred to 2 handouts which where maps that reflected the 2009 land values per square foot by parcel north and south of 29th Street. She commented that land north of 29th Street averages 57 cents per square foot and noted how valuable the land has become. She said land south of 29th Street where most of the scrapping operations are located along 21st Street averages 27 cents per square foot. She said she had three observations regarding this information: #1 – the further away from the 21st businesses area, the higher the land value; #2– businesses north of 25th and 29th Streets would not be located there today if a third scrap yard was in the area; and #3 - she suggested that if the applicant located this operation south of 29th Street, they would still have railroad and arterial access in additional to it being a prime location for a scrap yard. She commented that the information from the County Appraisers office indicated that neighbors will be impacted by non-typical uses. She commented that the Midwest Scrap Management operation will cause economic obsolescence to the businesses currently located in Bridgeport with the noise, dust, smoke, ground water pollution and hazardous and dangerous conditions. She said scrap and salvage operations reduce property values and can adversely impact an area and neighbors. She said given a choice, businesses will not locate near a scrap yard.

MOTION: To grant the speaker 1 additional minute.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (9-0).

She asked the Commission to consider compatibility of the application and nature of the use. She said this operation is not typical of the adjoining neighbors and will lower the value of the neighbor's properties. She asked the Commission not to drive away potential future and current businesses and added that the Commission had a responsibility to make this an even better industrial park like the City leaders envisioned back in the 1970's. She asked the Commission to please vote no to the conditional land use application.

PAT HUGHES, 1635 NORTH WATERFRONT PARKWAY, ATTORNEY, ADAMS JONES LAW FIRM said he was present on behalf of BABA. He said he was present to tie together what the Bridgeport area is, future land uses, and the impact of the proposed development and how these concerns should drive the Commission to a decision to deny the application. He mentioned land use and how it should be discussed in the particular context of this case, not as an ad hoc decision based on the applicant's proposal or the surrounding neighbors concerns, but in the broader picture and future land use questions that are involved as to how land is going to be developed in the City of Wichita. He referred to the 2030 Functional Land Use Guide which he believed was developed as a planning tool to guide the City on decisions like this current application and good land use practices. He said the Commission needs to evaluate if the 2030 Functional Land Use Guide principles are still valid. He commented that prior to 2005 the Land Use Guide designated the Bridgeport area as industrial/transportation/ utility and communication. He said the Land Use guide calls for this area to be used as an employment/industry center. He said this proposed use is clearly not an employment center. He said the use is in the category of processing center, and added that this distinction is completely left out of the Staff Report. He said the previous planning calls for the sort of use that is already in the area, which is the combined office/warehouse facility that Cargill had. He said the applicant has not shown that the 2030 Functional Land Use Guide was ill-conceived. He said the scrapping operation is not serving a need that is being generated in the area, but is importing scrap so it is not an adjunct to the existing uses in the area. He mentioned the Golden Factors and character of the neighborhood. He said the site is compatible with the current uses which are office/warehouse; he said it is not compatible with the scrapping operation next door. He mentioned removal of the restrictions and how it will detrimentally affect nearby property. He said they question the truck traffic and violation of KDHE and Kansas Department of Transportation (KDOT) regulations that seem to go along with this type of operation and whether those violations are dangerous to the community. He said the property is not vacant and it is not necessary to remove the current property restrictions for the property to be economically productive. He said any hardship on the applicant is self-incurred, if it exists. He mentioned conformity with plans and referred to the 2030 Functional Land Use Guide, which this application does not conform to.

MOTION: To grant the speaker 2 additional minutes.

DOWNING moved, **JOHNSON** seconded the motion, and it carried (9-0).

He said impact on community facilities remains unclear and whether the railroad use at this location will cause problems for traffic on 29th Street. He said there is an overwhelming opposition to the application by the neighbors. He said the supporters of the proposal want to use their properties or have applied to use their properties for scrapping operations in the Bridgeport area. He said staff's recommendation does not show the difference of employment/industry centers and processing industry uses. He said because of these reasons they feel the right result is to deny the application.

MIKE BOYD, PARTNER, GODSEND LP, 2822 NORTH MEAD STREET which currently houses the tenant Mahaney Roofing and is located directly across from the proposed shredder site. He said he has heard testimony that this is a land use issue, which is defined by zoning which did not include the 2030 Functional Land Use Guide. He asked how the decision can be limited to one issue when the issue can have such a deep impact on an area. He said he was alarmed when the Commission approved the use and 35 foot piles of scrap metal with only an eight-foot chain link fence as a barrier. He said he was one of the four surrounding property owners that filed a protest on the Commission's decision. He said he listened to Midwest's proposal for additional screening and thought the proposed new screening was good. He questioned some of the architectural renderings and perspectives. He mentioned that Mead Street is about three feet above the roadbed. He said he does not want the Commission to make a good decision based on bad information. He mentioned other concerns such as the applicant's plans to control the rodent problem, control dust production, provide water to cover the debris on site to cut down on the

smell, creating noise from shredding car bodies and operating a site attractive to birds. He said none of these items is attractive to surrounding neighbors and that it will adversely affect businesses near the site. He said this operation will negatively impact the entire area. He questioned Midwest's claim of investing $30,000,000 into the facility, and said the $20,000,000 shredding machine will not be bought in Wichita. He commented that within the last several years Groendyke Trucking and Piping and Equipment have invested $8,500,000 in buildings in the Bridgeport area. He said Mahaney Roofing employees 87 people and has a payroll of approximately $3,000,000 annually. He said the investment of the companies currently located in the Bridgeport area is being ignored; however, he feels what the companies currently located in Bridgeport have invested much more than the $30,000,000 Midwest is suggesting. He said this investment has resulted in creating approximately 6,000 jobs in the Bridgeport area. He asked the Commission to review the statutes and guidelines to see that the community benefits from this use. He said he feels as it stands; only Midwest will benefit and all the other businesses in Bridgeport will be devalued. He asked the Commission to deny the permit.

LEWIS EFTINK, 1330 EAST 37TH STREET NORTH said he was a member of BABA and supported their position on this application. He read a letter from William R. Nath, President, HOC Industries, 3511 N. Ohio Street wherein he stated that the was "adamantly and unconditionally opposed to the conditional use application to permit wrecking and salvage at 2901 N. Mead Street by Midwest Scrap Management." He commented on the detrimental effect on property values in the area and that it will deter other desirable businesses from locating in the Bridgeport. He also mentioned that granting the conditional use permit is not fair to those businesses who have invested much time and money over the years to build property values in the area.

KAPLAN said he thought it was interesting that the only thing opponents to the plan can focus on is the 2030 Functional Land Use Guide. He said it clearly states in the Staff Report that this proposal is in compliance with that Plan. He said the 2030 Guide indicates industrial use and employment; it does not quantify employment. He said 40 jobs are better than no jobs and added that the jobs created will not be menial jobs but will be machine operators and truck drivers. He said professional Planning Staff have made a finding that the conditional use request is compliant with 2030 Functional Land Use Guide so that issue really isn't an issue at all. He said this is all subject to interpretation and commented that if the building is left empty, there will be no jobs at all.

MOTION: To grant the speaker 1 additional minute.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (9-0).

He commented that this case was previously approved by the Planning Commission and that when the applicant still received complaints they went to the neighbors and as a result of those conversations they enhanced the request to make Mead Street a private driveway to cut down on traffic; they reduced the application area to 12.4 acres; they agreed to leave the current building and parking lot in tact; and provide additional landscaping. He said this is a better plan than the Commission already approved. He asked the Commission to approve the application so they can go back to the City Council.

JOHNSON said he has not talked to anyone about this application; however, he was going to support the application for three reasons. First, he said this is a quality facility that will put other scrap facilities to shame and perhaps encourage them to clean up in the future. He said the applicant presented greatly improved screening and volunteered to cut off access to Mead Street, if the Commission so desired it. He also mentioned that by putting the entire operation on the south of the property the building and hedge will provide a buffer to the north off of 29th Street. In addition, he said the size of the area they are requesting for the operation is one half of the original request. He said for those reasons he will be supporting the application.

MOTION: To approve subject to staff recommendation and the 12.4-acre limitation on size of the application; improved landscaping plan; emergency access only to Mead Street; and if an emergency access was not required, the berm would go all the way across the road.

JOHNSON moved, **KLAUSMEYER** seconded the motion.

FARNEY asked if the applicant would be subject to the scrap metal licensing procedures.

SHARON DICKGRAFE, ASSISTANT CITY ATTORNEY said as an auto wrecker, they are subject to a different type of license.

MCKAY commented that he wasn't present the last time this issue was discussed and that he had some problems. He said whether there were in fact 12 scrap yards in the area was immaterial as far as he is concerned. He said he understood a lot of the reason the Bridgeport area was developed was to clean up the area. He said the area was previously used for the operation of meat packing plants and stock yards, which was one of the reasons the Cargill plant was located there. He said land was cheap and it was in close proximity to the railroad tracks on the west. He said people are concerned that property values are going to go down, he asked where it stops. He said he listened to a presentation this morning at the Advance Plans Committee about developing an overlay for ground north of 29th Street. He said there was also discussion at this meeting about approving this request, but disapproving a request north of 29th Street. He asked what provision is there to keep this whole area from becoming salvage yards. He said he has some bad feelings going forward that this will be setting a precedent in an area the City is trying to clean up. He said he doesn't care how nice the area is, there are already 7-12 scrap yards in the area. He said he believes approving this would create a problem rather than solving one so he will not be supporting the motion.

DENNIS said this area is zoned for what they are talking about. He said he keeps coming back to the question "if not here where." He said, therefore, he was going to support motion, not that he thinks this operation will enhance the area.

MCKAY said if the area was zoned for this type of activity, they wouldn't have to be getting a conditional use.

JOHNSON said a conditional use permit is required no matter where this type of activity is located.

GOLTRY clarified that a conditional use is required in LI Limited Industrial and GI General Industrial zoning.

JOHNSON said so this type of activity requires a conditional use no matter where it is located?

GOLTRY said this type of operation could be located in the Air Force Base Overlay without a conditional use permit.

DICKGRAFE clarified that the motion included that the conditional use permit was for 12.4 acres.

The Motion carried (8-1). **MCKAY** – No.

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **CON2010-00008** City Conditional Use to permit wrecking and salvage at 2901 N. Mead Avenue, generally located at the southwest corner of 29th Street North and North Mead Avenue.

DATE: March 17, 2010

On Wednesday, March 17, 2010 the District VI Advisory Board (DAB) considered a City Conditional Use to permit wrecking and salvage at 2901 N. Mead.

The members were provided the MAPD staff report for review prior to the meeting. *Dale Miller*, Planner presented the case background, reviewed the staff recommendation and answered questions of members and the public.

The Board asked the following questions/comments:

- How far is the existing metal recycling in the area from this location?
- What is the height for screening?
- What would be the highest estimate of trucks coming to the property on a daily basis as the staff report said fewer than 20?
- Will they recycle fuel tanks and tires?
- What controls do you have in place to keep down dust?
- Will there be hazardous liquid leaching into the ground?
- Will there be retail of yard metal to the public?
- Has the applicant met with the surrounding neighbors about the business they are bringing to the area?
- What impact will the existing businesses have from this recycling center?

Eight members of the public made the following comments, asked questions or expressed opposition of the conditional use request::

- Bridgeport is a high quality industrial park and we are opposed to this.
- What about all the visual blight this business will bring?
- Another previous conditional use request was denied by MAPD due to the 21st street revitalization and the City's investment in the Bridgeport area. I oppose.
- I have spent a lot of money on my business to improve the area. The other recycling location has explosions and they scare us. They say one thing at these meetings and do another once they have been approved to operate.
- There has to be another location to put recycling in this city. This is detrimental to our area.
- I would feel a violation of trust by the City if this non-like business is put in Bridgeport.
- An 8-ft. fence doesn't hide anything. This is not good for our neighborhood.
- I'm concerned about retaining our property value due to visual blight. I'm opposed.
- When the Glickman recycling has explosions it shakes our building and what about airborne bits of steel that will get into my equipment and increased traffic in front of my building. I'm opposed.

- The business these owners operate in Kansas City has recycled piles over 50ft high-they can do that here as an 8ft-fence will not cover anything. Another problem is gas tanks and tires strewn throughout K.C. because the recycling plants wouldn't take them. I'm opposed.
- If we get another recycling plant we will have bidding wars between them to recycle which in turn causes an influx of robbery of materials. Who is going to protect our community when this happens. I oppose.

****Action: The District VI Advisory Board members made a motion to recommend to City Council to deny (5-0) the conditional use request based upon previous background information of prior applicants and the Bridgeport Association members comments.

Please review this information when **CON2010-00008** is considered.

mtd

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **CON2010-00008** City Conditional Use to permit wrecking and salvage. At the southwest corner of 29th Street North and North Mead Avenue (2901 N. Mead Avenue).

DATE: August 19, 2010

On Wednesday, August 18, 2010 the District VI Advisory Board (DAB) considered a City Conditional Use to permit wrecking and salvage. At the southwest corner of 29th Street North and North Mead Avenue

The members were provided the MAPD staff report for review prior to the meeting. *Dale Miller,* Planner presented the case background, reviewed the staff recommendation and answered questions of members and the public.

The Board asked the following questions/comments:

- What type of drainage would be used inside the facility?
- The height limit of the scrap piles would be at 35ft.?
- What is the daily number of trucks that would be coming into the area?
- Was access to the railroad tracks essential?
- What would be the environmental impact and would the material attract birds and rodents?
- What is the total height of the berms and fencing together?
- Bridgeport has developed a high-end industrial area and invested millions of dollars into it.
- This applicant has done a lot to make this an appealing location site. I've never seen that before.
- Nice landscaping.
- I have a concern with compatibility of the area.

Seven members of the public spoke in opposition of the request stating:

- Where the business would be getting their scrap from.
- The applicant hasn't met with the surrounding businesses to discuss their plans.
- Ground pollution.
- This business doesn't fit into our area and feel they are misleading about what they are going to do. First they said it would be 20-30 trucks daily and now we are hearing it will be 60 trucks coming in daily.
- Our area is a high-end industrial area and if we let this business in it is a step backwards to what we are trying to accomplish. This doesn't fit the character of the neighborhood.
- I have a concern for drivers as Mead Street isn't safe due to projectiles from the shredder.
- De-valuation of our properties and they will drive away other businesses for our area.
- What will this do to the 21st street revitalization plan? We don't want 29th street to turn into a dump site.

Three members of the public spoke in favor of the request stating:

- This is an essential business for Wichita
- The conversion of scrap to another product is an essential industry.
- This business is in the right location for its needs.

****Action:** The District VI Advisory Board members made a motion to recommend to City Council Approval **(4-3)** of the conditional use request based on staff recommendations.

Please review this information when **CON2010-00008** is considered.

mtd

John Wadsworth

From: Miller, Dale [DMiller@wichita.gov]
Sent: Monday, March 29, 2010 3:00 PM
To: John Wadsworth
Subject: RE: CON2010-00008 Protest - Piping & Equipment

The Law Department has advised us that we cannot count e-mailed protests unless there is a signature. One easy solution would be for you to print this e-mail, sign it and fax it to me at 268-4390.

From: John Wadsworth [mailto:john.wadsworth@pipingequ.com]
Sent: Monday, March 29, 2010 2:35 PM
To: Miller, Dale
Subject: Fwd: CON2010-00008 Protest - Piping & Equipment

John C Wadsworth
316.619.5944

Begin forwarded message:

From: "John Wadsworth" <john.wadsworth@pipingequ.com>
To: "JLMiller@wichita.gov" <JLMiller@wichita.gov>, "cbrewer@wichita.gov" <cbrewer@wichita.gov>, "JLongwell@wichita.gov" <JLongwell@wichita.gov>, "pgray@wichita.gov" <pgray@wichita.gov>, "JSkelton@wichita.gov" <JSkelton@wichita.gov>, "sschlapp@wichiita.gov" <sschlapp@wichiita.gov>, "LKWilliams@wichita.gov" <LKWilliams@wichita.gov>, "RLayton@wichita.gov" <RLayton@wichita.gov>
Cc: "john.wadsworth@pipingequ.com" <john.wadsworth@pipingequ.com>
Subject: CON2010-00008 Protest - Piping & Equipment

Ms. Miller
Attached is my opposition to the MAPC decision to allow a conditional use at 2901 N Mead. This conditional use would allow Midwest Scrap Management to develop a scrap yard with 35 foot tall stacks of scrap cars at 2901 N Mead. I look forward to hearing more facts about this company and their proposed operations as I do not believe the MAPC, MAPC Staff or DAB IV has been provided accurate information by the company or their agent, Robert Kaplan.

"We make a living by what we get, we make a life by what we give"
Sir Winston Churchill
[cid:image003.jpg@01CACEA4.7341A200]
John C. Wadsworth
john.wadsworth@pipingequ.com<mailto:john.wadsworth@pipingequ.com>
316.295.2911 (O)
316.619.5944 (C)
316.838.2014 (F)

This communication, including attachments, is for the exclusive use of addressee and may contain proprietary, confidential or privileged information. If you are not the intended recipient,

PIPING & EQUIPMENT CO., INC.
P.O. BOX 1065 WICHITA, KANSAS 67201

COPY

March 28, 2010

ATTN: MS. Janet L. Miller
City of Wichita
455 N.Main Mail Stop 1-13
Wichita, KS 67202-1688

Reference: CON2010-00008 – City Conditional Use to permit wrecking and salvage at 2901 N. Mead

Dear Ms. Miller:

As president and owner of Piping & Equipment Company, Inc. located at 1111 East 37th St North, I am **opposed** to the MAPC decision on March 18, 2010 to approve the conditional use permit for Midwest Scrap and Management, Inc. I believe Robert Kaplan the agent for Midwest Scrap and Management and Mr. Nick Hayes the proposed site manager for Midwest Scrap purposely and willfully mislead the MAPC and the MAPC staff. I do not believe the following items have been addressed by the MAPC in their 6-5 voted to approve the conditional use for 2901 N. Mead.

1. The attached map presented by Mr. Kaplan indicates there are 12 approved and operating scrap facilities in the area zoned GI between 21st Street North and 32nd Street North between Broadway and approximately I-135.
    a. Item 2 of Mr. Kaplans ledgend shows C&W Auto Salvage which in fact is a residential area,
    b. Item 5 is not a permitted wrecking and salvage yard – the business is permitted as a recycling facility of household waste,
    c. Items 8 and 11 are the same facility and business,
    d. Items 2 and 6 are the same business and not two separate salvage yards.

This map presented to the MAPC during Mr. Kaplan's rebuttal is very mis-leading.

2. Mr. Kaplan stated during his rebuttal that he had attempted to contact the eight business representatives who spoke against this conditional use request when in fact he had not tried to contact any of the eight business representative present at the MAPC or others who were present at the DAB VI meeting.
3. Midwest Scrap and Management, Inc. have indicated to the MAPC staff, "It is estimated that incoming truck trips will be fewer than 20 on an average day and up to 30 on a busier day". During the MAPC Midwest Scrap management stated there could be 60 trucks per day using the facility. 60 trucks per day is significantly differ than 30. What is the honest answer?
4. The MAPC Staff Report indicates the Applicant / Agent is Cargill Meat Solutions Corporation (property owner), Midwest Scrap Management. (prospective purchaser) / Robert Kaplan (agent). It is unclear to DAB and MAPC who the applicant is and who has title to the property.

No one in the MAPC hearing or the staff report is addressing the rail car issue. I believe when rail cars are switched into or from the facility, 29th Street North will be blocked. 29th Street north is one of the main arterial East – West street in this area.

Midwest Scrap management indicates all vehicles will not contain oils, liquids, and gas tanks. I question how this is possible as vehicles have oils, liquids, lubricants throughout the vehicle. It is well know that old propane bottles which cannot be recycled are disposed of in vehicles which are scraped. When the vehicle is crushed and shredded these propane bottles explode creating an unsafe environment. No one can address where the gas tanks from these vehicles will be

PO Box 1065
Wichita, Kansas 67201
P 316.838.7511 - F 316.838.2014

1111 East 37th St. North
Wichita, Kansas 67219
www.pipingequ.com

disposed of properly. Any inspection of wrecking and salvage yards currently operating can identify environmentally unsafe liquids on the ground. There are no positive environmental impacts that approval of this conditional use permit will provide the City of Wichita. Traffic volume from 20, 30, 60, or whatever the real number of trucks using the facility is will create traffic issues; noise, dust, odors, and blast from the operation of the facility are all negative issues.

The approval of a conditional use permit for this site are not consistent with the 2030 Wichita Functional Land use. The functional land use category for this site is "Employment/Industry Center" which states this category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices.

Limited research of Midwest Scrap Management's current operations in St. Joseph, MO should lead to questions on corporate compliance with local, state, and federal regulations. The DOT Federal Motor Carrier Safety Agency indicated Midwest Scrap Management, Inc. USDOT Number 474469 had 80 DOT inspections in the last 24 months which resulted in 40 out of service citations (55.6% whne the national average is 22.27%). Midwest Scrap Managements Vehicle Inspection Indicator is 98.9% which indicates that 98.9% of the time a vehicle operated by Midwest is inspected by DOT a violation is determined. On February 20, 2004 Midwest Scrap Management had a three alarm fire at their St Joseph facility, the seventh fire in a four year period. To quote the St Joseph Fire Chief Jack Brown, "This time, Mr. Brown said he is fed up with the continuous fire calls to Midwest Scrap. This last one really sent a message to them, he said. "I told them no more, that's it. We've spent our last 24 hours at that scene"".

The Bridgeport Area Business Association has been working with the City of Wichita Planning department for over one year to develop a protective overlay for the Bridgeport Area. This protective overlay would support the 2030 Wichita Functional Land Use Guide. When the City of Wichita created the Bridgeport Industrial Park, it was the City vision to have a manufacturing area and transportation area to support economic development. This City vision is BABA's vision: Dedicated to maintaining and improving the appearance and safety of the area as well as establishing a vehicle for collaboration of business expertise that would help business grow and benefit employees, owners, and the community. Approval of this conditional use permit for Midwest Scrap Management, Inc. is a major step backwards.

Sincerely,

John C. Wadsworth
President

CC:City of Wichita Council members: Williams, Schlapp, Skelton, Gray, Longwell
City of Wichita Mayor Brewer
City of Wichita Manager Robert Layton
MAPC Plans Manager Dale Miller

Encl: Kaplan Map
Bridgeport Photos

Legend
1. Kansas Can & Scrap Metal
ABC Industrial Scrap/Recycling
2. C&W Auto Salvage
3. American Can & Scrap
4. Kansas Recycling
5. Axis Iron & Metal
6. C&W Auto & Truck Salvage
7. Custer Iron & Metal
8. Glickman Metal Recycling
9. Quickservice Steel of Wichita
10. A&A Truck Salvage
11. Glickman Recycling
12. Aaron's Recycling
Subject Property
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Agenda Item No. V-1

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

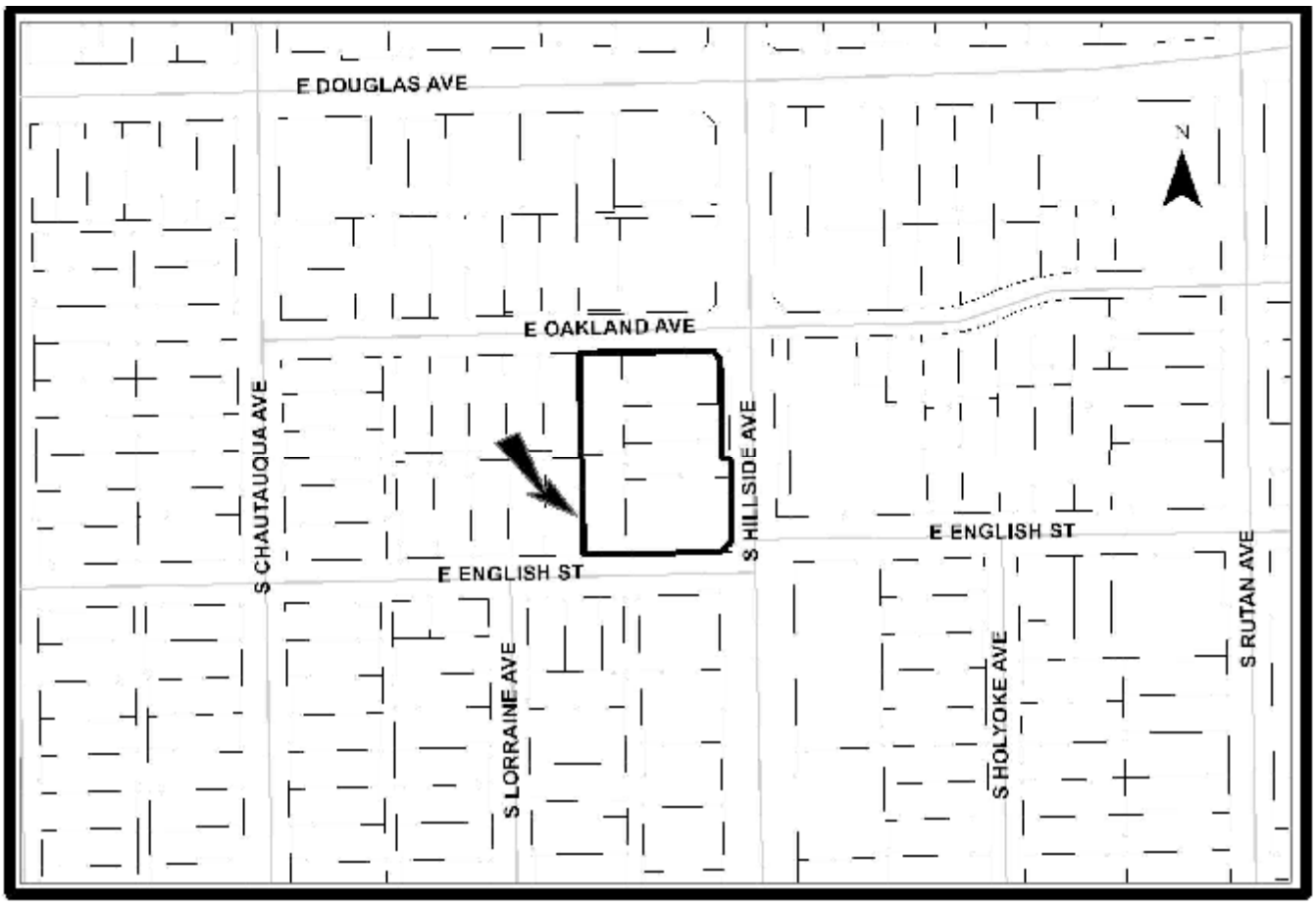
SUBJECT: ZON2010-00027 – City zone change from TF-3 Two-Family Residential ("TF-3") to LC Limited Commercial ("LC") and GO General Office ("GO"); generally located southwest of the intersection of Douglas Avenue and Hillside Avenue. (District I)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approve, vote (9-0).

MAPD Staff Recommendation: Approve.



Background: The applicant is seeking LC Limited Commercial ("LC") zoning for a platted site currently zoned TF-3 Two-family Residential ("TF-3"), which is located southwest of the intersection of Douglas Avenue and Hillside Avenue. The application area contains approximately 1.20 acres with 275 feet of frontage along Hillside Avenue. The site is currently developed with a church, built in the 1930's. The applicant proposes to develop the site for commercial type uses.

The majority of zoning in this area, between Kellogg (south) and Douglas (north), along the west side of Hillside Avenue, consists of GO General Office ("GO"), GC General Commercial ("GC"), PUD Planned Unit Development ("PUD"), LC and TF-3 zoning. The predominant uses along this stretch are dental offices and medical clinics. The area around the intersection of Douglas Avenue and Hillside Avenue feature many high intensity, high traffic generating uses which includes restaurants, bars/taverns, night clubs, a theatre and multiple retail stores. Due to this high volume of traffic, parking is a major concern in this area. The applicant will have to account for parking for whatever use is proposed for the site, with the possibility of parking agreements with nearby property owners. The proposed zone change and any future development would require conformance to all other property development standards in the *Wichita-Sedgwick County Unified Zoning Code* ("UZC").

Property to the north of the site is zoned LC and is developed with a retail store. Property to the east, across Hillside Avenue, and to the south is zoned GO General Office ("GO"); both are developed with medical office uses. Property to the west is zoned TF-3 and is developed with residential uses.

Analysis: At the MAPC meeting held August 19, 2010, the MAPC voted (9-0) to recommend approval of the request for LC and GO zoning with the following Protective Overlay ("PO") #245:

> 1. On-site pole lights shall be no higher than 15-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning.
>
> 2. Signage on the site will be as allowed in the LC zoning district, except billboards or off-site signage and building signage on the west side of the building is prohibited.
>
> 3. A wooden fence not less than 6 foot, but less than 8 foot tall, shall be placed along the west property line for Lots 33 and 32, with one (1) tree every 40 feet along said property line.

The case was approved by consent and there was no one in the public to speak for or against the application.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC, approve the zone change with Protective Overlay #245 and place the ordinance on first reading;

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Attachments:

- Ordinance
- MAPC Minutes

OCA CODE 150004

ORDINANCE NO. 48-842

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00027

Zone change request from TF-3 Two-Family Residential ("TF-3") to LC Limited Commercial ("LC") and GO General Office ("GO") on properties described as:

GO General Office ("GO"):
Lots 33-35; Aldrich and Paul's Subdivision AND Lots 32-34; Aldrich and Paul's Subdivision; Wichita, Sedgwick County, Kansas.

LC Limited Commercial ("LC"):
Lots 36-37-38; EXCEPT part deeded to the City; Aldrich and Paul's Subdivision AND Lots 39-40; EXCEPT part deeded to the City; Aldrich and Paul's Subdivision AND Lot 41; EXCEPT part deeded to the City and All of Lot 42; Aldrich and Paul's Subdivision AND Lots 43-44-45 and Lot 46; EXCEPT part deeded to the City; Aldrich and Paul's Subdivision; Wichita, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING PROVISIONS OF PROTECTIVE OVERLAY DISTRICT #245:

1. On-site pole lights shall be no higher than 15-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning.

2. Signage on the site will be as allowed in the LC zoning district, except billboards or off-site signage and building signage on the west side of the building is prohibited.

3. A wooden fence not less than 6 foot, but less than 8 foot tall, shall be placed along the west property line for Lots 33 and 32, with one (1) tree every 40 feet along said property line.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 28th day of September, 2010.

ATTEST:

_____ _____

Karen Sublett, City Clerk Carl Brewer, Mayor

(SEAL)

Approved as to form:

_____

Gary E. Rebenstorf, Director of Law

EXCERPT OF THE AUGUST 19, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING HEARING

Case No.: ZON2010-27 - Grant Rine (Owner/Applicant) Ruggles and Bohm, P.A. c/o: Chris Bohm (Agent) request a city zone change from TF-3 Two-Family Residential to LC Limited Commercial on property described as;

Lots 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 46, on Hillside Avenue, except those portions conveyed to the City of Wichita on Film 2676m Page 947; Lots 33 and 35, on South Park now Oakland Avenue; and Lots 32 and 34, on Maple now English Street; all in Aldrick & Paul's subdivision in Richland Addition No. 2 to Wichita, Kansas, Sedgwick County, Kansas, together with the vacated North-South alley adjoining and lying between said lots on the East and West, and together with the vacated East-West alley adjoining and lying between said Lots 32 and 34 and said Lots 33 and 35, generally located one block south of the intersection of E. Douglas Avenue, on the west side of S. Hillside Avenue (147 S. Hillside Ave.).

BACKGROUND: The applicant is seeking LC Limited Commercial ("LC") zoning for a platted site, currently zoned TF-3 Two-family Residential ("TF-3"), which is located southwest of the intersection of East Douglas Avenue and South Hillside Avenue. The application area contains approximately 1.20 acres with 275 feet of frontage along South Hillside Avenue. The site is currently developed with a church, built in the 1930's. The applicant proposes to develop the site for commercial type uses.

The majority of zoning in this area, between Kellogg (south) and Douglas (north), along the east side of South Hillside Avenue, consists of GO General Office ("GO"), GC General Commercial ("GC"), PUD Planned Unit Development ("PUD"), LC and TF-3 zoning. The predominant uses along this stretch are dental offices and medical clinics. The area around the intersection of Douglas Avenue and Hillside Avenues features many high intensity, high traffic generating uses which includes restaurants, bars/taverns, night clubs, a theatre and multiple retail stores. Due to this high volume of traffic, parking is a major concern in this area. The applicant will have to account for parking for whatever use is proposed for the site, with the possibility of parking agreements with nearby property owners. The proposed zone change and any future development would require conformance to all other property development standards in the *Wichita-Sedgwick County Unified Zoning Code* ("UZC").

Property to the north of the site is zoned LC and is developed with a retail store. Property to the east, across Hillside Avenue, and to the south is zoned GO General Office ("GO"); both are developed with medical office uses. Property to the west is zoned TF-3, and is developed with residential uses.

CASE HISTORY: The property is platted as Lots 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 46, on Hillside Avenue, except those portions conveyed to the City of Wichita on Film 2676m Page 947; Lots 33 and 35, on South Park now Oakland Avenue; and Lots 32 and 34, on Maple now English Street; all in Aldrich & Paul's Subdivision in Richland Addition No. 2 to Wichita, Sedgwick County, Kansas, together with the vacated north-south alley adjoining and lying

between said lots on the East and West, and together with the vacated east-west alley adjoining and lying between said Lots 32 and 34 and said Lots 33 and 35. The plat was recorded on December 18, 1886.

ADJACENT ZONING AND LAND USE:

NORTH:	GO & LC	Restaurant & Retail
SOUTH:	GO & TF-3	Medical Office & Single-family Residence(s)
EAST:	GO	Medical Office
WEST:	TF-3	Single-family Residence(s)

PUBLIC SERVICES: The subject property has frontage along South Hillside Avenue, a five-lane, paved, arterial street with traffic counts of approximately 35,000 ADT's (Average Daily Trips) north of the subject site, at the intersection with Douglas Avenue. Public water and sewer service are currently available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial" uses. Local commercial uses contain concentrations of commercial, office and personal service uses that do not have a significant regional market draw and high retail traffic. The range of uses includes: office, vehicle repair and service, grocery stores, florist shops, restaurants and personal service facilities.

RECOMMENDATION: To encourage the redevelopment of this site with land uses which will maintain a degree of compatibility with the residential land uses located to the west, and to establish a new zoning classification on the property that is more in line with the commercial and office land uses to the north, south and east, and which recognizes the fact that this site fronts onto a arterial street, staff recommends that the request for LC Limited Commercial ("LC") be approved. Staff does, however, recommend that Lots 32, 33, 34 and 35 of the Aldrich and Paul's Addition, within the application area, be zoned GO General Office ("GO"). General Office zoning would establish a buffer area between the existing non-residential uses in the area and the residential uses to the west. The GO zone district does not permit high intensity land uses but does permit Commercial Parking Areas, which this portion of the site has been used for in the past, and is appropriate for this part of the subject site. Staff also recommends a Protective Overlay to restrict signage and to address screening and landscaping.

Based upon information available prior to the public hearings, planning staff recommends that the request for LC Limited Commercial ("LC") zoning be APPROVED, and also GO General Office ("GO") zoning for Lots 32, 33, 34 and 35, subject to a Protective Overlay with the following restrictions:

1. On-site pole lights shall be no higher than 15-foot. They shall be hooded and directed onto the site and away from abutting and adjacent residential development and zoning.

2. Signage on the site will be as allowed in the LC zoning district, except billboards or off-site signage and building signage on the west side of the building is prohibited.

3. A wooden fence not less than 6 foot, but less than 8 foot tall, shall be placed along the west property line for Lots 33 and 32, with one (1) tree every 40 feet along said property line.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property to the north of the site is zoned LC and is developed with a retail store. Property to the east, across Hillside Avenue, and to the south is zoned GO General Office ("GO") and both are developed with medical offices uses. Property to the west is zoned TF-3 and is developed with residential uses.

2. The suitability of the subject property for the uses to which it has been restricted: As currently zoned, the site is permitted to have single-family or two-family residential uses or its existing use, church or place of worship.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, buffer requirements of the Landscape Ordinance and proposed Protective Overlay should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *2030 Wichita Functional Land Use Guide* depicts this location as being appropriate for "local commercial" uses. Local commercial uses contain concentrations of commercial, office and personal service uses that do not have a significant regional market draw and high retail traffic. The range of uses includes: office, vehicle repair and service, grocery stores, florist shops, restaurants and personal service facilities.

5. Impact of the proposed development on community facilities: Traffic on existing residential streets could increase as a result of the proposed development. This site has access to South Hillside Avenue, a classified arterial.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (9-0).

Agenda Item No. V-2

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: ZON2010-00028 Associated with CUP2010-00016 –City zone change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse AND Creation of DP-323 Lakeside At the Moorings Commercial Community Unit Plan AND DP-78 The Moorings Amendment #4 transfer land from DP-78 to DP-323, generally located west of North Meridian Avenue and north of K-96. (District VI)

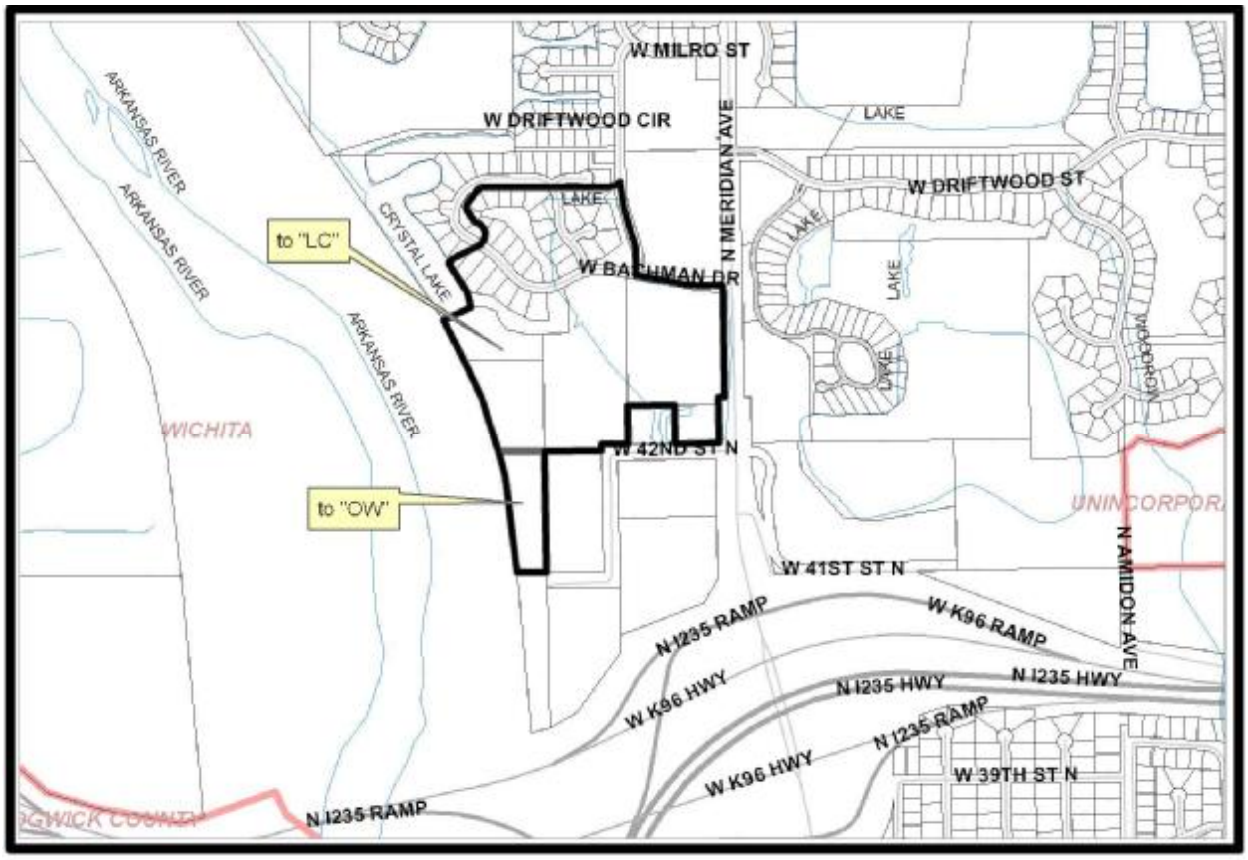
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendation: Approve subject to conditions (9-0).

MAPD Staff Recommendation: Approve subject to conditions.

DAB Recommendation: Approve subject to conditions (7-0).



BACKGROUND: The applicant, CBB Northlakes, LLC, Brad and Kurt Bachman, proposes a zone change from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") and OW Office Warehouse ("OW"); the creation of a new community unit plan ("CUP") to be named DP-323 Lakeside At the Moorings; and Amendment #4 to DP-78 The Moorings Community Unit Plan. Total site size is 54.85 gross acres and 43.68 net acres. Of this area, 4.12 acres are not part of the existing CUP, DP-78, and are being combined with 50.73 acres being transferred from DP-78. Together this land will form DP-323. The zone change from SF-5 to LC (approximately 39 acres) and OW (approximately four acres) involves approximately 43 acres. The other 12 acres were previously approved for rezoning to LC.

The site is located west of Meridian Avenue, approximately one-fourth mile north of the K-96 interchange with Meridian. The subject site is bounded by the Big Arkansas River on the west, the existing Moorings residential area on the north that includes a buffer strip of one row of undeveloped lots, the fire station and Riverlawn Christian Church on the south and Meridian on the east.

The new CUP proposes 17 parcels. The CUP has four distinct clusters for development, a group restricted to GO (Parcels 12, 13 and 17) along the northern edge of the CUP nearest the residential development; the lots along Meridian requested for a broader range of LC uses (Parcels 1, 2, 3, 4 and 16); the parcels along the internal loop street for less intensive LC type uses (Parcels 5, 7-11,14 and 15); and one parcel (Parcel 6) for office-warehouse type of use.

Parcel 6 is unique in that it is the only parcel for which OW zoning is requested and is somewhat isolated and remote from the balance of the site. It has the river on the west and a church-owned open space lot on the east. It is connected to the rest of the CUP by a spur off the looped internal street. The developer has indicated that he does not think it would be suited for typical shopping center, office or retail use, but is more suited for office-warehouse types of uses, maybe even warehouse, self-service storage.

Uses prohibited throughout the CUP are: adult entertainment establishments, group residential, correctional placement residences, private clubs, taverns and drinking establishments, nightclubs, or sexually oriented businesses, pawnshops, secondhand stores and office that accept paychecks or car titles as security for loans. Overhead doors are prohibited within 200 feet of residential uses and facing residential zoning districts, and the use of exterior audio systems to project sound beyond the boundaries of the CUP is prohibited. Additional restrictions for the interior LC parcels include no auto-related uses such as car washes, vehicle repair, convenience stores (except for Parcel 4, which may be developed with a convenience store given its proximity to Meridian) and service stations.

Signage is planned to reflect the intensity of development in the various areas of the CUP. Monument signage is based on a 0.8 times linear frontage along Meridian, and 0.5 on the balance of the tract. In general, the CUP asks for 125 square feet for monument-style signs with a maximum height of 20 feet along Meridian plus one 200 square foot monument sign for the development. On the interior parcels, 75 square feet for monument signs with a maximum height of 16 feet would be allowed. The OW parcel requests 100 feet placed along the spur where it exits onto the internal street, with a maximum height of 16 feet. Other sign features include limiting window signage to 25 percent, no flashing or moving signs, no billboards or off-site signs and a general spacing of 150 feet between freestanding signage.

The CUP includes features for architectural character compatibility, consistent lighting elements, height of light poles limited to 15 feet within 200 feet of residential zoning and 24 feet for the balance of the CUP, and prohibits extensive use of neon or fluorescent lighting or backlit canopies on buildings. The CUP calls for a shared landscape palette and consistent signage bases. These elements lend a planned feel to the development.

Screening is somewhat complicated due to the presence of the lake and river on the western boundary of the CUP. A six to eight feet in height masonry wall on Parcels 12, 13 and 17 is included along the northern edge to separate the CUP from the residential development; it is modified close to the lake where landscaping would be used to block views instead due to the difficulty of taking the masonry all the way to the property line at the water's edge. The plan also calls for a 30-foot landscaping buffer

along this property line. The screening wall is optional along the nonresidential development zoned SF-5, but would be screened through landscape buffering, still requiring solid screening for all outdoor work and storage areas, loading docks, trash enclosures, etc. While some of the screening deviates from standard CUP requirements, it is tailored to the specific uses being screened and the presence of the lake.

Building heights are 35 feet for the parcels along Meridian and the northern ring. The parcels inside the internal looped street and to the south would allow buildings 45 feet in height. Building coverage is set at 30 percent and maximum gross floor area is set at 35 percent for all parcels. Setbacks along streets are 35 feet. Building setbacks are not shown on interior property lines, but should be 35 feet along all CUP boundaries.

The property to the north is The Moorings residential subdivision, zoned SF-5. The property to the northeast of Parcels 14-16 is a church, zoned SF-5. The property east of Meridian includes land in Parcel 2 of DP-285 Harbor Isle South Commercial CUP, which is slated for similar LC development to this CUP except for eliminating some auto-oriented uses and some size limitations to prohibit big box types of uses. Farther north, the land is zoned SF-5 and is platted with a buffer reserve along Meridian and single-family residential lots. The property to the southeast of Meridian is undeveloped land zoned MF-18 in DP-94 Mallard Cove Residential CUP. One property to the south is zoned LC and is developed with a church. The rest is zoned SF-5. One tract is developed with a fire station. This property is part of DP-78 and would remain in it. Another large tract is used as an open field by the church. One residence is located south of the proposed Parcel 6. The Big Arkansas River and its levee is the western boundary.

Analysis: At the District VI Advisory Board meeting held August 18, 2010, the District Advisory Board voted (7-0) to recommend approval subject to staff recommendations. At the MAPC meeting held August 19, 2010, the MAPC voted (9-0) to approve subject to the staff recommendations. No citizens were present to speak on the case. No protests have been received.

The recommendations of MAPC are to **APPROVE** the request subject the following conditions:

A. APPROVE the zone change (ZON2010-00028) to LC and OW.

B. APPROVE DP-323 (CUP2010-00016), subject to the following conditions:

1. Determination of right-of-way width retained for Cobblestone and Backman Drive shall be determined at time of platting and transfer of signalization guarantee made from DP-78 to DP-323.

2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
5. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-323) includes special conditions for development on this property and amending any comparable recorded document for DP-78 with the Register of Deeds to reflect the new CUP boundaries.
6. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

C. Amend DP-78 to remove the land within DP-323 upon meeting all conditions of approval for DP 323.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the zone change and creation of DP-323 Lakeside At the Moorings Community Unit Plan and Amendment #4 to DP-78 The Moorings Community Unit Plan subject to the recommended conditions; and withhold the publication of the ordinance until the plat is recorded (simple majority vote required).

Attachments:
Ordinance
CUP Drawing
DAB VI Report
Excerpt Minutes of MAPC Hearing

OCA 150004

ORDINANCE NO. 48-843

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2010-00028

Zone change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse on property described as:

Legal Description for LC Limited Commercial Rezoned Site:

All of Lots 1, 2, 3, 4, 5, 27, 28, 29, 30, and 31, Block 1, together with all of Lots 1, 2, 3, 4, 13, 14, 15, 16, and 17, Block 2, together with all of Lots 1 and 2, Block 3, together with all of Reserve "C", together with all of the southerly Sandkey Ct., all as platted and dedicated in The Moorings South Addition to Wichita, Kansas, TOGETHER with that part of Lots 6, 7, 23, 24, 25, and 26, in said Block 1, and that part of Lots 5, 6, 7, 8, 9, 10, 11, and 12, in said Block 2, and that part of Reserves "A" and "D" in said The Moorings South Addition, and that part of Sandkey and Bachman Drive as dedicated in said The Mooring South Addition, and that part of Bachman Drive and Cobblestone as dedicated in The Moorings Sixth Addition to Wichita, Sedgwick County, Kansas lying generally south of and abutting the following described line: Beginning at the northeast corner of Lot 1, Block 3, in said The Moorings South Addition; thence N00°27'10"W along the northerly extension of the east line of Lot 1 in said Block 3, 50.00 feet; thence S89°32'50"W, 138.34 feet to the point of curvature of a curve to the right; thence westerly along said curve, through a central angle of 11°27'10" and having a radius of 500.00 feet, an arc distance of 99.78 feet, (having a chord length of 99.62 feet bearing N84°43'02"W), to the point of tangency of said curve; thence N79°00'00"W along the centerline of said Bachman Drive, 313.70 feet, more or less, to a point on the centerline of said Cobblestone; thence N11°00'00"E along the centerline of said Cobblestone, 32.00 feet to the point of curvature of a curve to the left in said centerline; thence northerly along said curve, having a central angle of 27°42'38" and a radius of 309.62 feet, an arc distance of 149.74 feet, (having a chord length of 148.28 feet bearing N02°51'21"W), to the point of tangency of said curve; thence N16°42'38"W along the centerline of said Cobblestone, 251.10 feet to the point of curvature of a curve to the right in said centerline; thence northerly along said curve, having a central angle of 16°42'08" and a radius of 530.86 feet, an arc distance of 154.75 feet, (having a chord length of 154.20 feet bearing N08°21'34"W), to the point of tangency of said curve; thence N00°00'30"W along the centerline of said Cobblestone, 13.61 feet to the point of curvature of a non-tangent curve to the right; thence westerly along said curve, through a central angle of 37°45'50" and having a radius of 162.00 feet, an arc distance of 106.77 feet, (having a chord length of 104.85 feet bearing S71°10'46"W), to the point of tangency of said curve; thence N89°56'20"W, 771.60 feet to the point of curvature of a curve to the left; thence westerly and southwesterly along said curve, having a central angle of 53°00'42" and a radius of 38.00 feet, an arc distance of 35.16 feet, (having a chord length of 33.92 feet bearing S63°33'19"W), to the point of tangency of said curve; thence S37°02'58"W, 114.09 feet to the point of curvature of a curve to the left; thence southwesterly, southerly, and southeasterly along said curve, having a central angle of 75°54'33" and a radius of 38.00 feet, an arc distance of 50.34 feet, (having a chord length of 46.74 feet bearing S00°54'18"E), to the point of tangency of said curve; thence S38°51'35"E, 17.55 feet to the point of curvature of a curve to the right; thence southeasterly along said curve, having a central angle of 10°45'12" and a radius of 230.00 feet, an arc distance of 43.17 feet, (having a chord length of 43.11

feet bearing S33°28'58"E), to the point of tangency of said curve; thence S28°06'22"E, 18.85 feet to the point of curvature of a non-tangent curve to the right; thence southeasterly, southerly, and southwesterly along said curve, through a central angle of 148°36'57" and having a radius of 80.00 feet, an arc distance of 207.51 feet, (having a chord length of 154.04 feet bearing S10°25'52"E), to the point of tangency of said curve; thence S63°52'36"W, 217.36 feet to a point on the east line of said Reserve "A", said point being S28°06'28"E, 36.95 feet from the most westerly corner of Lot 7 in said Block 1; thence S28°06'28"E along the east line of said Reserve "A", 37.83 feet to a deflection corner in said east line; thence S33°25'27"E along the east line of said Reserve "A", 183.96 feet to a deflection corner in said east line; thence S11°05'46"E, 96.75 feet to a deflection corner in the south line of said Reserve "A", said deflection corner being N65°17'40"E, 194.56 feet from the most southwesterly corner of said Reserve "A", and for a point of termination, together with Government Lots 1 and 2 in Sec. 25, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part of said Government Lots 1 and 2 platted as Hallock Addition, Sedgwick County, Kansas, and EXCEPT that part platted as Riverlawn Christian Addition, Wichita, Sedgwick County, Kansas, and EXCEPT that part platted as Fire Station 13 Addition, an Addition to Wichita, Sedgwick County, Kansas and EXCEPT that part taken for road in Condemnation Case 35916, and EXCEPT that part dedicated for road in Film 174 at Page 182, and EXCEPT that part dedicated for road in Film 1299 at Page 1251, and EXCEPT that part platted as The Moorings 6th Addition to Wichita, Kansas, and EXCEPT a tract of land lying in the NE ¼ of Sec. 25, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning 1895.48 feet south and 1210 feet west of the northeast corner of said NE ¼, said point being the NW corner of Lot 1, Block 1, Riverside Christian Addition; thence west to the Arkansas River Levee (Condemnation Case A-33666); thence southeasterly along said Levee to the south line of said NE ¼; thence east to the SW corner of Lot 1, Block 1, Riverside Christian Addition; thence north along the west line of Lot 1, Block 1, Riverside Christian Addition to point of beginning, all being subject to road right-of-way of record for Meridian Avenue on the east.
Lot 1, Slaughter Addition, Wichita, Kansas, EXCEPT the South 225 feet thereof; TOGETHER WITH Lot 1, Wilson and Brown Second Addition, Wichita, Sedgwick County, Kansas, EXCEPT the South 225 feet thereof, generally located north of MacArthur Road, 3,000 feet east of Broadway Street (1100 E. MacArthur Road).

Legal Description for OW Office Warehouse Rezoned Site:

A tract of land lying in the NE ¼ of Sec. 25, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning 1895.48 feet south and 1210 feet west of the northeast corner of said NE ¼, said point being the NW corner of Lot 1, Block 1, Riverside Christian Addition; thence west to the Arkansas River Levee (Condemnation Case A-33666); thence southeasterly along said Levee to the south line of said NE ¼; thence east to the SW corner of Lot 1, Block 1, Riverside Christian Addition; thence north along the west line of Lot 1, Block 1, Riverside Christian Addition to point of beginning.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED AT WICHITA, KANSAS, September 28, 2010.

_____
Carl Brewer - Mayor

ATTEST:

_____
Karen Sublett, City Clerk

(SEAL)

Approved as to form:

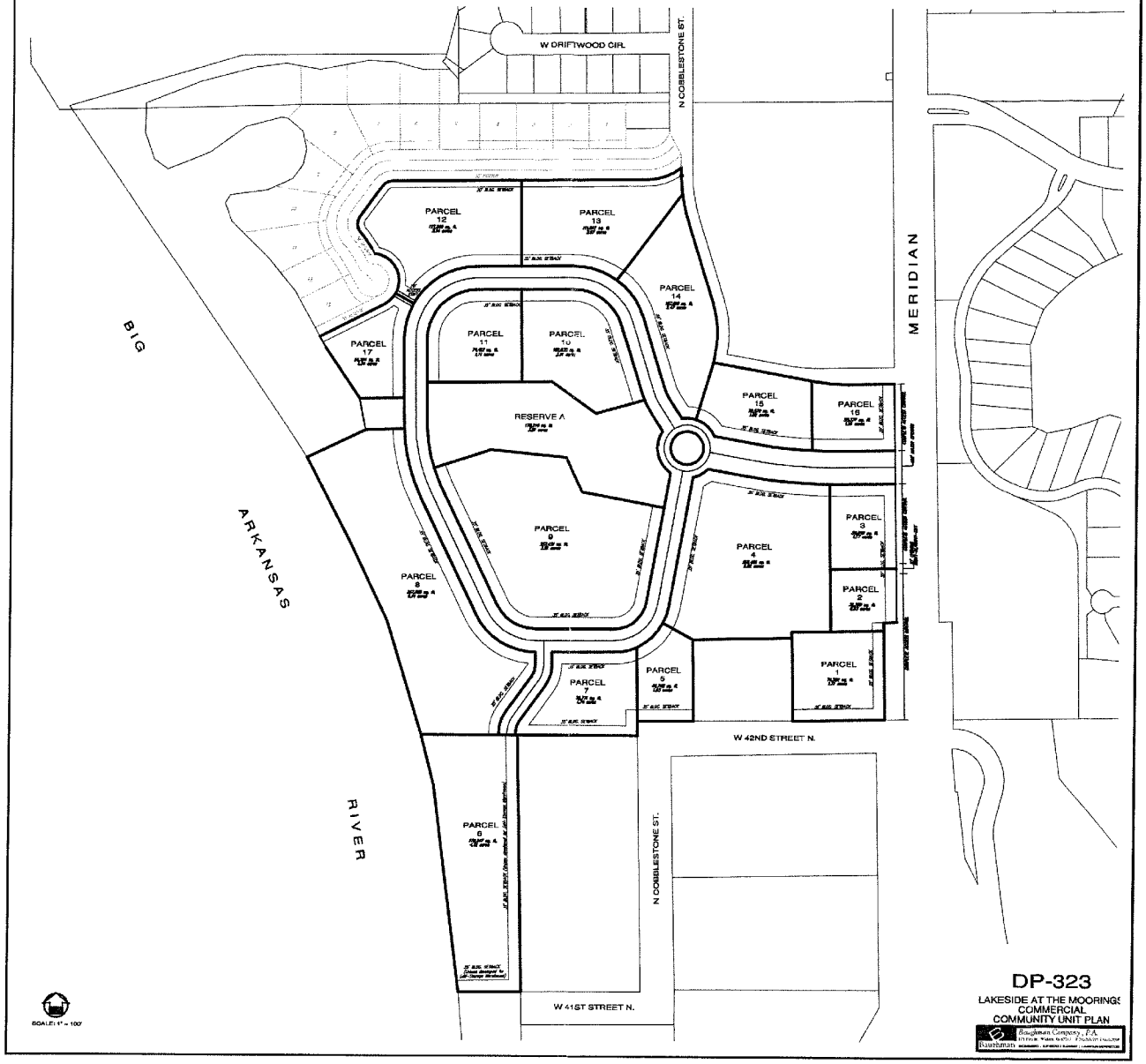
_____

Gary E. Rebenstorf, City Attorney

LAKESIDE AT THE MOORINGS

COMMERCIAL COMMUNITY UNIT PLAN

DP-323



LAKESIDE AT THE MOORINGS

COMMERCIAL COMMUNITY UNIT PLAN

DP-323

GENERAL PROVISIONS:

1. Total Land Area: 2,388,468 ± sq.ft. or 54.83 ± acres
   Net Land Area: 1,908,395 ± sq.ft. or 43.68 ± acres

2. Total Gross Floor Area: 665,808 sq.ft.
   Total Floor Area Ratio: 27.9 percent

3. Parking shall be provided in accordance with Section IV of the Unified Zoning Code, unless otherwise specified in the parcel description.

4. Setbacks are as indicated on the C.U.P. drawing, or as specified in the parcel descriptions. If contiguous parcels are to be developed under the same ownership, setbacks between those parcels will not be required.

5. A Drainage Plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting.

6. Guarantees for specific street improvements for Meridian shall be further reviewed and determined at the time of platting.

7. Signs shall be in accordance with the Sign Code of the City of Wichita with the following conditions:

   A. Each parcel is permitted the following number of signs along the arterial frontage with the following area restrictions:

   Parcel 1: One sign with a maximum of 125 sq. ft. of signage on Meridian.
   Parcel 2: One sign with a maximum of 125 sq. ft. of signage on Meridian.
   Parcel 3: One sign with a maximum of 125 sq. ft. of signage on Meridian.
   Parcel 4: Two signs with a maximum total of 180 sq. ft. of signage along the proposed internal street.
   Parcel 5: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 6: One sign with a maximum of 100 sq. ft. of signage which may be located within a reserve along the proposed internal street.
   Parcel 7: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 8: Two signs with a maximum total of 150 sq. ft. of signage along the proposed internal street.
   Parcel 9: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 10: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 11: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 12: Two signs with a maximum total of 100 sq. ft. of signage along the proposed internal street.
   Parcel 13: Two signs with a maximum total of 100 sq. ft. of along the proposed internal street.
   Parcel 14: Two signs with a maximum total of 100 sq. ft. of along the proposed internal street.
   Parcel 15: One sign with a maximum of 75 sq. ft. of signage along the proposed internal street.
   Parcel 16: One sign with a maximum of 125 sq. ft. of signage on Meridian.
   Parcel 17: One sign with a maximum total of 75 sq. ft. of signage along the proposed internal street.

   One development sign with a maximum of 300 sq. ft. of signage within a platted reserve at the major opening to Meridian.

   B. Flashing signs (except for signs showing only time, temperature and other public service messages), rotating or moving signs, signs with moving lights or signs which create illusions of movement are not permitted.

   C. Portable and off-site signs are not permitted.

   D. Window display signs are limited to 25% of the window area.

   E. No building signs shall be allowed on any elevation of any buildings facing residential uses, unless separated by a public street.

   F. All freestanding signs must be monument type and shall have a maximum height of 16 feet for Parcels 4 through 15 and Parcel 17, and 35 feet for Parcels 1 through 3 and Parcel 16. The base for the signs allowed for Parcels 1 through 3 and Parcel 16 shall be constructed with a uniform style and color.

   G. As the frontage develops along the arterial roadways, signs shall be spaced a minimum of 150' apart, irrespective of how land is leased or sold.

8. Access Controls shall be determined at the time of platting.

9. All exterior lighting shall be shielded to direct light dispersement in a downward direction.

10. Each parcel shall share similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, and etc.). The height of all light poles, including pole base and fixtures, is limited to 15 feet in height within Parcels 12, 13 and 17, and 24 feet in height for the balance of the property and all other parcels. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.

11. Utilities shall be installed underground on all parcels.

12. Landscaping for this site shall be required as follows:

   A. Development of all parcels within the C.U.P. shall comply with the Landscape Ordinance of the City of Wichita, with developments within each parcel sharing a similar landscape palette.

   B. A landscape plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.

   C. A financial guarantee for the plant material approved on the landscape plan for that portion of the C.U.P. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.

   D. Parcels 12, 13 and 17 may provide alternative landscaping based on the office/institutional buffer requirements of the code.

   E. Landscape buffers may be waived along the north and west lines of Parcels 8, 9 and 17 where adjacent to the Arkansas River and lake.

13. Screening:

   A. A six (6) to eight (8) foot high concrete/masonry wall may be constructed along the northern property lines of Parcels 12, 13 and 17 where adjacent to residential uses. Alternatively, screening along the northern property lines of Parcels 12, 13 and 17 where adjacent to residential uses may be provided through a combination of landscaping, berms and wrought-iron style fencing which meet the solid-screening requirements of the UZC. All screening for Parcels 8 and 17 may be terminated 30 feet from the existing lake. Due to the existing non-residential uses adjacent to portions of the site, the required six (6) to eight (8) foot high concrete/masonry wall along the east property line of Parcel 13 and the north and east property lines of Parcels 14 through 16, where adjacent to residential zoning, is optional. Screening along the east property line of Parcel 5, the south property line of Parcel 4 and the west property line of Parcel 1 may shall be waived due to the existing non-residential use located on Lot 1, Fire Station 13 Addition. Screening shall be waived along the north and west lines of Parcels 8, 9 and 17 where adjacent to the Arkansas River and lake. Screening along the south property line of Parcel 7 may be provided by through a combination of landscaping, berms and wood fencing which meet the solid-screening requirements of the UZC.

   B. Any solid wall shall be constructed of a pattern and color that is consistent with the building walls.

   C. Screening shall also be provided along the north property line, as indicated on the plan, by a combination of a 30-foot landscape buffer located north of the north line of Parcels 12, 13 and 17 in conjunction with solid screening provided above. This buffer shall provide the equivalent of, at minimum, one tree per 20 feet. The existing trees may be used to meet the condition of one tree per 20 feet if the existing trees are located on the subject property. Where there are gaps, a mixture of evergreen and deciduous trees shall be installed with one tree per 20 feet with the planting size of the trees meeting the requirements of the landscape ordinance.

   D. Solid screening shall be provided for all outdoor work and storage areas, parking lots and loading docks within 200 feet of residential uses in order to screen these areas from residential zoning districts.

14. Rooftop mechanical equipment shall be screened from ground level view per Unified Zoning Code.

15. Trash receptacles and ground-level mechanical equipment shall be screened from ground-level view with screening walls constructed of materials consistent with the wall materials of the building which the trash receptacle and mechanical equipment supports.

16. All buildings within each Parcel in the C.U.P. shall share uniform architectural character, color, texture, and the same predominate exterior building material, as determined by the Director of Planning. Building walls and roofs must have predominately earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas. Metal shall not be used as the predominant exterior building material on any facade.

17. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.

18. Parcels 12, 13 and 17 shall be limited to those uses permitted by-right in the "GO" General Office district. Parcel 6 shall be limited to those uses permitted by-right in the "OW" Office Warehouse district. The balance of the Parcels shall be limited to those uses permitted by-right in the "LC" Limited Commercial district.

All other uses listed as Conditional Uses in these districts shall only be permitted by separate C.U.P. Amendment approval. No parcels shall allow the use of pawn shop, secondhand store, quick-cash establishments, adult entertainment establishments, group residential, correctional placement residences, private clubs, taverns, and drinking establishments, nightclubs, or sexually oriented businesses. Restaurants that serve liquor can be developed and may serve liquor, as long as food is the primary service of the establishment. No overhead doors shall be allowed within 200 feet of residential uses and shall not be facing any residential zoning district. Exterior audio systems that project sound beyond the boundaries of the C.U.P. are prohibited.

19. Cross-lot circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels within the C.U.P.

20. Amendments, adjustments or interpretations to this C.U.P. shall be done in accordance with the Unified Zoning Code.

21. The Transfer of title of all or any portion of land included within the Community Unit Plan (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.

22. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

23. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

24. A plan for a pedestrian walk system shall be submitted and approved by the Director of Planning prior to the issuance of building permits. Said walk system shall link sidewalks along Meridian with the proposed buildings within the subject property.

25. No development shall occur until such time as municipal water and sewer service are provided to the site.

26. Approval of a site circulation plan by the Planning Director is required for each phase of construction prior to the issuance of a building permit.

LEGAL DESCRIPTION:

All of Lots 1, 2, 3, 4, 5, 27, 28, 29, 30, and 31, Block 1, together with all of Lots 1, 2, 3, 4, 13, 14, 15, 16, and 17, Block 2, together with all of Lots 1 and 2, Block 3, together with all of Reserve "C", together with all of the southerly Sandkey Ct., all as platted and dedicated in The Moorings South Addition to Wichita, Kansas, TOGETHER with that part of Lots 6, 7, 23, 24, 25, and 26, in said Block 1, and that part of Lots 5, 6, 7, 8, 9, 10, 11, and 12, in said Block 2, and that part of Reserves "A" and "B" in said The Moorings South Addition, and that part of Sandkey and Bachman Drive as dedicated in said The Moorings South Addition, and that part of Bachman Drive and Cobblestone as dedicated in The Moorings Sixth Addition to Wichita, Sedgwick County, Kansas lying generally south of and abutting the following described line: Beginning at the northeast corner of Lot 1, Block 3, in said The Moorings South Addition; thence N00°27'10"W along the northerly extension of the east line of Lot 1 in said Block 3, 80.00 feet; thence S89°32'50"W, 138.34 feet to the point of curvature of a curve to the right; thence westerly along said curve, through a central angle of 11°27'10" and having a radius of 300.00 feet, an arc distance of 59.78 feet, (having a chord length of 59.62 feet bearing N84°43'32"W), to the point of tangency of said curve; thence N79°00'00"W along the centerline of said Bachman Drive, 313.70 feet, more or less, to a point on the centerline of said Cobblestone; thence N11°00'00"E along the centerline of said Cobblestone, 32.00 feet to the point of curvature of a curve to the left in said centerline; thence northerly along said curve, having a central angle of 37°42'38" and a radius of 308.62 feet, an arc distance of 148.74 feet, (having a chord length of 148.28 feet bearing N02°51'21"W), to the point of tangency of said curve; thence N18°42'38"W along the centerline of said Cobblestone, 351.10 feet to the point of curvature of a curve to the right in said centerline; thence northerly along said curve, having a central angle of 16°42'08" and a radius of 530.86 feet, an arc distance of 154.75 feet, (having a chord length of 154.20 feet bearing N08°21'34"W), to the point of tangency of said curve; thence N00°00'50"W along the centerline of said Cobblestone, 13.81 feet to the point of curvature of a non-tangent curve to the right; thence easterly along said curve, through a central angle of 37°45'30" and having a radius of 162.00 feet, an arc distance of 106.77 feet, (having a chord length of 104.85 feet bearing S71°10'46"W), to the point of tangency of said curve; thence N89°56'20"E, 771.80 feet to the point of curvature of a curve to the left; thence easterly and southeasterly along said curve, having a central angle of 53°00'42" and a radius of 38.00 feet, an arc distance of 35.16 feet, (having a chord length of 33.92 feet bearing S63°33'19"W), to the point of tangency of said curve; thence S37°02'58"E, 114.08 feet to the point of curvature of a curve to the left; thence southwesterly, southerly, and southeasterly along said curve, having a central angle of 78°54'33" and a radius of 38.00 feet, an arc distance of 52.34 feet, (having a chord length of 46.74 feet bearing S00°54'18"E), to the point of tangency of said curve; thence S38°31'35"E, 17.55 feet to the point of curvature of a curve to the right; thence southeasterly along said curve, having a central angle of 10°45'12" and a radius of 230.08 feet, an arc distance of 43.17 feet, (having a chord length of 43.11 feet bearing S33°28'38"E), to the point of tangency of said curve; thence S28°08'22"E, 18.85 feet to the point of curvature of a non-tangent curve to the right; thence southeasterly, southerly, and southwesterly along said curve, through a central angle of 148°36'57" and having a radius of 80.00 feet, an arc distance of 207.51 feet, (having a chord length of 154.04 feet bearing S70°25'52"E), to the point of tangency of said curve; thence S63°52'38"W, 217.36 feet to a point on the east line of said Reserve "A", said point being S28°08'28"E, 36.95 feet from the most westerly corner of Lot 7 in said Block 1; thence S28°08'28"E along the east line of said Reserve "A", 37.83 feet to a deflection corner in said east line; thence S33°35'27"E along the east line of said Reserve "A", 183.96 feet to a deflection corner in said east line; thence S11°05'46"E, 58.75 feet to a deflection corner in the south line of said Reserve "A", said deflection corner being N85°17'40"E, 194.36 feet from the most southwesterly corner of said Reserve "A", and for a point of termination, together with Government Lots 1 and 2 in Sec. 35, Twp. 28-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part of said Government Lots 1 and 2 platted as Hallock Addition, Sedgwick County, Kansas, and EXCEPT that part platted as Riverlawn Christian Addition, Wichita, Sedgwick County, Kansas, and EXCEPT that part platted as Fire Station 13 Addition, an Addition to Wichita, Sedgwick County, Kansas and EXCEPT that part taken for road in Condemnation Case 33816, and EXCEPT that part dedicated for road in Film 174 at Page 182, and EXCEPT that part dedicated for road in Film 1288 at Page 1351, and EXCEPT that part platted as The Moorings 6th Addition to Wichita, Kansas.

PARCEL 1

A. Net Area: 74,369 sq.ft. or 1.71 acres
B. Maximum Building Coverage: 22,306 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 26,027 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 2

A. Net Area: 36,280 sq.ft. or 0.83 acres
B. Maximum Building Coverage: 10,884 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 12,698 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 3

A. Net Area: 50,842 sq.ft. or 1.17 acres
B. Maximum Building Coverage: 15,253 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 17,795 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 4

A. Net Area: 218,458 sq.ft. or 5.02 acres
B. Maximum Building Coverage: 65,537 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 76,460 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Four (4)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 5

A. Net Area: 44,748 sq.ft. or 1.03 acres
B. Maximum Building Coverage: 13,424 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 15,662 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 6

A. Net Area: 176,347 sq.ft. or 4.13 acres
B. Maximum Building Coverage: 53,904 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 62,772 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Eight (8)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 7

A. Net Area: 75,771 sq.ft. or 1.74 acres
B. Maximum Building Coverage: 22,731 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 26,520 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 8

A. Net Area: 267,585 sq.ft. or 6.14 acres
B. Maximum Building Coverage: 80,276 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 93,635 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Eight (8)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 9

A. Net Area: 257,431 sq.ft. or 5.91 acres
B. Maximum Building Coverage: 77,229 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 90,101 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Four (4)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 10

A. Net Area: 100,833 sq.ft. or 2.31 acres
B. Maximum Building Coverage: 30,250 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 35,291 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Two (2)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 11

A. Net Area: 74,412 sq.ft. or 1.71 acres
B. Maximum Building Coverage: 22,324 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 26,044 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Two (2)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 45 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 12

A. Net Area: 127,886 sq.ft. or 2.94 acres
B. Maximum Building Coverage: 38,366 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 44,760 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Four (4)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet and one story
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 13

A. Net Area: 111,882 sq.ft. or 2.57 acres
B. Maximum Building Coverage: 33,565 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 38,148 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Four (4)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet and one story
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 14

A. Net Area: 107,879 sq.ft. or 2.47 acres
B. Maximum Building Coverage: 32,368 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 37,687 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: Two (2)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 15

A. Net Area: 70,570 sq.ft. or 1.62 acres
B. Maximum Building Coverage: 21,171 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 24,589 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 16

A. Net Area: 50,377 sq.ft. or 1.16 acres
B. Maximum Building Coverage: 15,113 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 17,32 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

PARCEL 17

A. Net Area: 54,194 sq.ft. or 1.24 acres
B. Maximum Building Coverage: 16,258 sq.ft. or 30 percent
C. Maximum Gross Floor Area: 18,989 sq.ft.
D. Floor Area Ratio: 35 percent
E. Maximum Number of Commercial Buildings: One (1)
F. Maximum building height to conform to Chapter 28.08 Code of the City of Wichita, but shall be not greater than 35 feet.
G. Setbacks: See Drawing
H. Access Points: See Drawing
I. Permitted Uses: See General Provision #8.

REVISIONS:

Drawn: April 20, 2010
Submitted: July 12, 2010
Revised: August 10, 2010
Approved by MAPC: ???
Approved by City Council: ???

DP-323

LAKESIDE AT THE MOORINGS
COMMERCIAL
COMMUNITY UNIT PLAN

Baughman Company, P.A.
313 Fire St. Wichita, KS 67211 (316)263-2727 (316)263-2744
Baughman

8-19-10 MAPC HAND OUT ITEM #6

CITY OF WICHITA

INTEROFFICE MEMORANDUM

TO: MAPC Members

FROM: Terri Dozal, Neighborhood Assistant, District VI

SUBJECT: **ZON2010-00028 and CUP2010-00016**
City Zone Change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse and CUP amendment to DP-78 and creation of a new commercial CUP, DP-323 Lakeside at the Moorings CUP

DATE: August 19, 2010

On Wednesday, August 18, 2010 the District VI Advisory Board (DAB) considered a City Zone Change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse and CUP amendment to DP-78 and creation of a new commercial CUP, DP-323 Lakeside at the Moorings CUP.

The members were provided the MAPD staff report for review prior to the meeting. *Dale Miller,* Planner presented the case background, reviewed the staff recommendation and answered questions of members and the public.

The Board asked the following questions/comments:

- What was the Moorings residents input on the zone request?
- Would there be public access to the Lake?
- Would the only access to this location be from Meridian?
- Was the Fire Department aware of the access and would they be able to get in and out in case of an emergency?
- Would there be any walk able access for the neighbors to use?
- I appreciate the applicant for meeting with the neighborhood prior to this meeting.

There were no neighbors present to speak in favor or opposition of the request.

****Action:** The District VI Advisory Board members made a motion to recommend to City Council Approval (7-0) of the zone change request ZON2010-00028 based on staff recommendations.

****Action:** The District VI Advisory Board members made a motion to recommend to City Council Approval (7-0) of the CUP2010-00016 request based on staff recommendations.

Please review this information when **ZON2010-00028 and CUP2010-00016** is considered.

mtd

EXCERPT OF THE AUGUST 19, 2010 WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING HEARING

Case No.: ZON2010-28 and CUP2010-16 – CBB Northlakes, LLC c/o Brad and Kurt Bachman (owners); Baughman Company, PA c/o Russ Ewy (agent) request a city zone change from SF-5 Single-Family Residential to LC Limited Commercial and OW Office Warehouse and city CUP Amendment #4 to DP-78 and creation of a new commercial CUP, DP-323 Lakeside At the Moorings.

All of Lots 1, 2, 3, 4, 5, 27, 28, 29, 30, and 31, Block 1, together with all of Lots 1, 2, 3, 4, 13, 14, 15, 16, and 17, Block 2, together with all of Lots 1 and 2, Block 3, together with all of Reserve "C", together with all of the southerly Sandkey Ct., all as platted and dedicated in The Moorings South Addition to Wichita, Kansas, TOGETHER with that part of Lots 6, 7, 23, 24, 25, and 26, in said Block 1, and that part of Lots 5, 6, 7, 8, 9, 10, 11, and 12, in said Block 2, and that part of Reserves "A" and "D" in said The Moorings South Addition, and that part of Sandkey and Bachman Drive as dedicated in said The Mooring South Addition, and that part of Bachman Drive and Cobblestone as dedicated in The Moorings Sixth Addition to Wichita, Sedgwick County, Kansas lying generally south of and abutting the following described line: Beginning at the northeast corner of Lot 1, Block 3, in said The Moorings South Addition; thence N00°27'10"W along the northerly extension of the east line of Lot 1 in said Block 3, 50.00 feet; thence S89°32'50"W, 138.34 feet to the point of curvature of a curve to the right; thence westerly along said curve, through a central angle of 11°27'10" and having a radius of 500.00 feet, an arc distance of 99.78 feet, (having a chord length of 99.62 feet bearing N84°43'02"W), to the point of tangency of said curve; thence N79°00'00"W along the centerline of said Bachman Drive, 313.70 feet, more or less, to a point on the centerline of said Cobblestone; thence N11°00'00"E along the centerline of said Cobblestone, 32.00 feet to the point of curvature of a curve to the left in said centerline; thence northerly along said curve, having a central angle of 27°42'38" and a radius of 309.62 feet, an arc distance of 149.74 feet, (having a chord length of 148.28 feet bearing N02°51'21"W), to the point of tangency of said curve; thence N16°42'38"W along the centerline of said Cobblestone, 251.10 feet to the point of curvature of a curve to the right in said centerline; thence northerly along said curve, having a central angle of 16°42'08" and a radius of 530.86 feet, an arc distance of 154.75 feet, (having a chord length of 154.20 feet bearing N08°21'34"W), to the point of tangency of said curve; thence N00°00'30"W along the centerline of said Cobblestone, 13.61 feet to the point of curvature of a non-tangent curve to the right; thence westerly along said curve, through a central angle of 37°45'50" and having a radius of 162.00 feet, an arc distance of 106.77 feet, (having a chord length of 104.85 feet bearing S71°10'46"W), to the point of tangency of said curve; thence N89°56'20"W, 771.60 feet to the point of curvature of a curve to the left; thence westerly and southwesterly along said curve, having a central angle of 53°00'42" and a radius of 38.00 feet, an arc distance of 35.16 feet, (having a chord length of 33.92 feet bearing S63°33'19"W), to the point of tangency of said curve; thence S37°02'58"W, 114.09 feet to the point of curvature of a curve to the left; thence southwesterly, southerly, and southeasterly along said curve, having a central angle of 75°54'33" and a radius of 38.00 feet, an arc distance of 50.34 feet, (having a chord length of 46.74 feet bearing S00°54'18"E), to the point of tangency of said curve; thence S38°51'35"E, 17.55 feet to the point of curvature of a curve to the right; thence southeasterly along said curve, having a central angle of 10°45'12" and a radius of 230.00 feet, an arc distance of 43.17 feet, (having a chord length of 43.11 feet bearing S33°28'58"E), to the point of tangency of said curve; thence S28°06'22"E, 18.85 feet to the point of curvature of a non-tangent curve to the right; thence southeasterly, southerly, and southwesterly along said curve, through a central angle of 148°36'57" and having a radius of 80.00 feet, an arc distance of 207.51 feet, (having a chord length of 154.04 feet bearing

S10°25'52"E), to the point of tangency of said curve; thence S63°52'36"W, 217.36 feet to a point on the east line of said Reserve "A", said point being S28°06'28"E, 36.95 feet from the most westerly corner of Lot 7 in said Block 1; thence S28°06'28"E along the east line of said Reserve "A", 37.83 feet to a deflection corner in said east line; thence S33°25'27"E along the east line of said Reserve "A", 183.96 feet to a deflection corner in said east line; thence S11°05'46"E, 96.75 feet to a deflection corner in the south line of said Reserve "A", said deflection corner being N65°17'40"E, 194.56 feet from the most southwesterly corner of said Reserve "A", and for a point of termination, together with Government Lots 1 and 2 in Sec. 25, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, EXCEPT that part of said Government Lots 1 and 2 platted as Hallock Addition, Sedgwick County, Kansas, and EXCEPT that part platted as Riverlawn Christian Addition, Wichita, Sedgwick County, Kansas, and EXCEPT that part platted as Fire Station 13 Addition, an Addition to Wichita, Sedgwick County, Kansas and EXCEPT that part taken for road in Condemnation Case 35916, and EXCEPT that part dedicated for road in Film 174 at Page 182, and EXCEPT that part dedicated for road in Film 1299 at Page 1251, and EXCEPT that part platted as The Moorings 6th Addition to Wichita, Kansas, and EXCEPT a tract of land lying in the NE ¼ of Sec. 25, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning 1895.48 feet south and 1210 feet west of the northeast corner of said NE ¼, said point being the NW corner of Lot 1, Block 1, Riverside Christian Addition; thence west to the Arkansas River Levee (Condemnation Case A-33666); thence southeasterly along said Levee to the south line of said NE ¼; thence east to the SW corner of Lot 1, Block 1, Riverside Christian Addition; thence north along the west line of Lot 1, Block 1, Riverside Christian Addition to point of beginning, all being subject to road right-of-way of record for Meridian Avenue on the east, generally located west of North Meridian Avenue and north of K-96.

BACKGROUND: The applicant, CBB Northlakes, LLC c/o Brad and Kurt Bachman, proposes a zone change from SF-5 Single-Family Residential ("SF-5") to LC Limited Commercial ("LC") and OW Office Warehouse ("OW"), the creation of a new community unit plan ("CUP") to be named DP-323 Lakeside At the Moorings, and Amendment #4 to DP-78 The Moorings Community Unit Plan. Total site size is 54.85 gross acres and 43.68 net acres. Of this area, 4.12 acres are not part of the existing CUP, DP-78, and are being combined with 50.73 acres being transferred from DP-78. Together this land will form DP-323. The zone change would be for approximately 43 acres from SF-5 to LC (approximately 39 acres) and OW (approximately four acres). The other 12 acres were approved for rezoning to LC previously.

The site is located west of Meridian Avenue, approximately one-fourth mile north of the K-96 interchange with Meridian. It is bounded by the Big Arkansas River on the west, the existing Moorings residential area on the north that includes a buffer strip of one row of undeveloped lots, the fire station and Riverlawn Christian Church on the south, and Meridian on the east.

The new CUP proposes 17 parcels. The CUP has four distinct clusters for development, a group restricted to GO (Parcels 12, 13 and 17) along the northern edge of the CUP nearest the residential development, the lots along Meridian requested for a broader range of LC uses (Parcels 1, 2, 3, 4, and 16), the parcels along the internal loop street for less intensive LC type uses (Parcels 5, 7-11,14 and 15), and one parcel (Parcel 6) for office-warehouse type of use.

Parcel 6 is unique in that it is the only parcel for which OW zoning is requested and is somewhat isolated and remote from the balance of the site. It has the river on the west and a church-owned open space lot on the east. It is connected to the rest of the CUP by a spur off the looped internal street. The developer has indicated that he does not think it would be suited for typical shopping center, office or retail use, but is more suited for office-warehouse types of uses, maybe even warehouse, self-service storage.

Uses prohibited throughout the CUP are: adult entertainment establishments, group residential, correctional placement residences, private clubs, taverns and drinking establishments, nightclubs, or sexually oriented businesses. Overhead doors are prohibited within 200 feet of residential uses and facing residential zoning districts, and the use of exterior audio systems to project sound beyond the boundaries of the CUP is prohibited. Additional restrictions for the interior LC parcels include no auto-related uses such as car washes, vehicle repair, convenience stores (except for Parcel 4, which may look to a convenience store associated with its proximity to Meridian) and service stations.

Signage is planned to reflect the intensity of development in the various areas of the CUP. Monument signage is based on a 0.8 times linear frontage along Meridian, and 0.5 on the balance of the tract. In general, the CUP asks for 125 square feet for monument-style signs with a maximum height of 20 feet along Meridian plus one 200 square foot monument sign for the development. On the interior parcels, it would be 75 square feet for monument signs with a maximum height of 16 feet. The OW parcel requests 100 feet but placed along the spur where it exits onto the internal street, with a maximum height of 16 feet. Other sign features include limiting window signage to 25 percent, no flashing or moving signs, no billboards or off-site signs, and a general spacing of 150 feet between freestanding signage.

The CUP includes features for architectural character, consistent lighting elements, limited to 15 feet within 200 feet of residential zoning and 24 feet for the balance of the CUP, and prohibits extensive use of neon or fluorescent lighting or backlit canopies on buildings. The CUP calls for a shared landscape palette and consistent signage bases. These elements lend a planned feel to the development.

Screening is somewhat complicated due to the presence of the lake and river on the western boundary of the CUP. A masonry wall on Parcels 12, 13 and 17 six to eight feet in height is included along the northern edge to separate the CUP from the residential development; it is modified close to the lake where landscaping would be used to block views instead due to the difficulty of taking the masonry all the way to the property edge at the water's edge. The plan also calls for a 30-foot landscaping buffer along this property line. The screening wall is optional along the nonresidential development zoned SF-5, but would be screening through landscape buffering, still requiring solid screening for all outdoor work and storage areas, loading docks, trash enclosures, etc.

Building heights are 35 feet for the parcels along Meridian and the northern ring. The parcels inside the internal looped street and to the south of it would allow 45 feet in height. Building coverage is set at 30 percent and maximum gross floor area is set at 35 percent for all parcels. Setbacks along streets are 35 feet. Building setbacks are not shown on interior property lines but should be 35 feet along all CUP boundaries.

The property to the north is The Moorings residential subdivision, zoned SF-5. The property to the northeast of Parcels 14-16 is a church, zoned SF-5. The property east of Meridian includes land in Parcel 2 of DP-285 Harbor Isle South Commercial CUP, which is slated for similar LC development to this CUP except for eliminating some auto-oriented uses and some size limitations to prohibit big box types of uses. Farther north, the land is zoned SF-5 and is platted with a buffer reserve along Meridian and single-family residential lots. The property to the southeast of Meridian is undeveloped land zoned MF-18 in DP-94 Mallard Cove Residential CUP. One property to the south is zoned LC and developed with a church. The rest is zoned SF-5. One tract is developed with a fire station. This property is part of DP-78 and would remain in it. Another large tract is used as an open field by the church. One residence is located south of the proposed Parcel 6. The Big Arkansas River and its levee is the western boundary.

CASE HISTORY: Part of the property is platted as The Moorings South Addition, recorded February 6, 2006. This property also was approved for LC zoning (ZON2003-00048) along with DP-78 Amendment

#3. The remainder of the property is unplatted. All the land except the proposed Parcel 6 lies within DP-78.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Vacant, single-family residential, church
SOUTH:	LC, SF-5	Church, fire station, open space, single-family residence
EAST:	LC, SF-5, MF-18	Vacant commercial, multi-family and single-family land
WEST:	SF-5	Big Arkansas River and levee, lake

PUBLIC SERVICES: Meridian is a four-lane principal arterial with a center turn lane across the frontage of the CUP, with an additional lane for right-turn decel for southbound traffic onto 42nd Street North on its southern edge. The property is about one-fourth mile north of the ramps on and off of K-96. Traffic counts in 2006 were 11,450 on Meridian.

Access for the CUP consists of an internal loop street connected to Meridian between Parcel 3 and Parcel 16, plus one joint right-in/right-out opening between Parcel 2 and Parcel 3 onto Meridian. Parcel 1 also has direct access from 42nd Street North. Currently the northern 50 feet of Parcel 16 is platted as Bachman Drive. The CUP proposes to terminate Bachman Drive at its connection to Cobblestone Street, a local residential street serving the residential subdivision to the north. As shown on the proposed CUP, the right-of-way for the residual of Bachman Drive north and this CUP is below normal street width. Final determination of this right-of-way width would need determined at time of platting and may require vacating less than the full half-width dedicated by the land from The Moorings South Addition. Other customary public services are available to serve the property.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban residential." The development is not in conformance with this recommendation, however, it follows a pattern of intensification and commercial development along Meridian as exhibited by previous zone changes for the eastern part of this case, the property directly across Meridian (DP-285), plus rezoning of commercial use mid-mile at 45th Street North within the last two years and the more intensive type of commercial development occurring on the northwest and southwest corners of 53rd Street North and Meridian. The proposed CUP complies with **Commercial Goal/Objective B** of "Develop future retail/commercial areas which complement existing commercial activities provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The CUP has requirements designed to minimize the impact of the development on the residential areas to the north. The proposed use conforms to **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets and also minimizes the number of access points onto Meridian.

RECOMMENDATION: Based on the previous approvals of a portion of this tract for commercial use as well as other approvals for commercial use across Meridian and to the north, the use of the Meridian corridor seems to be shifting to commercial use serving the residential development existing or planned for the area. The cluster of uses on Meridian represents an equivalent level of LC development as approved in the previous DP-78 Amendment #3, except indoor recreation uses which were treated as a Conditional Uses in the previous case. For the remainder of the CUP, the significant change is to convert the character of the area to from residential to nonresidential. It would represent the boundary between local commercial and residential use. However, the area bordering the residential area (Parcels 12, 13 and 17) would be office rather than a broader range of commercial uses. The area around the interior parcels would be intended for retail, restaurant, and other commercial services. The isolated tract to the south would be for more intensive office-warehouse types of uses. The CUP includes provisions for unifying character and buffering. Based on these factors, plus the information available prior to the public hearing,

staff recommends the request be APPROVED subject to platting within one year and to the following conditions:

A. APPROVE the zone change (ZON2010-00028) to LC and OW.

B. APPROVE DP-323 (CUP2010-00016), subject to the following conditions:

1. Determination of right-of-way width retained for Bachman Drive shall be determined at time of platting.
2. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
3. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
4. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
5. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-323) includes special conditions for development on this property and amending any comparable recorded document for DP-78 with the Register of Deeds to reflect the new CUP boundaries.
6. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

C. Amend DP-78 to remove the land within DP-323 upon meeting all conditions of approval for DP 323.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north is The Moorings residential subdivision, zoned SF-5. The property to the northeast of Parcels 14-16 is a church, zoned SF-5. The property east of Meridian includes land in Parcel 2 of DP-285 Harbor Isle South Commercial CUP, which is slated for similar LC development to this CUP except for eliminating some auto-oriented uses and some size limitations to prohibit big box types of uses. Farther north, the land is zoned SF-5 and is platted with a buffer reserve along Meridian and single-family residential lots. The property to the southeast of Meridian is undeveloped land zoned MF-18 in DP-94 Mallard Cove Residential CUP. One property to the south is zoned LC and developed with a church. The rest is zoned SF-5. One tract is developed with a fire station. This property is part of DP-78 and would remain in it. Another large tract is used as an open field by the church. One residence is located south of the proposed Parcel 6. The Big Arkansas River and its levee is the western boundary.

2. The suitability of the subject property for the uses to which it has been restricted: The property is suited for the uses to which it has been restricted, although the property has remained undeveloped for long time, which may indicate it may be more appropriate for other types of uses.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The restriction of the land bordering the residential development to office uses and the CUP site development provisions should reduce detrimental effects to nearby residences. The character of the corridor on Meridian will transition to reflect commercial development, but this pattern already has been approved in previous DP-78 and DP-285 cases.

4. Length of time the subject property has remained vacant as zoned: The original approval of the CUP was in 1983, nearly 20 years ago.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "urban residential." The development is not in conformance with this recommendation, however, it follows a pattern of intensification and commercial development along Meridian as exhibited by previous zone changes for the eastern part of this case, the property directly across Meridian (DP-285), plus rezoning of commercial use mid-mile at 45th Street North within the last two years and the more intensive type of commercial development occurring on the northwest and southwest corners of 53rd Street North and Meridian. The proposed CUP complies with **Commercial Goal/Objective B** of "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses." The CUP has requirements designed to minimize the impact of the development on the residential areas to the north. The proposed use conforms to **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets and also minimizes the number of access points onto Meridian.

7. Impact of the proposed development on community facilities: The requested amendment probably will result in an increase in traffic since commercial and office uses creates more traffic demand than residential use. The property is well situated near the K-96 interchange on a major arterial already planned to accommodate significant traffic volumes.

DONNA GOLTRY, Planning Staff presented the Staff Report.

FOSTER said the provisions of the CUP were not legible so he wanted to make sure staff was agreeable to them.

GOLTRY said yes staff is agreeable to the CUP provisions, and that it contains screening and buffering provisions tailored to the specific types of uses and proximity to the lake rather than the standard CUP provisions. Also, the applicant is eliminating secondhand stores, pawnshops and offices that accept paychecks or car titles as security for loans. She added that DAB VI recommended approval of the project.

RUSS EWY, BAUGHMAN COMPANY, AGENT FOR THE APPLICANT said he would answer any questions.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **KLAUSMEYER** seconded the motion, and it carried (9-0).

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council Members

SUBJECT: DER2010-0007 -- Approval of Subdivision Regulation Amendments Regarding Off-Street Parking for Residential Streets. (All Districts)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the amendments.

MAPC Recommendation: Approve the amendments. (9-0)

Background: Included in the attached Ordinance are revisions that are proposed to Section 7-201(G)(3) of the Subdivision Regulations. The current regulation requires a covenant providing for four off-street parking spaces per each lot served by a 32-foot or 58-foot residential street. This necessitates a waiver for most plats unless all the lots can accommodate four off-street parking spaces outside of the front building setback. The restriction is due to a Zoning Code regulation which excludes parking spaces from any part of a required front setback. Metropolitan Area Planning Department staff recommends the deletion of this regulation requiring a covenant for four off-street parking spaces and prohibiting enforcement of existing covenants by the Wichita Office of Central Inspection/Sedgwick County Code Enforcement.

Legal Considerations: The City Council and the Board of Sedgwick County Commissioners will need to approve the amendments in order for them to be in full effect.

The City's Law Department and the County's Legal Department have reviewed the amendments and approved as to form for the respective adopting Ordinance and Resolution.

Financial Consideration: None.

Goal Impact: Ensure Efficient Infrastructure.

Recommendations/Action: Approve the amendments to the Wichita-Sedgwick County Subdivision Regulations and place the Ordinance on first reading.

Attachment: Ordinance
Amendments to the Wichita-Sedgwick County Subdivision Regulations (Delineated)

(OCA 150004)

Published in The Wichita Eagle October 1, 2010

ORDINANCE NO. 48-844

AN ORDINANCE AMENDING THE "WICHITA-SEDGWICK COUNTY SUBDIVISION REGULATIONS, DECEMBER 4, 2008 EDITION," AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.05.010 AS AMENDED BY ORDINANCE NO. 48-180

WHEREAS, under the authority of K.S.A. 12-741, et seq., the City of Wichita and Sedgwick County desire to amend The Wichita-Sedgwick County Subdivision Regulations to amend provisions regarding off-street parking for residential streets.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA;

SECTION 1. Section 28.05.033 of the Code of the City of Wichita is hereby created and shall read as follows:

Section 7-201(G)(3)(B) and Section 7-201(G)(3)(C) of "The Wichita-Sedgwick County Subdivision Regulations, December 4, 2008 Edition" as adopted by reference in Section 28.05.010 of the Code of the City of Wichita as amended by Ordinance No. 48-180 are hereby amended to delete the requirement for a covenant providing for four off-street parking spaces per dwelling unit on each lot and adding a provision prohibiting enforcement of existing covenants by the Wichita Office of Central Inspection/ Sedgwick County Code Enforcement.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita and shall be effective upon its adoption and publication once in the official City newspaper.

ADOPTED this 28th day of September, 2010.

ATTEST:

_____
Carl Brewer, Mayor

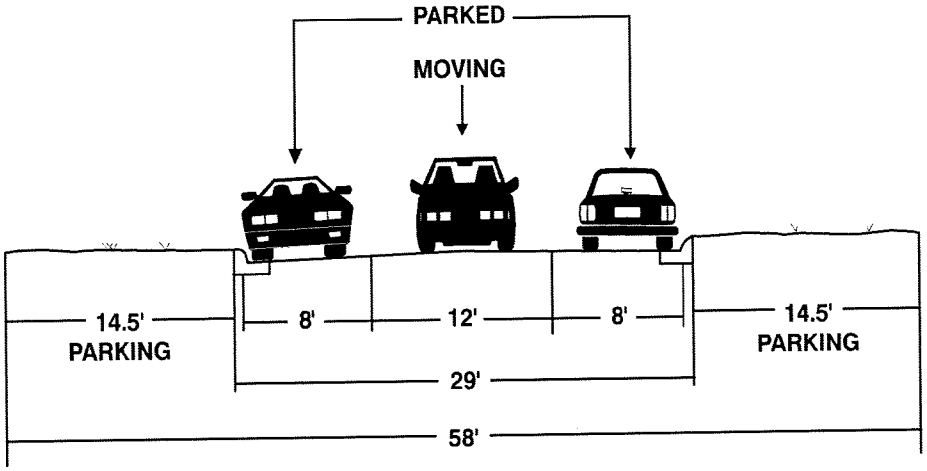
_____
Karen Sublett, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
Gary E. Rebenstorf, Director of Law

	Street R.O.W. In Feet	Roadway Width In Feet*
(B) Local Residential - 1 moving lane (12') and 2 parking lanes; street to be no more than 3 blocks in length with a maximum of 24 single-family lots (12 each side) per block. ~~and a covenant providing for 4 off-street parking spaces per dwelling unit on each lot~~. *Any existing covenant providing for four (4) off-street parking spaces per dwelling unit on each lot shall not be enforced by the Wichita Office of Central Inspection/Sedgwick County Code Enforcement.*	58	29

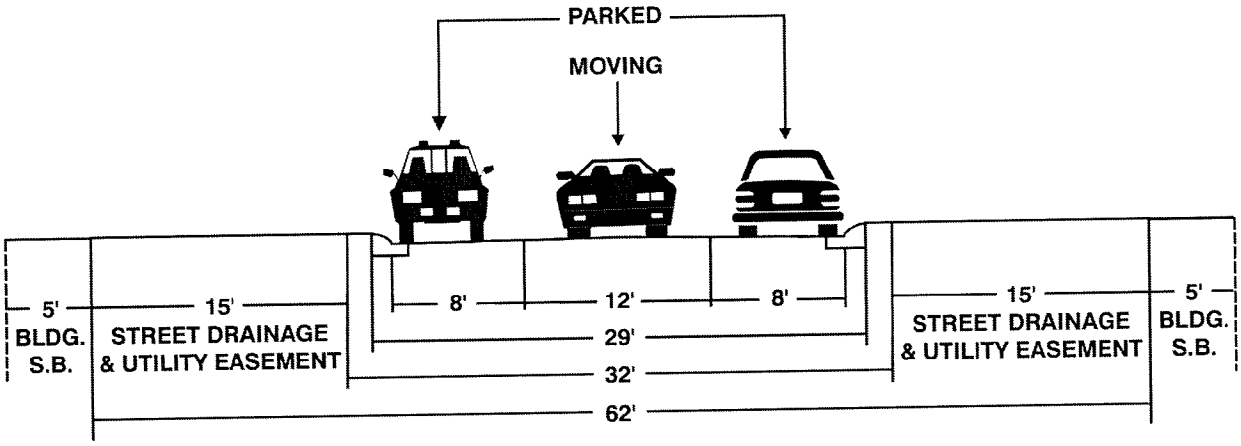


58-FOOT LOCAL RESIDENTIAL STREET
7-201 (G) (3) (B)

*Back of curb to back of curb.

(C) Narrow Local Residential - One (1) moving lane (12') and two (2) parking lanes. This type of street is intended for limited use in single-family and duplex cluster developments and shall only be used for cul-de-sac or loop/circular street alignments. It is not intended for those street patterns that may be subjected to through traffic or to traffic generated by land uses not directly fronting onto the subject narrow street. That is, one narrow street shall not intersect another narrow street. For cul-de-sac streets, a maximum of twenty-four (24) single-family lots shall be accessed by this type of street. For loop/circular streets, a maximum of forty-eight (48) single-family lots shall be accessed by this street type. When this street is platted the subdivider shall submit *a* covenant~~s providing for four (4) off-street parking spaces per dwelling unit on each lot and restriction~~ ~~of~~ *restricting* lot owner use of required fifteen-foot (15') street, drainage and utility easements on each side of dedicated right-of-way, i.e., prohibition of retaining walls and change of grade, prohibition of fences, earthberms and mass plantings and approval of any proposed plantings by the City Forestry Division prior to installation. A minimum five-foot (5') building setback shall be platted from the fifteen foot (15') street, drainage and utility easement on each lot abutting this type of street. *Any existing covenant providing for four (4) off-street parking spaces per dwelling unit on each lot shall not be enforced by the Wichita Office of Central Inspection/Sedgwick County Code Enforcement.*

Street R.O.W. In Feet	Roadway Width In Feet*
32	29



NARROW LOCAL RESIDENTIAL STREET
7-201 (G) (3) (C)

*Back of curb to back of curb.

Agenda Item No. V-4

City of Wichita
City Council Meeting
September 21, 2010

To: Mayor and City Council

Subject: A10-02 Request by Unified School District No. 259 to annex lands generally located on the west side of 143rd Street East, approximately one-quarter mile north of Pawnee. (District II)

Initiated By: Metropolitan Area Planning Department

Agenda: Planning (Consent)

Recommendation: Approve the annexation request.

Background: The City has received a request to annex 81.66 acres of land generally located on the west side of 143rd Street East, approximately one-quarter mile north of Pawnee. The annexation area abuts the City of Wichita to the east, west, and south of the property. The annexation area is unplatted but is being platted as the USD 259 5th Addition, which was approved by the Metropolitan Area Planning Commission on July 22, 2010.

Analysis:
Land Use and Zoning: The annexation area consists of approximately 81.66 acres zoned "SF-20" Single Family and is undeveloped. The applicant proposes to develop the property with a new school. The adjacent property to the north is zoned "SF-20" Single Family and is undeveloped. The adjacent properties to the south are zoned "SF-5" Single Family and "SF-20" Single Family and are undeveloped. The adjacent properties to the east and west are zoned "SF-5" Single Family and are undeveloped. The surrounding undeveloped properties that are zoned "SF-5" have been platted for single-family residential development.

Public Services: Water service is available to serve the subject property from a 16-inch main located in 143rd Street East. Sanitary sewer service is available to serve the subject property from a 21-inch main that runs along the property's southern boundary and an eight-inch main that runs along the property's western boundary. As a condition of the plat, the applicant is responsible for main and lateral in lieu of assessment (ILOA) fees for sewer and transmission and distribution ILOA fees for water.

Street System: The plat of the subject property approves three full-movement access drives to 143rd Street East, a two-lane paved arterial. As a condition of the plat, the applicant is responsible submitting a petition for a traffic signal and left-turn and right-turn deceleration lanes.

Public Safety: Fire protection is currently provided to the area on the basis of a first-responder agreement between the City and County, and that service will continue following annexation. Fire Station No. 20 at 2255 S. Greenwich is the nearest fire station to the site. Upon annexation, police protection will be provided to the area by the Patrol East Bureau of the Wichita Police Department, headquartered at 350 S. Edgemoor.

Parks: W.B. Harrison Park, located approximately three miles northwest of the subject property at 1300 S. Webb, is the nearest park. W.B. Harrison Park is a 40 acre neighborhood park that is developed with a fishing pond, playground, exercise/fitness trail, softball diamond, tennis courts, rugby field, and restroom facilities. The Parks, Recreation and Open Space Plan identifies proposed park target area in the vicinity of the subject property, and a future park site has been acquired, but not yet developed, at the southwest corner of 159th Street East and Pawnee, approximately one mile southeast of the subject property.

School District: The annexation property is part of the Unified School District 259 (Wichita School District). Annexation will not change the school district.

Comprehensive Plan: The proposed annexation is consistent with the Wichita-Sedgwick County Comprehensive Plan. The annexation property falls within the Wichita 2030 Urban Growth Area as shown in the Plan.

Financial Considerations: The current approximate appraised value of the proposed annexation lands is $176,140; however, since the property is owned by USD 259, it is exempt from property taxes. The applicant did not provide any information regarding the estimated future assessed value of this property, as it is tax exempt.

Goal Impact: Approving the annexation request would impact Wichita's goal to ensure Efficient Infrastructure, for annexation of this property would assist the City in satisfying the demand for new infrastructure needed to support growth and development.

Legal Considerations: The property is eligible for annexation under K.S.A. 12-519, *et seq*. Approve the ordinance as to form.

Recommendations/Actions: Approve the annexation request, place the ordinance on first reading and authorize the necessary signatures.

Attachment: Map Sheet
Ordinance

OCA150004

PUBLISHED IN THE WICHITA EAGLE ON OCTOBER 1, 2010

ORDINANCE NO. 48-845

AN ORDINANCE INCLUDING AND INCORPORATING CERTAIN BLOCKS, PARCELS, PIECES AND TRACTS OF LAND WITHIN THE LIMITS AND BOUNDARIES OF THE CITY OF WICHITA, KANSAS. (A10-02)

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body, under the authority of K.S.A. 12-519, et seq, hereby annexes the following blocks, parcels, pieces and tracts of land and they are hereby included and brought within the corporate limits of the City of Wichita, Kansas and designated as being part of City Council District II respectively:

That part of the Southeast Quarter of Section 35, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as being the North 1187.88 feet of said Southeast Quarter, EXCEPT the West 400.00 feet thereof, AND EXCEPT that part designated as 143rd Street East road right-of-way; TOGETHER WITH that part of the Southeast Quarter of Section 35, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as beginning at the Northeast corner of said Southeast Quarter; thence S00˚04'42"E along the East line of said Southeast Quarter, 1809.20 feet; thence S85˚37'54"W, 251.59 feet; thence N00˚47'54"E, 322.00 feet; thence S84˚17'54"W, 535.00 feet; thence S79˚52'54"W, 104.00 feet; thence S89˚32'19"W parallel with the North line of said Southeast Quarter; 1760.97 feet to the West line of said Southeast Quarter; thence N00˚00'45"E along said West line, 1570.75 feet to the Northwest corner of said Southeast Quarter; thence N89˚32'19"E along the North line of said Southeast Quarter, 2639.29 feet to the place of beginning, EXCEPT the North 1187.88 feet thereof, EXCEPT the West 400 feet thereof, AND EXCEPT that part designated as 143rd Street East road right-of-way.

SECTION 2. That if any part or portion of this ordinance shall be held or determined to be illegal, ultra vires or void the same shall not be held or construed to alter, change or annul any terms or provisions hereof which may be legal or lawful. And in the event this ordinance in its entirety shall be held to be ultra vires, illegal or void,

then in such event the boundaries and limits of said City shall be held to be those heretofore established by law.

SECTION 3. That the City Attorney be and he is hereby instructed at the proper time to draw a resolution redefining the boundaries and limits of the City of Wichita, Kansas, under and pursuant to K.S.A. 12-517, et seq.

SECTION 4. This ordinance shall become effective and be in force from and after its adoption and publication once in the official city paper.

ADOPTED at Wichita, Kansas, this September 28, 2010.

_____
Carl Brewer, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to form:

_____
Gary E. Rebenstorf, Director of Law

Planning Agenda

Item: A010-02 Attachment No. 1

An ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto.

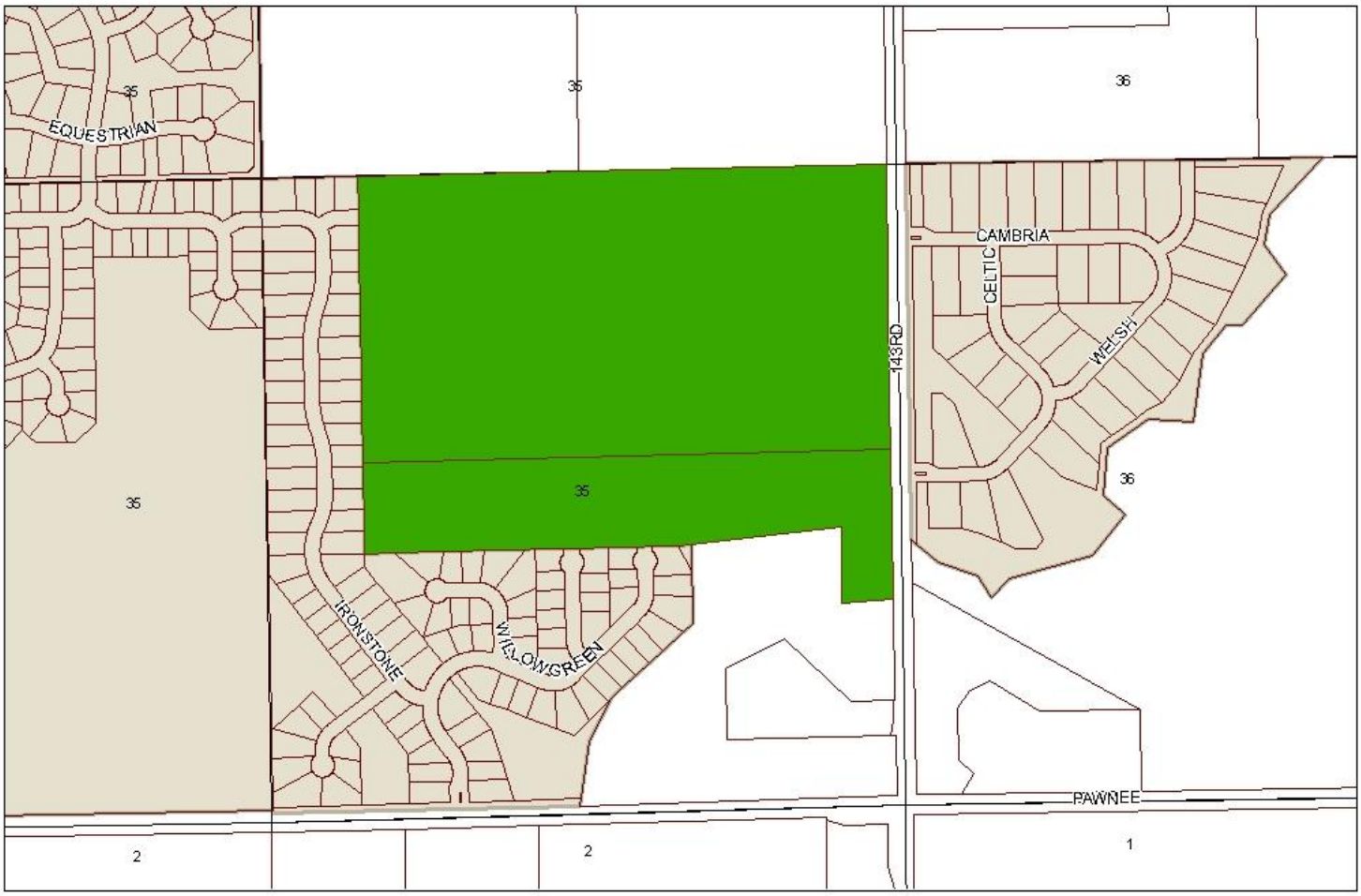
General Location: West side of 143rd Street East, approximately one-quarter mile north of Pawnee

Address: n/a

81.66	Area in Acres	X	Request
0	Existing population (est.)		Unilateral
0	Existing dwelling units		Island
0	Existing industrial/commercial units		Other:

Reason(s) for Annexation:

Existing zoning:	"SF-20" Single Family Residential



A10-02
WICHITA
SEDGWICK COUNTY

Software: ArcGIS
Map Data Sources: City of Wichita, Sedgwick County
Prepared: 2/5/09

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no intimation and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property is represented on this map is not intended to be inclusive.

THE CITY OF WICHITA Wichita, Kansas
Department of Public Works

PRELIMINARY ESTIMATES
FOR CITY COUNCIL SEPTEMBER 21, 2010

a. KLINK 1R Resurfacing (FY 2009-2010) US 54, Kellogg from 111th to 119th Street West (north of Harry, west of Tyler) (472-84815b/707006/209471) Traffic will be maintained using flagpersons and barricades. (District IV,V) - $409,000.00

b. 2010 Contract Maintenance Concrete Repairs, Ph 2 (north of 63rd Street South, east of 135th Street West) (472-84930/132723/792409/636234/133116/) Traffic to be maintained using flagpersons & barricades. (District I,II,III,IV,V,VI) - $495,000.00

c. Water Line Project for 135th Street West, 21st Street to 29th Street North (north of 21st, east of 135th Street West) (448-89941/633816/750020) Traffic will be maintained using flagpersons and barricades. (District V) - $899,931.00

d. Woodlawn, 17th to Farmview (472-84907/707017/636240/210482/770628) Traffic to be maintained using flagpersons and barricades. (District I,II) - $1,003,500.00

e. Storm Water Sewer No. 658 to serve Waterfront Residential Addition (north of 13th Street North, east of Webb) (468-84682/751491/485382) Does not affect existing traffic. (District II) - $433,000.00

Agenda Item No. XII-3a

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Water Main at 119th Street West from Carr Street to Pawnee Street (District IV)

INITIATED BY: Department of Water Utilities

AGENDA: Consent

Recommendation: Approve the capital expenditure for a water main at 119th Street West from Carr Street to Pawnee Street.

Background: The Water Master Plan identified the need to increase the water supply to the area near 119th Street West and Pawnee Street. In 2007, a water main was installed at 119th Street West from Pawnee Street to Grant Street. The proposed additional water main at 119th Street West from Carr Street to Pawnee Street is included in the 2009 – 2018 Capital Improvement Program (CIP).

Analysis: The water main will continue the 16'' water main installed along 119th from Maple to Carr and connect to the water main at Grant. The loop will provide the volume needed to allow for continued development in the area. This work needs to be accomplished in unison with a project to improve 119th Street West in February of 2011.

Financial Considerations: Funding for the project, water main at 119th Street West from Carr Street to Pawnee Street the project budget contained in the CIP is $480,000 in 2010. This project will be funded from Water Utility CIP.

Legal Considerations: The bonding resolution has been approved as to form by the Law Department.

Goal Impact: This project addresses the Ensure Efficient infrastructure goal by providing reliable water service to the Water utility customers.

Recommendations/Actions: It is recommended that the City Council approve the project, expenditure, adopt the resolution and authorize the necessary signatures.

Attachment: CIP sheet and resolution.

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE
To Initiate Project: x
To Revise Project:

1. Prepare in triplicate
2. Send original & 2 copies to budget
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Water Utilities	9/2/2010	Water Main in 119th St West, Curb St. to Pawnee

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
W-850		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate:

ITEM	GO	SA	Water Utility	TOTAL
Right of Way				
Paving, grading & const.				
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water			$481,101	$481,101
Multi-Use Path				
Totals			$480,000	$480,000
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

13. Recommendation:

Approve the project and adopt the resolution

Division Head	Department Head	Budget Officer	City Manager
		Date	Date

OCA: 633820

(Published in the Wichita Eagle on September 24, 2010.)

NOTICE OF INTENTION TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY OF WICHITA, KANSAS, AND TO ISSUE REVENUE BONDS, IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $480,000, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF.

TO: THE RESIDENTS OF THE CITY OF WICHITA, KANSAS

You and each of you are hereby notified that the Governing Body of the City of Wichita, Kansas, by Resolution No. 10-260, duly adopted September 21, 2010, has found and determined it to be necessary and declared its intention to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility which is owned and operated by the City, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Water Main in 119th Street West from Carr Street to Pawnee Street (W-859) (called the "Project"). The total costs of the Project are estimated to be four hundred eighty thousand dollars ($480,000). The making of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

You are hereby further notified that in order to provide financing for certain costs of the Project, the Governing Body has further found and determined it to be necessary and declared its intention to issue revenue bonds in a total principal amount which shall not exceed $480,000 under the authority of K.S.A. 10-1201 et seq., as amended and supplemented. Such revenue bonds shall not be general obligation bonds of the City payable from taxation, but shall be payable only from the revenues derived from the operations of the Water and Sewer Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the City which will be available for that purpose.

This Notice of Intent shall be published one time in the official newspaper of the City; and if, within fifteen (15) days from and after the publication date hereof, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than twenty percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special election which shall be called for that purpose as provided by law. If no sufficient protest to the Project and the issuance of the revenue bonds is filed within said fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the issuance of the revenue bonds.

BY ORDER of the Governing Body of the City of Wichita, Kansas, on September 21, 2010.

/s/ CARL BREWER, Mayor

ATTEST:
/s/ Karen Sublett, City Clerk

RESOLUTION NO. 10-260

A RESOLUTION OF THE CITY OF WICHITA, KANSAS, DECLARING IT NECESSARY TO CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, IMPROVE, EXTEND AND ENLARGE THE WATER AND SEWER UTILITY OWNED AND OPERATED BY THE CITY, AND TO ISSUE REVENUE BONDS IN A TOTAL PRINCIPAL AMOUNT WHICH SHALL NOT EXCEED $480,000 EXCLUSIVE OF THE COST OF INTEREST ON BORROWED MONEY, FOR THE PURPOSE OF PAYING CERTAIN COSTS THEREOF, AND PROVIDING FOR THE GIVING OF NOTICE OF SUCH INTENTION IN THE MANNER REQUIRED BY LAW.

WHEREAS, the Governing Body of the City of Wichita, Kansas (the "City"), has heretofore by Ordinance No. 39-888, adopted May 26, 1987 and published in the official newspaper of the City on May 29, 1987, as required by law, authorized the combining of the City-owned and operated municipal water utility and municipal sewer utility thereby creating the "City of Wichita, Kansas Water and Sewer Utility"; and

WHEREAS, the City is authorized under the Constitution and laws of the State of Kansas, including K.S.A. 10-1201 et seq., (the "Act"), to issue revenue bonds to construct, reconstruct, alter, repair, improve, extend and enlarge the Utility;

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. It is hereby found and determined to be necessary and advisable to construct, reconstruct, alter, repair, improve, extend and enlarge the City of Wichita, Kansas Water and Sewer Utility, such construction, reconstruction, alterations, repairs, improvements, extensions and enlargements to include, but not be limited specifically to, Water Main in 119th Street West from Carr Street to Pawnee Street (W-859) (the "Project"). The total costs of the Project are estimated to be four hundred eighty thousand dollars ($480,000) in 2010 exclusive of the cost of interest on borrowed money. Available and unencumbered funds of the Utility will be used to pay a portion of the costs of the Project.

SECTION 2. It is hereby found and determined that the construction of the Project will not cause duplication of any existing water or sewer utility service furnished by a private utility in the City.

SECTION 3. It is hereby found and determined to be necessary and advisable to issue revenue bonds of the City, in a total principal amount which shall not exceed four hundred eighty thousand dollars ($480,000) in 2010, exclusive of the cost of interest on borrowed money, under the authority of the Act, to pay certain costs of the Project, and the expenses of issuing such revenue bonds. Such revenue bonds shall not be general obligations of the City payable from taxation, but shall be payable from the revenues derived from the operations of the Utility. Costs of the Project in excess of the proceeds of such revenue bonds shall be paid from unencumbered moneys of the Utility which will be available for that purpose.

SECTION 4. It is hereby found and determined to be necessary, before such revenue bonds can be issued, to publish one time in the City's official newspaper a Notice of the Governing Body's intention to initiate and complete the Project and to issue such revenue bonds, such Notice to be in the form which is attached hereto and made a part hereof by reference as though fully set forth herein. If, within Fifteen (15) days from and after the date of the publication of the Notice, there shall be filed in the Office of the City Clerk a written protest against the Project and the issuance of the revenue bonds, which protest is signed by not less than Twenty Percent (20%) of the qualified electors of the City, then the question of the Project and the issuance of the revenue bonds shall be submitted to the electors of the City at a special

election which shall be called for that purpose as provided by law. If a sufficient protest to the Project and the issuance of the revenue bonds is not filed within said Fifteen (15) day period, then the Governing Body shall have the authority to authorize and proceed with the Project and the sale and issuance of the revenue bonds.

SECTION 5. This Resolution shall be in force and take effect from and after its adoption and approval.

ADOPTED AND APPROVED by the Governing Body of the City of Wichita, Kansas, not less than two-thirds of the members voting in favor thereof, on September 21, 2010.

(Seal)

_____
CARL BREWER, Mayor

ATTEST:

_____
KAREN SUBLETT, City Clerk

APPROVED AS TO FORM:

By_____
GARY E. REBENSTORF, Director of Law

Agenda Item No. XII-4a

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Acquisition of 1357 North Terrace for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The proposed road improvements get into the residential duplex at 1357 North Terrace. 1357 North Terrace was built in 1950 and consists of 1,764 square feet on an 8,220 square foot city lot. As a result of the project, the City requires that the improvements be acquired in its entirety and the occupants be relocated.

Analysis: The owner accepted the county appraised value of $73,300, or $41.55 per square foot. One unit is occupied by the owner and the second unit is leased. The occupants of both units are eligible for certain relocation and reestablishment benefits in addition to the purchase price. The duplex will be razed and the remnant land will be maintained as open space.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $107,050 is requested. This includes $73,300 for the acquisition, $750 for title work and other administrative fees; $8,000 for demolition; and $25,000 for relocation and reestablishment benefits.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 31, 2010

COUNTY: Sedgwick **TRACT NO.:** 163

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 31st day of August, 2010, by and between

Betty J. Gracey, a single person

1357 N. Terrace Dr.

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 8,220 Sq. Ft. for Right of Way
Damages including but not limited to all improvements and real property of the landowner:
$ 73,300.00

TOTAL: $ 73,300.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: _____
Betty J. Gracey

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Betty J. Gracey

If mortgage or other liens, show names of holders:

Bank of Whitewater

REMARKS:

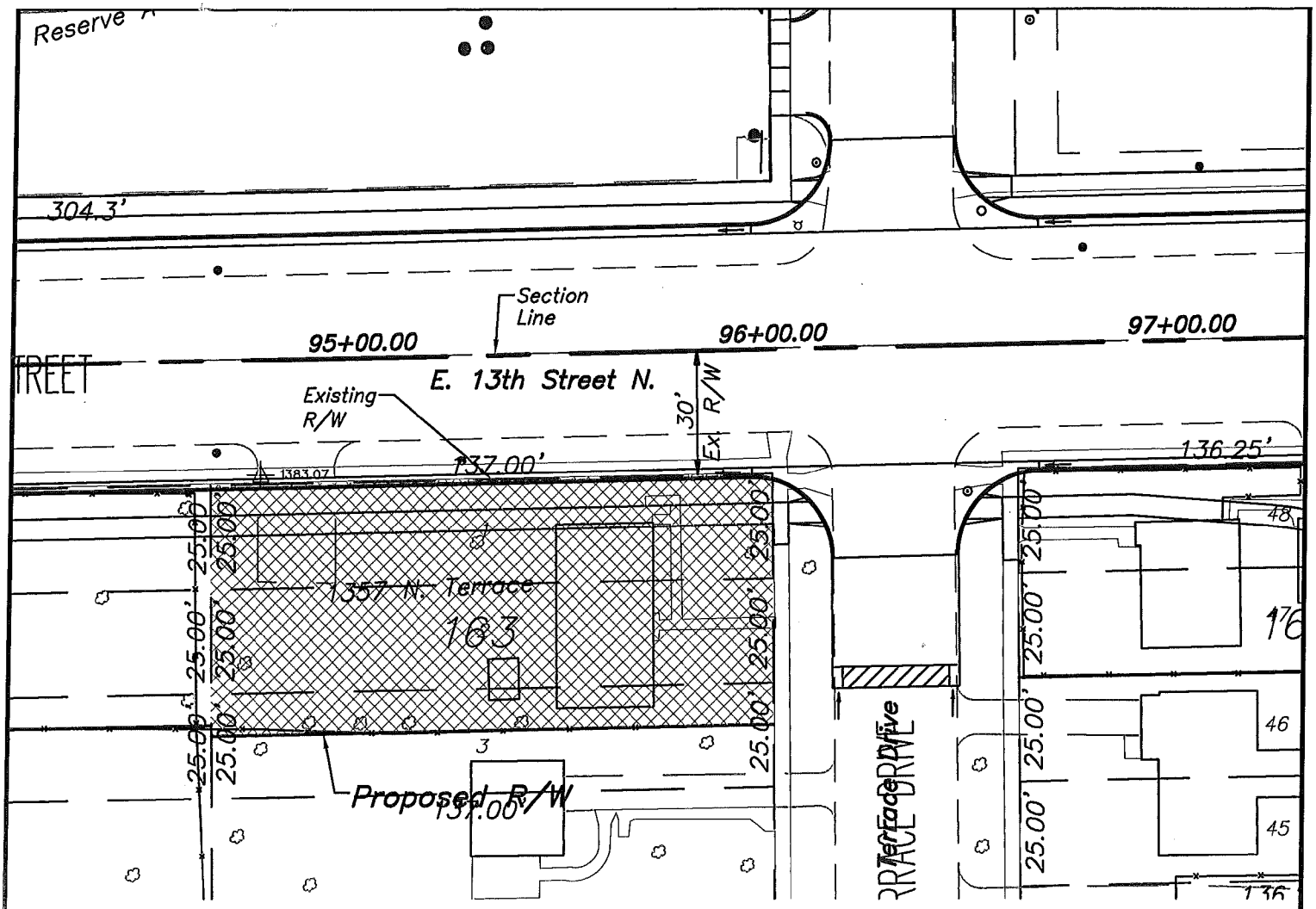
PIN/APN 126140110400100
Security Title File Number 2001312

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

_____
Mia Warrick, Project Manager



PROPOSED R/W ACQ. LEGAL:

All of Lots 1 & 2 and Part of Lot 3, Block 4, Country Club Heights Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows.

All of Lots 1, 2, and the North 10 feet of Lot 3 all in Block 4, Country Club Heights Addition.

TAX KEY #: C14337

R/W ACQUISITION SIZE: 8,220 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

BETTY GRACEY
SEC 14–T27–R1F

SCALE: 1" = 40'

Tract No. 163

1357 North Terrace

Full Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-4b

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1355 North Green for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. From the residential property at 1355 North Green, the City requires a five foot strip of land for road right-of-way together with a triangular shaped tract of land at the corner of 13th Street and at the corner of Green. The proposed area consists of 463 square feet. The improvements are removed from the project and will not be impacted.

Analysis: The owner rejected the estimated appraised value of $2,250, or $.65 per square foot because compensation was not provided for the tree. There is a tree within the proposed acquisition area that will be impacted by the project. The owner agreed to $2,750, or $.65 and $500 for the tree.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $3,250 is requested. This includes $2,750 for the acquisition and $500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 13, 2010

COUNTY: Sedgwick **TRACT NO.:** 133

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 13 day of August, 2010., by and between

Janice Marie Thacker, a single person

1537 N Yale Blvd.

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 463 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 2,750.00

TOTAL: $ 2,750.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Janice Marie Thacker
Janice Marie Thacker

By: _____

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Janice Marie Thacker

If mortgage or other liens, show names of holders:

n/a

REMARKS:

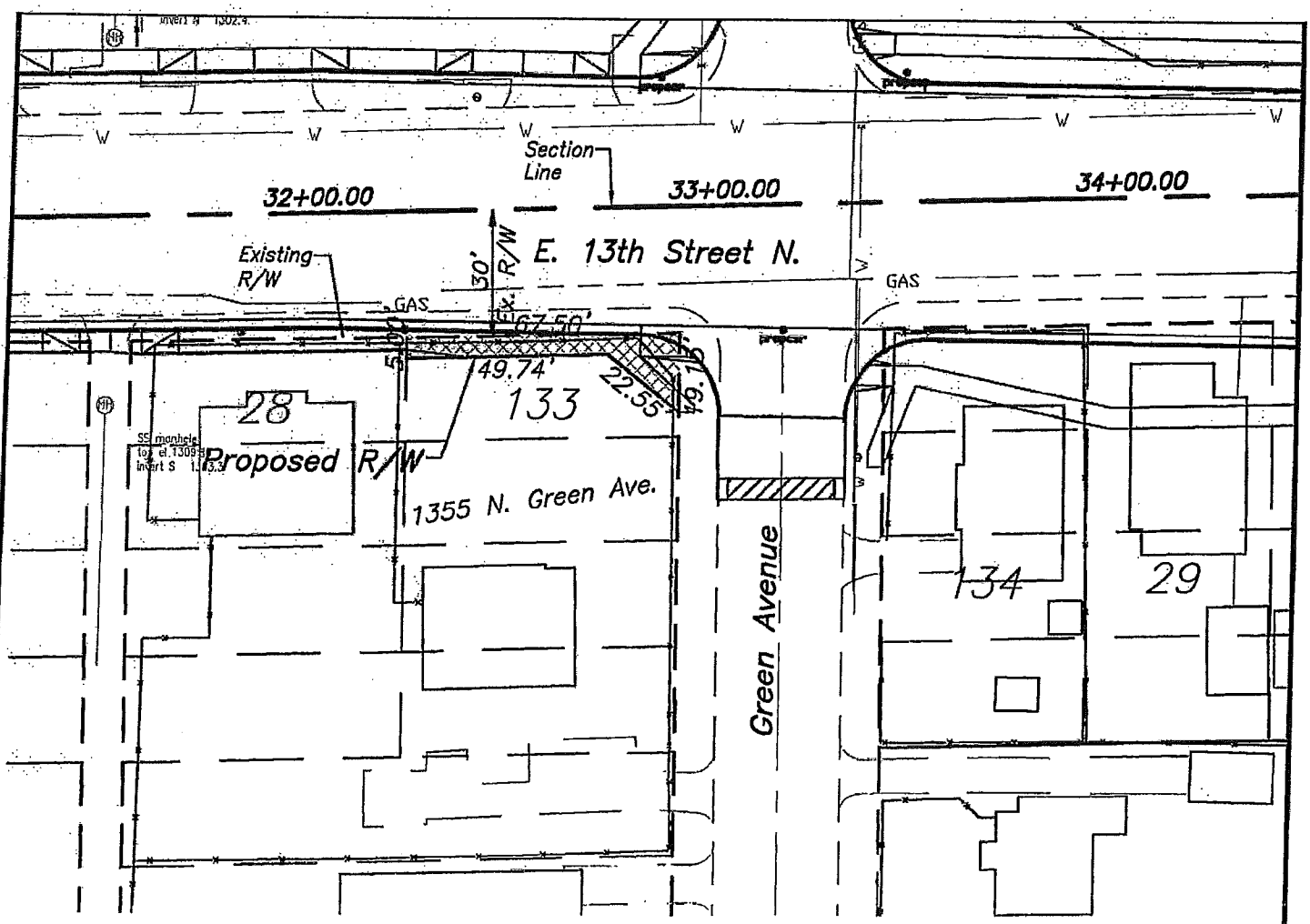
PIN/APN 125150120300100A
Security Title File Number 2000520

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lots 1,3,5,7, & 9, on Alice Avenue (now Green Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

Beginning at the northeast corner of said Lot 1 on Alice Avenue (now Green Avenue), as platted in Fairmount Park Addition; thence westerly 67.50 feet along the north line of said lot 1; thence southerly 5.00 feet along a line parallel with the east line of said Lot 1; thence easterly 49.74 feet along a line parallel with the north line of said lot 1; thence southeasterly 22.55 feet, more or less, to a point on the east line of said lot 1; said point being 19.15 feet south of the point of beginning, thence northerly 19.15 feet along east line of said lot 1 to the point of beginning.

TAX KEY #: C02771

R/W ACQUISITION SIZE: 463 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

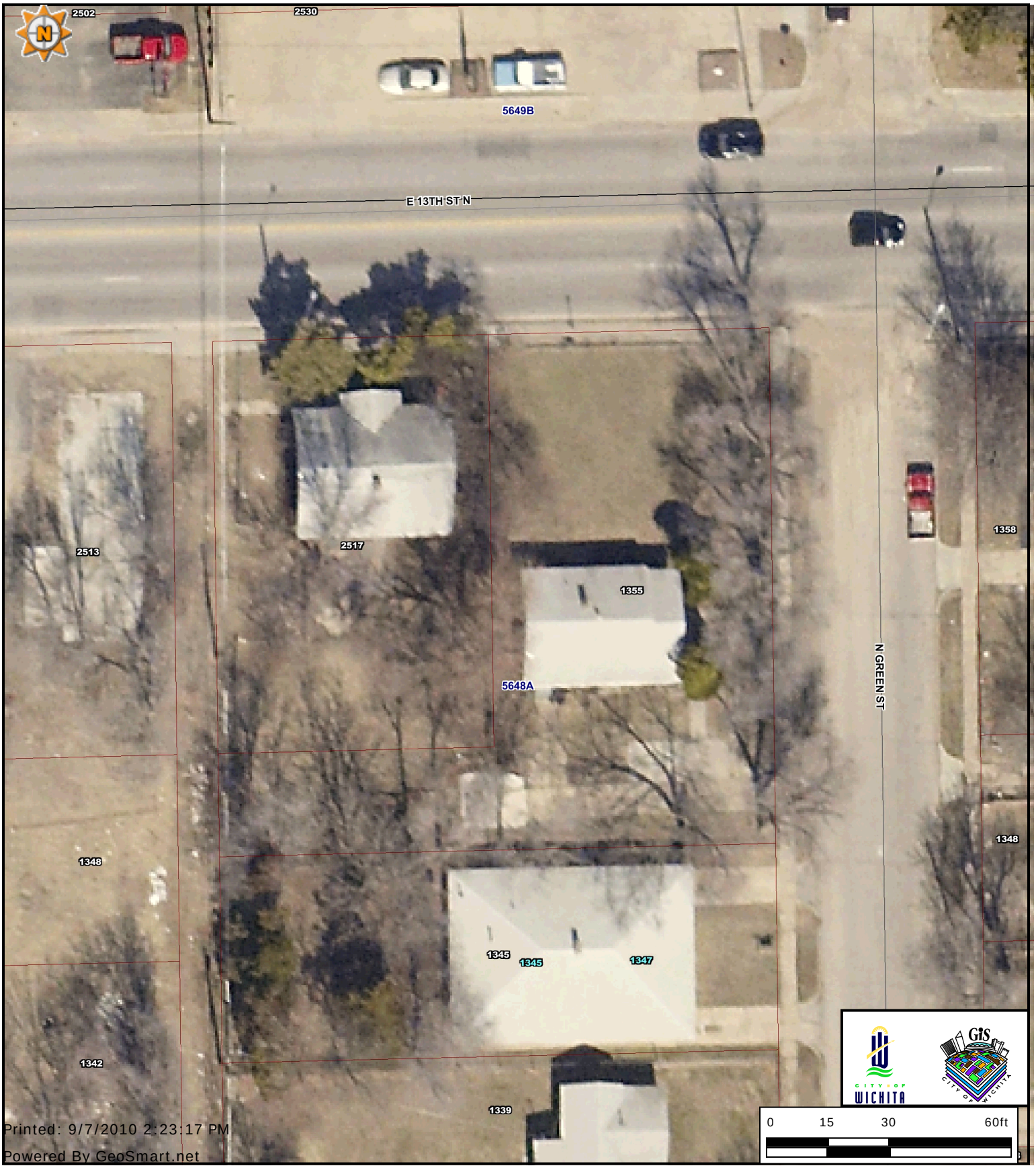
JANICE THACKER
SEC 15-T27-R1E

SCALE: 1" = 40'

Tract No. 133

1355 North Green

Partial Acquisition



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-4c

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 3536 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. From the residential property at 3536 East 13th Street North, it is necessary to acquire the south 15 feet along 13th Street for road right-of-way. The proposed acquisition area consists of 835 square feet. The improvements are removed from the project and will not be impacted.

Analysis: The proposed acquisition area at 3536 East 13th Street is improved as yard space. The wood privacy fence along the west property line will have to be shorted as a result of the acquisition. The ownership of the fence was not known at the time of the valuation and as a result, it was not included in the offer to purchase. The owner rejected the initial offer of $400, or $.50 per square foot for the right-of-way for it did not include the fence. The replacement cost of the 15 lineal feet of fencing is estimated at $448, or $30 per square foot. The owner did agree to sell the necessary land for $1,200, or $.90 for square foot for the land and $448 for the fence. This amount is reasonable and prudent.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $17,000 is requested. This includes $1,200 for the acquisition and $500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 25, 2010

COUNTY: Sedgwick **TRACT NO.:** 76

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 27 day of 2010, 2010, by and between

Penny R. Urban, a single person

3536 E. 13th Street

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 835 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 1,200.00

TOTAL: $ 1,200.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out. **It is also understood that with the exception of the 15 linear feet described in Exhibit A, the remaining 6ft. tall privacy fencing with concrete stem wall and cinder blocks will be left intact unless it proves to be an impediment to construction and/or a detriment to the project at the end of construction.**

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Penny R. Urban
Penny R. Urban

By: _____

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Penny R. Urban, a single person

If mortgage or other liens, show names of holders:

Nations Bank, N.A., City of Wichita Neighborhood Improvement Services

REMARKS:

PIN/APN C 04716-0001
Security Title File Number 2000297

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick
Mia Warlick, Project Manager

NO SALES VALIDATION REQUIRED
KSA 79-1437e (a) (13)

GENERAL WARRANTY DEED

THIS DEED, Made this 27th day of August 20 10, between Penny R. Urban, a single person

of Sedgwick County, in the State of Kansas, of the first part, and

The City of Wichita, Kansas

of Sedgwick County, in the State of Kansas, of the second part,

WITNESSETH, That party of the first part, in consideration of the sum of

One Dollar and Other Valuable Considerations and 00/100 Dollars,

the receipt of which is hereby acknowledged, do by these presents convey and warrant unto said party of the second part, it's successors and assigns, all the following-described REAL ESTATE situated in the County of Sedgwick and the State of Kansas, to wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, forever.

And party of the first part, for herself, her heirs, executors and administrators, do hereby covenant, promise and agree to and with party of the second part that at delivery of these presents she is lawfully seized in her own right, of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted and described premises, with the appurtenances; that the same are free, clear, discharged and unencumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and encumbrances of what nature of kind soever, except:

and that she will warrant and forever defend the same unto party of the second part, it's successors and assigns, against party of the first part, herself, her heirs, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, party of the first part has hereunto subscribed her name, the day and year first above written.

Grantor

By: Penny R. Urban
Name: Penny R. Urban

STATE OF Kansas, Sedgwick COUNTY, SS.

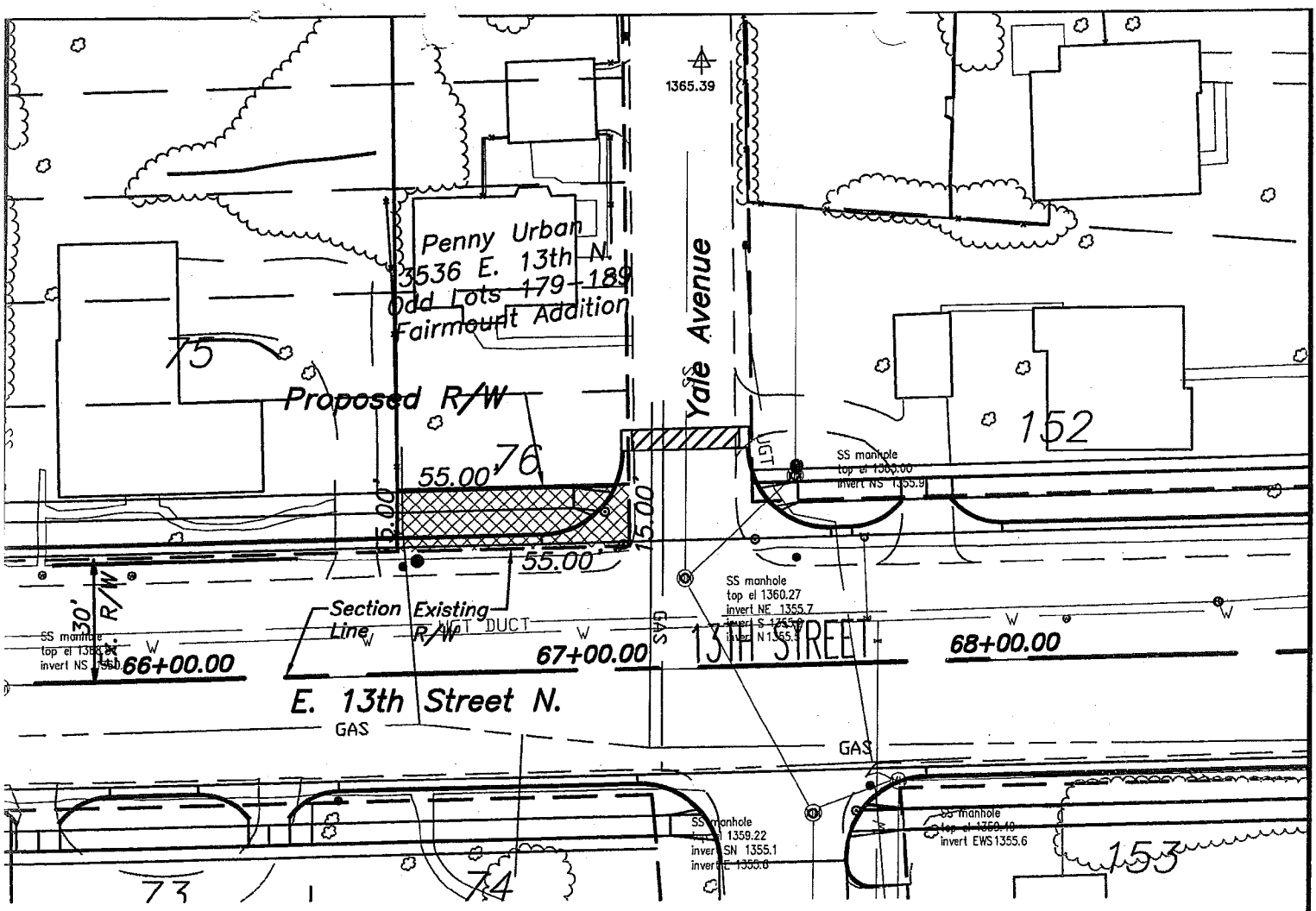
On this 27th day of August A.D. 2010, before me, a notary public in and for said county and state, personally appeared

Penny R. Urban, a single person

to me known to be the person(s) named in and who executed the foregoing instrument, and duly acknowledge the execution thereof.

NOTARY PUBLIC - State of Kansas
MIA S. WARLICK
My Appt. Expires 2/8/12

Mia S. Warlick
Mia S. Warlick, NOTARY PUBLIC
My commission expires 2/8/12



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lots 179,181,183,185,187, & 189, on Wellsley Avenue (now Yale Avenue), Fairmount Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the south 15.00 feet of the east 55.00 feet of said Lot 189 on Wellsley Avenue (now Yale Avenue), as platted in Replat of Part of Fairmount Addition.

TAX KEY #: C047160001

R/W ACQUISITION SIZE: 835 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

PENNY URBAN

SCALE: 1" = 40'

Tract No. 76

ONLY FOR USE IN COUNTIES APPROVED TO ACCEPT ONE-PART FORMS ***(See website address below for approved list)***

KANSAS REAL ESTATE SALES VALIDATION QUESTIONNAIRE

FOR COUNTY USE ONLY: DEED BOOK _____ PAGE _____	COV # _ _ _ _ _ _	CO. NO.	MAP	SEC	SHEET	QTR.	BLOCK	PARCEL	OWN
		_ _ _	_ _ _	_ _	_ _	_ _	_ _	_ _ _ . _ _	_ _

RECORDING DATE ____/____/____	TYPE OF INSTRUMENT _____ CR _____ RA _____ DE _____	SPLIT☐ MULTI☐	MO	YR	TY	AMOUNT	S	V
			_ _	_ _	_	_____	_	_

SELLER (Grantor)
NAME Penny R. Urban
MAILING 3536 E 13th St. N
CITY/ST/ZIP Wichita, KS 67208
PHONE NO. (316) 684-6625

BUYER (Grantee)
NAME City of Wichita Property Management Division
MAILING 13th floor, 455 N Main
CITY/ST/ZIP Wichita, KS 67202
PHONE NO. (316) 268-4237

IF AGENT SIGNS FORM, BOTH BUYER AND SELLER TELEPHONE NUMBERS MUST BE ENTERED.

BRIEF LEGAL DESCRIPTION

E 55ft Lots 179-181-183-185-187-189 Wellesley now Yale

re-plat of part of Fairmount addition

Property / Situs Address: 3536 E 13th Street N, Wichita, KS 67208

Name and Mailing Address for Tax Statements

City of Wichita Property Management Division

13th floor, 455 N Main

Wichita, KS 67202

CHECK ANY FACTORS THAT APPLY TO THIS SALE (See Instructions on back of form.)

1. SPECIAL FACTORS
   - ☐ Sale between immediate family members: SPECIFY THE RELATIONSHIP _____
   - ☐ Sale involved corporate affiliates belonging to the same parent company
   - ☐ Auction Sale
   - ☐ Deed transfer in lieu of foreclosure or repossession
   - ☐ Sale by judicial order (by a guardian, executor, conservator, administrator, or trustee of an estate)
   - ☒ Sale involved a government agency or public utility
   - ☐ Buyer (new owner) is a religious, charitable, or benevolent organization, school or educational association
   - ☐ Buyer (new owner) is a financial institution, insurance company, pension fund, or mortgage corporation
   - ☐ Would this sale qualify for one of the exceptions listed on the reverse side of this form? (Please indicate # _____)
   - ☒ Sale of only a partial interest in the real estate
   - ☐ Sale involved a trade or exchange of properties
   - ☐ **NONE OF THE ABOVE**
2. CHECK USE OF PROPERTY AT THE TIME OF SALE:
   - ☒ Single Family Residence ☐ Agricultural Land
   - ☐ Farm/Ranch With Residence Mineral Rights Included? ☐ Yes ☐ No
   - ☐ Condominium Unit
   - ☐ Vacant Land ☐ Apartment Building
   - ☐ Other: (Specify) ☐ Commercial/Industrial Bldg.
3. WAS THE PROPERTY RENTED OR LEASED AT THE TIME OF SALE? ☐ YES ☒ NO
4. DID THE SALE PRICE INCLUDE AN EXISTING BUSINESS? ☐ YES ☒ NO
5. WAS ANY PERSONAL PROPERTY (SUCH AS FURNITURE, EQUIPMENT, MACHINERY, LIVESTOCK, CROPS, BUSINESS FRANCHISE OR INVENTORY, ETC.) INCLUDED IN THE SALE PRICE? ☒ YES ☐ NO
   If yes, please describe 15linear feet of 6ft. high privacy fencing with concrete stem and cinder block.
   Estimated value of all personal property items included in the sale price $ 445.00
   If **Mobile Home** Year _____ Model _____
6. ARE YOU AWARE OF ANY CHANGES IN THE PROPERTY SINCE JAN. 1? ☐ YES ☒ NO
   ☐ Demolition ☐ New Construction ☐ Remodeling ☐ Additions
   Date Completed _____
7. WERE ANY **DELINQUENT** TAXES ASSUMED BY THE PURCHASER? ☐ YES ☒ NO AMOUNT $ _____
8. METHOD OF FINANCING (check all that apply):
   - ☐ New loan(s) from a Financial Institution
   - ☐ Seller Financing ☐ Assumption of Existing Loan(s)
   - ☐ All Cash ☐ Trade of Property ☒ Not Applicable
9. WAS THE PROPERTY MADE AVAILABLE TO OTHER POTENTIAL PURCHASERS? ☐ YES ☒ NO If not, explain sold under threat of eminent domain
   (SEE #9 INSTRUCTION ON BACK)
10. DOES THE BUYER HOLD TITLE TO ANY ADJOINING PROPERTY? ☐ YES ☒ NO
11. ARE THERE ANY FACTS WHICH WOULD CAUSE THIS SALE TO BE A NON-ARMS LENGTH / NON-MARKET VALUE TRANSACTION? **(SEE #11 INSTRUCTION ON BACK)** ☐ YES ☐ NO
12. **TOTAL SALE PRICE $** 1,200.00
    DEED DATE 8 / 27 / 2010
13. I CERTIFY THAT THE ADDRESS TO WHICH TAX STATEMENTS FOR THE PROPERTY ARE TO BE SENT IS CORRECT.
    I ALSO CERTIFY I HAVE READ ITEM NO. 13 ON THE REVERSE SIDE AND HEREBY CERTIFY THE ACCURACY OF THE INFORMATION AND THAT I AM AWARE OF THE PENALTY PROVISIONS OF K.S.A. 79-1437g.

PRINT NAME Penny R. Urban

SIGNATURE Penny R. Urban

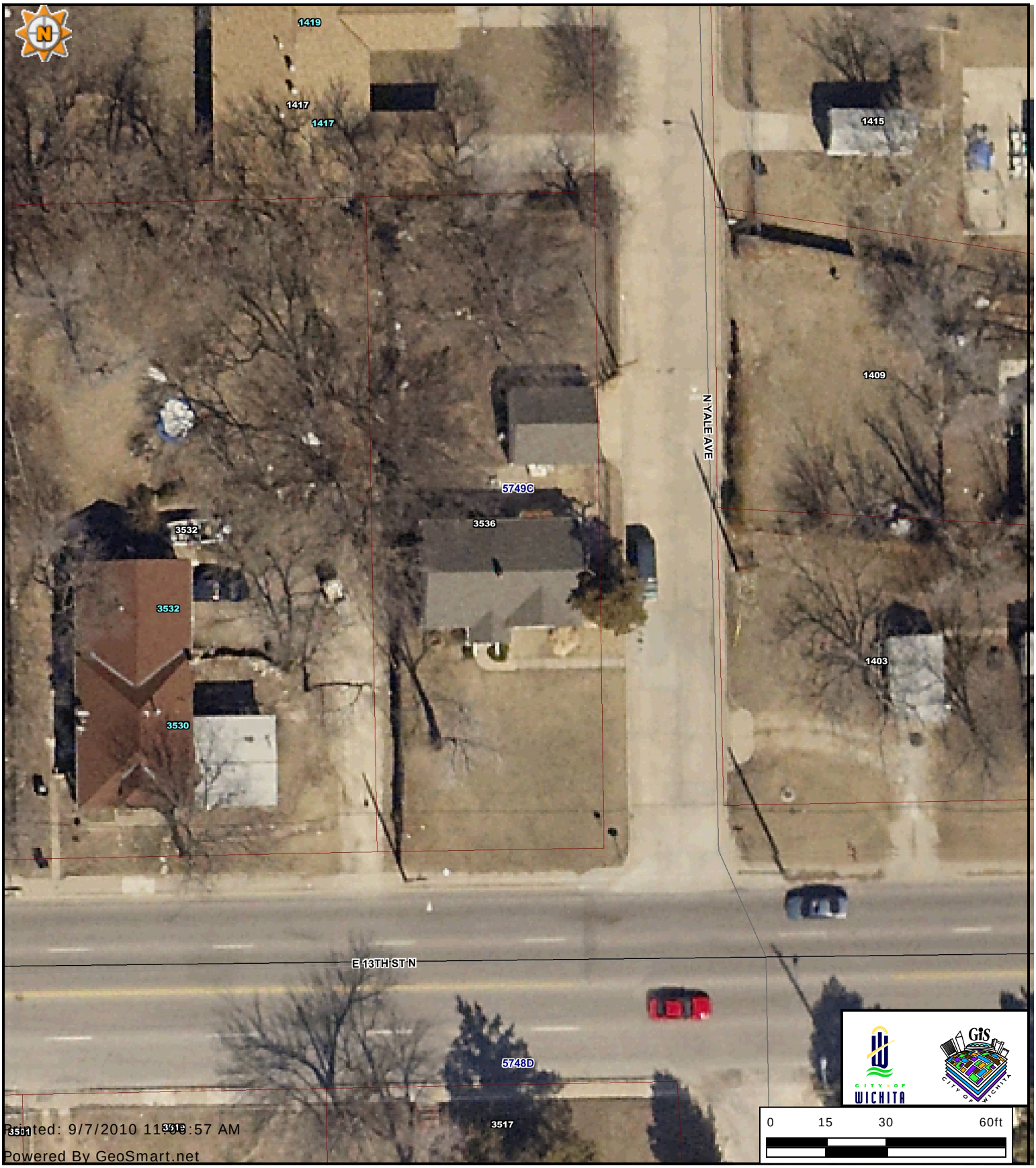
☒ GRANTOR (SELLER) ☐ GRANTEE (BUYER)
☐ AGENT DAYTIME PHONE NO. (____)

PV-RE-21-OP-CG
(REV. 06/04)

KANSAS REAL ESTATE SALES VALIDATION ONE-PART QUESTIONNAIRE WEBSITE ADDRESS:
http://www.ksrevenue.org/pvdratiostats.htm

3536 East 13th Street North

Partial Acquisition



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Agenda Item No. XII-4d

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1360 North Yale for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. It is necessary to acquire a ten foot strip of land from the north end of the property as 13th Street road right-of-way. 1360 North Yale is improved with a single-family residential house. The improvements are removed from the road; however, the proposed acquisition does impact fencing, mature trees, 240 square feet of concrete, and an 8 foot by 20 foot dog run.

Analysis: The owner agreed to accept the appraised value of $3,240 together with $2,000 for the 400 square foot of paving used for parking and the dog run. The paving and dog run were not included in the original valuation. The total amount of $5,240 is comprised of $.45 per square foot for the 1,051 square foot right-of-way; $475 for 88 lineal feet of fencing; $2,024 for trees and $2,000 for 400 square feet at $5 per square foot.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $6,000 is requested. This includes $5,240 for the acquisition and $760 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 30, 2010

COUNTY: Sedgwick **TRACT NO.:** 153

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 31st day of August, 2010, by and between

Jonathan L. Haney, a single person

1360 North Yale

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 1,051 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 5,240.00

TOTAL: $ 5,240.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Jonathan L. Haney

Jonathan L. Haney

By: _____

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Jonathan L. Haney, a single person

If mortgage or other liens, show names of holders:

Beneficial Mortgage Co. of Kansas. and NationsCredit Home Equity Services Corporation assigned to Associates Home Equity Services, Inc.

REMARKS: Case No. 09CV-4430: CitiMortage, Inc. vs. Jonathan Haney Petition for Mortgage Foreclosure filed November 12, 2009. Landowner states it is dismissed.

PIN/APN 126140220100100
Security Title File Number 2001308

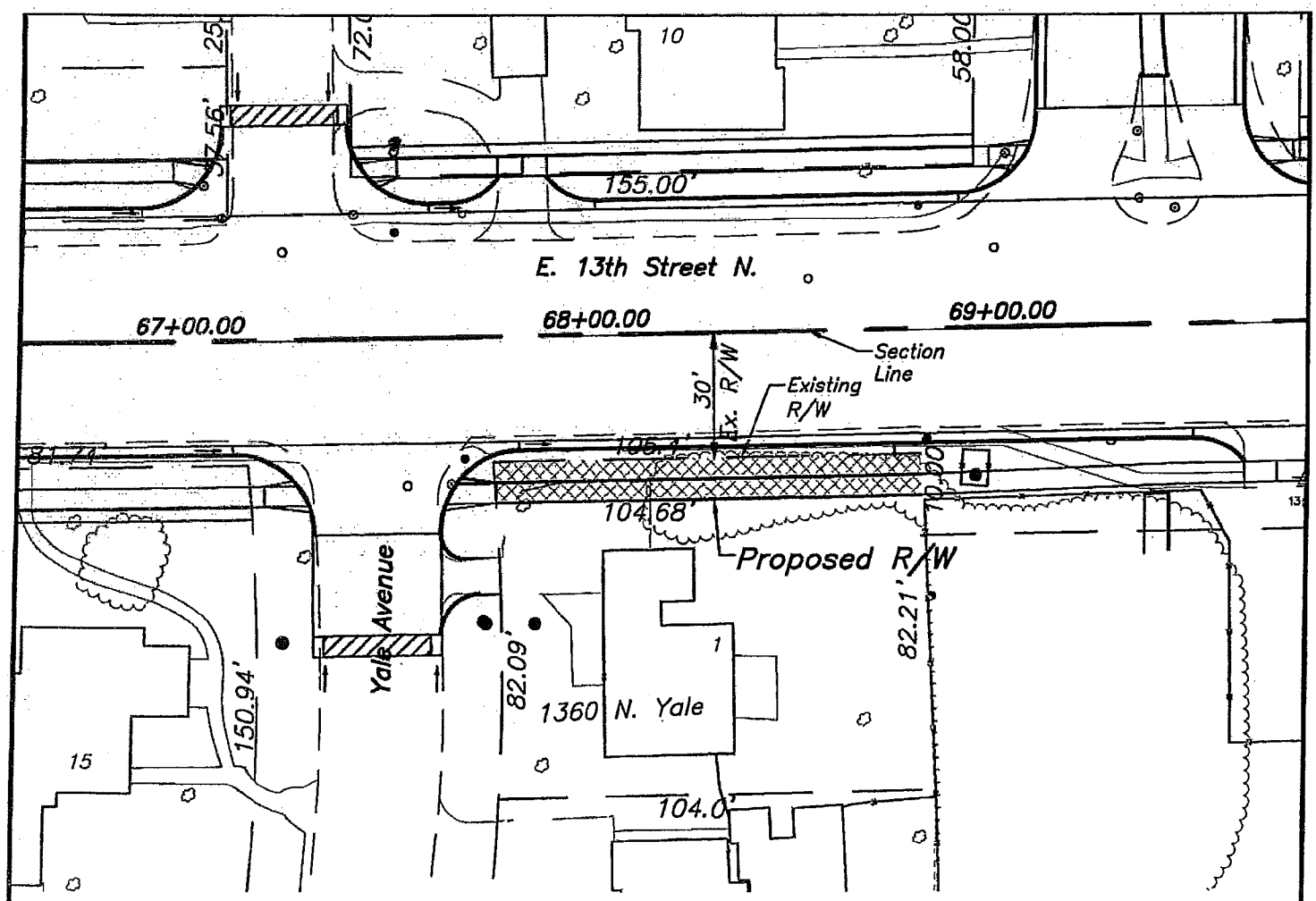
APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick

Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lot 1, Cherrywynd Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 10.00 feet of said Lot 1 as measured perpendicularly to the north line of said Lot 1, as platted in Cherrywynd Addition.

TAX KEY #: C11819

R/W ACQUISITION SIZE: 1,051 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

JONATHAN HANEY
SEC 14-T27-R1E

SCALE: 1" = 40'

Tract No. 153

1360 North Yale

Partial Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-4e

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 2517 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. From the residential property at 2517 East 13th Street North, the City requires a three foot strip of land for road right-of-way. The proposed area consists of 203 square feet. The improvements are removed from the project and will not be impacted.

Analysis: The improvements are removed from the proposed acquisition area, however, there are two mature trees and chain link fencing that will be removed as a result of the project. The owner agreed to accept the appraised value of $2,030, or $.45 per square foot for the land; $1,000 for two mature trees; and $940 as damages to $73.5 feet of fencing.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $2,530 is requested. This includes $2,030 for the acquisition and $500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 13, 2010

COUNTY: Sedgwick **TRACT NO.:** 28

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 13 day of August, 2010, by and between

Janice Marie Thacker, a single person

1537 N. Yale Blvd.

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 203 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 2,030.00

TOTAL: $ 2,030.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Janice Marie Thacker
Janice Marie Thacker

By: _____

THE CITY OF WICHITA

By: _____

MEMORANDA

Exact and full name of owner, as name appears of record:

Janice Marie Thacker

If mortgage or other liens, show names of holders:

n/a

REMARKS:

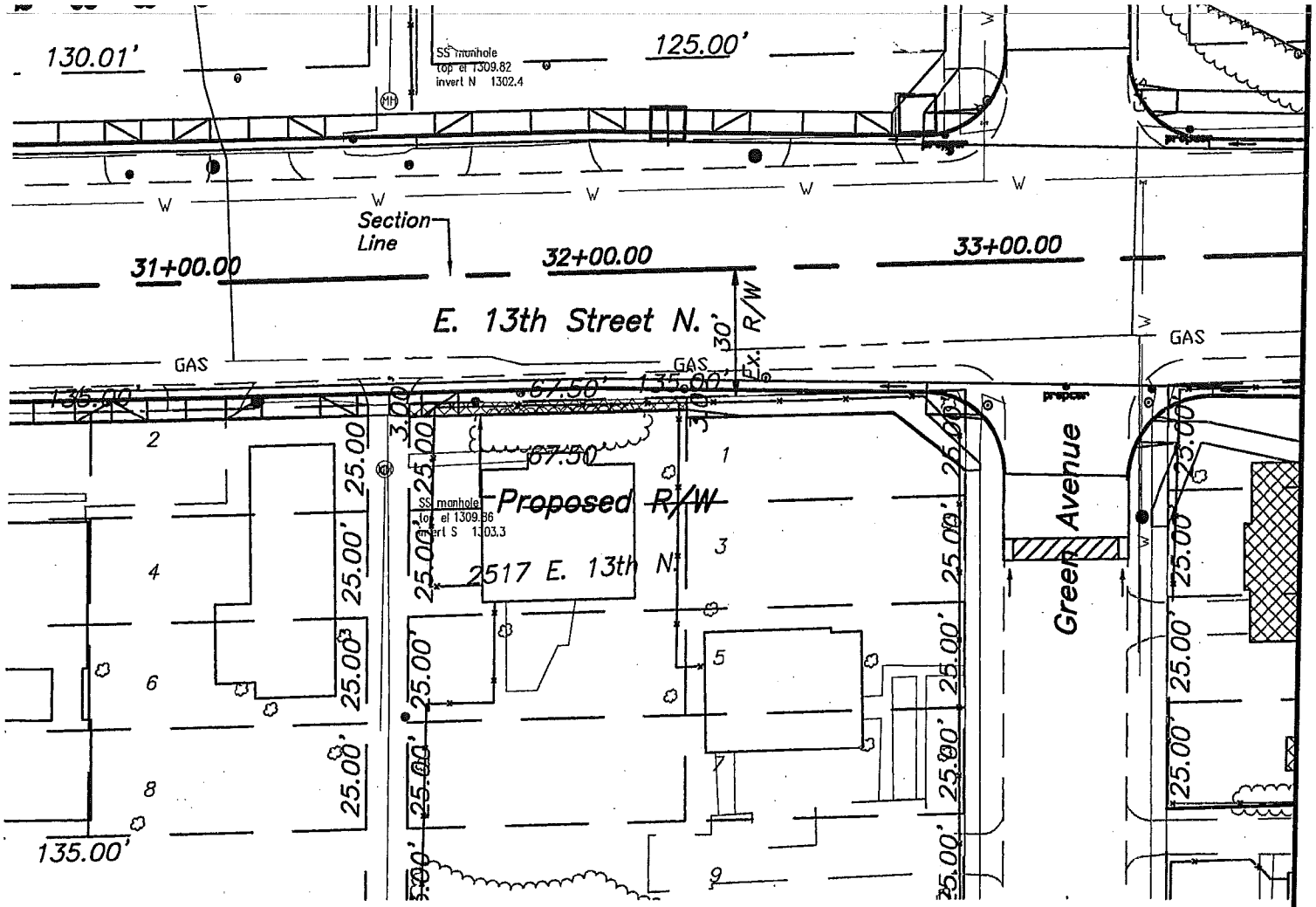
PIN/APN 125150120300100B
Security Title File Number 1090417

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lots 1, 3, 5, & 7, on Alice Avenue (now Green Avenue), Fairmount Park Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

All of the north 3.00 feet of the west half of said Lot 1 on Alice Avenue (now Green Avenue), as platted in Fairmount Park Addition.

TAX KEY #: C02770

R/W ACQUISITION SIZE: 203 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

JANICE THACKER
SEC. 15–T27–R1E

SCALE: 1" = 40'

Tract No. 28

2517 East 13th Street North

Partial Acquisition

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-4f

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 1717 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. The property at 1717 East 13th Street North is utilized for commercial purposes and is improved with an office building. A three foot wide strip of land together with a triangular acquisition area at the corner of 13th Street and Kansas Avenue is necessary for road right-of-way. The proposed area consists of 470 square feet. The north edge of the parking lot will be adjacent to the new right-of-way line; however, no other improvements will be impacted as a result of the project.

Analysis: The owner agreed to accept the appraised value of $1,800, or $3.80 per square foot together with an additional $700 as compensation for proximity damages. The owner's parking lot will be adjacent to the new right-of-way sidewalk and the owner intends to install a barrier between the parking lot and right-of-way for safety reasons. The settlement at $2,500 is reasonable and prudent.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $3,250 is requested. This includes $2,500 for the acquisition and $750 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13th Street North **DATE:** August 3, 2010

COUNTY: Sedgwick **TRACT NO.:** 02

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY WARRANTY DEED

THIS AGREEMENT Made and entered into this 18 day of August, 2010., by and between

Dennis W. Jones and Sherry D. Jones, husband and wife

1717 East 13th Street North

Wichita, KS 67214

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to convey fee title to the City of Wichita by Warranty Deed to the following described real estate in the County of Sedgwick, State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property accrued prior to the conveyance of title to the City of Wichita. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property and the date of relocation. In no event will the landowner(s) be required to move until the City becomes legally entitled to the property.

The City of Wichita agrees to purchase the above described real estate, and to pay therefore, the following amount within sixty days after the warranty deed conveying said property free of encumbrance has been delivered.

Approximately 470 Sq. Ft. for Right of Way Damages including but not limited to all improvements and real property of the landowner: $ 2,500.00 (rd)

TOTAL: $ 2,500.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Dennis W. Jones
Dennis W. Jones

By: Sherry D. Jones
Sherry D. Jones

THE CITY OF WICHITA

By:_____

MEMORANDA

Exact and full name of owner, as name appears of record:

Dennis W. Jones and Sherry D. Jones, husband and wife

If mortgage or other liens, show names of holders:

Bayview Loan Servicing, LLC

REMARKS:

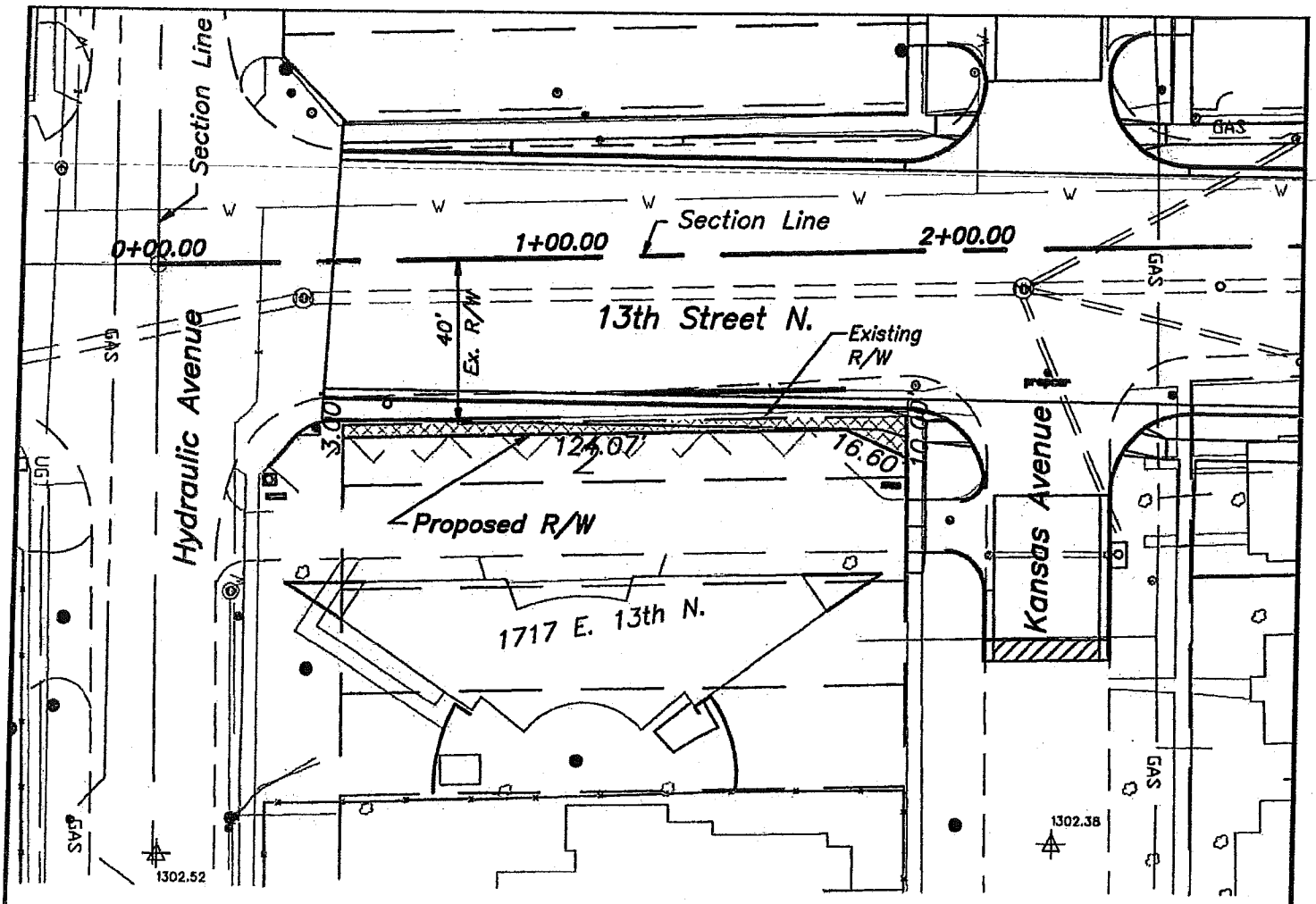
PIN/APN 125150220400100
Security Title File Number 1090214

APPROVED TO FORM:

_____
Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick / Mia Warlick
Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lots 1, 2, 3, & 4, Rosenthal's 2nd Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Northeast corner of said Lot 1 as platted in Rosenthal's 2nd Addition, thence South along the East line of said Lot 1 for 10 feet to the Point of Beginning, thence West parallel with the North line of said Lot 1 for 140 feet to a point on the West line of said Lot 1, thence South along the West line of said Lot 1 for 3.00 feet to a point, thence East parallel with the North line of said Lot 1 for 124.07 feet to a point, thence Southeasterly 16.60 feet, more or less, to a point on the East line of said Lot 1, said point being 20.00 feet South of the Northeast corner of said Lot 1 as platted, thence North along the East line of said Lot 1 for 10.00 feet to the point of beginning.

TAX KEY #: C00989

R/W ACQUISITION SIZE: 470 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

DENNIS JONES
SEC 15-T27-R1E

SCALE: 1" = 40'

Tract No. 2

1717 East 13th Street North

Partial Acquisition

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Powered By GeoSmart.net

Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

Agenda Item No. XII-4g

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Partial Acquisition of 4703 East 13th Street North for the East 13th Street, Hydraulic to Oliver Road Improvement Project (District I)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Approve the acquisition.

Background: On November 6, 2007, the City Council approved the design concept and proposed project to widen East 13th Street North between Hydraulic to Oliver. The project will require the acquisition of all or part of 79 tracts. The improvements include adding a center turn lane, relocating the sidewalks away from the back of the curb, improving the storm sewer system and landscaping. From the residential property at 4703 East 13th Street North, the City requires a triangular acquisition area for road right-of-way. The proposed area consists of 112 square feet. The improvements are removed from the project and will not be impacted.

Analysis: The owner agreed to accept the established minimum offer of $500 for the proposed acquisition area.

Financial Considerations: The funding source for the project is General Obligation Bonds. A budget of $1,000 is requested. This includes $500 for the acquisition and $500 for title work and other administrative fees.

Goal Impact: The acquisition of this parcel is necessary to ensure Efficient Infrastructure by improving the traffic flow through a major transportation corridor.

Legal Considerations: The Law Department approved the agreement as to form.

Recommendation/Action: It is recommended that the City Council 1) Approve the agreement and; 2) Authorize the necessary signatures.

Attachments: Real estate purchase agreement, tract map and aerial map.

PROJECT: 13TH St. North **DATE:** August 12, 2010

COUNTY: Sedgwick **TRACT NO.:** 96

THE CITY OF WICHITA, KANSAS

CONTRACT FOR CONVEYANCE OF REAL ESTATE BY PERMANENT EASEMENT

THIS AGREEMENT Made and entered into this 16th day of August, 2010, by and between

Dennis E. Woods and Vivien S. Woods, husband and wife

4703 E 13th Street North

Wichita, KS 67208

(Name and Address)

landowner(s), and the City of Wichita of the State of Kansas.

WITNESSETH, For consideration as hereinafter set forth, the landowner(s) hereby agree(s) to grant a permanent easement for public roadway purposes to the City of Wichita by Permanent Easement to the following described real estate in the County of Sedgwick State of Kansas, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

It is understood and agreed that landowner(s) is/are responsible for all property taxes on the above described property, if any. In the event of relocation, landowner(s) hereby expressly agrees and covenants that they will hold and save harmless and indemnify the City of Wichita and his or her authorized representatives from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever which may occur during the time the City becomes legally entitled to the property.

The City of Wichita agrees to acquire the above described real estate, and to pay therefore, the following amount within sixty days after the permanent easement conveying said property free of encumbrance has been delivered.

Approximately 112 Sq. Ft. for Permanent Easement Damages including but not limited to all improvements and real property of the landowner: $500.00

TOTAL: $500.00

It is understood and agreed that the above stated consideration for said real estate is in full payment of said tract of land and all damages arising from the transfer of said property and its use for the purposes above set out.

IN WITNESS WHEREOF The parties have hereunto signed this agreement the day and year first above written.

LANDOWNERS:

By: Dennis E. Woods

By: Vivien S. Woods

THE CITY OF WICHITA

By: Carl Brewer, Mayor

Attest:

By: Karen Sublett, City Clerk

MEMORANDA

Exact and full name of owner, as name appears of record:

Dennis E. Woods

If mortgage or other liens, show names of holders:
Intrust Bank, N.A.

REMARKS:

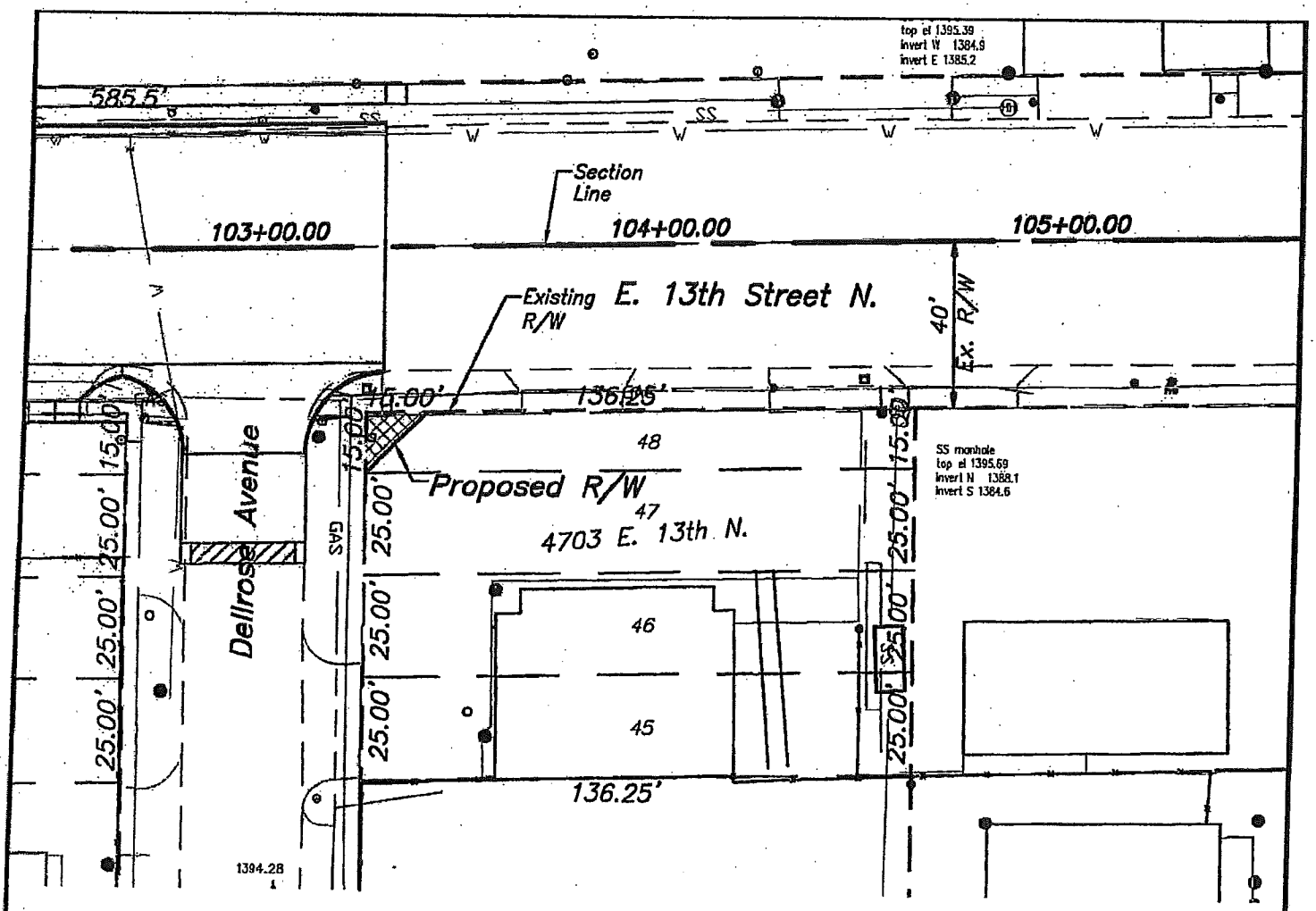
PIN/APN 126140110100201
Security Title File Number 2000317

APPROVED TO FORM:

Gary E. Rebenstorf, Director of Law

RECOMMENDED BY:

Mia Warlick, Project Manager



PROPOSED R/W ACQ. LEGAL:

A tract of land in Lots 45,46,47, & 48, Block 1, Country Club Heights Addition, an addition to Wichita, Sedgwick County, Kansas, more particularly described as follows:

Beginning at a point on the West line of Lot 48, Block 1, said point being Ten feet (10.00') South of the Northwest Corner of Lot 48, Block 1, as platted in Country Club Heights Addition to Sedgwick County, Kansas, thence Easterly parallel with the North line of said Lot 48, Block 1, Fifteen feet, (15.00'), thence Southwesterly 21.26 feet, (21.26'), more or less, to a point on the West line of said Lot 48, Block 1, said point being Fifteen feet, (15.00') South of the point of beginning, thence North along the West line of said Lot 48, Block 1, Fifteen feet, (15.00') to the point of beginning.

TAX KEY #: C143060002

R/W ACQUISITION SIZE: 112 sq. ft.

PROPOSED R/W ACQUISITION

13th STREET
HYDRAULIC AVENUE TO OLIVER

TRACT MAP

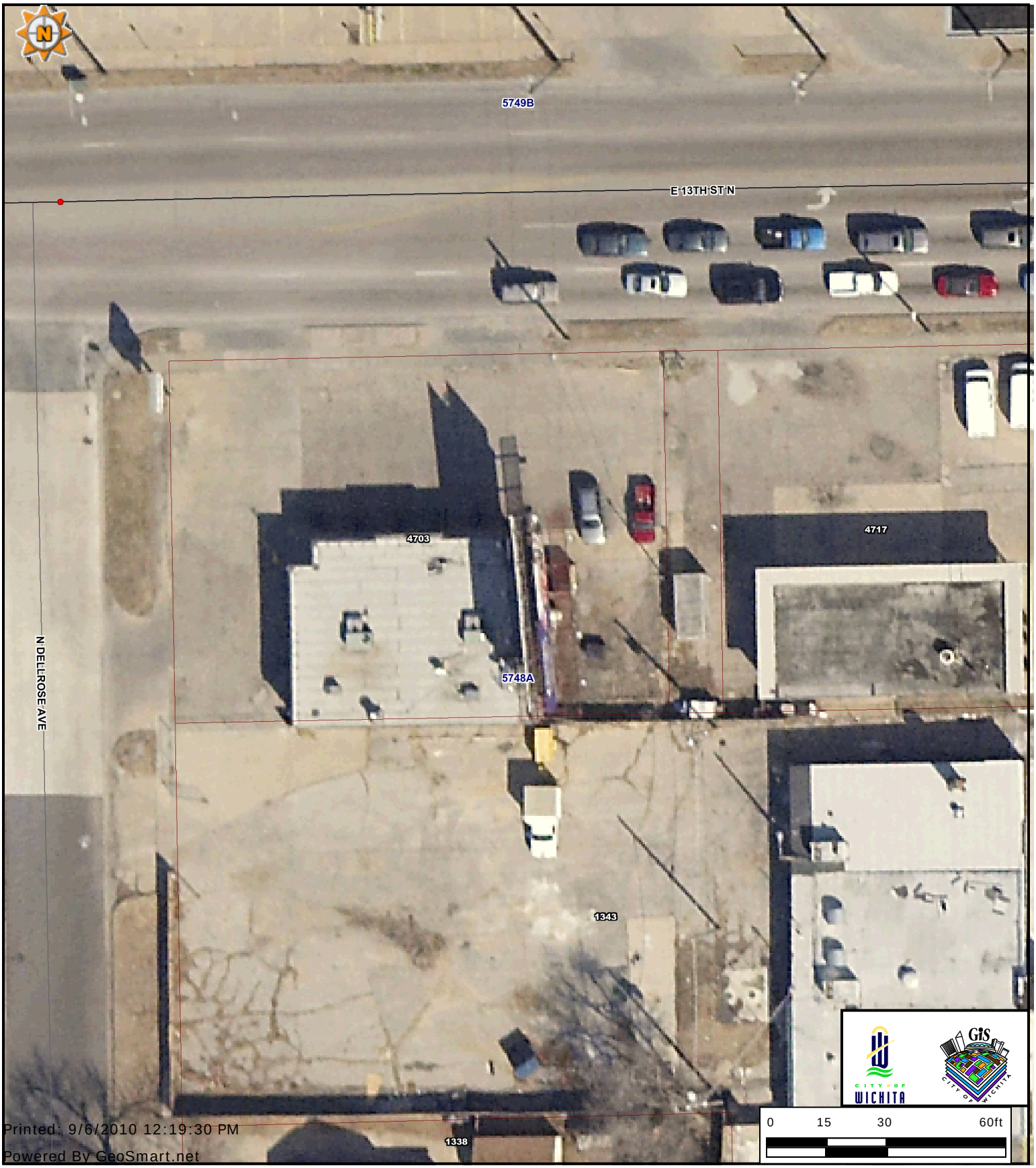
DENNIS WOODS
SEC 14–T27–R1E

SCALE: 1" = 40'

Tract No. 96

4703 East 13th Street North

Partial Acquisition



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DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Karen Sublett, City Clerk

FROM: Gary E. Rebenstorf, Director of Law

SUBJECT: Report on Claims for August 2010

DATE: September 7, 2010

The following claims were approved by the Law Department during the month of August 2010.

Fugit, Patricia	$1,015.16***
Huggins, Lylan	$ 80.00**
Roto-Rooter Plumbing	$ 455.20
Treto, Ernesto	$ 150.22

*City Manager Approval
** Settled for lesser amount than claimed
***Settled for more than amount claimed

cc: Robert Layton, City Manager
Kelly Carpenter, Director of Finance

Agenda Item No. XII-8

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Request for Granting of Utility Easement (Larksfield Place) (District II)

INITIATED BY: Office of Urban Development

AGENDA: Consent

Recommendation: Approve the Resolution.

Background: On May 18, 2010, City Council approved the issuance of Health Care Facility Revenue Bonds, in an amount not-to-exceed $12.8. million, to Larksfield Place ("Larksfield") for the purpose of construction of approxiamtely 90,000 square feet buildings for expanded care facilities located at 2800 North Rock Road on 8 acres of greenfield space. Larksfield also has a 1999 Bond Lease with the City. Larksfield Place is now requesting the granting of an easement for utilities.

Analysis: The requested easement is required in order to facilitate certain improvements to the water connections serving the Larksfield property financed in 1999 to extend utilities to the 2010 project. The Tenant has advised and the Trustee will certify that no event of default exists under the Lease. The Tenant will further certify that the granting of the easement and deed will not be detrimental to the proper conduct of the Tenant's business in any manner or degree, and that the granting of the easement and deed will not impair the effective use or interfere with the efficient and economical operation facility and will not materially adversely affect the security pledged to the payment of the Bonds.

The easement is located on the south side of Greenbriar Court on the Larksfield campus and is approximately .29 acres. The request is pursuant to the terms of the 1999 and 2010 Bond Leases. As the owner of record, the City has to approve the easement.

Financial Considerations: There is no financial impact by granting the easement.

Goal Impact: Economic Vitality and Affordable Living. Cooperating with IRB tenants is important to maintaining the integrity of the incentive program.

Legal Considerations: The Bond documents permit release of portions of the property and grants of easement where the certification requirements set by the Lease have been met. The Law Department has approved the form of the attached Resolution to authorize the execution of the Utility Easement.

Recommendations/Actions: It is recommended that City Council approve the Resolution authorizing the granting of the easement and authorize the necessary signatures.

Attachments: Resolution

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: City of Wichita Employees' Deferred Compensation Plan Amendment to Great-West Agreement for Recordkeeping And Communication Services

INITIATED BY: Department of Finance

AGENDA: Consent

Recommendation: Approve the Amendment.

Background: In 1991, the City of Wichita hired Great-West to administer the deferred compensation plan. Following a Request for Proposal process in 1996, 2001, and 2007, Great-West was hired for three consecutive five-year periods. The current contract is dated April 1, 2008 and expires on January 31, 2013.

Analysis: Under the current contract, Great-West receives a Recordkeeping and Communication fee of 0.24% of Plan assets per annum. These fees are deducted from the revenue that is received from the Plan's mutual fund providers at the rate of 0.06% per quarter. All revenue received in excess of this amount is provided to the Plan to cover administrative expenses.

In the current agreement, Great-West calculates the revenue earned for the quarter and charges their fee. All excess revenue is credited to the Plan when it is actually received from the mutual fund companies, which may be received several quarters in arrears. Hyas Group, the Board's consultant, recommended that the Board seek an Amendment to better align the receipt of the Fund's revenue with the payment of fees to Great-West. The proposed Amendment changes the current methodology and requires that Great-West credit the Plan all excess revenue at the same time Great-West charges their fee.

Financial Considerations: All costs associated with the administration of the program are borne by the participants of the program. This contract amendment will result in earlier recognition and receipt of revenue.

Goal Impact: The City of Wichita, by offering this supplemental retirement savings program, impacts the Internal Perspective goal by increasing employee motivation and satisfaction.

Legal Considerations: The Law Department has approved the contract as to form.

Recommendations/Actions: It is recommended that the City Council approve the Amendment and authorize the Mayor to sign.

Attachments: Amendment No. 1 to the City of Wichita Employees' Deferred Compensation Trust Agreement with Great-West Life & Annuity Insurance Company for Recordkeeping and Communication Services.

AMENDMENT NO. 1
TO
CITY OF WICHITA EMPLOYEES DEFERRED COMPENSATION TRUST AGREEMENT FOR RECORDKEEPING AND COMMUNICATION SERVICES
§457 PLAN
GROUP #98330-01

THIS AMENDMENT NO. 1 is entered into by and between Great-West Life & Annuity Insurance Company ("Great-West"), and/or any successor, assign or affiliate, and the City of Wichita, Kansas ("Employer") with respect to the services to be provided by Great-West Retirement Services®, a unit of Great-West, to the City of Wichita Employees Deferred Compensation Trust (the "Plan").

Effective April 8, 2008, Great-West and Employer entered into the Agreement for Recordkeeping and Communication Services ("Agreement"), under which Great-West provides certain recordkeeping and communication services for the Employer with respect to the Plan; and

Great-West and the Employer have agreed that it would be mutually beneficial to amend the Agreement to modify how fees are being paid under the Agreement.

NOW THEREFORE, in consideration of the covenants and conditions herein contained, and other good and valuable consideration as herein provided, the parties agree to amend the Agreement as follows:

1. Section 11 COMPENSATION shall be amended to replace the first six (6) paragraphs with the following new provision:

   "Recordkeeping and Communication Fees:

   The parties agree that the basic Annual Recordkeeping and Communication Fee payable to Great-West under this Agreement shall be 0.24% of total Participant account balances per annum ("Annual Recordkeeping and Communication Fee"). Employer hereby approves and instructs Great-West to deduct the Recordkeeping and Communication fee quarterly from the Distribution and Administrative revenue ("Revenue") deposited in to an allocated trust assets account to be used for Plan purposes as set forth in the Plan document (the "Trust Account") at 0.06% of the total Participant account balances. Partial quarters at the beginning and ending of the Agreement Term shall be calculated quarterly on a pro-rata basis. In the event the Trust Account balance does not cover the amount owed Great-West, Great-West shall notify Employer of the shortfall. Unless a dispute exists with respect to the revenue calculation and/or an alternative revenue shortfall collection method is mutually agreed upon by Employer and Great-West (including the option of reducing the revenue sharing amount paid to the Plan by Great-West), should Employer fail to submit the full amount of the shortfall within forty-five (45) days following receipt of notice of shortfall, Employer hereby instructs Great-West to collect the difference first from the Trust Account referenced in the first paragraph of this Section 11, and then from the Participant Account Balances. Such instruction will remain in effect throughout the term of the Agreement, and any Agreement extensions agreed to by Employer and Great-West.

   Any change in this Annual Recordkeeping and Communication Fee will become effective beginning on the first day of the calendar quarter, unless otherwise agreed to in writing.

Revenue Sharing to the Plan:

Within 30 days of signing this Agreement, Great-West will deposit into the Trust Account a one-time true up of the Revenue accrued but not yet paid as of September 30, 2009. The true up reconciliation is the result of a change in the method of accounting for Revenue received from mutual fund families or other investment providers providing certain administrative or other services.

Effective December 22, 2009, the accounting for Revenue sharing to the Plan will change from a cash receipts to an accrual method. Cash receipts represent the quarterly amount of Revenue collected for the period. Revenue under the accrual method will be calculated quarterly by multiplying the quarterly revenue rate times the total Participant account balances for each fund that pays Revenue. Partial quarters at the beginning and ending of the Agreement Term shall be calculated on a pro-rata basis. The parties agree that all such Revenue will be invested in a single investment option available under the Plan and as specified by the Employer.

In the event that Revenues accrued during the term of this Agreement become uncollectible, Employer hereby instructs Great-West to collect the difference between the amounts accrued and the amount collected from the Trust Account."

2. In all other respects the Agreement shall remain in full force and effect.

3. This Amendment No. 1 will be in effect upon execution by both the Employer and Great-West (the "Effective Date").

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to the Agreement to be executed, in duplicate, by their respective officers and agents thereunto duly authorized.

For: City of Wichita, Kansas

Signature: _____ Date _____

Name: _____

Title: _____

For: Great-West Life & Annuity Insurance Company

Signature: _____ Date 7.28.2010

Name: Gregory E. Seller

Title: Senior Vice President, Government Markets

APPROVED AS TO FORM:

By: Gary E. Rebenstorf, 1 BKM
City Attorney

CONTRACTS & AGREEMENTS
BLANKET PURCHASE ORDERS RENEWAL OPTIONS
AUGUST 2010

COMMODITY TITLE	EXPIRATION DATE	VENDOR NAME	DEPARTMENT	ORIGINAL CONTRACT DATES	RENEWAL OPTIONS REMAINING
Applicant Tracking Software System (Electronic)	8/31/2011	GovernmentJobs.Com.Inc. dba NEOGOV	Human Resources	9/1/2009 - 8/31/2010	3 - 1 year options
Auditing Services	8/31/2011	Allen, Gibbs & Houlik LC	Finance	9/16/2008 - 8/31/2009	2 - 1 year options
Batteries, Flashlight	8/31/2011	Star Electric Supply Inc.	Various	6/1/2009 - 8/31/2010	1 - 1 year option
Bus Transportation for Summer Recreation Program	8/31/2010	First Student, Inc.	Parks & Recreation	5/31/2010 - 8/6/2010	2 - 1 year options
Groundwater Monitoring for the Gilbert & Mosley Groundwater Contamination Site	8/31/2011	Integrated Solutions Inc. DBA ISI Environmental Services (iSi)	Environmental Services	9/9/2008 - 8/31/2010	1 - 1 year option
Paging Service (One Way)	8/31/2011	American Messaging Services, LLC dba American Messaging	IT / IS	9/1/2009 - 8/31/2010	1 - 1 year option

PROFESSIONAL CONTRACTS UNDER $25,000
AUGUST 2010

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
Ruggles & Bohm PA	PO030620	Engineering Consulting	6,600.00
Young & Associates	PO030622	Engineering Consulting	3,525.00
Ruggles & Bohm PA	PO030654	Engineering Consulting	10,900.00
Ruggles & Bohm PA	PO030668	Engineering Consulting	7,200.00

ANNUAL MAINTENANCE CONTRACTS OVER $25,000
DIRECT PURCHASE ORDERS FOR AUGUST 2010

VENDOR NAME	DOCUMENT NO	DOCUMENT TITLE	AMOUNT
Ejustice Solutions LLC	DP031113	Software Maintenance/Support	$112,853.21
Government Jobs.Com	DP031149	Software Maintenance/Support	$25,000.00

City of Wichita
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Harry and Rock Intersection Improvement (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the revised budget.

Background: On February 9, 2010, the City Council approved funding to improve the intersection of Harry and Rock. The project is funded by a combination of City General Obligation bonds and Federal Transportation grants administered by the Kansas Department of Transportation (KDOT). The Wichita Area Metropolitan Planning Organization and KDOT have advised that additional Federal funding is available for the project.

Analysis: Harry will be reconstructed to provide four through lanes and a continuous two-way left turn lane between the Kansas Turnpike and Longford. Dual left turn lanes will be provided at all four approaches to the intersection of Harry and Rock. Drainage will be improved and the available right-of-way will be landscaped. Construction is planned to begin this fall and be completed in fall, 2011. Two-way traffic will be maintained throughout the project.

Financial Considerations: The approved project budget is $6,260,000 with $4,100,000 paid by City General Obligation bonds and $2,160,000 ($1,360,000 MPO-CMAQ and $800,000 HSIP) paid by Federal Grants. The revised project budget is $7,540,740 with $4,100,000 paid by the City and $3,440,740 ($1,360,000 MPO-CMAQ, $1,280,740 MPO-STP and $800.000 HSIP) by Federal grants. The project scope has not changed, but the original City portion of the budget is proposed to remain in place to insure a successful bid and thus not risk losing the Federal funding. Funding for the City share is included in the Capital Improvement Program adopted by the City Council.

Goal Impact: This project addresses the Efficient Infrastructure goal by improving traffic flow through a major transportation corridor.

Legal Considerations: The Law Department has approved the amending ordinance as to legal form.

Recommendation/Action: It is recommended that the City Council approve the revised budget, place the amending ordinance on first reading and authorize the signing of State/Federal agreements as required.

Attachments: Map, CIP sheet and amending ordinance.

132019

First Published in the Wichita Eagle on October 1, 2010

ORDINANCE NO. 48-846

AN ORDINANCE AMENDING ORDINANCE NO. **48-625** OF THE CITY OF WICHITA, KANSAS DECLARING **HARRY STREET, BETWEEN THE KANSAS TURNPIKE AND ROCK ROAD (472-84577)** TO BE A MAIN TRAFFICWAY WITHIN THE CITY OF WICHITA, KANSAS; DECLARING THE NECESSITY OF AND AUTHORIZING CERTAIN IMPROVEMENTS TO SAID MAIN TRAFFICWAY; AND SETTING FORTH THE NATURE OF SAID IMPROVEMENTS, THE ESTIMATED COSTS THEREOF, AND THE MANNER OF PAYMENT OF SAME.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. SECTION 2 of Ordinance No. **48-625** is hereby amended to read as follows:

"SECTION 2. SECTION 3 of Ordinance No. **47-671** is hereby amended to read as follows:

SECTION 3. The cost of the construction of the above described improvements is estimated to be **Seven Million Five Hundred Forty Thousand Seven Hundred Forty Dollars ($7,540,740)** exclusive of the cost of interest on borrowed money. To the extent the cost of such improvement is not paid by Federal Grants administered by the Kansas Department of Transportation, the City of Wichita, Kansas is authorized to issue general obligation bonds to pay such costs under the authority of K.S.A. 12-689 up to a maximum of $7,540,740, exclusive of the cost of interest on borrowed money."

SECTION 2. The original SECTION 2 of Ordinance No. **48-625** is hereby repealed.

SECTION 3. That the City Clerk shall make proper publication of this ordinance, which shall be published once in the official City paper and which shall be effective from and after said publication

PASSED by the governing body of the City of Wichita, Kansas, this 28th day of September, 2010.

_____
CARL BREWER, MAYOR

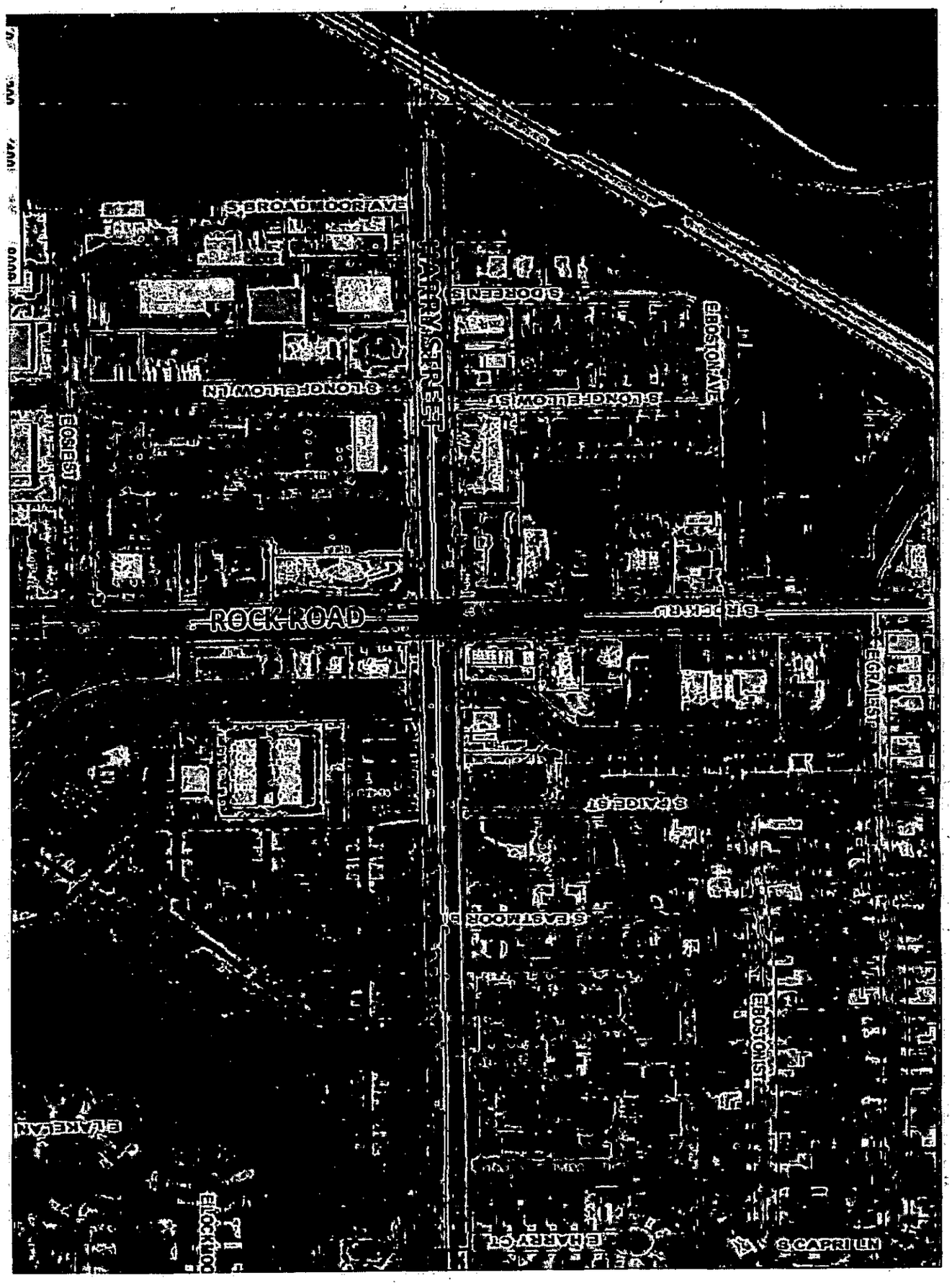
ATTEST:

_____
KAREN SUBLETT, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

_____
GARY REBENSTORF, DIRECTOR OF LAW


S BROADMOOR AVE
HARRY STREET
S DOREEN S
E BOSTON AVE
S LONGFELLOW LN
S LONGFELLOW ST
E OSIE ST
ROCK ROAD
S ROCK RD
E GRAIE ST
S FAIDE ST
S EASTMOOR ST
E BOSTON ST
E LAKELAND
E HARRY CT
S CAPRI LN

CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

USE:
To Initiate Project [ ]
To Revise Project [X]

1. Prepare in triplicate
2. Send original & 2 copies to budget.
3. City Manager to sign all copies.
4. File original w/ initiating resolution in City Clerk.
5. Return 2nd copy to initiating department.
6. Send 3rd copy to Controller.

1. Initiating Department	2. Initiating Division	3. Date	4. Project Description & Location
Public Works	Eng	9/1/2010	Harry and Rock Intersection Improvement

5. CIP Project Number	6. Accounting Number	7. CIP Project Date (Year)	8. Approved by WCC Date
MS-		2010	

9. Estimated Start Date	10. Estimated Completion Date	11. Project Revised
As Required	As Required	

12. Project Cost Estimate

ITEM	GO	SA	KDOT	TOTAL
Right of Way				
Paving, grading & const.	$4,100,000		$3,440,740	$7,540,740
Bridge & Culverts				
Drainage				
Sanitary Sewer				
Sidewalk				
Water				
Freeway				
Totals	$4,100,000		$3,440,740	$7,540,740
Total CIP Amount Budgeted				
Total Prelim. Estimate				

12A.

	Yes	No
Platting Required		
Lot Split		
Petition		
Ordered by WCC	X	

Remarks:

472-84577

13. Recommendation: Approve the revised budget and place the amending ordinance on 1st Reading

Division Head	Department Head	Budget Officer	City Manager
[signature]	[signature]	Date	Date

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council Members

SUBJECT: Payment of Condemnation Award to Acquire Property for the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project (District III)

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of the appraisers' award.

Background: In 2007 the City of Wichita and Sedgwick County entered into an agreement with FEMA whereby it was agreed that the City and County would provide certification that the Wichita-Valley Center Flood Control levee system meets FEMA standards. As part of this certification process, certain portions of the levee system were identified as needing rehabilitation. One such segment is located along the Big Arkansas River between 31st Street South and MacArthur. The project requires the acquisition of easements from two tracts by eminent domain. The easements will impact site trees and fencing as well as some storage structures and one residence. On January 12, 2010, the Council authorized the acquisition of these easements. The court appointed appraisers filed a report determining the value of these tracts of land. The award is $5,725.08. The related appraiser fees total $2,424.50. Court costs are an additional $175.50.

Analysis: In order for the City to obtain title to this property, it must pay the amount of the award, together with appraisers' fees, into the Clerk of the District Court on or before October 1, 2010. Acquisition of these tracts is necessary in order to secure use of the land in connection with the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project.

Financial Considerations: The cost of acquiring this property will be paid from General Obligation Bonds. Failure to pay the award by the date ordered by the Court would be deemed an abandonment of the award, and subject the City to an award for the same sum in fees and to the court, plus the owner's expenses in defending the action. The appraisers' award of $5,725.08 and the related appraiser fees of $2,425.50, along with Court Costs of $175.50 make the total award for this portion of the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project $8,326.08.

Goal Impact: This expenditure supports the **E**fficient Infrastructure goal by improving storm water issues in a major residential area.

Legal Considerations: In order to acquire the property, it is necessary to authorize payment of the award, together with the fees, to the Clerk of the District Court on or before October 1, 2010. Failure to do so would waive the acquisition, yet significantly increase the court ordered costs and fees.

Recommendations/Actions: It is recommended that the City Council authorize payment to the Clerk of the District Court of the Wichita-Valley Center Flood Control Levee Certification and Rehabilitation Project appraisers' award in the amount of $5,725.08, together with the related appraiser fees of $2,425.50 and court costs of $175.50 for a total of $8,326.08 as per the journal entry, for acquisition of this property.

Attachments: None.

CITY OF WICHITA
City Council Meeting
September 21, 2010

TO: Mayor and City Council

SUBJECT: Acquisition by Eminent Domain of Tracts Required for the 119th Street West from Kellogg to Maple Improvement Project (District IV)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real properties.

Background: On May 11, 2010, the City Council approved the design concept and the funding to acquire right-of-way for the road improvement project 119th Street between Pawnee and Kellogg. The project will provide four through lanes on 119th Street and a traffic signal at the intersection of Pawnee and 119th. Landscaped medians, sidewalks and a bike path will also be constructed. The corridor is improved with residential properties, agricultural land and a church. The project requires the acquisition of a variety of permanent and temporary easements from nine privately owned tracts.

Analysis: Offers have been made on all tracts and negotiations are underway with five tracts acquired but due to the timing of the project, it is necessary to initiate eminent domain at this time. Staff will continue to negotiate with the owners and, as agreements are reached, tracts will be deleted from the eminent domain action.

Financial Considerations: The cost of these acquisitions will be paid for with General Obligation Bonds.

Goal Impact: The acquisition of these parcels is necessary to ensure Efficient Infrastructure in a rapidly growing part of the City.

Legal Considerations: The City is authorized by law to commence eminent domain proceedings to acquire these properties. Resolution and ordinance approved as to form by the Law Department.

Recommendation/Action: Adopt and place on first reading the ordinance providing for the acquisition by eminent domain of certain real property; and directing the City Attorney to file the appropriate proceedings in the District court to accomplish such acquisition.

Attachments: Tract maps, condemnation resolution and condemnation ordinance.

Second Reading Ordinances for September 21, 2010 (first read on September 14, 2010)

Public Hearings on the Establishment of a Community Improvement District and a Tax Increment Financing Redevelopment District for the Planeview Grocery Store Project, George Washington Boulevard and Pawnee Avenue. (District III)

ORDINANCE NO. 48-821

An ordinance of the city of Wichita establishing the Planeview Grocery Store Community Improvement District.

ORDINANCE NO. 48-837

An ordinance of the City of Wichita establishing the Planeview Redevelopment District.

Public Hearing on the Establishment of a Community Improvement District for Maize 54 Development. (District V)

ORDINANCE NO. 48-823

An ordinance of the City of Wichita establishing the Maize 54 Community Improvement District.

Ordinance Amendments to Chapter 9.08 regarding maintenance of trees on public property.

ORDINANCE NO.48-824

An ordinance amending Sections 9.08.001, 9.08.002, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.050, 9.08.060, 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 and 9.08.160 and creating section 9.08.000, 9.08.095 and 9.08.098 of the code of the city of Wichita, Kansas, pertaining to trees and shrubs and repealing the originals of Sections 9.08.001, 9.08.002, 9.08.003, 9.08.005, 9.08.010, 9.08.020, 9.08.030, 9.08.040, 9.08.050, 9.08.060. 9.08.070, 9.08.080, 9.08.090, 9.08.100, 9.08.110, 9.08.120, 9.08.130, 9.08.140, 9.08.150 and 9.08.160 of the code of the City of Wichita, Kansas.

Amendments to Speed Limit Ordinance, Section 11.96.010.

ORDINANCE NO. 48-825

An ordinance amending Section 11.24.040 of the code of the city of Wichita, Kansas, pertaining to the crime of speeding and repeal of the original Section 11.24.040.

An Ordinance Amending Section 5.88 of the Code of the City of Wichita, Kansas pertaining to Unlawful Use of Weapons.

ORDINANCE NO. 48-826

An ordinance amending Section 5.88.010 of the code of the city of Wichita, Kansas, pertaining to the crime of unlawful use of weapons and repeal of the original Section 5.88.010.

47th Street South Improvement, between Meridian and Seneca. (District IV)

ORDINANCE NO. 48-827

An ordinance amending ordinance no. 48-146 of the city of Wichita, Kansas declaring 47th Street South, between Meridian and Seneca (472-84296) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

CUP2010-00011 and ZON2010-00018 – Creation of DP-322 Pawnee and 127th Community Unit Plan and zone change from SF-5 Single-family Residential ("SF-5") to LC Limited Commercial ("LC"); generally located at the southwest corner of Pawnee Avenue and 127th Street East. (District II)

ORDINANCE NO. 48-828

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

ZON2010-00022 – City zone change from TF-3 Two-family Residential ("TF-3") to Limited Commercial ("LC") subject to Protective Overlay #244; generally located southwest of the intersection of Orme and Hillside. (District I)

ORDINANCE NO. 48-829

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by section 28.04.010, as amended.

ZON2010-00026 – City zone change from SF-5 Single-Family Residential ("SF-5") to TF-3 Two-Family Residential ("TF-3"); generally located north and east of the intersection of North Hoover Road and West Robinson Street. (District VI)

ORDINANCE NO. 48-830

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

DER2010-08-Derby-Mulvane Joint Area Plan, 2010-2030.

ORDINANCE NO. 48-831

An ordinance adopting the Derby-Mulvane joint area plan as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

ZON2010-00024 – City zone change from SF-5 Single-family Residential ("SF-5") to TF-3 Two-family Residential ("TF-3") on property located north and south of Casa Bella Street; generally located north of Pawnee and west of 127th Street East. (District II)

ORDINANCE NO. 48-832

An ordinance changing the zoning classifications or districts of certain lands located in the city of Wichita, Kansas, under the authority granted by the Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended.

Woodlawn Improvement, between Harry and Lincoln. (Districts II and III)

ORDINANCE NO. 48-833

An ordinance declaring Woodlawn, between Lincoln and Harry (472-84851) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

East Kellogg, Cypress to 127th Street East (Project I) – Design Supplemental Agreement No 1. (District 1)

ORDINANCE NO. 48-835

An ordinance amending ordinance no. 48-634 of the city of Wichita, Kansas declaring Kellogg, between Cypress and 127th Street East (472-84615) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of the same.

Agreement for Design Services for St. Francis and Commerce, between Waterman and Kellogg. (District 1)

ORDINANCE NO. 48-836

An ordinance declaring the St. Francis and Commerce, between Waterman and Kellogg, (472-84935) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.